

THE VILLAGE OF ALSIP

COOK COUNTY, ILLINOIS

ORDINANCE

NUMBER 2014-12-3

**AN ORDINANCE AMENDING CHAPTER 17 OF THE VILLAGE CODE REGARDING TREES
IN THE PUBLIC RIGHT-OF-WAY AND NUISANCE TREES**

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WHEREAS, the Emerald Ash Borer disease has killed hundreds of trees on Village property, resulting in costs of removal to the Village, as well as loss of the public trees; and

WHEREAS, it is determined that it is in the best interest of the citizens of the Village of Alsip to regulate trees located on the public right-of-way and nuisance trees on both public and private property within the Village; and

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Alsip, Cook County, Illinois, in the exercise of their home rule powers, as follows:

SECTION 1: AMENDMENT TO VILLAGE CODE.

The Alsip Village Code, Chapter 17 - STREETS, SIDEWALKS, AND OTHER PUBLIC PROPERTY, ARTICLE I. - IN GENERAL, is hereby amended to ADD THE FOLLOWING ARTICLES IV. AND V., to read as follows:

ARTICLE IV. - PLANTING, MAINTENANCE AND REMOVAL OF PUBLIC TREES AND SHRUBS.

Sec. 17-60 - PURPOSE AND INTENT.

- A. Purpose: It is the purpose of this article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees and shrubs within the Village.
- B. Intent: It is the intent of the Village Board that the terms of this article shall be construed so as to promote:
 - 1. The planting, maintenance, restoration and survival of desirable trees and shrubs within the Village; and
 - 2. The protection of community residents from personal injury and property damage, and the protection of the Village from property damage, caused or threatened by the improper planting, maintenance or removal of trees and shrubs located within the community. (1981 Code)

Sec. 17-61 - DEFINITIONS.

The following words and phrases shall have the meanings, and are hereby defined, as follows:

ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE FOR THE VILLAGE OF ALSIP (Hereinafter, "Arboricultural Specifications Manual"): A manual adopted by the Board, copies of which are on file in the offices of the Village Clerk and Village Superintendent of Streets and available to the public, which contains regulations and standards for the planting, maintenance and removal of trees and shrubs upon Village owned property; said manual also contains a general program in regard to the tree and shrub resources of the Village.

CONTRACTOR: Any person engaged in the construction of any structure on a commercial or residential lot within the Village limits.

LARGE TREES: Designated as those attaining a height of fifty feet (50,) or more.

MEDIUM TREES: Designated as those attaining a height of thirty feet (30,) to fifty feet (50,).

MUNICIPALITY: The Village of Alsip.

NATIVE TREES: Species known to be part of the flora of Northern Illinois before the time of European settlement.

PARK: All public parks.

PARKWAY: That part of a street or highway, not covered by sidewalk or other paving, lying between a private property line and the street or curb.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY OWNER: The person owning private property as shown by the County Assessor's plat of Cook County, State of Illinois.

PUBLIC PLACES: All grounds owned by the Village of Alsip, County of Cook, State of Illinois.

PUBLIC TREES: Includes all shade and ornamental trees now or hereafter growing on any street or any public areas unless otherwise indicated.

SHRUBS: Any plant attaining a height of less than ten feet (10').

SMALL TREES: Designated as those attaining a height of up to thirty feet (30').

SUPERINTENDENT: The Village Superintendent of Streets of the Village of Alsip, Illinois.

SUPERINTENDENT OF STREETS: The Superintendent of Streets shall be the Village Superintendent of Streets of the Village of Alsip, Illinois, or his/her designee.

STREET OR HIGHWAY: The entire width of every public right of way.

TREES AND SHRUBS: All vegetation, woody or otherwise, except lawn grass and herbaceous flowers.

VILLAGE OWNED PROPERTY: Property within the Village limits and: a) owned by the Village in fee simple absolute, or b) impliedly or expressly dedicated to the public sewer easements.

Sec. 17-63 - VILLAGE SUPERINTENDENT OF STREETS; DUTIES.

