

VILLAGE OF CASS CITY
PROPOSED ORDINANCE NO. 214

AN ORDINANCE TO AMEND THE CASS CITY MUNICIPAL CODE, CHAPTER 42,
VEGETATION, ARTICLE II, TREES AND SHRUBS IN PUBLIC AREAS

THE VILLAGE OF CASS CITY ORDAINS:

Section 1. Amend Chapter 42, Article II.

The Village Council of Cass City hereby amends the Village Ordinance, Chapter 42, Vegetation, Article II, Trees and Shrubs in Public Areas, to read as follows:

ARTICLE II. TREES AND SHRUBS IN PUBLIC AREAS

DIVISION 1. GENERALLY

Sec. 42-31. Purpose.

Continued urban growth, new development and redevelopment, and increased demand on natural resources have the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation, natural resources, and processes associated with wooded areas. If preserved and maintained in an undisturbed and natural condition, these resources constitute important physical, aesthetic, recreation, and economic assets to existing and future residents of the Village. Specifically, the Village finds that:

1. Tree and woodland growth protects public health through the absorption of air pollutants and contamination, through the reduction of excessive noise and mental and physical damage related to noise pollution, and through its cooling effect in the summer months;
2. Trees and woodlands provide for public safety through the prevention of erosion, siltation, flooding;
3. Trees and woodland growth are an essential component of the general welfare of the Village by maintaining play areas for children and natural beauty, recreation and irreplaceable heritage for existing and future Village residents; and
4. The protection of such natural resources is a matter of paramount public concern in the interest of health, safety and general welfare of the residents of the Village, consistent with the Michigan Zoning Enabling Act 110, Public Acts of 2006, the State Constitution of 1963, and the Michigan Environmental Protection Act of 1970.

Sec. 42-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Village shall mean Village of Cass City.

Village Manager and Manager shall mean the Cass City Village Manager or the Cass City Village Manager's designated representative.

Greenbelt shall mean a strip of land of definite width and location reserved for the planting of trees and/or shrubs adjoining to or near a public right-of-way and/or trees or shrubs designated to serve as an obscuring screen or buffer strip.

Planting strip means the often grassy area between the curb and the sidewalk. If no sidewalk is present, the area adjacent to the curb and/or shoulder of a street.

Public utility means any person, organization, firm or corporation, public or private, duly authorized to supply electric, gas, telephone, cable, satellite, internet, telegraph, sewer or water service to, or for the general benefit of the public.

Right-of-way means any public street, highway, trailway, alley, greenbelt or avenue of the Village.

Superintendent shall mean the superintendent of public works for the Village.

Trees and shrubs mean all woody vegetation.

Tree planting permit or *tree removal permit* means the permit issued by the Village required before the planting or removal of any regulated tree. The fee for the tree removal permit shall be set forth in the Village's fee schedule.

Woodland means land covered with trees.

Secs. 42-33—42-34. Reserved.

DIVISION 2. VEGETATION ON PUBLIC GROUNDS

Sec. 42-35. Applicability of division provisions.

The provisions of this division, unless otherwise specifically stated, shall apply only to the right-of-way, parks and other land publicly owned or controlled by the Village. These provisions shall only apply to private property where the right-of-way extends onto said property.

Sec. 42-36. Enforcement.

The Village Manager and Superintendent of Public Works shall be charged with the duty of enforcing the provisions of this article and may delegate all duties that may be required or imposed to appropriate Village staff.

Sec. 42-37. Rules and Prohibited Acts

The Village Manager shall have control over all trees, shrubs and plants in the streets, alleys and parks of the Village and is empowered to plant, prune, spray, cultivate and preserve all trees and shrubs within the confines of the streets, alleys, parks and public areas of the Village. The following shall be prohibited acts:

1. No person shall plant or remove any shrubs or trees upon the right-of-way or parks without first obtaining a written permit from the Village Manager.
2. No person shall cut, break, or destroy any trees or shrubs on public property, in the right-of-way or parks at any time without first obtaining the written permission of the Village Manager.
3. No person shall permit any fire or the heat thereof, to injure any portion of any tree.
4. No person shall plant any shade or ornamental trees in the right-of-way or parks without approval as to location, variety of trees, size, etc., by the Village Manager.
5. Trees shall not be planted in the right-of-way where police, fire, street lighting, traffic signal or public utility overhead wires and equipment are located where such planting or anticipated growth dimensions may interfere with said items.
6. No person shall have the right to plant any variety of poplar trees, willows, box elders, silver maples, tree of heaven, horse chestnut, buckeye, or other quick growing tree in such location that their roots are likely to injure sewers or heave sidewalk or street surfaces. (See Sec. 42-47)

Sec. 42-38. Use as anchor.

