

TREE ORDINANCE

VILLAGE OF CASSOPOLIS, MICHIGAN

Ordinance Number 199

An Ordinance regulating the planting, maintenance, and removal of trees in the public streets, parks, cemetery and other Village owned or controlled property, establishing a Village Tree Committee; prescribing regulations relating to the planting, maintenance, and removal of trees in public places; providing for the pruning and removal of trees on private property which endanger public safety; and prescribing penalties for violations of its provisions.

THE VILLAGE OF CASSOPOLIS ORDAINS:

Sec. A. "SHORT TITLE" This Ordinance shall be known and may be cited as the Tree Ordinance of the Village of Cassopolis.

Sec. B. "PURPOSE" The purpose of this Ordinance is to promote the general welfare, health and safety of the public by protecting and preserving Village water and sewer lines, public streets and sidewalks, the delivery of necessary heat and light to Village residents, and by controlling certain diseases and destructive insects through the regulation of the planting, maintenance and removal of all public trees within the Village of Cassopolis.

Other purposes of this Ordinance include:

1. To provide for the protection, preservation, proper maintenance and use of public trees and woodlands located in the Village of Cassopolis in order to minimize disturbances to them and to prevent damage from erosion and other environmental situations, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat;
2. To protect the public trees, woodlands, and other forms of vegetation of the Village of Cassopolis for their economic support of local property values when allowed to remain uncleared and/or unharvested and for their natural beauty, wilderness character, ecological and/or historical significance;

Sec. C. "DEFINITIONS" For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

1. "CEMETERY" means the Prospect Hill Cemetery.
2. "LARGE TREES" are those trees attaining a height of 45 feet or more at maturity.
3. "MEDIUM TREES" are those trees attaining a height of 30 to 45 feet at maturity.
4. "PARK" shall include all Village parks having individual names, being Log Cabin Park, Southside Park, Clisbee Park and Don Home Park.
5. "PERSON" is any person, firm, partnership, association, corporation, company, or organization of any kind.
6. "PROPERTY LINE" shall mean the description of record as shown by the property tax records at the Village.
7. "PUBLIC PLACES" shall include all other grounds owned or controlled by the Village.
8. "PUBLIC TREES AND SHRUBS" shall include all shade and ornamental trees, shrubs, bushes, and all other woody vegetation, now or hereafter growing in any street right-of-way, public park, cemetery or other public places.
9. "SMALL TREES" are those trees attaining a height of 20 to 30 feet at maturity.
10. "STREET OR HIGHWAY" means the entire width of every public way or right-of-way, including alleys, when any part thereof is open to the use of the public for vehicular and/or pedestrian traffic.
11. "TREE LAWN" shall mean lying between the property line- as ordinarily defined- not recognizing that portion of the street or highway usually used for vehicular traffic- and that portion of the street or highway usually used for vehicular traffic.
12. "VILLAGE" shall mean the Village of Cassopolis.

Sec. D. "AUTHORITY"

1. The Village Manager, or his designee, shall have the power and control over all public trees now existing or which may be planted within the boundaries of the Village of Cassopolis. This power shall be limited by the Constitution and Laws of the United States and the State of Michigan, the Charter of the Village of Cassopolis and the language of this Ordinance.

2. The Village Manager, or his designee, shall prepare, maintain and annually update a schedule of official public trees. The Village Council, upon the recommendation of the Village Manager, will have final authority to approve the listing of official public trees and in making amendments or deletions from said list on a periodic basis.

