

**VILLAGE  
OF  
NEW ATHENS**

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**ORDINANCE NO. 2022-04**

VILLAGE OF NEW ATHENS MUNICIPAL TREE ORDINANCE

ADOPTED BY THE

VILLAGE BOARD OF TRUSTEES

OF THE

VILLAGE OF NEW ATHENS, ILLINOIS

THIS 1<sup>ST</sup> DAY OF AUGUST 2022

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Published in pamphlet form by authority of the President and the Village Board of Trustees of the Village of New Athens, St. Clair County, Illinois this 1<sup>ST</sup> day of August, 2022.

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## VILLAGE OF NEW ATHENS MUNICIPAL TREE ORDINANCE

Be it ordained by the Board of Trustees of the Village of New Athens, Illinois as follows:

### Section 1. Purpose.

To enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property, the Village Board herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

### Section 2. Definitions.

As used in this Article, the following words and phrases shall have the meanings indicated:

**Damage** – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**Nuisance** – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

**Parkway** – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

**Public property** – all grounds and rights-of-way (ROWs) owned or maintained by the Village.

**Public tree** – any tree or woody vegetation on Village-owned or Village-maintained property or rights-of-way.

**Top or Topping** – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

### Section 3. Authority and power.

- (a) **Delegation of authority and responsibility.** The Superintendent of Public Works and/or their designee, hereinafter referred to as the "Superintendent", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of- ways, Village parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- (b) **Coordination among Village departments.** All Village departments will coordinate as necessary with the Superintendent and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Superintendent.
- (c) **Interference.** No person shall hinder, prevent, delay, or interfere with the Superintendent or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

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### Section 4. Tree advisory board.

The Village Board hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

- (a) **Duties.** The Board shall act in an advisory capacity to the Superintendent and shall:
- (1) Coordinate and promote Arbor Day activities;
  - (2) Review and update a five-year plan to plant and maintain trees on Village property;
  - (3) Support public awareness and education programs relating to trees;
  - (4) Review Village department concerns relating to tree care;
  - (5) Submit an annual report of its activities to the Village Board;
  - (6) Assist with the annual application to renew the Tree City USA designation;
  - (7) Recommend a list of tree species for planting on Village property, and a list of prohibited species; and
  - (8) Other duties that may be assigned by Village Board.
- (b) **Membership.** The Board shall consist of five members approved by Village Board. Members of the Board will serve without compensation.
- (c) **Term of office.** Board members shall be appointed for three-year staggered terms<sup>1</sup>. If a vacancy shall occur during the term of any member, a successor shall be appointed by Village Board.
- (d) **Officers.** The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
- (e) **Meetings.** The Board shall meet a minimum of two times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

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<sup>1</sup> At the first appointment of Tree Advisory Board members, Board will appoint all members at once. A staggered board can be arranged by giving the initial members different term lengths. For a seven-member board, two members can be given one-year terms, two members can be given two-year terms, and the remaining three members given three-year terms. After the initial members' terms expire, all future members would be given three-year terms.

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### Section 5. Tree planting and care standards.

- (a) **Standards.** All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (b) **Requirements of franchise utility companies.** The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- (c) **Preferred species list.** The Superintendent shall maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with written approval from the Superintendent.
- (d) **Planting distances.** The Superintendent shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant.
- (e) **Planting trees under electric utility lines.** Only trees listed as Ornamental trees on the official Village tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

### Section 6. Prohibition against harming public trees.

- (a) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Superintendent.
- (b) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.
- (c) It shall be unlawful for any person, firm, or corporation to "top" any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Superintendent.
- (d) Any person, firm, corporation, or Village department performing construction near any public tree(s) shall consult with the Superintendent and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for "Managing Trees During Construction" published by the International Society of Arboriculture.
- (e) Each violation of this section as determined and notified by the Superintendent shall constitute a separate violation, punishable by fines and penalties under Section 10, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

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### **Section 7. Adjacent owner responsibility.**

- (a) The owner of land adjacent to any Village street or highway may not plant trees in the adjacent parkway area.
- (b) No property owner shall allow a tree, or other plant growing on his or her property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Superintendent shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Village may undertake the necessary work and charge the cost to the property owner.

### **Section 8. Certain trees declared a nuisance.**

- (a) Any tree, or limb thereof, on private property determined by the Superintendent to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the Village may require its treatment or removal.
- (b) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Village may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Superintendent within the written notification period.

### **Section 9. Violations and penalty.**

Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

### **Section 10. Appeals.**

Appeals to decisions by the Superintendent or the Tree Advisory Board, or to penalties imposed after violations of this ordinance, shall be heard by Village Board.

### **Section 11. Savings and repeal.**

All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

### **Section 12. Severability.**

Should any word, sentence, clause, paragraph, or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

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This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed this 1st day of August, 2022 on the following roll call vote.

|                | AYE      | NAY   |
|----------------|----------|-------|
| Bill Wilson    | <u>X</u> | _____ |
| Steve Newbold  | <u>X</u> | _____ |
| Debby Politsch | <u>X</u> | _____ |
| John Feder     | <u>X</u> | _____ |
| Arlene Geppert | <u>X</u> | _____ |
| Gary Kearns    | <u>X</u> | _____ |

Accepted, by the Village of New Athens,

Joe Benfiken Joe Benfiken, Village President

Attest:

Amy Benwell Amy Benwell, Village Clerk

