

ORDINANCE NO. 44

TREE ORDINANCE

VILLAGE OF MARTIN, MICHIGAN

An ordinance providing for the planting, care and removal of trees and shrubs in public streets, parkways and other public areas of the Village and to provide penalties for violation of this Ordinance.

THE VILLAGE OF MARTIN ORDAINS:

Sec. 1. PURPOSE AND NAME.

The purpose of this ordinance is to provide for the management and protection of trees for the public health, safety and general welfare of the residents of the Village and to preserve and promote the Village of Martin and its landscape resource values. The provisions of this ordinance, except as otherwise specifically stated herein, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the Village. This ordinance shall be known as the TREE ORDINANCE.

Sec. 2. DEFINITIONS.

- A. The word "Village" shall mean the Village of Martin, Michigan.
- B. The word "street" shall mean all the land lying between property lines on either side of all streets and highways and public right-of-ways in the Village.
- C. The word "park" shall include all public parks having individual names, and all areas, whether owned by the Village or not, to which the public has free access as a park.
- D. The word "tree," unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.
- E. "Curb tree lawn" shall mean that part of a street not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.
- F. The word "builder" shall include all property owners and anyone licensed to construct buildings who shall engage in new construction in any zoning district of the Village.
- G. "Commission" shall mean the Martin Village Council.

- H. The words "public utility" shall mean any person owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement of right-of-way for the transmission of electricity, gas, telephone service, telegraph service or cable television service.
- I. The words "prohibited species" shall mean any tree of poplar (*Populus Sp.*), willow (*Salix Sp.*), box elder (*Acer Negundo*), silver maple (*Acer Saccharinum*), locust (*Robina Sp.*), tree of heaven (*Ailanthus Altissima*), catalpa (*Catalpa Sp.*), mulberry (*Morus Sp.*), Siberian elm (*Ulmus Pumila*), birch (*Betula Sp.*), and any other species so determined by the Commission.
- J. The word "Department" shall mean the Department of Public Works of the Village.
- K. The words "Village Superintendent" shall mean Street Commissioner or his authorized representative.

Sec. 3. TREE AND SHRUB MANAGEMENT.

The planting, maintenance or removal of trees in places open to the public in the Village shall be done by the Department or by order of the Village Superintendent upon recommendation of the Commission. Such action may be initiated by the Commission, Village Superintendent or by petition of parties owning a majority of the lineal footage on the fronting property along a street.

- A. No person shall hereafter plant, transplant or remove any tree on any street, curb tree lawn, or park, nor cause such an act to be done by others without first obtaining a written permit from the office of the Village Clerk. Application for permits must be made not less than seventy-two (72) hours in advance of the time the work is intended to commence and each permit granted shall contain an expiration date not to exceed sixty (60) days from date of issuance.
- B. Each permit issued by the Village Clerk shall describe the work to be done, the number of trees to be removed or planted and the location, size, species or variety of each tree, the method of planting, and other information that the Village may require to insure that the work will be done properly. Any permit issued will be void if its terms are violated. Whenever any tree shall be planted in conflict with the provisions of the permit, it shall be lawful for the Village Superintendent to cause removal of the same and the cost for such removal shall be assessed to the permittee as provided by law in the case of special assessments or as otherwise provided herein.

Sec. 4. BUILDER RESPONSIBILITY.

- A. GENERAL. Builders shall be required to fulfill tree planting and protection requirements as provided under the present and future ordinances of the Village and its Commission including, but not limited to subdivision regulations and site plan requirements.
- B. MINIMUM PLANTING REQUIREMENTS. One street tree of an approved species measuring at least one and one-half inch (1-1/2") in diameter shall be planted on all new construction sites, residential or otherwise, for each lot of seventy-five feet (75') or less, and at least two trees for every lot in excess of seventy-five feet (75') frontage. Corner lots shall require at least one tree for each street. The builder shall be responsible for fulfilling these requirements.

Sec. 5. PROTECTION OF TREES AND SHRUBS.

It shall be unlawful for any person to do any of the following acts to any tree located on any Village curb tree lawn or park:

- A. 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;
- B. Remove, break, injure, mutilate, kill, cut, peel, or destroy any tree by any means or in any manner;
- C. Permit any fire to burn where such fire will injure any portion of any tree;
- D. Permit any toxic chemical to seep, drain, or to be emptied on or about any tree;
- E. 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 growing therein;
- F. Fail to report any known leak existing or occurring in any gas pipe or main within a radius of forty feet (40') of any tree;
- G. Knowingly permit any electrical wires to come into contact with any tree;

- H. Allow excavations and driveways to be placed within five feet (5') of any tree without written permit from the Village Superintendent. Any person making such excavation or construction shall guard any tree within six feet (6') 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 (4') from any tree;
- I. Plant any prohibited species of tree as hereinbefore set fourth. Any exceptions to these prohibitions must be granted in writing by the Village Superintendent on a case by case basis.

