

CHARTER TOWNSHIP OF VAN BUREN

COUNTY OF WAYNE

STATE OF MICHIGAN

ORDINANCE # 06-20-17 (3)

At a regular meeting of the Township Board of the Charter Township of Van Buren, Wayne County, Michigan, held in the Van Buren Township Hall within the Township, on the 18th__ day of July, 2017 at 7:00 p.m.

PRESENT: McNamara, Budd, Wright, Frazier, Martin, Miller and White.

ABSENT: None.

It was moved by Trustee Miller and supported by Treasurer Budd the following Ordinance be adopted to add Article VI (Diseased or Dangerous Trees, Shrubs and Plants) to Chapter 42 (Environment) to read as follows:

THE CHARTER TOWNSHIP OF VAN BUREN ("Township"), COUNTY OF WAYNE, MICHIGAN
ORDAINS:

ARTICLE VI. - DISEASED OR DANGEROUS TREES, SHRUBS AND PLANTS

Sec. 42-275. - Purpose.

The purpose of this article is to protect the public health, safety and welfare from the hazards of dangerous trees and diseased shrubs and plants.

Sec. 42-276. - Definitions.

The following terms when used in this article shall have the meanings set forth as follows:

Branch includes any limb, trunk, or twig of a tree, shrub or plant.

Dangerous tree means a tree that it is likely to fall and injure persons or property because: 1) it is cracked, split, leaning, or otherwise is physically damaged to the degree that it is likely to fall and injure persons or property; or 2) the tree has sustained deterioration or decay to the limbs, stem, or root system causing an imminent danger of falling.

Dead means no longer living.

Diseased means a disease of nature, including insect infestation, that without treatment or pruning is likely to spread to adjacent trees, shrubs, or plants and cause such adjacent trees, shrubs, or plants to become diseased.

Imminent means a threat is impending or about to happen.

Owner means a person who owns, rents, leases, or occupies any lot or parcel of land in the township upon which trees, shrubs and plants are located.

Plant means a photosynthetic organism that has cellulose cell walls, growing in soil or water, with leaves and sometimes flowers, lacking locomotion, and without obvious nervous or sensory organs from the kingdom classification of plantae.

Privately owned means under the legal or equitable control of an owner as defined above, and excludes all property owned by a public entity.

Regulated woodland means an area identified as a woodland on the official woodland map for the township.

Shrub means any form of plant life less than four and one-half (4½) feet in height.

Stump means that part of a tree, shrub, or plant remaining attached to the root after the trunk is cut.

Tree means any form of plant life at least four and one-half (4½) feet or more in height and at least four (4) inches or more in diameter. The diameter size shall be measured four and one-half (4½) feet from the base of the tree.

Wooded area means a relatively small area of land containing a dense collection of trees, shrubs and/or plants.

Sec. 42-277. - Imminent danger.

- (a) *Tree removal required.* The owner shall remove a dangerous tree that poses an imminent danger causing injury to persons or property from falling or blowing over due to physical damage, disease, infestation, deterioration or decay.
- (b) *Regulated woodland, wetland and/or environmental features area.* A request to remove a dangerous tree(s) located within a regulated woodland, wetland, and/or environmental features area which presents an imminent danger, shall be made in person or in writing provided to the building department. The tree(s) shall be inspected and the request approved by the ordinance department prior to removal. The removal of a dangerous tree(s) located within a regulated woodland, wetland, and/or environmental features area shall comply with all township policies and applicable ordinances. Failure to comply with the applicable ordinances may subject the owner to additional fines, fees and penalties as authorized by those applicable ordinances

Sec. 42-278. - Trimming, pruning or removal of encroachment onto public property.

The owner shall trim, prune or remove any part of a tree, shrub or plant, including any stump or branch thereof, which overhangs or encroaches onto public property.

Sec. 42-279. - Stump removal.

