

which would in any way interfere with the free passage of water, air or fertilizer to the roots of any such tree.

**Sec. 24-27. Duty of owners to trim trees and shrubs overhanging streets.**

Every owner of any tree or shrub overhanging a street or highway within the city shall trim and cut back such tree or shrub so that the foliage thereof shall not obstruct the light from any street lamp, obstruct the view of any street intersection or interfere with the visibility of any traffic-control device or sign, and so that there shall be a clear space of twelve (12) feet above the surface of the street or highway.

**Sec. 24-28. Duty of owners to remove dead trees, etc.**

Every owner shall remove dead, diseased or dangerous trees, or broken or decayed limbs.

**Sec. 24-29. Permit to plant.**

It shall be unlawful for any person to plant or set out any tree or shrub or cause or authorize or procure any person to plant or set out any tree or shrub in or upon any part of any public highway or public place without first obtaining from the director of public works a written permit so to do, and complying in all respects with the conditions set forth in such written permit and with the provisions of this article.

Cross reference—Licenses and permits, Ch. 14.

**Sec. 24-30. Planting trees and shrubs having extensive root systems.**

X It shall be unlawful for any person to plant a poplar, elm, box elder, basswood, soft maple, black walnut, willow or other tree or shrub having an extensive root system in any location where the roots are likely to penetrate through or under any public sidewalk or highway or under or through any city easement for water or sewer lines. Should the roots of any tree or shrub disturb city water or sewer systems, or cause breaks or eruptions in any sidewalk or highway

within the city, then the owner of such tree or shrub shall be responsible for removing the offending growth.

**Sec. 24-31. Planting trees in rights-of-way.**

It shall be unlawful for any person to plant any tree in the rights-of-way where street lighting, traffic signal or public utility overhead wires and equipment are located that will exceed a maximum growth height of forty (40) feet.

**Sec. 24-32. Notice to owners to trim, etc.; failure to comply.**

The director of public works shall give notice in writing to any property owner whose trees or shrubs must be trimmed, cut or removed pursuant to sections 24-27, 24-28 and 24-50, and if the property owner fails to act within thirty (30) days, then the director of public works shall have authority to proceed to trim, cut or remove such trees or shrubs.

**Sec. 24-33. Charges for removal by city.**

The cost of the removal of a tree, as provided for under sections 24-20, 24-27, 24-28, 24-30, 24-31 and 24-32, shall be a charge upon the real property on or in front of which such tree shall be located. Such cost shall be certified by the director of public works to the city council and shall thereupon become a lien upon such property. The charges shall be included in the next tax bill rendered to the owner of the real property, and shall be collected in the same manner as other taxes against such property.

**Sec. 24-34. Permit for public utilities to chemically control and trim.**

(a) Upon request of any public utility operating in the city, the director of public works shall issue an annual permit, and shall annually thereafter renew such permit, granting permission to such public utility to chemically control and trim and keep trimmed all trees and shrubs intruding into the air spaces over, or growing within the confines of the public highways, rights-of-way or public places of the city in such manner as shall keep the overhead lines and equipment of such public utility safe and

CITY OF GIBRALTAR

COUNTY OF WAYNE

STATE OF MICHIGAN

ORDINANCE NO. 23 JJJ

AN ORDINANCE TO AMEND SECTION 28-473, APPROVAL REQUIRED, SECTION 28-475, SITE PLAN AND DEVELOPMENT REQUIREMENTS, AND SECTION 28-477, PRINCIPLES TO BE FOLLOWED, OF CHAPTER 28, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF GIBRALTAR.

THE CITY OF GIBRALTAR ORDAINS:

SECTION 1. A new subsection (3) of Section 28-473, Approval required, of ARTICLE XXIII, SITE PLAN AND DEVELOPMENT APPROVAL, is hereby inserted to read as follows:

**"Section 28-473. Approval required.**

- (3) Tree removal, unless otherwise exempted by Section 28-477(4)."

SECTION 2. A new subsection (9) of Section 28-475, Site plan and development requirements, of ARTICLE XXIII, SITE PLAN AND DEVELOPMENT APPROVAL, is hereby inserted to read as follows:

**"Section 28-475. Site plan and development requirements.**

- (9) The location, diameter, and species of each significant tree (defined as having an average diameter of six (6) inches or greater, as measured five (5) feet above existing grade (AEG)), as well as a label indicating whether the tree is to remain or to be removed as proposed, to determine the impact of the proposed development on each of these significant trees."

