

## ORDINANCE 2019-11

### AN ORDINANCE TO AMEND TITLE TWELVE OF THE BELLE MEADE MUNICIPAL CODE TO ADD A NEW CHAPTER FIVE THERETO ADOPTING BUILDING REGULATIONS FOR THE MANAGEMENT AND PROTECTION OF TREES.

This Ordinance shall be known as the “Tree Ordinance” for the City of Belle Meade, Tennessee.

**WHEREAS**, it is the purpose of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of planting, maintenance, and removal of trees within the City of Belle Meade during or related to all construction projects requiring a building permit, demolition permit, or other land disturbance permit from the City of Belle Meade, and otherwise.

**WHEREAS**, it is necessary to provide the appropriate regulation by the establishment of tree management and protection requirements by amending Title 12 of the Belle Meade Municipal Code, (“Building, Utility, Etc. Codes”).

#### **NOW, THEREFORE:**

**SECTION ONE: BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BELLE MEADE**, that Title 12 of the Belle Meade Municipal Code is amended to add a new Chapter 5 thereto, which shall be as follows:

### CHAPTER 5

#### TREE MANAGEMENT AND PROTECTION

**12-501. Tree removal permit required.** Whenever new construction, demolition, or any land disturbance activity is proposed which requires a permit from the City of Belle Meade, unless exempted in accordance with Section 12-504, the permit applicant and all other persons with a legal interest in the real property shall also obtain a tree removal permit as provided in this ordinance.

**12-502. Applicability.** The standards of this chapter shall apply jointly and severally to: (1) each and every person owning a legal interest in the real property located in the City of Belle Meade while under construction and/or until construction is completed; (2) each and every permit applicant, including, but not limited to the contractor who has been issued a tree removal permit; (3) each and every permit applicant, including but not limited to the contractor who has been issued a building permit, (4) any permit holder who has been issued a permit from the City of Belle Meade

for land disturbance activities at the site, and (5) all subcontractors working for a permit holder unless otherwise exempt.

**12-503. Tree management and protection standards.**

(1) Removal of existing trees shall not occur on a lot subject to the terms of this section until such time as a tree removal permit has been issued.

(2) No construction or land disturbance activities may commence until all protective measures have been properly installed to protect any and all existing or planted trees from being damaged during construction or land disturbance activities in accordance with the tree protective barrier requirements described herein.

(3) Barricades shall be at least three feet (3') in height and installed a minimum of ten (10) feet from a protected tree or at the designated protected root zone as shown on the approved site plan that will meet or exceed the example on the City's website. The Building Official may allow minor modifications to the standard based upon specific site configuration issues.

(4) All construction activities may be stopped at the sole discretion of the City's Building Official and/or the City's designee, until such time as appropriate tree protection barriers have been promulgated by the City of Belle Meade.

(5) No changes to the predevelopment conditions within the approved protected root zone area allowed during the construction process, but a barricade may be temporarily relocated to accommodate a construction issue if advance notice has been provided to and approval obtained from the Building Official.

**12-504. Exemptions.** The following development or construction activities and types of vegetation are exempt from the standards of this Chapter:

(1) The removal of dead, fatally diseased, or naturally fallen trees or vegetation.

(2) The selective and limited removal of trees necessary to obtain clear visibility at driveways or intersections.

(3) The actions of public and private utility companies within their utility easements.

(4) Removal of trees listed in the current edition of Invasive Exotic Pest Plants, published by the Tennessee Exotic Pest Council.

(5) Removal of trees causing damage to public facilities or improvements to the subject property.

**12-505. Authority of Building Official.** The Building Official and/or his/her designee shall have all necessary authority to supervise and inspect all work done pursuant to a permit issued in accordance with terms of this ordinance and otherwise administer the provisions hereof.

**12-506. Permits.** No person shall plant, cut or remove, above or below ground, any tree during construction activities which requires a building permit, or any other type of permit from the City of Belle Meade, without first filing an application and procuring a tree removal permit from the City. The application and permit shall be on forms developed

and provided by the Building Official. The tree removal permit application shall include a stamped report from a certified arborist (furnished by the land owner or their representative) addressing all required components of this ordinance, a site plan showing tree caliper for all trees on the property, and any other information reasonably required by the Building Official. Any and all persons receiving a permit or who have an interest in the real property are jointly and severally liable and shall abide by the specifications and standards of practice adopted per this ordinance. The Building Official shall have the authority to require an as-built "Arborist Report" before the certificate of occupancy shall be issued.

**12-507. Appeals.** The grant or denial of a tree removal permit may be appealed by the applicant or other interested party to the Board of Building Codes Appeals.