Sec. E. "ADMINISTRATION" The Village Manager shall have the power to administer this article. The Village Manager shall also have the power to promulgate and delegate the responsibilities established by this Ordinance. The Village Manager shall also have the power to draft suggested changes and additions to both this Ordinance and the tree schedule and recommend that the Village Council approve such suggested changes and additions

Sec. F. "VILLAGE TREE COMMITTEE"

1. Establishment. There is hereby created a committee to be known as the "Village Tree Committee". The Village Tree Committee shall be comprised of five members, one such member to be a member of the Cassopolis Village Council appointed by the Village President with the approval of the Village Council; one such member to be a member of Village's Department of Public Works Committee; one such member to be the Village Superintendent of Public Works; the fourth member to be the Cassopolis Village Manager; and the fifth member to be a resident of the community appointed by the Village President with the approval of the Village Council. In the event that the Village does not employ a Village Manager, the third member of the Committee shall be a resident appointed by the President with the Approval of the Council. All meetings of the Village Tree Committee shall be subject to the Open Meetings Act and be posted in advance accordingly.
2. Terms. Members of the Village Tree Committee shall serve until their successor has been appointed.
3. Compensation. Members of the Committee shall serve without compensation.
4. Duties. The duties of the Village Tree Committee shall be as follows:
 - (A) To study and determine the needs of the Village in connections with its tree planting programs.
 - (B) To assist the Village Manager in developing a comprehensive tree management and preservation program for the Village. It shall serve as a clearinghouse for information on trees.
 - (C) To recommend to the Village Council the type and kind of trees to be planted in street or highway right-of-ways, parks, cemetery or other

public places, and to recommend appropriate programs and procedures for the maintenance of trees in public right-of-ways, parks, cemetery and other public places.

- (D) To assist the Village Council and citizens of the Village by dissemination of information regarding the selection, planting, and maintenance of trees within the Village, whether the same be on public or private property.
- (E) To recommend to the Village Council such ordinance or regulation amendments concerning the tree program and activities as may, from time to time, be appropriate.
- (F) The Committee, when requested by the Village Council, shall consider, investigate, make findings, report and recommend upon any special matter of question when coming within the scope of its work.

Sec. G. "STREET TREE SPECIES TO BE PLANTED" The following list constitutes the official Street Tree Species List for the Village of Cassopolis. No species other than those included in this list may be planted as Street Trees or trees on other public property, without written permission of the Village Tree Committee.

1. Small Trees: Small trees are those with an estimated maximum height of less than 20 feet;
 - Flowering Crabapple
 - Flowering Dogwood
 - Washington Hawthorne
 - Amur Maple
 - Eastern Redbud
 - Japanese Lilac Tree
 - American Plum

2. Medium Trees: Medium trees are those with an estimated maximum height of between 20 and 40 feet in height;
 - Ohio Buckeye
 - Amur Chokecherry
 - Hedge Maple
 - Golden Raintree
 - Downy Hawthorne
 - Toba Hawthorne
 - Ironwood
 - Canyon Maple
 - Bradford Pear
 - Aristocrat Pear

3. Large Trees: Large trees are those with an estimated maximum height of more than 40 feet;
- Green Ash
 - White Ash
 - Western Catalpa
 - Kentucky Coffeetree
 - American Elm
 - Slippery Elm
 - Ginkgo
 - Hackberry
 - Honeylocust
 - Horsechestnut
 - Yellow Buckeye
 - American Linden
 - Littleleaf Linden
 - Redmond Linden
 - Crimson King Maple
 - Sugar Maple
 - Norway Maple
 - Bur Oak
 - English Oak
 - Swamp White Oak
 - Tulip Tree
 - Zelkova

Sec H. "SPACING OF STREET TREES" The spacing of Street Trees will be in accordance with the three species size classes listed above and no trees may be planted closer together than the following:

Small Trees:	25 feet
Medium Trees:	35 feet
Large Trees:	45 feet

except as otherwise approved by the Village Tree Committee.

Sec. I. "DISTANCE FROM CURB AND SIDEWALK" The distance trees may be planted from curbs, or approximate curblines in areas void of curbing, and sidewalks, or approximate sidewalk lines in areas void of sidewalks, will be in accordance with the three species size classes listed above, and no trees may be planted closer to any curb or sidewalk than the following:

Small Trees:	3 feet
Medium Trees:	4 feet
Large Trees:	5 feet

except as otherwise approved by the Village Tree Committee.

