

VILLAGE OF FRIENDSHIP NUISANCE TREE ORDINANCE

1. Declaration of Policy

The Village of Friendship Board has determined that the health of trees within the municipal limits are threatened by fatal insect and disease infestations/infections. High value is placed on the forested and rural aspects of the Village and the degradation that will occur from these infestations/infections creates the potential danger of windfall or other breakage of weakened/dead standing trees situated in the vicinity of common property boundaries or common travel lanes.

2. Scope

This ordinance shall cover currently known insects and future identified insects/diseases that can kill trees and be transmitted from tree to tree through root graft transmission or overland spread.

3. Appointment of Tree Inspector

The position of the tree inspector is hereby created within the Village. It is the duty of the tree inspector to coordinate, under the direction of the Village Board, all activities of the municipality relating to the care of all village boulevard and park trees as well as prevention and control of insects and epidemic diseases of all village trees.

4. Nuisances Declared

The following are declared to be public nuisances whenever and wherever they may be found and the term "nuisance" when used herein shall include one or more of the following:

- A) Any diseased or infested trees whose malady is life-threatening to itself and the lives of adjacent or other trees within the Village.
- B) Any tree that is dead, has branches that are dead or broken or that has hanging limbs that in the opinion of the tree inspector constitute a risk to the general public.
- C) Nuisance will also include any parts of infected or infested trees that have been removed, including logs, branches, stumps and firewood that in that condition may infect or infest healthy trees.
- D) Trees, shrubs, bushes, and any other vegetation, or portions thereof, that do not meet the following clearance requirements: The Tree Inspector may waive the provisions of this section for recently planted trees if he/she determines that they do not interfere with public travel, obstruct street signs or in any way endanger the public safety.
 - i. At least 14 feet above a public street
 - ii. At least 10 feet above a public sidewalk
 - iii. No encroachment onto a public street or sidewalk.

5. Nuisance Prohibited

It is unlawful for any person to permit any nuisances to remain on any premises owned or controlled by that person within the Village. Such nuisances shall be abated in the manner prescribed by this ordinance.

6. Inspection Procedures

- A) Annual inspection: The tree inspector or his/her duly appointed agents shall survey the Village to determine whether any nuisance, as well to determine if there are open spaces available for future plantings. The tree inspector shall, in addition, conduct emergency inspections, whenever deemed necessary, and take action as authorized in this ordinance.
- B) Entry upon Private Premises: The tree inspector or his/her duly appointed agents shall provide 24 hours notice to a landowner of the need to inspect his or her property. If access is denied, the agent may request a special inspection warrant from the circuit court authorizing entry upon private premises at any reasonable time for the purpose of carrying out the inspection duties assigned to him/her in this ordinance.
- C) Diagnosis: The tree inspector shall, whenever possible, upon finding a nuisance make a diagnosis based upon accepted field symptoms and if deemed necessary, may deliver appropriate samples or specimens for laboratory analysis.

7. Interference Prohibited

It is unlawful for any person to prevent, delay or interfere with the Village tree inspector or his/her agents in the performance of duties imposed by this ordinance.

8. Notices Following Inspection

If the tree inspector finds evidence of a nuisance or the potential for infection of other trees, he/she shall notify, by regular mail, the owner of the property on which the nuisance is found. Said notice shall contain the survey information with respect to the subject trees on the property. Such notice shall describe the nuisance and recommend procedures for its abatement within a period of time specified by the inspector. The notice shall include a statement that the property owner shall have the right to request a hearing before the Village Board's Public Works Committee on the issue of whether a nuisance exists. The notice shall further state that unless the owner abates the nuisance in the manner specified, or appears at a hearing, if requested, to show such a nuisance does not exist or does not endanger the health of other trees, the inspector may cause the abatement thereof at the expense of the property served. The tree inspector reserves the right to pursue abatement procedures under difficult circumstances of compliance. If notice by mail cannot be given, such notice shall be given by publication in a newspaper of general circulation in the Village.

Any owner of real estate, who receives any notice as provided herein, may request that the tree inspector obtain a laboratory test of such trees. Such a request shall be made to the tree inspector within five (5) days after the date of such notice. The costs of such test shall be the responsibility of the landowner and the tree inspector may require pre-payment.

9. Responsibility for Abatement

PRIVATE LANDOWNER- An owner given notice pursuant to section 8 herein shall abate or direct the abatement of the nuisance within the specified time in the notice. The abatement of the nuisances and disposal of all associated materials shall be done in a manner satisfactory with the tree inspector, so as to ensure the elimination of the nuisance and its spread to other trees.