**12-508. Technical Standards.**

The following technical standards establish the tree replacement standards on all projects requiring a permit:

EXISTING TREE SIZE REMOVED TREES	REQUIRED REPLACEMENT CALIPER MINIMUM	RATIO OF REPLACEMENT TREES TO
4" - 15" D.B.H.	3"	2:1
16" - 30" D.B.H.		4:1

Any tree greater than thirty inches (30") in caliper shall be considered a "monarch tree," as defined in Section 12-510 (2), and shall not be removed under any circumstances, except when it is a clear threat to public safety.

**12-509. Development Standards.**

(1) Retention of existing trees

(a) During development, construction or land disturbance activities, no clear-cutting of any lot is permissible. Clear-cutting is defined as removal of trees outside of the approved building area which includes the building envelope, the area approved for a driveway and any area authorized by the Board of Zoning Appeals or the Planning Commission. No trees may be removed outside of the above described areas. Where trees are to be removed due to the layout of driveways, every effort will be given to redirect the drive to save trees.

(b) Historical or Monarch trees are to be identified by a certified arborist and shall be protected and preserved. Historical or Monarch trees shall be protected by a more substantial barrier such as chain link fencing placed at the drip line of tree.

(c) During development, construction, or land disturbance activities, the applicant shall be responsible for the erection of barriers necessary to protect any existing or installed trees from damage.

(d) Barricades shall be installed a minimum of ten (10) feet from a protected tree or at the drip line as shown on the approved site plan. The Building Official may allow minor modifications to this standard based upon specific site configuration issues.

(e) No changes to the predevelopment conditions within the approved protected root zone are allowed during the construction process, but a barricade may be temporarily relocated to accommodate a construction issue if advance notice has been provided to and approval obtained from the Building Official.

(f) No excess soil, sediment, fill, vehicles, dumpsters, equipment, construction materials, liquid waste, solid waste, special waste, solvents and/or demolition or construction debris shall be placed within six (6) feet of the protective barrier area surrounding a tree while construction activities, including preparation of the site, are ongoing.

(g) The disposal of “wet” construction materials should be handled in the washout area. This includes paint, stucco and concrete. Use of a berm with an impervious liner to contain the wet materials and prevent runoff shall be required.

(h) The provisions of this Section shall not apply in the event the Building Official determines a protected tree is creating an imminent safety hazard.

(2) Removal and replacement of trees. In the event one or more trees are removed or damaged due to land disturbance or construction activities subject to a permit issued by the City, the following shall apply:

(a) Prior to and during land clearing, including grubbing, all trees to be removed shall be clearly marked with ribbons at 36 to 48 inches above grade. All trees to be removed shall be marked with an orange plastic ribbon tied around the trunk of each tree prior to the onsite inspection of the City’s building Official. If the orange ribbon is not placed around each tree at the time of inspection by the City Building Official, the inspection shall be rejected and a re-inspection fee of Fifty dollars (\$50.00) shall be charged to the applicant.

(b) The applicant or any person owning a legal interest in real property for which a permit has been issued shall be solely responsible for replacing any newly planted or

transplanted trees on such property used to meet the minimum requirements as outlined in the Technical Standards which die or become so unhealthy so as to lose their aesthetic or functional purpose after the construction on such property has been completed.

(c) All original or replanted trees as required herein shall survive for at least one (1) year from the date of final inspection. Any replanted tree that does not survive the full one-year requirement, shall be replanted at the current real property owner's sole expense. All transplanted trees on the site shall be maintained using acceptable horticultural practices.

(d) Any person(s) owning any legal interest in real property for which a tree removal permit has been issued shall replace each newly planted or transplanted tree on said property which have died or become so unhealthy that it is the opinion of the Building Official that the tree(s) have lost their aesthetic or functional purpose since the time the activities on the property were completed per the requirements detailed in part (c) above.

(e) All transplanted trees on the site shall be maintained using acceptable horticultural practices or best management practices.

**12-510. Acceptable Trees**

The following trees have been identified as species that are suitable in this geographic region and are acceptable by the City of Belle Meade.

(1) Large or Canopy Trees, defined as a tree that normally achieves an over-all height at maturity of thirty (30') feet or more.