- A. The Superintendent of Streets shall administer the Village forestry program and the provisions of the Arboricultural Specifications Manual;
- B. The Superintendent of Streets shall approve or disapprove tree plantings on public property and approve or disapprove any other acts in regard to tree and shrub removal and maintenance as are required by this chapter and shall obtain as a condition precedent to the granting of any approval, the written agreement of each person who applies for such approval that he or she will comply with the requirements of this chapter and with the regulations and standards of the arboricultural specifications manual. The Superintendent shall have the right to inspect all work performed after such approval is granted. If, pursuant to such inspection, the Superintendent finds that the work performed pursuant to the approval has not been performed in compliance with the requirements of this article or with the regulations or standards of the arboricultural specifications manual, the Superintendent shall provide written notice of such finding to the applicant, and the notice shall contain a copy of this subsection, and
 - 1. The approval shall be rescinded and shall be void ab initio, and
 - 2. The Superintendent may issue a written order that the applicant cease and desist all work for which the approval was granted, and
 - 3. The applicant shall be subject to penalty under the terms of this chapter, and
 - 4. The Superintendent may take steps to correct the results of the noncomplying work and the reasonable costs of such steps shall be charged to the applicant.
- C. The Superintendent shall establish a program of public information and education that will encourage the planting, maintenance or removal of trees, shrubs and other plants on private property in furtherance of the general program for optimizing the tree, shrub and other plant resources of the Village. (1981 Code)

Sec. 17-64 - TREE AND SHRUB MAINTENANCE AND PLANTING APPROVAL.

- A. Scope of Requirement: No person except the Superintendent, an agent of the Superintendent or a contractor hired by the Village may perform any of the following acts without first obtaining approval from the Superintendent:
 - 1. Plant on Village owned property, or spray, fertilize, prune, remove or otherwise disturb any tree or shrub located on Village owned property, except that this provision shall not be construed to prohibit owners of property adjacent to or appurtenant to Village owned property from watering without approval any tree or shrub located on such Village owned property;
 - 2. Trim, prune or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on or across Village owned property and thereby to cause damage to persons or property;

3. Place on Village owned property, either above or below ground level, a container for trees or shrubs;
 4. Damage, cut, tap, carve or transplant any tree or shrub located on Village owned property;
 5. Attach any rope, wire, nail, sign, poster or any other manmade object to any tree or shrub located on Village owned property;
 6. Make or cause to be made any tree well or sidewalk cut on Village owned property.
- B. Approval: Within seven (7) days of receipt of the application, set forth in subsection 17-64B3 of this Section, the Superintendent shall grant approval to perform within thirty (30) days of the day of approval any of the acts specified in subsection 17-64A of this Section, for which approval is requested whenever:
1. Such acts would result in the abatement of a public nuisance; or
 2. Such acts are not inconsistent with the Arboricultural Specifications Manual; and whenever:
 3. A letter of application has been signed by the applicant and submitted to the Superintendent detailing the location, number, size and species of trees or shrubs that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Superintendent may find reasonably necessary to a determination of whether such acts are consistent with this Chapter and with provisions of the Arboricultural Specifications Manual; and
 4. The applicant agrees in writing to perform the work for which approval is sought in accordance with the provisions of this Chapter and with the regulations and standards set forth in the Arboricultural Specifications Manual; and
 5. If the work for which approval is sought entails the felling of any tree or part thereof located on private property, which as a result of such felling, reasonably may be expected to fall on or across Village owned property, the applicant agrees in writing to indemnify and hold harmless the Village for all damages resulting from work conducted pursuant to the approval; and
 6. Further in regard to the felling of any tree or part thereof located on private property, which as a result of such felling may reasonably be expected to fall upon or across Village owned property, if such felling is done by a contractor or some person other than the owner of the property upon which the tree is located, the contractor shall deposit with the Village Clerk or the Superintendent a liability insurance policy in the amount of three hundred thousand dollars (\$300,000.00) per accident for bodily injury liability and fifty thousand dollars (\$50,000.00) aggregate for property damage liability. A blanket certificate may be filed with the Village Clerk covering all tree work by the contractor during the policy period.
- C. Exemptions Not Construed From Section: Nothing in this Section shall be construed to exempt:

1. Public utility companies or their agents from any of the requirements of this Chapter;
or
 2. Any person from the requirements of obtaining any permits as are required by law.
- D. Granting Approval For Removal And Maintenance Of Trees On Private Property:
Nothing in this Section shall be construed as granting the Superintendent the authority to disapprove tree removal or maintenance on private property provided the Superintendent is notified of such removal or maintenance pursuant to subsection 1-4B3 of this Section and provided the applicant under subsection 17-64B3 of this Section complies with subsection 17-64B5 of this Section.
- E. Work (tree pruning, planting, removal, or treatment with pesticides) performed by the Superintendent, an agent of the Superintendent, or a contractor hired by the Village shall be in accordance with the standards set forth in the Arboricultural Specifications Manual.
- F. Protection of trees: Permit Required: No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten feet (10') from any public tree without first obtaining a written permit from the Superintendent of Streets or his agent.
- G. Guarding from Excavation or Construction: If deemed necessary by the Superintendent, all trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work, shall be protected according to the standards set forth in the Arboricultural Specifications Manual, and all building material, dirt, or other debris shall be kept outside of the barrier.
- H. Clear Sight Areas at Street Intersections: In order to promote greater safety at street intersections, it is in the public interest that trees, shrubs, solid fences and other interferences with the sight of pedestrians or of operators of vehicles at such intersections be regulated in accordance with the standards set forth in the Arboricultural Specifications Manual.

Sec. 17-65 - TREE CONTRACTOR REGISTRATION.

- A. Scope Of Requirement: No person shall engage in the business of removing, pruning or spraying for hire any trees in the Village unless and until a tree contractor registration form has first been obtained from the Village Clerk.
- B. Issuance Of Registration Form: The Village Clerk shall issue a tree contractor registration form valid for one year to any person who applies for such a registration form provided: 1) said person(s) adhere to the "Arboricultural Specifications And Standards Of Practice For The Village Of Alsip"; and 2) said persons comply with insurance regulations (subsection 17-64B6 of this Article) and 3) that such person(s) agree in writing to remove all tree and shrub refuse.
- C. Fee: The annual fee for such a tree contractor registration form shall be fifty dollars (\$50.00).

Sec. 17-66 - PUBLIC NUISANCES.

A. Definition: The following are hereby declared public nuisances under this Article:

1. Any dead or dying tree or shrub, whether located on Village owned property or on private property;
2. Any otherwise healthy tree or shrub, whether located on Village owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree or shrub;
3. Any tree or shrub or portion thereof, whether located on Village owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public;
4. Any tree or shrub or portion thereof whether located on Village owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a streetlight; and
5. Any tree or shrub or portion thereof whether located on Village owned property or on private property which obstructs the view of any vehicular traffic in or approaching an intersection.

B. Abatement: The following are the prescribed means of abating public nuisances under this Section:

1. Any public nuisance under this Section that is located on Village owned property shall be pruned, removed or otherwise treated by the Superintendent in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
2. Any public nuisance under this Section that is located on private property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be in violation of this provision unless and until the following requirements of notice have been satisfied:
 - a. The Superintendent shall cause a written notice to be sent by registered or certified mail to the owner of the property upon which the nuisance is found;
 - b. Such notice shall describe with particularity the tree or shrub that has been declared to be a public nuisance;
 - c. Such notice shall state with particularity the alternative actions that the property owner may undertake to abate the nuisance;
 - d. Such notice will require the elimination of the nuisance within thirty (30) days after receipt of the notice by the property owner, although, upon a showing of good cause, said period may be extended by the Superintendent for a reasonable period.

In the event that the nuisance is not abated within thirty (30) days following receipt of notice by the property owner or within any further time period allowed by the Superintendent or the Forestry Commission, the Superintendent is

authorized to cause the abatement of said nuisance, and the reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located, and the property owner of the property upon which the nuisance is located shall be subject to prosecution under Section 17-67 of this Article. Nothing in this provision shall be construed to exempt any person from the requirements of obtaining approvals under Section 17-64 of this Article.

