Item #7:

Trustee Lyman

Dead/Diseased Tree Removal Ordinance - Discussion

ARTICLE A. INFECTED, DEAD OR DISEASED TREES

(Hawthorn Woods)

4-3A-1: NUISANCES DECLARED:

A. Infected/Infested Trees: All species of trees that exhibit the symptoms of any infectious disease or an infestation of insects that can spread to other trees and cause damage or death to said trees, upon verification by a certified arborist, laboratory or agronomist, shall be declared a public nuisance.

B. Dead Trees/Hazardous Trees And Conditions: All species and varieties of trees that are dead, substantially dead or are determined to be in a hazardous condition, upon verification by a certified arborist, laboratory, or agronomist, shall be declared a public nuisance. (Ord. 1397-12, 4-16-2012)

4-3A-2: REMOVAL OF INFECTED TREES[1]:

It shall be unlawful for any owner of any lot or land in the village to permit or maintain on any such lot or land, any tree or dead wood which, as provided in section 4-3A-1 of this article, is a public nuisance, and it shall be the duty of any such owner promptly to remove or cause to be removed any such tree or dead wood under the supervision and direction of the building inspector or his representative. (Ord. 1397-12, 4-16-2012)

4-3A-3: RIGHT OF ENTRY, INSPECTIONS AND ANALYSIS:

In order to carry out the purposes of this article and to implement the enforcement thereof, the building inspector, or his representative, is hereby authorized and empowered to enter upon any lot or land in the village at all reasonable hours for the purpose of inspecting any tree or dead wood situated thereon, and the building inspector or his representative may remove such specimens from any such tree as are required for the purposes of the laboratory analysis referred to in section 4-3A-1 of this article or to determine whether such tree, because it is dead or substantially dead, may serve as a breeding place for the aforesaid disease of elms, ash or other diseases or insects. It shall be unlawful for any person to take any action to prevent the building inspector or his representative from entering on any lot or land in the village for the purpose of such inspection, or to interfere with the building inspector or such representative in the performance of any of his duties provided for under the provisions of this article. (Ord. 1397-12, 4-16-2012)

4-3A-4: NOTICE TO REMOVE:

If, on laboratory analysis of any specimen removed from any tree on any lot or land in the village by the building inspector, it is determined that such tree is a public nuisance as provided by section 4-3A-1 of this article, or if the building inspector determines that any infected, dead or substantially dead tree or dead wood on any such lot or land is a public nuisance as provided by section 4-3A-1 of this article, the building inspector shall serve notice with reference thereto or cause notice to be served as herein provided. Such notice shall be personally served upon the person to whom was sent the tax bill for the general taxes for the last preceding year on said lot or land or shall be sent by registered mail to such person. Such notice shall advise that the owner will have thirty (30) days from and after the date of the service of the notice within which to remove such tree, trees or dead wood and have same destroyed, and that in case of the failure of the owner to do same or have same done within said thirty (30) day period, that the village will do so or cause same to be done at the cost and expense of the owner. The notice otherwise shall contain the substance of 65 Illinois Compiled Statutes 5/11-20-12. (Ord. 1397-12, 4-16-2012)

4-3A-5: ALTERNATIVES TO REMOVAL:

A. Alternative To Removing Infected/Infested Trees: Once a tree has been declared a nuisance, the property owner has the option to provide a chemical or biological treatment to the tree(s) by a certified arborist or a crew working under the direction of a certified arborist. Said treatment must be recognized by the United States department of agriculture or the Illinois department of agriculture as a viable treatment for the diagnosed disease or insect infestation. Certification must be provided to the village inspector to verify treatment occurred. Should the said treatment fail, then tree removal is required. (Ord. 1397-12, 4-16-2012)

4-3A-6: COST OF REMOVAL:

If the village removes from any lot or land in the village pursuant to this article, any infected tree which is a public nuisance, or any dead or substantially dead tree or dead wood, the assessment of the cost of the work done by the village against the owner of the lot or land involved shall be in addition to the penalties imposed herein for any violation or noncompliance with any provision of this article. (Ord. 1397-12, 4-16-2012)

