

AN ORDINANCE TO AMEND ARTICLE I ENTITLED "TREES" OF CHAPTER 6 ENTITLED "TREES AND PLANTS" OF THE MUNICIPAL CODE OF THE CITY OF ELMHURST, ILLINOIS

WHEREAS, recent storms and severe weather have resulted in safety concerns about dead or dying trees on private property within the City of Elmhurst (the "City") and the hazards such dangerous trees may pose to persons or property if not removed; and

WHEREAS, the Elmhurst Municipal Code (the "Code") currently provides for the removal of dead or dying trees on private property if such trees are infected with Dutch Elm disease or serve as a breeding place for insects, declaring such trees to be a public nuisance; and

WHEREAS, dead or dying trees which are potentially dangerous due to their condition should be removed and disposed of regardless of what the source of the dangerous condition is; and

WHEREASE, dangerous trees should be considered a public nuisance, and provisions for abatement included in the City's Code; and

WHEREAS, the City deems it necessary and desirable to amend Chapter 6 of the Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of The City of Elmhurst, DuPage and Cook Counties, Illinois as follows:

SECTION 1. That Section 6.13 entitled "Dutch Elm Disease" of Article I, entitled "Trees," of Chapter 6, entitled "Trees and Plants," of the Elmhurst Municipal Code is amended and retitled to read as follows:

"6.13 Dangerous or Diseased Trees

(a) The following shall be declared a public nuisance:

1. Dutch Elm Disease: Any elm tree infected with Dutch Elm disease, as determined by laboratory analysis, is hereby declared to be a public nuisance and subject to abatement as such; and it shall be unlawful for the owner of property within the city whereon such a tree is situated, to possess or keep such tree after notification of the discovery of the infection, unless the city approved Dutch Elm disease prune-out procedure is carried out. The pruned/treated elm will then be observed and be resampled for laboratory analysis as required.

2. Insect Infestation: Any tree or parts thereof in a dead or dying condition that serve as a breeding place for the European Elm Bark Beetle (*Scolytus Multistriatus*) are hereby

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declared to be a public nuisance, and it shall be unlawful for any person owning or controlling property whereon the same is situated to possess or keep the same within the city. Firewood merchants, tree service contractors and all other persons are prohibited from possessing or providing such elm tree material to residents within the Elmhurst city limits. Should any person fail to remove such material after being ordered to do so by the City Forester, the city shall remove or cause the removal thereof, the cost for which shall be recoverable from the person possessing or providing such material.

3. Dangerous trees: Any tree deemed to be dangerous is hereby declared to be a public nuisance. A dangerous tree is defined as any tree, limb or portion thereof which is dead or dying or has fallen or threatens to fall, creating a safety hazard to persons or property. This includes but is not limited to trees which have fallen on houses or power lines, have blocked free passage on sidewalks or streets, or which threaten to fall as a result of their condition, which may be caused by construction, disease, age or severe weather.

(b) Notice to Remove Tree. The City Forester, shall serve upon the owner or person in control of property ("Owner") where any public nuisance as described shall be found, a written notice of the existence of such nuisance, which notice shall require the removal and disposal of the same within 30 days following such notice. Such removal and disposal shall be under the direction and supervision of the City Forester or his designee. The notice shall further advise that unless such nuisance is abated or in compliance with the terms thereof within such 30 day period, the city will proceed with such abatement of such nuisance, and assess the owner a sum as provided in subsection (c) hereof. Such notice shall be served by certified mail or by personal service upon the owner at his last known address.

(c) Removal by City.

1. Trees with Dutch Elm Disease or Insect Infestation, as defined above in Section 6.13(a), Subsections 1 and 2: If such owner shall neglect to abate such nuisance within the aforesaid 30 day period, the city, by its agents, employees, or independent contractors, shall go upon such property to cut down, remove and dispose of such nuisance, and the owner shall be assessed a sum equal to 50 percent of the cost of such removal and disposal or \$300, whichever is greater.

2. Dangerous Trees, as defined above in Section 6.13(a), Subsection 3: If such owner shall neglect to abate such nuisance within the aforesaid 30 day period, the city, by its agents, employees, or independent contractors, shall go upon such property to cut down, remove and dispose of such nuisance, and the owner shall be assessed a sum equal to the total cost of such removal.

(i) If, after 3 months from the date the tree is removed by the city, the original assessment for removal is unpaid, the owner shall be assessed a penalty up to 25 percent of the total cost of removal of the tree.

(ii) If, after 6 months from the date the tree is removed by the city, the original assessment for removal is unpaid, the owner shall be assessed an additional penalty up to 50 percent of the total cost of removal of the tree.

(d) Determination of nuisance. The city, its agents, officials and employees may go upon any property in the city for the purposes of:

1. Determining whether wood of elm trees is stored or otherwise present;
2. Examining elm trees for the presence of or infestation by the European Elm Bark Beetle or Dutch Elm disease condition; as part of such examination a small portion of any branch thereof may be removed for laboratory testing.
3. Investigation of a complaint or report of a dangerous tree which poses a safety hazard as outlined in Section (a), Subsection 3, above.

SECTION 2. That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law, and after the installation of the appropriate signage.

Approved this 16th day of April, 2012.



Peter P. DiCianni III, Mayor

Passed this 16th day of April, 2012.

Ayes: 13 Nays: 0

Patty Spencer
Patty Spencer, City Clerk