

ORDINANCE NO. 04-04

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CORUNNA, MICHIGAN, CHAPTER 82 – VEGETATION, ARTICLE II, TREES; SEC. 82-32. DEFINITIONS, SECTION 82-35. ENFORCEMENT; APPEALS, SECTION 82-36. REFORESTATION; SECTION 82-37. PERMITS; SECTION 82-38. DEVELOPERS RESPONSIBILITY; SECTION 82-39. PROTECTION OF TREES, SHRUBS; SECTION 82-40. COMPENSATION FOR TREES DESTROYED OR DAMAGED; SECTION 82-41. AUTHORITY OF SUPERINTENDENT TO INSPECT TREES ON PRIVATE PROPERTY; SECTION 82-42. PRIVATE TREES; DISEASE, INSECT AND OTHER HAZARDS, SECTION 82-43, TRIMMING, REMOVAL OF TREES ON PRIVATE PROPERTY.

THE CITY OF CORUNNA, MICHIGAN ORDAINS:

SECTION 1. AMENDMENT TO SECTION 82-32, DEFINITIONS, shall be as follows:

Sec. 82-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commission* means the city forest management commission.

*Curb tree lawn* means that part of a street not covered by sidewalk or paving, lying between the property line and the ~~portion of the street~~ **or alley right-of-way.** ~~paved for vehicular traffic.~~

*Department* means the department of public works of the city.

*Developer* means all persons or an organization of any kind who shall engage in new construction or other improvements in any zoning district of the city.

***Landscaping* means brick, stone, rock, cement, wood (imitation or real) and metal building materials.**

*Park* means all public parks having individual names and all areas, whether owned by the city or not, to which the public has free access as a park.

*Public utility* means any person owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telegraph service.

*Prohibited species* means any tree so determined by the city forest management commission.

***Street and alley*** means all the land lying between property lines on either side of all streets, **alleys**, and highways and public right-of-ways in the city.

*Superintendent* means the superintendent of the department or an authorized representative.

*Tree* means trees, shrubs, bushes and all other ~~woody~~ vegetation, whether potted or not.

SECTION 2. AMENDMENT TO SECTION 82-35, ENFORCEMENT; APPEALS, shall be as follows:

Sec. 82-35. Enforcement; appeals.

The superintendent is hereby designated as the agent to enforce the provisions of this article.

~~All complaints of violations of this article shall be presented in writing to the city attorney and shall be prosecuted in the name of the city.~~ If at any time a bona fide dispute arises or shall exist relative to or under the provisions of this article, such dispute must first be submitted to the city forest management commission in accordance with the rules and regulations set forth by the commission as provided for under this article.

SECTION 3. AMENDMENT TO SECTION 82-36, REFORESTATION shall be as follows:

Sec. 82-36. Reforestation.

The planting, maintenance or removal of trees in public places in the city will be done by the department of public works **or their authorized representative** in accordance with adopted policies and may be accomplished by order of the superintendent or the city manager upon recommendation of the commission, by resolution of the city council, or by petition of parties owning a majority of the lineal footage of the fronting property along a street **or alley**. **In cases where a situation of immediate attention is required to ensure public safety, the superintendent, city manager, or their authorized representative may act independently from the Forestry Commission to resolve the safety issue.**

SECTION 4. AMENDMENT TO SECTION 82-37, PERMITS shall be as follows:

Sec. 82-37. Permits.

- (a) *Required for tree planting or removal **and landscaping within the right-of-way.***
- (1) No person shall plant, transplant or remove any tree, **nor landscape exceeding 12" in height** upon or from any curb tree lawn, street, park or public place in the city, nor cause such act to be done by others without first obtaining a written permit from the office of the city clerk **and shall do so only on the condition that such plantings or excavations shall be considered an agreement on his part to maintain such plantings and excavations at all times during his ownership or control of them, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of such planting, removal or excavation.** Prior to a permit being issued for tree removal, the abutting property owner shall be notified and shall have the first opportunity to acquire the wood from the tree.
- (2) **Any planting or excavation exceeding a maximum height of 12" at full maturity shall have prior approval of the Forestry Commission.**
- ~~(2)~~ (3) Persons receiving such permit shall abide by the ordinances and policies adopted by the city.
- (b) *Application for permits.* Applications for permits must be made at the office of the city clerk not less than 72 hours in advance of the time the work is to be done.
- (c) *Permit expiration.*
- (1) Each permit granted shall contain an expiration date **of one year as set forth by the Forestry Commission** and the work shall be completed in the time allowed in the permit, and in the manner described in the permit.
- (2) Any permit issued shall be void if its terms are violated, or if the work described is not substantially completed by its expiration date.
- (3) Permit extensions ~~will be~~ **may be considered by the Forestry Commission** if conditions warrant.
- (d) *Permit contents.*
- (1) Every permit issued by the city clerk shall describe work to be done, or state the number of trees to be removed or planted and the location, size, species or variety of each tree, the method of planting, **landscaping and landscaping materials**, and other information that the superintendent **and Forestry Commission** may require to ensure that the work will be done properly.
- (2) Whenever any tree **or landscaping is** ~~shall be planted~~ in conflict with the provisions of the permit, it shall be lawful for the superintendent to cause removal of the

