VILLAGE OF NASHVILLE
BARRY COUNTY, MICHIGAN
ORDINANCE NO. 5-30-1996
As Revised 11-13-2014

Council member Wolff, supported by Council member Kenyon, moved the adoption of the following ordinance.

AN ORDINANCE ESTABLISHING SPECIAL ASSESSMENT PROCEDURES FOR THE VILLAGE OF NASHVILLE

THE VILLAGE OF NASHVILLE ORDAINS:

SECTION 1. Establishment of Special Assessment Districts.

A. A special assessment may be established to pay for all costs associated with any Village public improvement or repair as authorized by law. As used herein, such costs shall include all administrative costs associated with the establishment of a special assessment district as well as all engineering, legal, professional and construction costs associated with the improvement.
B. A single lot special assessment may be established to pay for all costs incurred by the Village due to demolition of an unsafe structure pursuant to the existing provisions of Removal of Unsafe Building Ordinance # 11-13-2014 A

SECTION 2. Determination to Defray Costs by Special Assessment. The Village Council shall have the power to determine by resolution that the whole or a part of any public improvement or repair will be defrayed by special assessment upon property specially benefited.

SECTION 3. Resolution to Defray Costs by Special Assessment. The resolution provided for in Section 2 may be initiated by the Village Council. Alternatively, the resolution may be adopted in response to a petition filed with the Village Clerk, which petition is signed by at least fifty percent (50%) of the record owner(s) of property to be assessed for the improvement requesting that the improvement be made and that its cost be defrayed by special assessment upon the property benefited. Such petition may be considered by the Village Council, but shall be advisory only.

SECTION 4. Action Initiated by Village Council. Where a special assessment is initiated by the Village Council, notice as specified in Section 8 shall be sent at the direction of the Village Council advising that the Village will consider adopting a resolution to establish a special assessment.

SECTION 5. Action Initiated by Village Council Upon Petition. Where a special assessment is initiated by the Village Council upon petition as provided for in Section 3, notice shall be sent as specified in Section 8.

SECTION 6. Determining Record Owners of Land. Record owners of property shall be determined based on records recorded with the Register of Deeds office on the date a petition is filed. In determining the sufficiency of a petition, property not subject to special assessment and property within public highways, streets or alleys shall not be included in computing frontage or assessment area. Any petition filed may be supplemented as to signatures by the filing of an additional signed copy or copies.

SECTION 7. Plans; Cost Estimate; Tentative Designation of District; Hearing; Supplemental Petition. Upon determination by the Village Council to establish a special assessment district, the Council shall cause plans showing the improvement or repair, the location of the same, and an estimate of the cost to be prepared. Upon receipt of the plans and estimate, the Council shall order the same filed with the Village Clerk and, if it desires to proceed further with the improvement, it shall be resolution tentatively declare its intent to make the improvement and designate the special assessment district against which the cost of the improvement will be assessed. The Village Council shall then fix a time and place to meet and hear objections to the petition if a petition has been made, to the improvement and to the special assessment district, and shall cause notice of the hearing to be published in a newspaper circulating in the Village, the publication to be at least 10 days prior to the hearing. The notice required by Section 8 shall also be given. In addition to those requirements imposed by law, the notice shall state that the plans and estimates are on file with the Village Clerk for public examination and shall contain a description of the proposed special assessment district.

At the time of the hearing, or any adjournment thereof which may be without further notice, the Village Council shall hear any objections to the petition, if a petition has been filed, to the improvement and to the special assessment district and may, without further notice, revise, correct, amend or change the plans, estimate, cost or special assessment district. Property shall neither be added to the district nor shall costs in excess of 10% of the original estimate be increased unless another hearing is held and noticed in accordance with this Section and Section 8. Railroad companies shall file with the secretary of state the name and address of the person upon whom notice of any proceedings under this ordinance may be served and, when so filed, notice in addition to the notice by publication shall be given to the person by registered mail, or personally, within five days after the first publication of the notice. An affidavit of the service shall be filed with the proof of publication.

SECTION 8. Notice of Hearing.

(1) Notice of hearings in special assessment proceedings shall be given as provided by law and this Section in addition to any notice required to be given elsewhere in this Ordinance.

(2) Notice of hearings in special assessment proceedings shall be given to each owner or party in interest in property to be assessed, whose name appears upon the last Village tax assessment records.

Notice shall be sent by first-class mail addressed to the owner or party at the address shown on the tax records, at least 10 days before the date of the hearing. The last Village tax assessment

records means the last assessment roll for advalorem tax purposes which was reviewed, as supplemented by any subsequent changes in the names or addresses of the owners or parties listed thereon. A notice shall contain any information required by law including, without limitation, Act No. 162 of the Public Acts of 1962, as amended.