It shall be unlawful for any person to use any tree as an anchor, and no material shall be fastened to or hung on any trees in any right-of-way or park except by written permission of the Village Manager.

- a. Exceptions. Ornamental or seasonal lights may be hung on trees and shrubs between the months of October and January of the following year, such that the lights do not inflict harm or undue stress on the vegetation or create an interference with traffic, driver visibility, plowing, and pedestrian usage of the right-of-way. Extension cords shall not cross the sidewalk for the purpose of powering ornamental lights on a tree.

Sec. 42-39. Trimming.

Every owner of any tree, shrub or plant, overhanging the sidewalks, streets, or right-of-way within the Village, shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of the surface of the street, alley, or right-of-way. Such 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 trim any tree or shrub on private property not maintained by the property owner with advance written notice. The Village shall have the right to trim any tree or shrub within the right-of-way within the 25-foot corner clearance of a street intersection when it interferes with visibility of any traffic control device or sign, or interferes with any public utility wires or equipment necessary to serve police or fire communication systems or street lighting or traffic control systems, such trimming to be confined to the area immediately above the right-of-way.

Sec. 42-40. Covering surface near trees.

No person shall place on public property any stone, brick, sand, concrete, mulch, compost or other material at the base of any tree which will in any way or in such quantities that will impede the full and free passage of water, air or fertilizer to the roots of any trees, subject to the provisions of this article.

- a. Exceptions. The Village Manager may grant written permission to place materials at the base of any tree for purposes of a memorial or recognition.

Sec. 42-41. Protection of trees.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire, or permit any fire, or the heat thereof, to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree; provided, however, that this shall not prohibit the use of Village-approved chemical control of trees and brush growth. No electric wires or installation, or any other lines or wires, shall be attached to any tree in any manner that shall cause damage thereto. All persons having under their care, custody or control facilities which may interfere with the trimming or removal of any tree subject to this article shall, after notice thereof by the Village, promptly abate such interference in such a manner as shall permit the trimming or removal of any tree by the Village.

Sec. 42-42. Planting and removal.

The planting and/or removal of trees and shrubs in the public right-of-way, parkways, parks, and other public areas of the Village may be done by order of the Village Manager or Superintendent. Planting and/or removal of trees may not occur on public property and/or in the right-of-way without a signed permit from the Village Manager or Superintendent. The Village Manager and Superintendent reserve the right to deny planting of a tree in the public right-of-way.

Sec. 42-43. Assessments.

Planting or removal of trees in the public right-of-way, completed by the Village, shall be deemed to be a public improvement. The cost thereof may be paid, in whole or in part, by levying and collecting special assessments upon property especially benefited thereby, in accordance with the provisions of Chapter 32, Special Assessments.

Sec. 42-44. Planting location.

The Village Manager and Superintendent reserve the right to approve or deny planting locations on public property and/or in the public right-of-way. No tree shall be planted in planting strips between the curb and sidewalk that are less than six feet in width unless it is a replacement planting deemed appropriate for placement by the Village; trees on private property adjacent to the sidewalk shall be planted not less than six feet therefrom. No trees shall be planted nearer to the intersection of any two or more streets closer than 25 feet from the point of intersection of two right-of-way lines. Any proposed planting site shall maintain a clearance of at least 15 feet from the lateral sewer service running from a building to the main, from the water service line running from a building to the main, or from a fire hydrant. The Village Manager or

Superintendent may supersede this clearance if deemed appropriate and unlikely to cause an interference.

Sec. 42-45. Permits.

- a. **Tree Planting.** A tree planting permit is required for all trees planted on public land or in the right-of-way.
- b. **Tree Removal.** A tree removal permit is required for all trees to be removed on public land or in the right-of-way.
- c. **Utility Companies.** Public utility companies are not required to obtain a permit to chemically control or trim trees and shrubs that intrude into the air space over, or grow within, the streets, alleys, parks, rights-of-way, or other public places of the Village. However, any public utility intending to perform such work must notify the Village and request approval prior to beginning activities. The Village Manager or Superintendent may grant approval on an annual basis, allowing the utility to carry out routine trimming and vegetation control needed to maintain safe and accessible overhead lines or equipment, and to prevent tree growth that may endanger such infrastructure or the public health and safety.

