

TREE ORDINANCE
ORD. NO. 10-23-1997-C
AS AMENDED 8-28-2008

SECTION 1. DEFINITIONS

"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, or ways within the Village.

"Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in parks having individual names, and all areas owned by the Village, or to which the public has free access as a park.

SECTION 2. ESTABLISHMENT OF A VILLAGE TREE BOARD

There is hereby created and established a Village Tree Board for the Village of Nashville, Michigan, which shall consist of the DPW committee members, who shall be appointed by the Village President, and the Director of Public Works.

SECTION 3. TERM OF OFFICE

The terms of three persons appointed by the Village President shall be one year.

SECTION 4. COMPENSATION

The members of the board shall be compensated per the President/Trustee Pay Ordinance.

SECTION 5. DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the board to study, investigate, council, and develop and/or update annually, and administer a plan, for the care, preservation, pruning, planting, replanting, removal, or disposition of trees in parks, along streets and other public places. Such plan will be presented annually to the Village Council and upon their acceptance and approval shall constitute the official city tree plan of the Village of Nashville. The board, when requested by the Village Council shall consider, investigate, make finding, report, and recommend upon any special matter or question coming within the scope of its work.

SECTION 6. 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 transaction of business.

SECTION 7. THE SPECIES TO BE PLANTED

The publication "STREET TREE" by the Municipal Tree Restoration Program constitutes the official reference publication for the Village of Nashville. This book should be referenced when selecting a tree species for planting on village controlled property. A copy of this publication will be available in the Public Works Department Office for review. All species of trees selected should meet the following qualifications before planting or have special authorization by the Village Tree Board to waive the set standards.

1. Hardiness should be for Zone 5 or higher.
2. Only non fruit bearing trees should be planted.
3. Tree species should be drought tolerant.
4. Tree species should be salt tolerant.

SECTION 8. SPACING

The spacing of street trees will be in accordance with the three size classes; SMALL - 25 feet apart, MEDIUM - 40 feet apart, LARGE - 50 feet apart; except in special plantings approved by the board and a landscape architect.

SECTION 9. DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with tree size. No trees may be planted closer to any curb or sidewalk than the following; SMALL & MEDIUM - 2 feet, LARGE - 4 feet.

SECTION 10. DISTANCE FROM STREET CORNERS AND FIRE PLUGS

No tree shall be planted closer than 35 feet to any corner, measured from the nearest intersecting curb lines. No tree shall be planted closer than 10 feet to any fireplug.

SECTION 11. UTILITIES

No street trees other than small trees may be planted within 10 feet of any overhead utility wire, or over, or within 5 feet of any underground utility.

SECTION 12. PUBLIC TREE CARE (revised 8-28-2008)

The Village shall have the right to plant, prune, maintain, and remove trees and shrubs within the lines of all streets, alleys, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public grounds. The Village will be responsible for the cutting, and cleanup of all Village right-of-way tree maintenance. The Village Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to any utility or public improvements, or is affected with any injurious fungus, insect, or other pest. The Village reserves the right to select

the replacement of any type of species of trees after the removal of a tree. This does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with this ordinance. The Village expects / requires the home owner to perform normal maintenance of the right-of-way including mowing, trees, bushes, flowers, etc.

SECTION 13. TREE TOPPING

It shall be unlawful as a normal practice for any person or firm to top any tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the trees 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 ordinance at the determination of the Village Tree Board.

SECTION 14. PRUNING, CORNER CLEARANCE (revised 8-28-2008)

Every tree owner having any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street light, obstruct the view of any street intersection, or overgrow any sidewalk so that there is a clear space of 14 feet above the street and 8 feet above the sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that are a menace to the public's safety. The Village shall have the right to prune any tree or shrub on private property when it interferes with the spread of light from any street light or interferes with visibility of any traffic control device or sign.

SECTION 15. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the Village. The Tree Board shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove such trees and charge the cost of work on the owner's property tax notice.

SECTION 16. REMOVAL OF STUMPS

All stumps in street right-of-way and parks 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.

SECTION 17. INTERFERENCE WITH VILLAGE TREE BOARD

It shall be unlawful for any person to prevent, delay, or interfere with the Village Tree Board, or any of its agents, while engaging in and about planting, or caring or removing any trees on public or private grounds, as authorized in this ordinance.

SECTION 18. REVIEW BY VILLAGE COUNCIL

The Village Council shall have the right to review the conduct, acts, and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Village Council who may hear the matter and make a final decision.