4-3A-7: PROPERTY OWNED BY VILLAGE:

Any tree or dead wood on property owned by the village which is a public nuisance shall promptly be removed under the supervision of the building inspector or his representative at the expense of the village. (Ord. 1397-12, 4-16-2012)

4-3A-8: PENALTY:

A. Whoever violates any provision of this article shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 1397-12, 4-16-2012)

4-3A-9: REMOVAL BY VILLAGE, LIEN:

In case the owner of such lot or land refuses or neglects to remove any such tree, trees or dead wood within thirty (30) days after the aforesaid notice is so served, the building inspector shall proceed to remove or have same removed and duly destroyed, and to collect from the property owner the reasonable cost thereof. This cost is a lien upon the real estate affected superior to all other liens and encumbrances, except tax liens; provided, that notice has been given as herein described; and expense is incurred and the village or person performing the service by authority of the village in his or its own name, files notice of lien in the office of the recorder of deeds of Lake County. The notice shall consist of a sworn statement setting out: a) a description of the real estate sufficient for identification thereof, b) the amount of money representing the cost and expense incurred or payable for the service, and c) the date or dates when such cost and expense was incurred by the village. However, the lien of the village shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to the tree removal and prior to the filing of such notice, and the lien of the village shall not be valid as to any mortgagee, judgment creditor or other lienholder whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the village or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien. (Ord. 1397-12, 4-16-2012)

Chapter 8 (Kildeer)
DISEASE AND INFESTATION OF TREES

8-8-1: INFESTED OR DISEASED TREES DECLARED A PUBLIC NUISANCE:

In accordance with 65 Illinois Compiled Statutes 5/11-20-11 through 11-20-13, trees of all species and varieties that are determined by laboratory analysis and/or field inspection to be diseased or infested are hereby declared to be a public nuisance, and shall be removed and disposed of in an acceptable manner within ten (10) days following notification of the discovery of such infestation. This includes, but is not limited to, infestations of the insects commonly known as European elm bark beetle (Dutch elm disease) or emerald ash borer. (Ord. 06-O-975, 10-2-2006)

8-8-2: BARK, FIREWOOD AND OTHER BREEDING PLACES DECLARED A PUBLIC NUISANCE:

Trees or parts thereof in a dead or dying condition that may serve as a breeding place for the European elm bark beetle or the emerald ash borer or other diseases or infestations, are hereby declared to be public nuisances, and it shall be unlawful for the person, firm or corporation owning property whereon the same is situated to possess or keep the same. (Ord. 06-O-975, 10-2-2006)

8-8-3: ENFORCEMENT BY VILLAGE DEPARTMENT OF PUBLIC WORKS:

The department of public works, using a certified arborist, is charged with enforcement of this chapter, and to that end, 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. It shall be unlawful for any person, firm or corporation to prevent the village department of public works or its representative from entering on private property for purposes of carrying out its duties hereunder, or to interfere with such village department of public works or its representative in the lawful performance of its duties. (Ord. 06-O-975, 10-2-2006)

8-8-4: REMOVAL OF INFECTED TREES/FIREWOOD:

The director of public works shall serve notice on the owner of premises containing infected trees or firewood, said notice to be in conformance with 65 Illinois Compiled Statutes 5/11-20-12. The notice shall be served by registered mail or personally on the person to whom was sent the tax bill for general taxes on said property for the last preceding year and the notice shall be delivered or sent not less than thirty (30) days prior to the removal of the tree(s). In the event the tree or firewood is not removed within said thirty (30) day period, the village shall proceed to remove the tree(s) or firewood,

charge the cost to the owner, and in the event of nonpayment, file a lien against the property in accordance with 65 Illinois Compiled Statutes 5/11-20-12. In the event a tree is particularly infectious because of its proximity to other elm or ash trees or because of the time of year the disease is discovered, then the notice shall be five (5) days instead of thirty (30) days. The department of public works shall determine when the conditions exist warranting the imposition of the shorter notice period based on the foregoing standards. (Ord. 06-O-975, 10-2-2006)