

Village of Breckenridge
Ordinance No. 139

AN ORDINANCE TO ESTABLISH A MUNICIPAL TREE ORDINANCE

THE VILLAGE OF BRECKENRIDGE ORDAINS:

SECTION 1. TITLE

This ordinance shall be known as the municipal tree ordinance for the Village of Breckenridge, in Gratiot County, State of Michigan.

SECTION 2. PURPOSE / INTENT

All street trees, park trees and privately owned trees are valuable assets to the residents of the Village. Proper planning and care will help ensure that these assets will continue to thrive and benefit the citizens of the Village in the future. The purpose of this ordinance is to promote the health, safety, welfare, and quality of life of the residents of the Village through the protection of specified trees located on public property within the Village, and the establishment of standards for removal, maintenance, and planting of trees. In establishing these procedures and standards, it is the Village's intent to encourage the preservation of trees.

SECTION 3. APPLICABILITY / JURISDICTION

This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks, and public places of the Village; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein. This ordinance, at time of implementation, shall act as a guideline for current developments and as regulation for future development, except in cases approved in writing by the Village Manager or Community Arborist. This ordinance is made retroactive.

SECTION 4. DEFINITIONS

Arborist – tree professional that possesses the technical competence gained through experience and related training to provide for or supervise the management of individual trees and other woody plants, in residential, commercial, and public landscapes.

Canopy – the part of the crown composed of leaves and small twigs.

Certified Arborist – a tree professional certified by the International Society of Arboriculture.

Community Arborist – a person who possesses general knowledge of specific trees and a broader knowledge base on the overall roles trees play in the urban setting. This person is appointed by Village Council Resolution.

Diseased Tree - any tree with a combination of structural defect and/or a health condition, which makes it subject to a high probability of failure.

Governing Body – the Village Manager with the advice of the Community Arborist is the person on a day-to-day basis responsible for the community forest.

Highway – includes all land lying between the property lines on either side of all-public streets, boulevards, and alleys.

Large Tree - those trees attaining a height of forty-five (45) feet or more at maturity.

Lawn Extension – that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. The same as “Tree Lawn.” This areas lies within the jurisdiction of the Village.

Medium Tree – those trees attaining a height greater than thirty (30) feet and less than forty-five (45) feet in height at maturity.

Park – shall include all public parks having individual names, and all areas owned by the Village, or to which the public has free access.

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

Private Trees – any tree not located on property owned or controlled by the Village.

Public Place – any public street, public highway, Public Park or any property owned or held by the Village within the boundaries of the Village.

Public Right of Way (ROW) – land owned and maintained by the municipality. Land dedicated for streets sidewalks, utilities, and similar public uses such as parks, lawn extensions (tree lawns), etc.

Public Tree – any tree located on property owned or controlled by the Village.

Registered Arborist – a tree professional with a degree in forestry or related field who is register with the State of Michigan.

Roadway - that part of the highway located within the curb lines which is used for vehicular travel and, where there are no curbs, that part of the highway which is used for vehicular travel, but which also includes the shoulders.

Shrub – a low, small plant, the branches of which grow directly from the earth without any supporting trunk, or stem. Any tree with a potential growth of less than fifteen (15) feet shall be considered a shrub.

Small Tree – those trees attaining a height greater than fifteen (15) feet to thirty (30) feet in height at maturity.

Street Tree – trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village.

Tree – a woody perennial plant, usually having one dominant vertical trunk and capable of achieving a height greater than fifteen (15) feet.

Tree Advocacy Group – a group of people designated by ordinance to advise the Village Council on matters related to an urban and community forestry program.

Tree Lawn – that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. The same as “Lawn Extension.” This area lies within the jurisdiction of the Village.

Topping – the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Utility Right-of-Way – Right of Way where utilities such as gas, electric, water, etc. are maintained.

SECTION 5. PERSON OR DEPARTMENT RESPONSIBLE FOR TREES

The Village Manager or the Community Arborist shall have authority over any and all trees on public right-of-ways or any public property in the Village of Breckenridge. The Community Arborist shall also have the right to review all site plans concerning the removing, planting, or alteration of vegetation.