All trimming or chemical control shall follow approved practices and occur under the general direction of the Superintendent. Reasonable prior notice must be provided to the Village before work begins, except in emergencies requiring immediate maintenance to protect overhead lines or equipment or to safeguard public health and safety. For the purposes of this section, an “emergency” means an unexpected event that could not have been prevented through reasonable care or foresight and that poses an actual or potential threat to utility infrastructure or public safety.

- d. **Routine Maintenance and Trimming.** A permit is not required for routine maintenance and trimming (42-39).

Sec. 42-46. Removal of obstructing trees.

The Village Manager is hereby authorized to direct the department of public works to remove any trees or shrubs growing on any right-of-way, park or public place in the Village when such trees or shrubs are interfering with fire hydrants, sewers and water mains, visibility at street intersections, traffic control devices or construction affecting the public health and safety within the right-of-way.

Sec. 42-47 Nuisance trees on public grounds.

A tree of a genus and/or species classified by a state or federal agency as being a public nuisance, or a tree deemed to be a nuisance by the Village, shall not be planted on public property and/or in the right-of-way. The Village deems the following trees to be a nuisance for purposes of this section:

Common Name	Botanical Name
Ash	Fraxinus spp.
Black Walnut	Juglans nigra
Boxelder	Acer negundo
Butternut/White Walnut	Juglans cinerea
Chinese Elm	Ulmus parvifolia
Cottonwood/Poplar/Aspen	Populus deltoides
Crabapple species	Malus spp.
Ginkgo (female)	Ginkgo biloba
Hawthorn species (with thorns)	Crataegus spp.
Mulberry species	Morus spp.
Pear species	Pyrus spp.
Russian Olive	Elaeagnus angustifolia
Siberian Elm	Ulmus pumila
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus altissima
Willow species	Salix spp.

Sec. 42-48 Recommended trees for planting

Whenever a tree is to be planted in the right-of-way or on public property, consideration for tree diversity shall be maintained to promote a tree population resistant to species-specific diseases and insects. The village council recommends the following trees for planting, sourced from the Michigan Department of Natural Resources. Thoughtful consideration shall be given to tree growth rates and utilities if a tree is to be planted along a roadways or sidewalk.

Common Name	Botanical Name	Size Class
Alaskan Cypress/Alaska Cedar	<i>Chamaecyparis nootkatensis</i>	Large
American Beech	<i>Fagus grandifolia</i>	Large
American Elm (DED Resistant Cultivars)	<i>Ulmus americana</i> x Hybrids	Large
American Holly	<i>Ilex opaca</i>	Medium
American Linden/Basswood	<i>Tilia americana</i>	Medium/Large cultivar dependent
American Plum	<i>Prunus americana</i>	Small/Medium
American Smoketree	<i>Cotinus obovatus</i>	Small
American Tamarack	<i>Larix laricina</i>	Medium
Bald cypress	<i>Taxodium distichum</i>	Large
Balsam Fir	<i>Abies balsamea</i>	Medium
Bitternut Hickory	<i>Carya cordiformis</i>	Large
Black Cherry	<i>Prunus serotina</i>	Large
Black Gum/Black Tupelo	<i>Nyssa sylvatica</i>	Medium
Black Spruce	<i>Picea mariana</i>	Medium
Black Willow	<i>Salix nigra</i>	Large
Bristlecone Pine	<i>Pinus aristata</i>	Small
Bur Oak	<i>Quercus macrocarpa</i>	Large
Canadian Plum	<i>Prunus nigra</i>	Small/Medium
Canadian Yew	<i>Taxus canadensis</i>	Small
Catalpa	<i>Catalpa</i> spp.	Large
Chinkapin Oak	<i>Quercus muehlenbergii</i>	Large
Common Larch	<i>Larix decidua</i>	Medium
Common Persimmon	<i>Diospyros virginiana</i>	Medium/Large
Corneliancherry Dogwood	<i>Cornus mas</i>	Small
Cucumbertree Magnolia	<i>Magnolia acuminata</i>	Large
Dawn Redwood	<i>Metasequoia glyptostroboides</i>	Large
Douglas Fir	<i>Pseudotsuga menziesii</i>	Medium
Eastern Hemlock	<i>Tsuga canadensis</i>	Medium
Eastern Redbud	<i>Cercis canadensis</i>	Small

