

VILLAGE OF LIBERTYVILLE

ORDINANCE NO. 11-O-58

**AN ORDINANCE AMENDING CHAPTER 15
OF THE LIBERTYVILLE MUNICIPAL CODE
REGULATING NUISANCES
IN THE VILLAGE OF LIBERTYVILLE, LAKE COUNTY, ILLINOIS**

**Adopted by the
President and Board of Trustees
of
The Village of Libertyville
this 27 day of September, 2011**

**Published in pamphlet form by
direction and authority of the
Village of Libertyville
Lake County, Illinois
this 27 day of September, 2011**

ORDINANCE NO. 11-O- 58

AN ORDINANCE AMENDING CHAPTER 15
OF THE LIBERTYVILLE MUNICIPAL CODE
REGULATING NUISANCES
IN THE VILLAGE OF LIBERTYVILLE, LAKE COUNTY, ILLINOIS

WHEREAS, Chapter 15 of the Libertyville Municipal Code contains sections establishing regulations for nuisance trees; and

WHEREAS, in order to promote environmental preservation, it is necessary for the Village of Libertyville to adopt an ordinance amending Chapter 15 to regulate species of trees planted.

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LIBERTYVILLE, LAKE COUNTY, ILLINOIS AS FOLLOWS:

Section One: Recitals. The foregoing recitals are hereby incorporated herein as if fully set forth.

Section Two: Amendment to Section 15-26 to 15.33. Section 15-26 to 15-33 of the Libertyville Municipal Code shall be and is hereby amended with the following additions in bold;

Article II. ~~Dutch Elm Disease~~ Dead, Diseased or Nuisance Vegetation

Section. 15-26. - Declared nuisance.

- (a) All species and varieties of Elm trees (trees of genus *Ulmus*) infected with the fungus disease of elms caused by *Graphium ulmi*, commonly known as Dutch Elm Disease, or Elm Blight, as determined by laboratory analysis by a Village Board of Trustees approved laboratory.
- (b) All species and varieties of Elm trees that are dead or substantially dead and all dead Elm wood to which the bark is still attached, which because of their condition, may serve as a breeding place for infestation of the European Elm Bark Beetle (*Scolytus multistriatus*) are hereby declared to be public nuisances.
- (c) All species and varieties of Ash trees (trees of genus *Fraxinus*) infected with the wood boring beetle *Agrilus plannipennis* or *Agrilus marcopoli*, commonly known as Emerald Ash Borer as determined by laboratory analysis by a Village Board of Trustees approved laboratory.
- (d) All species and varieties of Ash trees that are dead or substantially dead and all dead Ash wood to which the bark is still attached, which because of their condition, may serve as a breeding place for infestation of the Emerald Ash Borer Beetle (*Agrilus plannipennis* or *Agrilus marcopoli*) are hereby declared to be public nuisances.

- (e) **All species and varieties of Chestnut trees (trees of *Castanea dentata*) infected with the fungus of Chestnut trees caused by *Cryphonectria parasitica*, commonly known as Chestnut Blight Fungus as determined by laboratory analysis by a Village Board of Trustees approved laboratory.**
- (f) **All species and varieties of Chestnut trees that are dead or substantially dead and all dead Chestnut wood to which the bark is still attached, which because of their condition, may serve as a breeding place for infestation of the Chestnut Blight Fungus (*Cryphonectria parasitica*) are hereby declared to be public nuisances.**
- (g) **All vegetation or other obstructions which prevent person driving vehicles of public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian walk.**
- (h) **All limbs of trees which project over a public sidewalk less than eight (8) feet above the surface thereof or less than ten (10) feet above the surface of a public street.**
- (i) **Any dead tree or dead wood declared a nuisance or hazard not in a naturalized setting shall be removed per the direction of the director of public works or designee.**

Sec. 15-27. - Removal of infected trees.