SECTION 19. PENALTY (revised 8-28-2008)

1. **Notice of violation and order to abate.** Any person determined by the Village Tree Board to be in violation of any section shall be given notice of the violation and ordered to abate the violation, as follows:

(a) **Service of notice and order.** The notice and order may be served by any one of the following means:

(i) In writing, by first-class mail, addressed to the owner of the property at the last know address as shown by the village tax records. The notice and order shall at the same time also be mailed to the occupants of the property, if different than the owner. If the notice and order are served by mail, they shall be deemed received by the addressee two mail delivery days after deposit in the Untied States mail.

(ii) In writing, posted at the property. The notice and order shall be deemed to have been served to the owner and/or occupant, as applicable, at the time the notice and order is posted at the property.

(iii) By providing the notice and order orally, either in person or by telephone. The oral notice and order shall be deemed to have been served to the owner and/or occupant, as applicable, at the time the oral notice and order are given. A written confirmation of the oral notice and order shall be mailed by the village to the person served within 5 days of the oral notice and order, provided that the failure to do so shall not affect the person's obligation to comply with the oral notice and order and shall not constitute a defense to a violation of section (1).

2. **Contents of notice and order.** To the extent known by the village, and as applicable under the circumstances, a notice and order under this section shall include:

(a) The date and time the notice was served.

(b) The name and address of the person (or persons) responsible for the violation.

(c) A description of the nature and location of the violation's, and the provisions of this section violated.

- (d) The minimum corrective actions required to abate the violation.
- (e) A statement that the violation must be abated within 10 days from the time notice was served.
- (f) An order to abate the violation by the time specified in the order (which shall be 10 days from the time notice and order are deemed to have been received as provided by this section).
- (g) A statement indicating that if the violation is not abated as ordered, then the village may unilaterally act to abate the violation; that the costs to the village of any action by the village to abate the violation, plus an administrative fee and any applicable fines, shall be a personal debt of the person to the village which may be assessed by the village as a lien against the property until paid; and that the refusal to allow the village to abate an uncorrected violation shall constitute a separate and additional violation of this section.

3. **Abatement required.** Any person served with a notice and order as provided by this section shall abate the violation as specified by the order.

4. **Noncompliance with order; Abatement by village.**

(a) **Abatement by village.** If a person served with a notice and order fails or refuses to abate the violation as required by the order under this section within 10 days of being notified of the violation, the village or its authorized representatives may enter the property and take any reasonable actions necessary to abate the violation.

(b) **Costs of Abatement: Delinquent payments: Lien.** The costs, including an administrative fee of \$25.00, as incurred by the village in abating the violation shall be immediately due and payable to the village by the owner of the property where the violation occurred. The village shall notify the property owner that the costs are due and owing by certified mail (return receipt requested), addressed to the property owner's last known address as shown by the city tax records. If the costs are not paid in full within 30 days of mailing the notification, they shall be delinquent. The amount of the costs plus any administrative fee shall be certified by the treasurer to the assessor for inclusion upon the next village tax roll. The amount included in the village tax roll shall be in a lien against the property which may be enforced and discharged by the village in the same manner as a tax lien. The costs of abatement, if any, recovered by the village shall be in addition to any civil fines, damages, expenses or costs payable to the village as a result of a violation.

(c) **Abatement by Village Not Defense to Violation.** The abatement by the village of a violation of this section and subsequent recovery of abatement costs incurred by the village shall not be a defense to any action by the village against any person for the violation, including without limitation, any action by the village to collect civil fines, damages, expenses or costs as authorized by law.

5. **Nuisance per se; injunctive relief.** A violation of this section is deemed to be a nuisance per se. In addition to any other remedy available at law, the village may bring an action for an

injunction or other process against a person, to restrain, prevent or abate any violation of this section.

SECTION 20. SEVERABILITY (revised 8-28-2008)

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court or competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 21. REPEAL (revised 8-28-2008)

Ordinance #10 dated 7-18-1892 (An Ordinance relative to shade trees overhanging sidewalks in the Village of Nashville) is hereby repealed as it is covered in its entirety by the revision of the Tree Ordinance No 10-232-1997-C.

SECTION 22. EFFECTIVE DATE:

This Ordinance shall be effective twenty (20) days after its publication.

YEAS: Gary White, Chris Pash, Dennis Mapes, Mike Kenyon, Carroll Wolff, Frank Dunham.

NAYS: none

ABSENT: none - one open seat

ORDINANCE NO. 10-23-1997-C IS DECLARED ADOPTED.

Cathy Lentz Village Clerk

Gary White, Village Pres.

I hereby certify that this foregoing Ordinance was adopted at a regular meeting of the Nashville Village Council held on October 23, 1997.

Dated: 10-23-1997

Cathy Lentz, Village Clerk

Adopted: 10-23-1997

Published: November 4, 1997

Effective: December 4, 1997