Eastern Redcedar	<i>Juniperus virginiana</i>	Medium
Eastern White Pine	<i>Pinus strobus</i>	Large
European Beech	<i>Fagus sylvatica</i>	Large
European Hornbeam	<i>Carpinus betulus</i>	Small/Medium
Flowering Dogwood	<i>Cornus florida</i>	Small
Ginkgo (Male only)	<i>Ginkgo biloba</i>	Medium/Large
Hackberry	<i>Celtis occidentalis</i>	Medium/Large
Hawthorn (Thornless)	<i>Crataegus</i> spp. var. <i>inermis</i>	Small
Hinoki Falsecypress	<i>Chamaecyparis obtusa</i>	(Cultivar Dependent)
Hop-Hornbeam/Ironwood	<i>Ostrya virginiana</i>	Small/Medium
Hornbeam/Musclewood/Blue Beech	<i>Carpinus caroliniana</i>	Small/Medium
Jack Pine	<i>Pinus banksiana</i>	Small/Medium
Katsura	<i>Cercidiphyllum japonicum</i>	Medium/Large
Kentucky Coffeetree	<i>Gymnocladus dioica</i>	Large
Kousa Dogwood	<i>Cornus kousa</i>	Small
Littleleaf Linden	<i>Tilia cordata</i>	Medium/Large cultivar dependent
London Planetree	<i>Platanus x acerifolia</i>	Large
Mugo Pine/ Swiss Mountain Pine	<i>Pinus mugo</i>	Small
Nannyberry	<i>Viburnum lentago</i>	Small
Northern Red Oak	<i>Quercus rubra</i>	Large
Norway Spruce	<i>Picea abies</i>	Medium/Large
Ohio Buckeye	<i>Aesculus glabra</i>	Large
Ornamental Cherries	<i>Prunus</i> spp.	Cultivar Dependent
Osage Orange (Thornless)	<i>Maclura pomifera</i> var. <i>inermis</i>	Medium/Large
Pagoda Dogwood/Alternate-leafed Dogwood	<i>Cornus alternifolia</i>	Small
Paper Birch	<i>Betula papyrifera</i>	Medium
Pawpaw	<i>Asimina triloba</i>	Small/Medium
Persian Parrotia	<i>Parrotia persica</i>	Medium
Pignut Hickory	<i>Carya glabra</i>	Large
Pin Oak	<i>Quercus palustris</i>	Large
Red Horsechestnut	<i>Aesculus X Carnea</i>	Medium
Red Pine	<i>Pinus resinosa</i>	Large
River Birch	<i>Betula nigra</i>	Medium
Sargent Cherry	<i>Prunus sargentii</i>	Medium
Sassafras	<i>Sassafras albidum</i>	Medium/Large

Saucer Magnolia	Magnolia x soulangiana	Medium
Serviceberry/Juneberry/Sugar Plum	Amelanchier spp.	Small
Shagbark Hickory	Carya ovata	Large
Shingle Oak	Quercus imbricaria	Large
Shumard Oak/Swamp Red Oak	Quercus shumardii	Large
Siberian Spruce	Picea omorika	Medium
Silver Linden	Tilia tomentosa	Large
Sourwood	Oxydendrum arboreum	Medium
Star Magnolia	Magnolia stellata	Small/Medium
Swamp White Oak	Quercus bicolor	Large
Sweetgum	Liquidambar styraciflua	Medium
Sycamore	Platanus occidentalis	Large
Thornless Honeylocust	Gleditsia triacanthos var. Inermis	Medium/Large
Tulip Tree	Liriodendron tulipifera	Large
Turkish Filbert/Turkish Hazel	Corylus colurna	Medium
White Cedar/Arborvitae	Thuja occidentalis	(Cultivar Dependent)
White Fir	Abies concolor	Medium
White Oak	Quercus alba	Large
White Spruce	Picea glauca	Medium
White Willow	Salix alba	Large
Yellowwood	Cladrastis kentukea	Medium
Zelkova	Zelkova serrata	Medium

The village does not recommend planting maple trees due to their overpopulation in the village.

Secs. 42-49—42-52. reserved.

DIVISION 3. NUISANCE TREES ON PRIVATE PROPERTY

Sec. 42-53. Infected trees declared nuisance.