JURISDICTIONAL ABATEMENT- If the homeowner does not initiate abatement procedures in the allotted time, the tree inspector may then contract for the requisite abatement as soon as possible and shall report to the village clerk all charges resulting from the abatement procedure. The clerk shall list all such charges along with additional administrative costs and refer the matter to the

Village Board for collection as a special charge pursuant to sec. 66.0627 Wis. Stats. If the abatement requires entry onto private property and the owner denies access, the tree inspector may request that the Village Board pursue injunctive relief in the circuit court which would authorize abatement.

10. Corrective Measures for Abatement of Nuisances

Because nuisances can be a community problem and because control may benefit an entire neighborhood, the tree inspector may recommend and encourage neighborhood participation and cooperation, including cost sharing of pruning, removal, root graft disruption and other control efforts, especially where the nuisances are in danger of spreading across property boundaries.

In efforts to control overland spread of the nuisance known as oak wilt, pruning, cutting or other wounding of oaks is prohibited from April 1 until October 1, without a written permit. During this period (April 1 until October 1) if wounding occurs or pruning is necessary in response to an emergency, a tree wound dressing shall be applied to each wound within 24 hours. The cut surface of stumps from living-noninfected oaks shall be painted with a tree wound dressing within 24 hours.

Standing oak wilt-infected trees or their parts are considered hazardous from the time of initial infection to October 1 of the following year. Any diseased material to be used as fuel wood or to be salvaged for other purposes must either be debarked or completely covered by heavy plastic (minimum of 4 mil) for a period of time as indicated by the tree inspector. Stumps of infected trees shall be removed or debarked to ground-line in a time frame designated by the tree inspector to reduce the possibility of formation of fungal mats and overland spread by insects. Any branch greater than 2" in diameter determined by the tree inspector to be hazardous and not salvaged shall be disposed of by burning, chipping, or removal to an authorized dump site in a time frame designated by the tree inspector. Dead standing red oaks that have advanced beyond the potential for spore development need not be removed, except where they constituted a risk to life and/or property. The tree inspector shall advise accordingly.

Trees of the red oak group diagnosed as having oak wilt may be girdled as directed by the tree inspector as soon as infection is detected in order to speed drying and reduce spore formation. The tree inspector also may apply any certified silvicide to hasten death and drying of infected trees. Girdling shall be done only in areas where the weakened tree that results will not constitute a risk to life and/or property should it fall.

The standard measure of control shall be root graft disruption through the use of a vibratory plow in areas where the soil permits this type of method to be employed. Where soils do not permit this method to be practicable, the use of a herbicide (Garlon 4) may be used to isolate the infection. This herbicide must be applied by an appropriately licensed pesticide applicator. The village inspector or his/her designee, shall determine the exact prescriptions for either method.

11. Transporting Wood Prohibited

It is unlawful for any person to transport into, or within the Village any diseased wood that is a nuisance without having obtained a permit from the tree inspector. Such permits shall only be granted when the purposes of this ordinance will be served thereby.

12. Permit Procedure

Any person seeking a permit to trim, cut, prune or otherwise wound (e.g. cabling) any oak tree(s) between April 1 and October 1, or transport diseased trees or parts thereof shall request a permit from the tree inspector. Transported wood permits shall describe the origin and final disposition of

the wood and state protective measures that must be followed to ensure against the spread of any infected/infested wood within the control area. Permits shall be for a period not exceeding 10 days.

Permits for trimming of oaks shall not be given except in emergency situations. The person doing the cutting, pruning, trimming or transporting shall have a copy of the permit in his/her possession at all times while doing the activity.

13. Tree and Woodland Preservation

Any person or entity proposing sale or construction in areas containing oaks are required to schedule an on-site inspection with the tree inspector to develop a plan to protect oaks from construction damage or infection. This plan must be in place before any brushing, surveying, testing, or construction activities take place.

14. Transfer of Property

In the event that a nuisance has been declared on a property that is being sold, the grantor or his agent shall inform the grantee of the nuisance declaration.

15. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision will not affect the validity of any other section, subsection, clause, phrase or portion thereof irrespective of the fact any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

16. Adopted this __7th__ day of __June_____, 2010, by the Village of Friendship Board.

By:

John Jones, Village President /s/

Attest:

Kathy Pierce, Village Clerk /s/