

ORDINANCE NO. 2007-01

**AN ORDINANCE TO AMEND
CHAPTER 43 OF TITLE IV OF THE
CODE OF THE CITY OF FRANKENMUTH**

THE CITY OF FRANKENMUTH ORDAINS: The following amendments pertain to tree regulations as described in Chapter 43 of Title IV of the Code of the City of Frankenmuth: (Underlines indicate additions; strikethroughs indicate deletions):

CHAPTER 43. TREES

4.91. Finding of Fact. The City Council finds and declares that it is in the public interest and public welfare to plan for and regulate trees in the City of Frankenmuth. All street trees, ~~part~~ park trees and privately owned trees are valuable assets to the residents of the City. Proper planning and care will help insure that these assets will continue to thrive and benefit the citizens of the City in the future.

4.92. Definitions.

- (1) Large trees. "Large trees" are those trees attaining a height of forty-five (45) feet or more at maturity.
- (2) Park trees. "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- (3) Small trees. "Small trees" are those trees attaining a height of twenty (20) to thirty (30) feet in height at maturity.
- (4) Street trees. "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

4.93. Appointment of a City Tree Board. ~~The City Beautification Committee is hereby appointed as the City Tree Board for the City of Frankenmuth which consists of eighteen (18) members, who are appointed by the Mayor with the approval of the City Council.~~ The members of the City Tree Board shall be appointed by the Mayor subject to the approval of the City Council. The City Tree Board shall consist of five (5) members, including at least one person with expertise in landscaping.

4.94. Term of Office. The term of office of the members of the City Tree Board shall be three (3) year terms.

4.95. Compensation. Members of the Board shall serve without compensation.

4.96. Duties and Responsibilities. It shall be the responsibility of the City Manager or his/her designee, under the direction of the City Tree Board, to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented to the City Council and upon their acceptance and approval shall constitute the official comprehensive City tree plan for the City of Frankenmuth.

The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

4.97. Operation. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

4.98. Street Tree Species to be Planted. Upon recommendation by the City Tree Board, the City Council shall determine by resolution from time to time, a list of street tree species either allowed to be or prohibited from being planted. Said list shall contain small trees, large trees and prohibited street trees.

4.99. Spacing. The spacing of street trees will be in accordance with the two (2) species size classes listed in section 4.98, and no trees may be planted closer together than the following: Small trees, thirty (30) feet, and large trees, fifty (50) feet; except in special plantings designed or approved by a landscape professional. Each residential lot in the City of Frankenmuth is entitled to at least one (1) street tree.

4.100. Distance from Curb and Sidewalk. The distance trees may be planted from curbs, or curb lines and sidewalks, will be in accordance with the two (2) species size classes listed in section 4.98. As a general standard, no trees may be planted closer to any curb or sidewalk than the following: Small trees - two (2) feet; and large trees - four (4) feet. Exceptions to this standard may be approved by the City Manager in those areas where the distance between the curb and sidewalk is less than eight (8) feet.

4.101. Distance from Street Corners and Fire Hydrants. No street tree shall be planted closer than thirty-five (35) feet ~~of to~~ any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten (10) feet ~~of to~~ any fire hydrant, or eight (8) feet of any driveway.

4.102. Distance from Utility Poles. No street tree shall be planted closer than ten (10) feet ~~from to~~ any utility pole.

4.103. Public Tree Care. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. Said care shall conform to the latest American National Standard (ANSI) for Tree Care Operations – “Tree, Shrub and Other Woody Plant Maintenance – Standard Practice.”

The City Manager or his/her designee may remove, or cause or order to be removed, any street tree or park tree, or part thereof, which is in an unsafe condition or which by reason of its nature is

injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with sections 4.98 through 4.102.

4.104. Tree Topping. It shall be unlawful as a normal practice for any person, firm or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this Chapter at the determination of the City Manager.

4.105. Pruning, Clearance. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street light or obstruct the view of any street intersection, and so that there shall be a clear space of at least eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub, or branches and limbs thereof, on private property when it interferes with the proper spread of light along the street from a street light, interferes with the safe passage of any vehicle, obstructs the visibility of any traffic control device or sign, or obstructs the safe passage of any public sidewalk.

4.106. Dead or Diseased Tree Removal on Private Property. The City shall have the right to cause the removal of any dead or diseased tree(s) on private property within the City, when such tree(s) constitutes a hazard to life and property, or harbors insects or disease which constitutes a potential threat to other trees within the City. The City Manager will notify in writing the owners of such trees by personal service or first class mail. Removal shall be done by said owners at their own expense within thirty (30) days after the date of service or mailing of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal to the property owners. Failure to pay any such invoice by the time period specified shall create a right by the City to add the amount of such bill to the real property tax rolls for said property, to be collected the same as other real property taxes in the City.

4.107. Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

4.108. Interference with City Tree Board. It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this Chapter.

4.109. Tree Permit and Insurance Requirements. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a tree permit from the Department of Public Works Superintendent or his/her designee. The person requesting the tree permit must provide proof of his/her skills and qualifications or a state or national arborist license. The tree permit fee shall be determined from time to time by City Council resolution; provided, however, that no tree permit

shall be required for any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any tree permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the amounts of one million dollars (\$1,000,000) for bodily injury and one million dollars (\$1,000,000) for property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

4.110. Review by City Council. The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board or its agents. Any person may appeal any ruling or order of the City Tree Board or its agents to the City Council who may hear the matter and make the final decision.

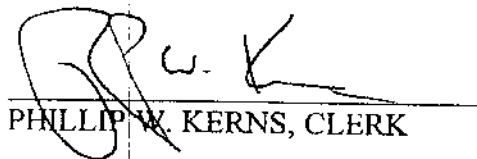
4.111. Violation; Municipal Civil Infraction. A person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by Section 1.12(3)(b) of this Code. The Superintendent of Public Works is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the City of Frankenmuth Municipal Ordinance Violations Bureau) for violations under of this Chapter as provided by this Code.

This ordinance shall take effect twenty (20) days after its adoption, as provided in the City Charter.

We, the undersigned, Mayor and Clerk of the City of Frankenmuth, Michigan do hereby certify that the above Ordinance No. 2007-01 of the City of Frankenmuth was introduced at a regular meeting of the City Council held on October 2, 2007, and was thereafter approved at a regular session of the City Council held on November 7, 2007.

Dated this 7th of November, 2007.


GARY C. RUPPRECHT, MAYOR


PHILLIP W. KERNS, CLERK