Trees or parts thereof in a dead or dying condition that are hazardous so as to be injurious to the public, or that may also serve as breeding places for infectious diseases or harmful insects, are hereby declared to be public nuisances, and it shall be unlawful for the person owning property whereon the same is situated to possess or keep the same.

Sec. 42-54. Manager to enforce.

The Village Manager is charged with enforcement of this division. If it comes to the Village Manager's attention that there are one or more trees on a property that may constitute a nuisance under section 42-53, the Village Manager shall notify the property owner of such preliminary determination and provide the property owner an opportunity to schedule a meeting at the property with the Village Manager to discuss the nuisance determination and inspect the tree(s) together. Such notice shall be by way of certified mail or by hand delivery. Such notice is not required if an emergency situation exists as reasonably determined by the Village Manager. If the property owner declines the meeting or fails to respond to such notice within 30 days, the Village Manager and any persons deemed necessary by the Village Manager may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. If entry is refused or no response from the property owner is received, and if it is determined by the Village Manager that it is feasible to delay entry, the Village shall obtain an administrative search warrant from the court authorizing such entry. It shall be unlawful for any person to prevent the Village Manager entering onto private property for purposes of carrying out their duties hereunder, or to interfere with such Village Manager in the lawful performance of their duties under the provisions of this division.

Sec. 42-55. Corrective action.

If any trees on private property are found to be infected, infested or otherwise hazardous to the public, the Village Manager shall give to the owner of the premises where such trees are situated written notice of the existence of the condition, and require corrective action including, but not limited to, complete removal to be under the direction and supervision of the Village Manager. Such notice shall be by way of certified mail or hand delivery. Such notice shall also notify the owner of such premises that unless corrective measures are taken in compliance with the terms thereof within ten days of the notice, the Village may proceed with the removal of such tree(s), and assess the cost thereof against the property in accordance with Chapter 32, special assessments. The notice herein required shall be given as prescribed in Section 32-3. However, such notice and opportunity to take corrective measures are not required if an emergency situation exists as reasonably determined by the Village Manager.

Sec. 42-56. Appeals.

Should a property owner dispute a determination that the tree(s) identified by the Village Manager constitute a nuisance under this division, the property owner may provide a written notice of the dispute to the Village Manager who shall place the item on the next available Village council agenda. At the Village council meeting, the property owner will be afforded an

opportunity to be heard and provide whatever materials the property owner wishes. The Village council shall then make a determination whether a nuisance under this division exists and, if so, may determine the terms, conditions and timelines of such removal as it deems appropriate. Notwithstanding the foregoing, if an emergency condition exists such that removal of the tree must be done for the protection, health, safety and welfare of the public or other property before such appeal could be completed, the Village Manager is not required to wait for such an appeal to occur before removing the tree(s).

Sec. 42-57. Court action.

If it is determined by the Village Manager that a tree constitutes a nuisance, but it is not deemed to be an emergency matter such that it is feasible to proceed against the property owner for an ordinance violation of this division for having a nuisance tree and failing to take corrective action, the Village shall obtain a court order permitting the Village to remove said tree(s).

DIVISION 4. FEES

Sec 42-58. Fees

A fee schedule shall be set by the Village Council for the tree permit, noncompliance, and removal of prohibited trees or plantings. The fee schedule shall be adopted by the Village Council annually in the Village of Cass City Financial Budget.

Secs. 42-59—42-70. Reserved.

Section 2. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 3. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 4. Effective Date.

This Ordinance takes effect seven (7) days after publication as provided by law.

A MOTION TO INTRODUCE AND CONDUCT THE FIRST READING OF PROPOSED
ORDINANCE NO. 214, TO AMEND THE CASS CITY MUNICIPAL CODE, CHAPTER 42,
VEGETATION, ARTICLE II, TREES AND SHRUBS IN PUBLIC AREAS

Was offered by Trustee _____ and supported by _____.

Ayes: Nays:

Resolution: Approved / Not Approved

This Ordinance is hereby declared to have been adopted by the Village of Cass City Council at a meeting thereof duly called and held on the ____ day of _____, 2025 and ordered to be given effect immediately upon its adoption.

_____, Village President

_____, Village Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Cass City, County of Tuscola, State of Michigan at a regular meeting of Village Council duly called and held on the _____ day of _____, 2025.

Village Clerk

Date