Sec. J. "DISTANCE FROM STREET CORNERS AND FIREPLUGS" No Street Tree shall be planted closer than twenty (20) feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet to any fireplug.

Sec. K. "UTILITIES - STREET TREES" No Street Tree other than those species listed as Small Trees of this Ordinance may be planted within 5 lateral feet of any overhead utility wire, or over or within 6 lateral feet of any underground water line, sewer line, transmission line or other utility if the tree is identified above as a small tree, 7 lateral feet if it is identified above as a medium tree; and 8 lateral feet if it is identified above as a large tree.

Sec. L. "UTILITIES - TREES ON PRIVATE PROPERTY"

- (1) No person shall plant any tree on private property within the Village unless the distance from the center of the trunk of such tree to the nearest street right-of-way line measures 10 feet or more.
- (2) No person shall plant on private property within the Village any tree enumerated above as Small Trees within 6 lateral feet of any underground water line, sewer line, transmission line or other utility.
- (3) No person shall plant on private property within the Village any tree enumerated above as Medium Trees within 7 lateral feet of any underground water line, sewer line, transmission line or other utility.
- (4) No person shall plant on private property within the Village any tree enumerated above as Large Trees within 8 lateral feet of any underground water line, sewer line, transmission line or other utility.

Sec. M. "PARK AND CEMETERY TREE SPECIES" The species set forth in this Section shall constitute the official Park and Cemetery Tree list for the Village of Cassopolis. No species other than those included in this Section may be planted as Park and Cemetery Trees without written permission of the Village Tree Committee.

1. Small Trees: Small trees are those with an estimated maximum height of less than 20 feet;
 - Flowering Crabapple
 - Flowering Dogwood
 - Washington Hawthorne
 - Amur Maple
 - Eastern Redbud
 - Japanese Lilac Tree
 - American Plum

2. Medium Trees: Medium trees are those with an estimated maximum height of between 20 and 40 feet in height;

Ohio Buckeye
Amur Chokecherry
Hedge Maple
Golden Raintree
Downy Hawthorne
Washington Hawthorne
Toba Hawthorne
Ironwood
Canyon Maple
Bradford Pear
Aristocrat Pear

3. Large Trees: Large trees are those with an estimated maximum height of more than 40 feet;

Green Ash
White Ash
Western Catalpa
Kentucky Coffeetree
American Elm
Slippery Elm
Ginkgo
Hackberry
Honeylocust
Horsechestnut
Yellow Buckeye
American Linden
Littleleaf Linden
Redmond Linden
Crimson King Maple
Sugar Maple
Norway Maple
Bur Oak
English Oak
Swamp White Oak
Tulip Tree
Zelkova

Sec. N. "STREET, PARK AND CEMETERY TREE CARE" The Village shall have the right to plant, prune, maintain and remove street trees, park trees, cemetery trees, plants and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, right-of-ways and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Village Tree Committee, with the written permission of the Village Manager, may remove or cause or order to be removed, any tree(s) 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, cable lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

Sec. O. "PRUNING, CORNER CLEARANCE" Every owner of any tree overhanging any street right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 7 feet above the street or sidewalk. Said owner shall remove all dead, diseased, or dangerous trees or broken or decayed limbs that constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with the visibility of any traffic control device; or to remove any tree that negatively and dangerously affects a municipal water main, storm sewer main, or sanitary sewer main.

Sec. P. "DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY"
The Village Manager shall have the right to cause the removal of any dead or diseased trees thereof on private property within the Village, when such trees or parts thereof constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the Village.