(3) Where a person claims an interest in real property whose name and correct address do not appear upon the last Village tax assessment records, he shall be obligated to immediately file the name and address with the Village Assessor. This requirement shall be deemed effective only for the purpose of establishing a record of the names and addresses of persons entitled to receive notice in special assessment proceedings. It shall be the duty of the Assessor to immediately enter on the tax assessment records any changes in the names and addresses of owners or parties in interest filed and at all time to keep the tax assessment records current and complete and available for public inspection.

(4) A Village officer whose duty is to give notice of hearings in special assessment proceedings may rely upon the last Village tax assessment records in giving notice by mail. This method of giving notice is declared to be the method that is reasonably certain to inform those to be assessed of the special assessment proceedings.

(5) Failure to give notice as required in this section shall not invalidate an entire assessment roll, but only the assessment on property affected by the lack of notice. A special assessment shall not be declared invalid as to any property if the owner or the party in interest actually received notice, waived notice or paid any part of the assessment. If an assessment is declared void by a tribunal of competent jurisdiction, a reassessment against the property may be made.

SECTION 9. Resolution to Make Improvement; Sufficiency of Petition:
Determining District; Making Special Assessment Roll. If the Village Council, after the hearing provided for in Section 7, desires to proceed, it shall determine by resolution the necessity of the public improvement and shall approve the plans and estimate of cost as originally presented or as revised, corrected, amended or changed, as well as the proposed special assessment district, the recommendations as to the portion to be borne by the district and the Village, if any, and shall also determine the sufficiency of the petition for the improvement where a petition has been filed. Where a petition has been filed, its sufficiency shall not be subject to challenge after the Council's determination of necessity. After determining the necessity of the special assessment district, the Village Council shall direct the Assessor to make a special assessment roll in which shall be entered and described all the properties to be assessed, with the names of the respective owners, if known, and the total amount to be assessed against each property, which amount shall be the relative benefit to the particular property as a portion of the total benefit to all properties in the special assessment district. When the Assessor completes the assessment roll, he shall affix his certificate stating that it was made pursuant to a resolution of the Village Council adopted on a specified date, and that in making the roll he has, according to his best judgment, conformed in all respects to the directions contained in such resolution and by law.

SECTION 10. Confirmation of Special Assessment Roll. When a special assessment roll is reported by the Assessor to the Village Council, it shall be filed with the Village Clerk. Before

confirming the roll, the Council shall schedule a time and place when it will meet and review the same and hear objections, and shall cause notice of the hearing and the filing of the assessment roll to be published in a newspaper circulated in the Village, the publication to be at least 10 days before the hearing. In addition, the notice required by Section 8 will be given. The hearing may be adjourned from time to time without further notice. A person objecting to the assessment roll shall appear and protest before the close of the hearing or within such further time as the Village Council may allow. After the hearing, the Village Council may confirm the special assessment roll as reported to it by the Assessor or as amended or corrected by it, or may refer it back to the Assessor for revision, or may annul it and direct that a new roll be prepared. The Village Clerk shall endorse the date the special assessment roll was confirmed.

SECTION 11. Contesting or Enjoining Collection. An action may not be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

(1) The owner or party in interest appeared and protested at the hearing on the special assessment roll;

(2) Within 15 days after the confirmation of the special assessment roll, written notice is given to the Council indication an intention to file an appeal and stating the grounds on which it is claimed that the assessment in illegal; and

(3) The appeal is commenced within 30 days after the confirmation of the roll.

SECTION 12. Payment of Installments. After the special assessment roll is confirmed, the Village Council may provide that the same shall be payable in one or more approximately equal annual installments. The amount of each installment, if more than one, need not be extended upon the special assessment roll until after confirmation. The first installment of a special assessment shall be due on or before the time after confirmation as the Village Council shall fix, and any subsequent installments shall be due at intervals of 12 months from the due date of the first installment or such other date as the Village Council shall fix. All unpaid installments prior to their transfer to the Village tax roll shall bear interest payable annually on each installment due date, at a rate to be set by the Village Council not exceeding 8% per annum, such interest to commence as fixed by the Village Council. Future installments of an assessment may be paid to the Village Treasurer at any time in full, with interest accrued to the due date of the next installment. If an installment of a special assessment is not paid when due, then the same shall be deemed delinquent and there shall be collected thereon, in addition to interest provided above, a penalty at the rate of 1% for each month, or fraction thereof, that the same remains unpaid before being reported to the Village Council for reassessment upon the Village tax roll.