<u>Botanical Name</u>	<u>Common Name</u>	<u>Botanical Name</u>	<u>Common Name</u>
Acer rubrum	Red Maple	Platanum occidentalis	Sycamore
Acer saccharum	Sugar Maple	Prunus serotina	Black Cherry
Aesculus spp.	Buckeye	Quercus alba	White Oak
Betula nigra	River Birch	Q. coccinea	Scarlet Oak
Carya illinoensis	Pecan	Q. falcata	Southern Red Oak
Carya spp.	Hickories	Q. lyrata	Overcup Oak
Catalpa speciosa	Northern Catalpa	Q. macrocarpa	Bur Oak
Diospyros virginiana	Persimmon	Q. michauxii	Swamp Chestnut Oak
Fagus grandifolia	American Beech	Q. muehlenbergii	Chinkapin Oak
Gymnocladus dioica	Kentucky Coffeetree	Q. nigra	Water Oak
Halesia Carolina	Silverbell	Q. nuttalli	Nuttall Oak
Juglans nigra	Black Walnut	Q. pagoda	Cherrybark Oak
Juniperus virginiana	Eastern Red-Cedar	Q. phellos	Willow Oak
Liquidambar styraciflua	Sweetgum	Q. prinus	Chestnut Oak
Liriodendron tulipifera	Yellow-Poplar	Q. rubra	Northern Red Oak
Magnolia acuminata	Cucumbertree	Q. shumardii	Shumard Oak
Magnolia Grandiflora	Southern Magnolia	Q. Stellata	Post Oak

Nyssa sylvatica	Blackgum	Q. velutina	Black Oak
Ulmas Americana	American Elm	Robinia pseudoacacia	Black Locust
		Sassafras albidum	Sassafras
		Taxodium districhum	Bald cypress
		Tilia Ameriana	American Linden

(2) Small or Understory trees, defined as a tree that normally achieves an overall height at maturity of fifteen to thirty feet (15'-30') and can grow under canopy trees.

<u>Botanical Name</u>	<u>Common Name</u>	<u>Botanical Name</u>	<u>Common Name</u>
Acer pensylvanicum	Striped Maple	Cornus florida	Dogwood
Acer spicatum	Mountain Maple	Cotinus obavatus	Smoketree
Aesculus pavia	Red Buckeye	Crateagus spp.	Hawthorn
Alnus serrulate	Alder	Hamamelis virginiana	Witch Hazel
Amelanchier arborea	Serviceberry	Ilex opaca	American Holly
Amorpha fruticose	False Indigo	Magnolia virginiana	Sweetbay
Aralia spinosa	Devil's Walking Stick	Ostrya virginiana	Hophorbeam
Asimina trilobal	Pawpaw	Oxydendron arboretum	Sourwood
Bumelia lycioides	Buckthorn Bumelia	Rhamnus caroliniana	Carolina Buckthorn
Carpinus caroliniana	Hornbeam	Rhus copallina	Shining Sumac
Castanea pumila	Allegheny Chinkapin	Rhus glabra	Smooth Sumac
Cercis canadensis	Redbud	Rhus typhina	Staghorn Sumac
Chionanthus virginicus	Fringetree	Styras spp.	Snowbell
Cladrastis lutea	Yellowwood	Cornus Kousa Cercis	Sumac

Submittals by a certified arborist as replacement trees may also be considered.

**12-511. Arborist Report.** All permit applications for any land disturbance project in the City of Belle Meade shall include a report prepared by a certified Arborist outlining how the applicant will comply with all components of this ordinance including, but not limited to, the following : Tree Protection Plan, Tree Removal Pan, Tree Transplant Plan and a Tree Replacement Plan, Tree Types, sizes and quantities. In the event no trees will be affected, the plan submittals shall contain a written note certifying the plans as submitted shall not affect any trees.

**12-512. Tree Removal In Cases Where No Building Permit is Required.** In addition to those cases in which a tree removal permit is required as an incident to the issuance of a building permit or land disturbance permit, and subject to the exceptions in Section 12-504, no property owner or other person with an interest in the property may engage in clear-cutting, as defined in Section 12-509 (a) or remove any acceptable tree as defined in Section 12-510, of fifteen inches (15") in caliper, unless such owner within a reasonable time thereafter, as determined by the Building Official, replaces said tree with four replacement trees of acceptable

caliper, as defined in the technical standards in Section 12-508. In such cases, the Building Official may also require an arborist's report.

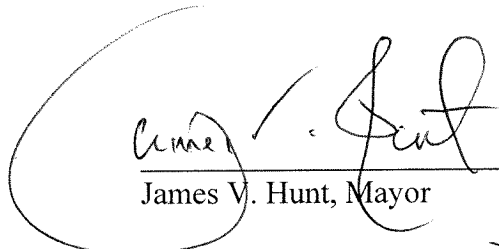
**12-513. Penalties.**


Any person, firm, corporation, or other legal entity, violating or failing to comply with any of the provisions of this ordinance and removes a viable tree shall replace tree or trees with like calipers and shall be subject to a civil penalty of \$50 per day and all other remedies provided herein.

**SECTION TWO: BE IT FINALLY ORDAINED THAT THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS PASSAGE ON SECOND AND FINAL READING, THE PUBLIC WELFARE REQUIRING IT.**

Passed on First Reading:  
November 20, 2019

Passed on Second Reading  
May 20, 2020

  
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James V. Hunt, Mayor

  
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Edie Glaser, City Recorder