SECTION 6. TREE ADVOCACY GROUP

There is hereby created and established a Tree Advocacy Group for the community of Breckenridge, which shall consist of five members, citizens and residents of this Village, who shall be appointed by the Village Council. Members of the tree advocacy group shall serve without compensation. The term of the Tree Advocacy Group shall be three years, except that the term of two members appointed to the first Tree Advocacy Group shall be only one year and the term of two members appointed to the first tree advocacy group shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The Community Arborist and representative from Village Council will serve as ex-officio members of the Tree Advocacy Group. The members shall come from different interest groups including homeowners, tree professionals, street department, and Village government.

The Tree Advocacy Group will assist the Village Council in the development of a comprehensive plan for the Village of Breckenridge, Michigan, including but not limited

to planning, tree planting, and maintenance programs for all public trees. The Tree Advocacy Group will promote the goals of the tree program.

The Tree Advocacy Group shall meet four times a year, and in addition, meetings can be called by the chairperson or by the Village Manager. A majority of the members shall constitute a quorum.

Members may be reimbursed for out-of-pocket expenditures made in connection with their duties. Additional duties may include:

Coordinating annual Arbor Day celebrations

Coordinating with citizen groups – tree plantings and/or other beautification projects on public land

Hear appeals of decisions made by the Community Arborist or Village Manager

Other Village projects

SECTION 7. AUTHORITY TO ENFORCE

The Village Council shall have the power to promulgate and enforce rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk, any other public place, and on private property, as described in Section 3, in the Village.

SECTION 8. AUTHORITY TO ACCEPT MONIES

The Village Manager and Treasurer, or either of them, are hereby authorized to accept, on behalf of the Village, all gifts of money for the purpose of planting trees and maintaining those trees in accordance with the Master Tree Planting Plan.

SECTION 9. PERMITS

Public service companies, such as electrical utilities, their agents/contractors, and Village employees doing such work in pursuit of their public service endeavors do not need to apply for or obtain a permit

Before any tree permit shall be issued, each applicant shall first file evidence of possession of liability insurance for bodily injury and property damage in an amount as designated from time to time by the Village Council indemnifying the Village, or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

No person, firm or corporation shall plant, trim or remove a tree, shrub or vine on any property under the control of the Village without first obtaining a permit from the Village office. A permit should not be given for the planting of trees, shrubs, or vines whose species already makes up at least ten (10) percent of all plantings or whose genus already makes up at least twenty (20) percent of all plantings, except by specific written permission of the Village Manager or Community Arborist.

An application for a permit shall be made at least forty-eight (48) hours in advance of the date the work is to be performed and shall describe the work to be done and the variety, size and location of each item to be planted or trimmed.

A permit shall be issued without charge and shall expire sixty (60) days after the date of issue.

Applications submitted by owners of the abutting property for the planting of trees, shrubs and vines need not be accompanied by a certificate of insurance but all other applicants shall have attached a current certificate of insurance in the amount designated from time to time by the Village Council.

Any work done under a written permit must be performed in strict accordance with the terms of this ordinance and under the supervision and direction of the Village Manager or Community Arborist. If the work described in the application is not completed within seventy-two (72) hours of the date of issue, the applicant shall notify the Village office upon completion of the work or any major portion of it.

Public service companies, such as electrical utilities, their agents/contractors, and Village employees doing such work in the pursuit of their public service endeavors do not need to apply for an obtain a permit.

The planting, trimming or removal of multiple trees, shrubs or vines on any property at one time shall only require the obtainment of one permit.

SECTION 10. TREE SPECIES AND PLANTING REQUIREMENTS / SPECIFICATIONS

The Standards and Specifications Manual that accompanies this ordinance shall contain regulations and standards for planting, maintenance, and removal of trees, shrubs and other plants on Village owned property.

The following requirements will be set forth:

- Tree species acceptable for planting
- Planting requirements and spacing standards
- Distance from curb and sidewalk, street corner and hydrants
- Green easements to plant public trees on private land
- Replacement Standards
- Site requirements or restriction/limitations

Exceptions to the standards and specifications may be authorized by the Village Manager or Community Arborist.

SECTION 11. TREE CARE AND MAINTENANCE

The Standards and Specifications Manual that accompanies this ordinance shall contain regulations and standards for planting, maintenance, and removal of trees, shrubs and other plants on Village owned property.

The following requirements will be set forth:

- Public tree care
- Pruning standards and specifications
- Pruning and corner clearance
- Prohibiting the practice of tree topping
- Tree removal and replacement standards
- Pest control program
- Dead or diseased tree removal on private property

Exceptions to the standards and specifications may be authorized by the Village Manager or Community Arborist.