Unless located within a regulated woodland, wetland, or an environmental features area, the owner shall remove a stump below the surface of the ground so that the top of the stump does not project above the pre-existing surface of the ground. Further, the pre-existing surface of the ground may not be raised in order to hide or cover the stump. Within a wooded area, a wetland, or an environmental features area stumps may be left no higher than twenty-four (24) inches above grade.

Sec. 42-280. - Maintenance, treatment and removal.

- (a) *Maintenance.* It is the responsibility of the owner to maintain the trees, shrubs and plants located on the owner's property and to treat, exterminate, or remove any tree, shrub or plant that is attacked by contagious or destructive insects or diseases or parasitic vegetation.
- (b) *Regulated woodland, wetland or environmental features area.* When maintaining, treating, trimming, pruning or removing a tree, shrub or plant located within a regulated woodland, wetland and/or environmental features area, the owner shall comply with all township policies and applicable ordinances. Failure to comply with the applicable ordinances may subject the owner to additional fines, fees and penalties as authorized by those applicable ordinances.

Sec. 42-281. - Owner's cost and expense; ownership disputed.

- (a) *Cost.* The owner shall comply with this article at his or her sole cost and expense.
- (b) *Ownership disputed.* If the purported owner disputes that the tree, shrub or plant is located on his or her property, the person shall provide a signed and sealed property survey to establish that the tree, shrub or plant is not located on his or her property.

Sec. 42-282. - Notice and order of abatement.

When the township discovers a tree, stump or branch that poses an imminent danger, the township shall serve written notice, by first class mail and posting the property, upon the owner of the subject property. The notice shall describe the tree, its location, the nature of the danger and order the owner to abate the danger by trimming, pruning or removal of the tree. The notice shall specify the date for compliance by the owner not less than thirty (30) days from the date of the notice. The owner shall comply

within the time period specified therein, unless the owner provides written proof to the township from an arborist, certified by the International Society of Arboriculture, or equivalent, stating that the tree, stump or branch thereof, is not dangerous and does not require trimming, pruning or removal.

Sec. 42-283. - Warrant to perform work; costs become a lien.

If the owner fails to abate the dangerous condition as noticed, the township may seek a warrant to enter upon the lot or parcel of land to abate the dangerous condition. Upon completion of the work, the township shall send a bill of all costs, including reasonable attorney fees, if any, incurred by the township to the owner by first class mail. Costs incurred as specified in the written notice shall be secured by a lien on the property. The costs shall be paid within thirty (30) days from the date of mailing the notice. The township shall have a lien upon such developed land or subdivided land for such expense, such lien to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

Sec. 42-284. - Emergency removal.

When a dangerous tree, including a stump or branch thereof, constitutes an imminent danger to public health, safety and welfare and the delay of notification would serve to further endanger the public, the township may enter upon a lot or parcel of land, perform the work required to alleviate the danger, and assess the cost thereof to the owner. Imminent danger includes but is not limited to circumstances such as, a tree is endangering a utility pole or line, or an existing structure, home, building, street, road or highway.

Sec. 42-285. - Penalty.

Misdemeanor. A person who violates or fails to comply with any of the provisions of this article shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) and/or a maximum of ninety (90) days imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be treated as a separate offense.

Effective Date

This amendment shall become effective 30 days after the first publication in a newspaper of general circulation within the Charter Township of Van Buren.

THIS ORDINANCE IS HEREBY DECLARED TO HAVE BEEN ADOPTED BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF VAN BUREN, COUNTY OF WAYNE, STATE OF MICHIGAN, AT A REGULAR MEETING, CALLED AND HELD ON THE 18th day of July, 2017.

YEAS: McNamara, Budd, Wright, Frazier, Martin, Miller and White.

NAYS: None.

ABSENT: None.

I hereby approve the foregoing Ordinance.

Kevin McNamara,
Supervisor, Charter Township of Van Buren

Leon Wright,
Clerk, Charter Township of Van Buren

Adopted: July 18, 2017
Published: July 27, 2017
Effective: August 27, 2017