

VILLAGE COUNCIL  
VILLAGE OF NASHVILLE  
ORDINANCE 8-28-2008

Council Member Kenyon, supported by Council Member Coll, moved the adoption of the following ordinance:

AN ORDINANCE TO AMEND ORDINANCE NO. 10-23-1997-C (TREE ORDINANCE) TO AMEND SECTION 12, 14, 19, 20 AND SECTION 21.

THE VILLAGE OF NASHVILLE ORDAINS:

SECTION 1. Amendment of Section 12 and Section 14, Ordinance No. 10-23-1997-C. That Section 12, 14, 19, 20 and Section 21, Ordinance No. 10-23-1997-C is amended to read in its entirety as follows:

SECTION 12. PUBLIC TREE CARE:

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 14. PRUNING, CORNER CLEARANCE:

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 19. PENALTY:

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 known 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 United 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 violations 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

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**

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 2. Effective Date.**

This Ordinance shall be published in accordance with state law and shall become effective twenty (20) days after its adoption or upon its publication, whichever occurs later.

PASSED and adopted by the Village of Nashville, Michigan on 8-28-2008.

YEAS: Holden, Kenyon, Coll, Harwood, Dunham

NAYS: none

ABSENT: two open seats

Ordinance No. 8-28-2008 adopted.

---

Frank Dunham, President

---

Cathy Lentz, Village Clerk

I, Cathy Lentz, the Clerk for the Village of Nashville, Barry County, Michigan, hereby certify that the forgoing is a true and accurate copy of an ordinance adopted by the village Council of the Village of Nashville at a regular meeting held on 8-28-2008.

Cathy Lentz, Village Clerk

Adopted: 8-28-2008

Published: 9-6-2008

Effective: 9-26-2008