SECTION 12. TREE PROTECTION/PRESERVATION

It shall be a violation of the provisions of this ordinance for any person to abuse, destroy or mutilate any tree, plant or shrub in a public parking strip or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill, or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid, or solid substance which is harmful to such tree to come in contact with their roots, trunks, or leaves.

Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground beneath the canopy of the tree.

In new subdivisions or when the new development of commercial property occurs, the Village Manager and the Community Arborist shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided.

Utility companies will provide the Village Manager with a courtesy call prior to beginning any utility line clearance work within the Village. All utility line clearance work will be performed based upon growth rates specific to individual tree species.

In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered.

Trees removed by recommendation of the Tree Advocacy Group or by natural causes shall be replaced somewhere in the forest on a one-for-one basis within one year, by the Village. The location and species of any replacement tree shall be determined by the Village Manager with the advice of the Community Arborist.

Landmark and historical trees, as decided by the Community Arborist, shall be protected and preserved unless otherwise classified as a public hazard. Landmark and historical

trees will be physically identified by the Community Arborist with input from the Tree Advocacy group.

SECTION 13. OBSTRUCTION

Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not significantly obstruct the illumination from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of sixteen (16) feet above street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which 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 streetlight, or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Only certified electric line clearance tree professionals will work within two feet of any electrical conductor as provided by MIOSHA.

SECTION 14. NUISANCE AND CONDEMNATION

In the event the owner or occupant, or any person or persons, agent, firm or corporation having control or management of any lot, place or parcel of land within the Village fails, refuses or neglects to comply with the provisions of this section, the Village and its authorized representatives are hereby empowered, upon the giving of reasonable notice, as determined by the Village, to enter upon such land for the purpose of accomplishing abatement of the violation by spraying, cutting and/or other methods deemed acceptable by the Community Arborist. All expenses incurred by the Village in the performance of this work, together with a ten (10) percent administrative charge, shall be reimbursed by the owner or owners of such land or lots, and in cases where not paid, the Village shall place a charge for the cost on the owner's property tax notice.

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 which constitutes a potential threat to other trees within the Village. The Village Manager will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (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 removal on the owner's property tax notice.

SECTION 15. APPEALS

Any person who receives an order from the Village and objects to all or part thereof, may within eight (8) days of receipt thereof, notify the Village Manager in writing, of the nature of the objection and request a hearing before the Tree Advocacy Group. The hearing shall be held within eight (8) days of notice to the appellant. Within eight (8) days after such hearing, the advocacy group shall notify the appellant and the Village Manager of the final decision.

SECTION 16. INTERFERENCE

No person shall prevent, delay, or interfere with the Village Manager or his/her designee in the execution or enforcement of the ordinance.

SECTION 17. PENALTIES

The owner, as shown on the assessor's records, of private property subject to this ordinance is responsible for compliance. Violation of this ordinance shall be punishable by a civil fine of not less than fifty (50) dollars for the first offense, not less than one hundred (100) dollars for the second offense, and not less than two hundred fifty (250) dollars for each additional or subsequent offense within a two (2) year period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed one thousand (1,000) dollars. Each day of violation shall be a separate violation. If the penalty is not paid within forty-five (45) days, it shall be a special assessment against the property.

SECTION 18. EMERGENCIES

During emergencies, such as windstorms, ice storms, fire or other disasters, the requirements of this ordinance may be waived by the Village Manager for purposes of restoring order to the Village. This section shall not be used to circumvent the Tree Ordinance.

SECTION 19. SEVERABILITY

If any section, subsection, paragraph, 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 holding shall not affect the validity of the remaining portions thereof.

SECTION 20. ORDINANCES REPEALED

All ordinances and/or parts of ordinances inconsistent with this ordinance are hereby repealed.

SECTION 21. EFFECTIVE DATE

This ordinance shall take effect and be in force twenty (20) days from and after its enactment as provided by the Village Council.

We, the undersigned, President and Clerk of the Village of Breckenridge, Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. ___ of the Village of Breckenridge, Michigan, was introduced at a regular meeting of the Village Council, held on August 25, 2008, and was thereafter passed at a regular meeting on September 22, 2008, at least two weeks elapsing between the introduction and the enactment.

Date at Breckenridge, Michigan, this 13th day of October 2008

President

Clerk