SECTION 13. Lien. Special assessments and all interest and charges thereon shall, from the date the roll is confirmed, constitute a lien upon the respective properties assessed. Such lien shall be of the same character and effect as the lien created by Village taxes and shall include accrued interest, charges and penalties and may be collected as delinquent Village property taxes or by a suit against the person(s) owning such property. No judgment or decree or any act of the Village Council vacating a special assessment shall destroy or impair the Village's lien upon the

property assessed for such amount of the assessment as may be equitably charged against the same.

SECTION 14. Warrant to Collect Assessments. After a special assessment roll is confirmed, the Village Council shall direct that the assessments made be collected. The Village Clerk shall deliver to the Village Treasurer the special assessment roll, to which he shall attach his warrant commanding the Village Treasurer to collect the assessments in accordance with the directions of the Council. The warrant shall further require the Village Treasurer on May 1 following the date when any such assessments or any part becomes due to submit to the Village Council a sworn statement setting forth the names of the persons delinquent, if known, a description of the properties upon which they are delinquent and the amount of such delinquency, including accrued interest, charges and penalties computed to May 1 of such year. Upon receiving the special assessment roll and warrant, the Treasurer shall proceed to collect the several amounts assessed.

SECTION 15. Delinquent Assessments. In case the Treasurer shall report as delinquent any assessment or part thereof, the Village Council shall certify the same to the Assessor, who shall reassess on the annual Village tax roll of such year in a column headed "Special Assessments" the sum so delinquent, with interest, charges and penalties to May 1 of such year, and an additional penalty of 6% of the total amount. Thereafter, the statutes relating to Village taxes shall be applicable to such reassessments.

SECTION 16. Division of Property; Apportionment of Assessments. Should any property be divided after a special assessment has been confirmed, and before the collection thereof, the Village Assessor shall apportion the uncollected amounts between the several divisions and shall enter the several amounts as amendments to the special assessment roll. The Village Treasurer shall, within ten (10) days after such apportionment, send notice of such action to the persons concerned at the address shown on the last general tax roll by first class mail. Said apportionment shall be conclusive and final unless protest in writing is received by the Village Treasurer within 20 days of the mailing of the notice.

SECTION 17. Additional and Surplus Assessments. Should the assessments in any special assessment roll prove insufficient for any reason, including non collection, to pay for the improvement or repair for which they were made or to pay the principal and interest on any bonds issued in anticipation of collection, the Village Council shall make additional pro rata assessments to supply the deficiency. Should the total amount collected on assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next Village tax levied against such properties, respectively, or if there be no such tax then it shall be refunded to the persons who are the respective record owners of the properties on the date of the passage of the resolution ordering such refund. Any such surplus which is less than 5% of the total cost may be placed into the Village general fund.

SECTION 18. Invalid Assessments; Reassessments. Whenever any special assessment shall, in the opinion of the Village Council, be invalid by reason of irregularities or informalities in the

proceedings, or if any tribunal of competent jurisdiction determines such assessment to be illegal, the Village Council shall, whether the improvement has been made or not or whether any part of the assessment has been paid or not, have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for collection shall be conducted in the same manner as provided for the original assessment, and whenever an assessment or any part has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

SECTION 19. Lands Exempt. The governing body of any public or private corporation whose property may be exempt by law may, by resolution, agree to pay the special assessments against such property, and in such case the assessment, including all installments, shall be a valid claim against such corporation.

SECTION 20. Borrowing Money; Bonds. The Village Council may borrow money and issue bonds in anticipation of the payment of special assessments in one or more special assessment districts, which may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the Village. The Village Council may issue general obligation bonds to defray that portion of the cost and expense of a local public improvement chargeable to the Village at large.

SECTION 21. Failure to Pay. In the event any special assessment is not paid when due, the Village Council may, without further notice and at its discretion, take such action as to prevent the use of such improvement by the property owner(s) who fail to pay such special assessment.

SECTION 22. Effective Date. This Ordinance shall become effective 20 days after its adoption or upon its publication, whichever occurs later.

YEAS: Mike Kenyon, Gary White, Carroll Wolff, Mike Callton, Frank Dunham
NAYS: none
ABSTAIN: none
ABSENT: Chris Pash, one open seat.

ORDINANCE NO. 5-30-1996 ADOPTED.

Gary White
Village President

Cathy Lentz
Village Clerk

I, Cathy Lentz, hereby certify that the foregoing Ordinance was adopted at a special meeting of the Village Council for the Village of Nashville held on May 30, 1996.

Cathy Lentz, Village Clerk

I, Cathy Lentz, hereby certify that the foregoing Ordinance was published in the Maple Valley News, a newspaper circulated in the Village of Nashville, on June 4, 1996.

Cathy Lentz, Village Clerk