Before ordering the tree removed, Village Manager shall notify the last known owner of the property of the Village's desire to have the property owner remove said tree(s). The property owner shall be given thirty (30) days to remove said tree(s). If the tree(s) is not removed during this thirty (30) day period, the Village Manager shall notify the property owner of the need to appear before the Village Tree Committee. Notice shall be given to the property owner at least ten (10) days in advance of the date the Village Tree Committee meeting is to be held. At the Village Tree Committee meeting, the Committee will either uphold, overrule, or develop a compromise to, the determination of the Village Manager to remove the tree. At the meeting of the Village Tree Committee, the property owner shall be given the right to appear and express their feelings on the removal of the tree. The Village Tree Committee shall have the right to request the property owner to explain his objections to such removal(s).

If the property owner does not agree with the decision of the Village Tree Committee, the property owner shall have the right to appeal the Village Tree Committee's decision to the Village Council at their next Regular Council Meeting. The property owner shall be given notice of the meeting before. At the Regular Council Meeting, the Village Council shall either uphold, overrule, or develop a compromise to the decision of the Village Tree Committee. The decision of the Village Council shall be final.

Sec. Q. "REMOVAL OF STUMPS" All stumps of Street, Park and Cemetery 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. Such removal shall be conducted within a one-year time after the tree is removed.

Sec. R. "TREE REMOVAL" No person may remove or cut down a public tree without written authorization from the Village Manager or his designee. Any person who violates this subsection shall be required, in addition to any other penalties imposed by this article or any other law, to replace all public trees so removed or cut down at the violator's expense.

Sec. S. "TREE MAINTENANCE AND PROTECTION"

- (1) No person shall break, injure, mutilate, kill, destroy, set fire to or permit a fire to be set to any public tree or shrub. No person shall knowingly cause or permit to be caused any seepage, drainage, injection or emptying of any chemicals or other materials harmful or injurious to a tree on, into or within twenty (20) feet of any tree in the Village. Normal treatment of weed killer and lawn fertilizer shall be exempt from this section unless the weed killer or lawn fertilizer used is contained on a list of prohibited chemicals published by any agency of the government of the United States or the State of Michigan.
- (2) No person shall use any public tree as an anchor. No person shall fasten or hang any material of any kind to any public tree. No person shall attach any electrical wire or insulation to any public tree. This provision does not apply to residential Christmas holiday decorations or when special permission is given a residential owner by the Village Manager.
- (3) No person shall place in any street right-of-way or any parkway any sand, stone, concrete, brick or material of any kind which will in any way impede the full and free passage of air, water or fertilizer to the roots of any public tree.

Sec. T. "PENALTY" Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction or a plea of guilty, shall be subject to a fine not to exceed \$500.00.

Sec. U. "INTERFERENCE WITH VILLAGE TREE COMMITTEE" It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Committee, 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 by the provisions of this Ordinance.

Sec. V. "REVIEW BY VILLAGE COUNCIL" The Village Council shall have the right to review the conduct, acts, and decisions of the Village Tree Committee. Any person may appeal from any ruling or order by the Village Tree Committee to the Village Council who may hear the matter and make final decisions.

Sec. W. "SEVERABILITY" If any Section, Sub-Section, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions of this Ordinance.

Sec. X. "EFFECTIVE DATE" This Ordinance was first read at a public meeting held by the Village Council of the Village of Cassopolis on Monday, April 10, 1995 and was reviewed and approved at a public meeting held by the Village Council of the Village of Cassopolis on May 8, 1995. This Ordinance shall become effective immediately upon publication.

Adopted this 8th day of May, 1995.

Upon a motion made by Councilmember Yoder, and supported by Councilmember Beauchamp, the above and foregoing Ordinance Number 199 was duly adopted.

(S) RICHARD A. LEE

Richard A. Lee, Village President

(S) ROSEMARY M. GILLAM

Rosemary M. Gillam, Village Clerk

ROLL CALL VOTE

AYES:	7
NAYS:	0
FOR:	Vite, Proffitt, Bell, Kugler, Yoder, Beauchamp, Lee
AGAINST:	None
ABSENT:	None
ABSTAINING:	None
READ:	April 10, 1995
REVIEWED:	April 10, 1995
APPROVED:	May 8, 1995
PUBLISHED:	May 18, 1995