tree, and the cost for removal shall be assessed to the permittee as provided by law in the case of special assessments.

(e) *Permit fee and supervision.*

(1) No charge shall be made for any permit unless it is necessary to retain a consultant to supervise the provisions of the permit, and in such case the **Forestry Commission** city clerk shall determine the charge for the service based on actual cost plus an additional one percent of the actual cost of the service for city administrative purposes.

(2) In issuing any and all permits, the city clerk shall act promptly and shall keep duplicate records of all permits issued and of compliance therewith.

(3) Permits for all tree management activities will be issued only after the superintendent or the commission makes a thorough investigation as to the advisability of the proposed work.

SECTION 5. AMENDMENT TO SECTION 82-38, DEVELOPERS RESPONSIBILITY shall be as follows:

Sec. 82-38. Developer's responsibility.

(a) *Generally.* Developers shall be required to fulfill tree planting and protection requirements as provided under the ordinances and policies of the city and its forestry management commission including, but not limited to, subdivision regulations and site plan requirements.

~~(b) *Minimum planting requirements.* One tree of an approved species measuring at least 1 1/2 inch caliper shall be planted in the street at all new construction sites, residential or otherwise, for each site or lot of 80 feet or less, and at least two trees for every lot in excess of 80 feet frontage. Corner lots shall require at least one tree for each street. The developer shall show the location of the required trees on the submitted site plan prior to the issuance of a building permit. The developer shall be responsible for fulfilling these requirements.~~

SECTION 6. AMENDMENT TO SECTION 82-39, PROTECTION OF TREES, SHRUBS shall be as follows:

Sec. 82-39. Protection of trees, shrubs.

Unless a permit shall have been issued by the city clerk **and approved by the Forestry Commission**, it shall be unlawful for any persons to do the following to any trees in or upon any curb tree lawns, parks or other public places:

(1) Fasten any sign, card, poster, wire, rope or other material to, around or through any tree or its guard, except in emergencies such as storms or accidents, except for any nursery tag identifying its species or care.

(2) Remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner.

(3) Permit any fire to burn where such fire will injure any portion of any tree or shrub.

(4) Permit any toxic chemical to seep, drain, or to be emptied on or about any tree or shrub.

(5) Deposit, store, place or maintain, on any street, highway or other public place, any brick, sand, stone, concrete or other material which may impede free passage of water, air and fertilizer to the roots of any tree or shrub growing therein.

(6) Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of 40 feet of any tree.

(7) Knowingly permit any electrical wire to come into contact with any tree or shrub.

(8) Allow excavations and driveways to be placed within five feet of any tree without written permit from the **Forestry Commission** or superintendent. Any person making such excavation or construction shall guard any tree within six feet thereof, ~~with a good substantial frame box to~~

be approved by the department, and all building materials or other debris shall be kept at least four feet from any tree.

(9) Plant any prohibited species of tree.

**(10) Place any tree or landscaping material in the right-of-way that creates a public nuisance or safety issue.**

SECTION 7. COMPENSATION FOR TREES DESTROYED OR DAMAGED shall be as follows:

Sec. 82-40. Compensation for trees destroyed or damaged.

The cost of public trees growing on streets, curb tree lawns, parks or other public places which are destroyed or damaged to the point where repair or replacement is needed shall be paid for by **the owner and or** the person causing such damages in the amount needed to replace or repair the destroyed or damaged trees. The commission shall determine all questions of cost related to damage. Any value realized from any tree removed from public property shall be for the exclusive benefit of the city.

SECTION 8. AUTHORITY OF SUPERINTENDENT TO INSPECT TREES ON PRIVATE PROPERTY shall be as follows:

Sec. 82-41. Authority of superintendent to inspect trees on private property.

