

VILLAGE OF RIVERSIDE

**BOARD MEETING
AGENDA ITEM –HISTORY/COMMENTARY**

ITEM TITLE:
AN ORDINANCE AMENDING THE RIVERSIDE VILLAGE CODE BY
SECTION 8-5-6 REGARDING DISEASED TREE REMOVAL

AGENDA No.: _____

MEETING DATE: _____

STAFF REVIEW: Public Works Director _____

LEGAL REVIEW: Village Attorney: _____

RECOMMENDED FOR BOARD ACTION: Village Manager: _____

ITEM HISTORY(PREVIOUS VILLAGE BOARD REVIEWS, ACTIONS RELATED TO THIS ITEM, COMMITTEE ACTION, OTHER PERTINENT HISTORY):

Due to the recent threat of a new insect know as the emerald ash borer.

ITEM COMMENTARY (BACKGROUND, DISCUSSION, KEY POINTS, RECOMMENDATIONS):

ACTION PROPOSED:

Recommendation to enact an ordinance establishing an amendment to subsection of Title 8, Section 8-5-2 entitled "Definitions" and Section 8-5-6, entitled "Infected, Infested, or Dead Tree Removal".

ORDINANCE

<p>AN ORDINANCE AMENDING THE RIVERSIDE VILLAGE CODE BY ADDING TO SECTION 8-5-2 REGARDING DEFINITIONS AND AMENDING 8-5-6 REGARDING DISEASED TREE REMOVAL</p>
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BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF RIVERSIDE, COOK COUNTY, ILLINOIS, as follows:

SECTION ONE: That Title 8, Section 8-5-2 of the Village Code of the Village of Riverside entitled "Definitions" is hereby amended by adding thereto new definitions as follows:

SECTION 8-5-2: DEFINITIONS:

"INFECTED" means the presence of a disease deemed a nuisance by the Illinois Department of Agriculture or the United States Department of Agriculture, the presence of circumstances that make it reasonable to believe that such a disease is present or the presence of any plant disease that is liable to spread to other plants, trees or shrubs to the injury of such plants, trees, or shrubs or to the injury of humans or property. Examples of such nuisances include but not limited to, Dutch elm disease, verticillium wilt, and oak wilt. This definition does not apply to common native pest such as; powdery mildew or apple scab.

"INFESTED" means the presence of a pest deemed a nuisance by the Illinois Department of Agriculture or the United States Department of Agriculture, the presence of circumstances that make it reasonable to believe that such a pest is present or the presence of any injurious insect or pest that it liable to spread to other plants, trees, or shrubs to the injury of such plants, trees or shrubs or to the injury of humans or property. Examples of such nuisances include but not limited to Asian longhorn beetle and emerald ash borer. This definition does not apply to common native pests such as; box elder bugs and carpenter ants,

SECTION TWO: That Title 8, Section 8-5-6 of the Village Code of the Village of Riverside entitled "Diseased Tree Removal" is hereby deleted in its entirety and in lieu thereof, the following language shall be substituted:

SECTION 8-5-6: INFECTED, INFESTED, or DEAD TREE REMOVAL:

- (A) (A) Any tree infected, infested, or dead with Dutch elm disease, ~~verticillium wilt, dothiorella, oak wilt,~~ Emerald ash borer or other injurious parasite, fungus, insect or disease is declared to be a public nuisance or hazardous to public safety subject to abatement as such. No person shall knowingly permit any tree or shrub so infected, infested or dead to remain on any lot or tract of land owned or controlled by such person. If such person fails to remove any tree or shrub so infected, infested, or dead within thirty (30) days after receipt of notice (in form as below prescribed) from the Village Manager or his designated representative, directing such removal, the

Village may remove such tree or shrub at the expense of such person. Designated employee(s) of the Village is hereby authorized and directed to enter upon private property for the purpose of inspecting trees having the appearance of being infected, infested, or dead .

- (B) The cost of such infected, infested or dead tree or shrub removal 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 hereinafter described, and further provided that within sixty (60) days after such cost and expense is incurred the Municipality, or person performing the service by authority of the Municipality in his own name, files notice of lien in the office of the Recorder of Deeds in the county in which such real estate is located or in the office of the Registrar of Titles of such county if the real estate affected is registered under the Torrens system. 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, and 3) the date or dates when such cost and expense was incurred by the Municipality. However, the lien of such Municipality 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 such Municipality shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to 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 Municipality 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.
- (C) The cost of such tree removal shall not be a lien upon the real estate affected unless a notice shall be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property, such notice to be delivered or sent not less than thirty (30) days prior to the removal of the tree or trees located thereon. The notice shall refer to and contain the substance of this Section, and shall identify the property by common description, and the tree or trees affected.
- (D) Notwithstanding the foregoing, the Village Manager is further authorized and directed to contact the property owner having any tree infected, infested, or dead as described in subsection (A) of this Section and obtain from such owner permission to remove said infected tree. ~~with cacodylic acid and/or sevin spray in an effort to isolate and eliminate said tree as a breeding area and spreader of tree infection until such time as such tree has been removed in accordance with this Section.~~ Permission from the property owner to so remove infected, infested, or dead trees on private property must be obtained in writing together with execution of the proper hold harmless and indemnification rights to the Village covering the removal of such tree or trees by Village employees.

APPROVED this _____ day of _____, 2007.

Trustee Gustafson _____ Trustee Grace _____

Trustee Scanlon _____ Trustee Scully _____

Trustee Shields _____ Trustee Smith _____

President Wiaduck

ATTEST:

Village Clerk

Filed in the office of the Village Clerk and published in pamphlet form by authority of the President and Board of Trustees of the Village of Riverside, Cook County, Illinois this _____ day of _____, 2007.

Village Clerk