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 Elm tree or dead Elm wood, Ash tree or dead Ash wood and Chestnut tree or dead Chestnut wood which is a public nuisance. It shall be the duty of any such owner promptly to remove or cause to be removed and dispose of in accordance with state and federal agency guidelines any such Elm tree or dead Elm wood, Ash tree or dead Ash wood and Chestnut tree or dead Chestnut wood under the supervision and direction of the director of public works or designee.

Sec. 15-28. - Entry on private property.

In order to carry out the purposes of this article and to implement the enforcement thereof, the director of public works or designee 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 Elm, Ash or Chestnut tree situated thereon. The director of public works or designee may remove such specimens from any such tree as are required for the purposes of the laboratory analysis, or to determine whether such tree because it is dead or substantially dead, may serve as a breeding place for the disease or infestation of Elm, Ash or Chestnut trees. It shall be unlawful for any person to take any action to prevent the director of public works or designee from entering on any lot or land in the village for the purpose of

such inspection, or to interfere with the director of public works or designee in the performance of any of their duties provided for under the provisions of this section.

Sec. 15-29. - Notice to owner.

If, on laboratory analysis of any specimen removed from any Elm, Ash or Chestnut tree on any lot or land in this village by the director of public works or designee, it is determined that such tree is a public nuisance, or if the director of public works or designee determines that any dead or substantially dead Elm tree or dead Elm wood Ash tree or dead Ash wood and Chestnut tree or dead Chestnut tree on any such lot or land is a public nuisance, the director of public works 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 such 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. In case of the failure of the owner to do the same or have same done within the thirty-day period, 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 section 11-20-12 of the Illinois Municipal Code [65 ILCS 5/11-20-12] as amended.

Sec. 15-30. - Removal by village; lien.

In case the owner of a lot or land refuses or neglects to remove any tree, trees or dead wood under this article within thirty (30) days after the notice is served, the director of public works or designee 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 further provided that within sixty (60) days after such cost and expense is incurred the village, or person performing the service by authority of the village in his own name, files notice of lien in the office of the county recorder of deeds. The notice shall consist of a sworn statement setting out:

- (1) A description of the real estate sufficient for identification thereof.
- (2) The amount of money representing the cost and expense incurred or payable for the service.
- (3) 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 lienor 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.

Sec. 15-31. - Cost of removal in addition to penalties.

If the village removes from any lot or land in the village any infected Elm, Ash or Chestnut tree which is a public nuisance, or any dead or substantially dead Elm tree or dead Elm wood, Ash tree or dead Ash wood and Chestnut tree or dead Chestnut 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 in this article for any violation or noncompliance with any provision of this article.

Sec. 15-32. - Property owned by village.

Any Elm tree or dead Elm wood, Ash tree or dead Ash wood and Chestnut tree or dead Chestnut wood on property owned by the village which is a public nuisance shall be removed promptly and disposed under the supervision of the director of public works or designee at the expense of the village.

Sec. 15-33. - Violations.

Any person violating any of the provisions of this article by failing, neglecting or refusing to comply with the provisions of any notice herein provided for, within thirty (30) days after the service thereof, or who shall resist or obstruct the director of public works or designee in carrying out the provisions of this article is guilty of an offense.

Section Three. That is any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of the Ordinance, and the application of these provisions to any persons or circumstances shall not be affected thereby.

Section Four. That all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed insofar as the conflict herewith.

Section Five. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

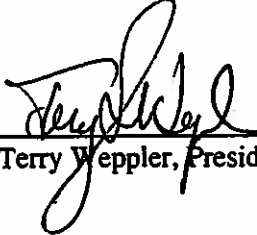
PASSED this 27 day of September, 2011.

AYES: Gaines, Justice, Moran, Johnson, Cullum, Moras

NAYS: None

ABSENT: None

APPROVED this 27 day of September, 2011.


Terry Wepler, President

ATTEST:


Sally Kowal, Village Clerk