SECTION 3. Subsection (4) of Section 28-477, Principles to be followed, of ARTICLE XXIII, SITE PLAN AND DEVELOPMENT APPROVAL, is hereby amended to read as follows:

**"Section 28-477. Principles to be followed.**

- (4) It is the purpose of this section to assure that individual trees and other naturally wooded areas are respected during site

developments. Woodlands serve to stabilize land areas, provide wind breaks, reduce pollution, and enhance community character. Only in the following instances shall significant trees be removed:

- (a) The tree(s) is in the location of a proposed structure, right-of-way, utility, or site improvement and no reasonable alternative location exists, subject to the opinion of the Planning Commission.
- (b) The tree is diseased, injured, or infected beyond restoration, in danger of falling so as to endanger other structures, interferes with utility services, or creates unsafe visual clearance.
- (c) Where removal or relocation of the tree(s) is consistent with good forestry practices (such as may be most recently promulgated by the American Association of Nurserymen, the International Society of Arboriculture, the National Arborist Association, the Society of Municipal Arborists, the National Arbor Day Foundation, or similar society or organization), or if it will enhance the health of remaining trees.
- (d) The removal of trees is conducted by a resident owner on his or her own property, by a public agency, by or on behalf of public utilities, or by any person for purposes of public safety as determined by the City."

SECTION 4. Subsection (5) of Section 28-477, Principles to be followed, of ARTICLE XXIII, SITE PLAN AND DEVELOPMENT APPROVAL, is hereby amended to read as follows:

"Section 28-477. Principles to be followed.

- (5) In instances where tree removal is necessary, the applicant shall be required to replace trees elsewhere on the site. In determining the manner by which removed trees shall be replaced, the planning commission shall consider the intended use of the property together with an evaluation of the following:
  - (a) A minimum density of sixteen (16) trees per acre or its

equivalent on smaller parcels.

- (b) Number of trees to be removed on the entire property.
- (c) Number, location, condition of trees on adjacent property.
- (d) Area to be covered with structures, parking and driveways.
- (e) Character of the site and its environs, including topographic and soil conditions, grading plan, and drainage requirements.
- (f) A minimum requirement of one tree for each new single-family residential lot, up to seventy (70) feet in width. When lot widths exceed seventy (70) feet, two (2) trees shall be required. On developments other than single-family residential, one tree shall be required for each fifty (50) feet of road frontage.
- (g) A minimum replacement rate of one (1) tree for every four (4) inches of tree diameter removed, or any fraction thereof. Therefore, the removal of a tree twelve (12) inches in diameter would require three (3) trees in its place, while the removal of a tree fourteen (14) inches in diameter would require four (4) trees. Trees used for replacement must be nursery-grown and at least two (2) inches in diameter. Whenever possible, it is desirable that the replacement tree be of a similar species, except where a tree has been removed pursuant to Section 28-477(4)(b), and that the replacement tree serve a similar function, i.e. shade, screening, ornamental, etc. Priority for replacement trees shall be given to street trees and trees utilized for supplemental screening purposes.
- (h) If tree relocation or replacement is not feasible on the parcel, the Planning Commission may allow the applicant to deposit to the City an amount determined to be acceptable by the City for tree replacement on a per tree basis based upon the current market value for tree replacement that would otherwise be required. These funds shall be utilized for the planting, maintenance, and

preservation of trees and woodland areas within the City.

- (i) Trees removed pursuant to Section 28-477(4)(d) shall be exempt from any requirement for replacement trees.
- (j) As a condition of site plan approval, the Planning Commission may require the applicant to submit a performance guarantee, in an amount to be determined by the City upon submission of a cost estimate by the applicant, for the purposes of ensuring that the requirements of this Section, as well as any conditions of site plan approval relative to tree preservation, removal, and replacement, are met by the applicant."

SECTION 5. Effective Date and Severability. This ordinance shall become effective on the date of publication. If any section of this ordinance is found to be invalid by a court of competent jurisdiction, the remaining sections shall remain in full force and effect.

First Reading: 4-24-2000

Second Reading: 5-8-2000

Published: 5-14-2000

Passed, approved, and adopted this 8th day of April, 2000.

Christopher Carroll, Mayor

Cynthia Ward, City Clerk

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Christopher Carroll, Mayor

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Cynthia Ward, City Clerk

I, Cynthia Ward, the duly elected Clerk of the City of Gibraltar, County of Wayne, State of Michigan, hereby certify that the above is a true and correct copy of an ordinance adopted at a regular council meeting held on the 8<sup>th</sup> day of May 2000, and published in the News Herald Newspaper.

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Cynthia Ward, City Clerk