The superintendent, **Forestry Commission, or their** his agents, shall have authority to enter upon private property at all reasonable hours for purposes of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects or diseases are suspected. The superintendent, **Forestry Commission, or their** his agents may remove such specimens as are required for analysis to determine the presence of insect, disease or other detrimental conditions. It shall be unlawful for any person to prevent the superintendent, **Forestry Commission, or their** his agents from entering private property for purposes of carrying out his duties under this article.

SECTION 9. PRIVATE TREES; DISEASE, INSECT AND OTHER HAZARDS shall be as follows:

Sec. 82-42. Private trees; disease, insect and other hazards.

(a) When the superintendent, **Forestry Commission, or their agents** shall discover that any tree growing on private property within the city is afflicted with any dangerous insect, infestation, disease or condition, he shall immediately serve a written notice upon the property owner or his agent describing the tree, the location, the nature of the insect infestation, disease or condition, and order the owner or his agent to take necessary measures to abate the insect infestation, or disease or condition, to prevent the spreading thereof, and shall specify the corrective measures required to be taken. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary. Every such notice shall be complied with within a definite time as stated in the notice. ~~but within no less time than ten days after service thereof upon the property owner.~~

(b) If at the expiration of the time limit in the notice, the owner has not complied with the requirements of the notice, the superintendent or his agents shall carry out the requirements of the notice. The cost of completing the work necessary to resolve the condition complained of shall be assessed against the property on the next general assessment roll of the city.

SECTION 10. TRIMMING, REMOVAL OF TREES ON PRIVATE PROPERTY shall be as follows:

Sec. 82-43. Trimming, removal of trees on private property.

(a) Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a traffic hazard, shall be trimmed or removed by the property owner on whose property the tree stands, so as to remove the obstruction from the public street, highway, sidewalk, park or public place and so as to eliminate the traffic hazard and the menace and the danger to the public, pursuant to written notice by and under the supervision of the superintendent.

(b) When notice is given pursuant to subsection (a) of this section, the property owner will be given a reasonable and definite time to comply with the order **as set by the Forestry Commission** ~~but not less than ten days~~, unless **an** immediate hazard exists. If the work is not satisfactorily completed within that time, the superintendent or his agents may enter upon the property, make the necessary trimming or removals, and properly dispose of them. All or part of the costs involved in the trimming or removal when done by the superintendent or his agents shall be assessed against the property on the next general assessment roll of the city. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light.

#### SECTION 11. SEVERABILITY.

This Ordinance and the several sections, sub-sections, paragraphs, clauses and parts thereof are hereby declared to be severable. If any part or clause thereof is declared or adjudged invalid by present or future legislation or decree, the balance of the Ordinance shall not be affected thereby.

#### SECTION 12. CONFLICTING ORDINANCES REPEALED.

All Ordinances previously adopted and incorporated in the Code of the City of Corunna, Michigan, through codification procedures, or any existing Ordinances that are inconsistent with the provision of this Ordinance are hereby repealed, and in the case of inconsistencies, to the extent of such inconsistency, are hereby repealed.

#### SECTION 13. COPIES AVAILABLE.

This Ordinance may be purchased or inspected in the City Clerk's Offices, Monday through Friday, between the hours of 9:00 a.m. and 4:30 p.m.

#### SECTION 14. EFFECTIVE DATE.

This Ordinance shall take effect pursuant to the Corunna City Charter, immediately upon publication hereof.

<b>DATE OF PASSAGE:</b>	August 2, 2004
<b>DATE OF PUBLICATION:</b>	August 6, 2004
<b>EFFECTIVE DATE:</b>	August 6, 2004

#### **CITY OF CORUNNA**

BY: \_\_\_\_\_  
Steve Corey  
ITS: MAYOR

BY: \_\_\_\_\_  
Yvonne F. Long  
ITS: CLERK

STATE OF MICHIGAN        }  
                                  }ss.  
COUNTY OF SHIAWASSEE }

I, Yvonne F. Long, being Clerk of the City of Corunna, do hereby certify that the foregoing is a true and accurate copy of the City of Corunna **ORDINANCE NO. 04-04 passed on the 2nd day of August, A.D., 2004.** Further, I certify that I caused the same to be published in the Argus Press newspaper, Owosso, MI, within seven (7) days after adoption by the Corunna City Council, Corunna, Michigan.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 2nd day of August, A.D., 2004.

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Yvonne F. Long  
Corunna City Clerk