3. The provisions of subsections 17-64B1 and B2 of this Article notwithstanding, the Superintendent is hereby empowered to cause the immediate abatement of any public nuisance under this Article, provided that the nuisance is declared by the Superintendent to threaten imminent and serious danger of injury or death to any person, and provided that the owner of the property on which the nuisance is located cannot be found through the reasonable efforts of the Superintendent.
4. The Superintendent is hereby empowered to seek from any court of competent jurisdiction an order directing the immediate abatement of any public nuisance under this Chapter.

C. The control of trees infected with Dutch Elm Disease and Emerald Ash Borer shall be governed by Article V of this Chapter.

Sec. 17-67 - VIOLATION AND PENALTY.

Any person who violates any provision of this Chapter or who fails to comply with any notice issued pursuant to the provisions of this Chapter is guilty of a Class C offense pursuant to Sec. 1-8 of this Code, and shall be subject to a fine as provided in Section 1-8 of this Code. If, as the result of the violation of any provision of this Article, the injury, mutilation or death of a tree or other plant located on Village owned property is caused, the cost of repair or replacement of such tree or other plant shall be borne by the party in violation. The replacement value of trees may be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens as published by the International Society of Arboriculture".

Article V - NUISANCE TREES

Sec. 17-70. - DUTCH ELM DISEASED TREES DECLARED A PUBLIC NUISANCE.

Trees of all species and varieties of elm, zelkova and planera affected with the fungus *Ceratostomella ulmi*, as determined by laboratory analysis, are hereby declared to be a public nuisance, and shall be removed and burned within thirty (30) days following notification of the discovery of such infection.

Sec. 17-71. - ELM BARK BEETLE BREEDING PLACES DECLARED A PUBLIC NUISANCE.

Trees or parts thereof of elm, zelkova or planera in a dead or dying condition that may serve as a breeding place for the European Elm Bark Beetle, *Scolytus Multistriatus*, 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.

Sec. 17-72. - EMERALD ASH BORER INFESTED TREES DECLARED A PUBLIC NUISANCE.

Trees of genus ash (*Fraxinus*), specifically but not limited to green ash (*Fraxinus pennsylvanica*), white ash (*Fraxinus americana*), black ash (*Fraxinus nigra*) and varieties of such species, affected with the Emerald Ash Borer (*Agilus planipennis*) are hereby declared to be a public nuisance and shall be removed within thirty (30) days following notification of the discovery of such infestation. In order to prevent the spread of Emerald Ash Borer, infested trees or tree parts shall not leave the quarantine area identified by the Illinois Department of Agriculture.

Sec. 17-73. - ENFORCEMENT BY VILLAGE SUPERINTENDENT.

The Village Superintendent of Streets is charged with enforcement of this Article, 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 Superintendent or his representative from entering on private property for purposes of carrying out his duties hereunder, or to interfere with such Superintendent or his representative in the lawful performance of his duties.

Sec. 17-74 - REMOVAL OF INFECTED TREES.

The Director of Public Works or the Village Superintendent shall serve notice on the owner of premises containing trees infected with Dutch Elm Disease or Emerald Ash Borer, said notice to be in conformance with section 11-20-12 of the Illinois Municipal Code. 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 is not removed within said thirty (30) day period, the Village shall proceed to remove the tree(s), charge the cost to the owner and, in the event of nonpayment, file a lien against the property in accordance with section 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 period shall be five (5) days instead of thirty (30) days. The Village Superintendent of Streets shall determine when the conditions exist warranting the imposition of the shorter notice period based on the foregoing standards.

SECTION 2: SEVERABILITY

This Ordinance and every provision thereof shall be considered severable and the invalidity of any section clause, paragraph, sentence or provision of this Ordinance will not affect the validity of any other portion of this Ordinance.

SECTION 3: EFFECTIVE DATE

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

Passed this 1st day of December, 2014.

ADOPTED by the President and Board of Trustees of the Village of Alsip, Cook County, Illinois, on December 1, 2014 by the following roll call vote:

	YES	NO	ABSENT	ABSTAIN
Shapiro	X			
McGreal	X			
Dalzell	X			
Ryan	X			
Michaels	X			
Dwyer	X			
President Kitching				
TOTAL	6	0	0	0

APPROVED:

Patrick E. Kitching
PRESIDENT

ATTEST:

Deborah Venhuizen
VILLAGE CLERK

466810/KE