Sec. 6. COMPENSATION FOR TREES DAMAGED OR DESTROYED.

Any tree growing on any street, curb tree lawn, or park which is destroyed or damaged to the point where repair or replacement is needed shall be the responsibility of the party responsible for such damage or destruction in any amount necessary to replace or repair the destroyed or damaged tree.

Sec. 7. AUTHORITY OF VILLAGE SUPERINTENDENT TO INSPECT TREES
ON PRIVATE PROPERTY.

The Village Superintendent 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 may remove such specimens as 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 or his agents from entering private property for purposes of carrying out his duties hereunder.

Sec. 8. PRIVATE TREES--DISEASE, INSECT, AND OTHER HAZARDS.

When the Village Superintendent discovers any tree growing on private property within the Village 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(s), the location, the nature of the infestation, disease, or condition, and ordering the owner or his agent to take necessary measures to abate the infestation, disease, or condition, to prevent the spreading thereof and specifying the corrective measures required to be taken. This notice may require the pruning, treatment, or removal of the affected tree(s) as reasonably necessary.

Sec. 8 (cont.)

Every such notice shall be complied to within a definite time as stated in the notice, but not to exceed ten (10) days after service thereof upon the property owner or his agent. If, at the expiration of the time limit in the notice, the owner or agent has not complied with the requirements thereof, the Village Superintendent shall carry out the requirements of that notice. The costs of completing the necessary work to resolve the existing condition as specified in the notice shall be billed by the Village to the property owner.

Sec. 9. TRIMMING AND REMOVAL OF TREES ON PRIVATE PROPERTY.

Any tree growing on private property and so located as to extend its branches over a public street, 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, sidewalk, park or public place and so as to eliminate the traffic hazard and the menace and danger to the public, pursuant to written notice by and under the supervision of the Village Superintendent. When such notice is given, the property owner shall be given a reasonable and definite time to comply with the order, but not to exceed ten (10) days from the date notice was served. If the work is not satisfactorily completed within that time, the Village Superintendent or his chosen agent may enter upon the property to complete the necessary trimmings or removals as specified in the notice. The costs incurred in completing this work will be billed by the Village to the property owner.

The Village shall have the right to trim any tree on private property when it interferes with the proper spread of light along the street from a street light.

Sec. 10. VIOLATION AND PENALTY.

Any person, firm, or corporation who shall violate any provision of this ordinance or who disobeys any lawful order issued in pursuance to the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$500.00 and/or by imprisonment not to exceed 90 days at the discretion of the court. Imposition of any penalty for a violation of this ordinance shall not be construed as a waiver of the right of the Village to collect from the defendant the costs of the tree work done by the Village which the defendant was required, but failed to pay under the provisions of this ordinance or the right of the Village to collect from the defendant the value of any tree illegally damaged or destroyed.

Sec. 10 (cont.)

The Village retains the right to seek and obtain injunctive relief in addition to or as an alternative to the penalties prescribed above in order to promote the purpose of this ordinance

Sec. 11. ENFORCEMENT AND APPEALS.

The Village Superintendent is hereby designated as the enforcing agency to see that the provisions of this ordinance are obeyed and all complaints as to the violation of this ordinance shall be presented in writing to the Village Attorney and shall be prosecuted in the name of the Village.

Sec. 12. REPEAL OF CONFLICTING ORDINANCES.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Sec. 13. VALIDITY CLAUSE.

Should any section, paragraph, sentence, or words of this ordinance adopted be held for any reason to be invalid, such holding shall not be construed as affecting the validity of any remaining portion of such section of this ordinance, it being the intent that this ordinance shall stand.

Sec. 14. EFFECTIVE DATE

This ordinance shall take effect ten (10) days after publication thereof.

Passed and approved on the 9th day of July, 1990, with the following vote:

Ayes: Commissioners Pierce, Porter, Merrill, Conklin,
Mihelich, Flower.

Nays: None

Absent: Commissioner Brinkhuis

Richard D. Conklin, Jr.
President

Joyce Merrill
Clerk

TREE ORDINANCE

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ORDINANCE NO. 44 TREE ORDINANCE VILLAGE OF MARTIN, MICHIGAN

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Nays: None
Absent: Commissioner Brinkhuis

Richard D. Conklin, Jr., President
Joyce Merrill, Clerk