

ORDINANCE NO. 2063

AN ORDINANCE DECLARING TREES INFESTED WITH THE EMERALD ASH BORER AS A “PUBLIC NUISANCE” IN THE VILLAGE OF SHOREWOOD

At a regular meeting of the Village Board of the Village of Shorewood, Milwaukee County, held on this 15th day of August, 2016, a quorum being present and a majority of the Board voting therefore, said Board finds:

WHEREAS, the Village Board has determined that there are many trees growing on public and private premises within the Village of Shorewood, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises, and erode the tax base of the Village, and that the health and life of such trees are threatened by the spread of an insect known as the “emerald ash borer”; and

WHEREAS, the Village Board declares the emerald ash borer to present a public nuisance; and

WHEREAS, the Village Board hereby declares its intention to control and prevent the spread of the emerald ash borer; and

NOW, THEREFORE, at a regular meeting of the Village Board of the Village of Shorewood, Milwaukee County Wisconsin held on the 15th day of August 2016, a quorum being present and a majority of the Board voting therefore said Board does ordain as follows:

SECTION 1

That Section 466-26, Emerald ash borer., of Article V: Trees and Shrubs, of Chapter 466: Streets, Sidewalks and Public Areas, is hereby created as follows:

§466-26 Emerald ash borer.

- A. Intent and Purpose. The Village Board has determined that there are many trees growing on public and private premises within the Village of Shorewood, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises, and erode the tax base of the Village, and that the health and life of such trees are threatened by the spread of the jewel beetle *agrilus planipennis*, which is a commonly known as, and referred to herein, as the “emerald ash borer.”

B. Declaration of Public Nuisance. The Village Board hereby declares its intention to control and prevent the spread of the emerald ash borer, and declares the trees infested with the emerald ash borer to constitute a public nuisance.

C. Responsibility of Director of Public Works. The Director of Public Works (The "Director") shall have the responsibility of carrying out the provisions of this section. The Director may designate Village employees to perform the duties of foresters under Ch. 27, Wis. Stats., and may authorize such employees to perform the duties and exercise the powers imposed on them by this section, or if such work is let under Village contract, then the provisions of said contract shall govern.

D. Inspection.

(1) The Director may inspect or cause to be inspected as deemed necessary any premises or places within the Village where any ash tree is reported or suspected to be infested with the emerald ash borer. The Director of Public Works, and his or her agents and employees thereunder, shall have authority to enter upon private premises at reasonable times for the purpose of carrying out the provisions of this section.

E. Abatement of nuisance.

(1) The Director shall order, direct, supervise and control the abatement of public nuisances as defined in this section by removing, or ordering the removal of, any trees infested with the emerald ash borer.

(2) Abatement on Public Property. Whenever the Director, after inspection, shall determine that a public nuisance as herein defined exists on public property in the Village, he or she shall abate the nuisance by removing the trees deemed to constitute the nuisance.

(3) Abatement on Private Property.

(a) When the Director determines with reasonable certainty that a public nuisance as defined in this section exists upon private premises, he or she shall serve or cause to be served, personally or by certified mail, upon the owner of such property if the owner can be found, or upon the occupant thereof, written notice of the existence of such nuisance. Such notice shall describe the nuisance and order the removal of trees as necessary to abate the nuisance, and shall further state that unless the owner abates the nuisance in the manner specified in the notice, the Director shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village.

(b) Unless the property owner abates the nuisance as directed within 30 days after notice is served, or files an appeal before the Shorewood Board of Appeals within said time, the Director shall proceed to abate the nuisance and cause the costs thereof to be assessed against the property as a special charge in accordance with

Village Code § 68-19, as described below. The Director may extend the time allowed to the property owner for the abatement work but not to exceed 30 additional days.

- (c) If the property owner wishes to appeal the order directing abatement, he or she shall file a notice of appeal with the Shorewood Board of Appeals in accordance with the provisions of § 535-56 of the Shorewood Village Code.

F. Cost of abatement.

- (1) The cost of abatement of a public nuisance on public property shall be borne by the Village.
- (2) The cost of abating a public nuisance located on private property, when done at the direction and under the supervision of the Director, shall be assessed to the property on which such nuisance tree or wood is located, as follows:
 - (a) The Director shall keep a strict account of the cost of such work or treatment and the amount chargeable to each parcel of private property and shall report such work, charges, description of property to which charged, and names and addresses of the owners of such property to the Village Board on or before the 15th day of October each year.
 - (b) The Village Board shall consider the costs described in subpart (a) and include these items on the tax roll of the corresponding property as a special charge pursuant to the procedure laid out in § 68-19 of the Shorewood Village Code.
 - (c) The Village hereby declares that, in making assessments under this section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any infested tree or part thereof.
 - (d) The amount chargeable against any private property in any year under this section shall not exceed 10% of the assessed value of the property as shown on that year's tax roll. The portion of any assessment in excess of such percentage amount shall be charged to the Village and paid out of general funds.

G. Prohibited acts and penalties.

- (1) Any person who does any of the following acts within the Village of Shorewood shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500, together with the costs of prosecution, and in default of payment thereof shall be imprisoned in the county jail or house of correction until such costs and forfeitures are paid, but not exceeding 60 days:
 - (a) Interferes with or prevents any acts of the Director or his agents, representatives or employees while they are engaged in the performance of duties imposed by this section.

(b) Refuses to permit the Director or his duly authorized representative, agent or employee to enter upon his premises at reasonable times to exercise the duties imposed by this section.

(c) Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Director to abate such nuisance.

(2) Each day a violation continues hereunder shall constitute a separate offense.

SECTION 2

That if any subsection, section, or portions of this ordinance or the application thereof to any persons as enacted hereunder is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof and the validity of the ordinance in all other respects shall not be affected thereby.

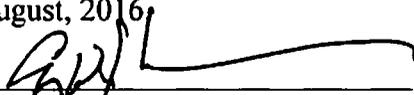
SECTION 3

That all ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby to such extent repealed.

SECTION 4

This ordinance shall be in full force and effect after its passage and posting as provided by law.

PASSED AND ADOPTED by the Village Board of the Village of Shorewood, Milwaukee County, Wisconsin, this 15th day of August, 2016.



Guy Johnson, Village President

Countersigned:



Tanya O'Malley, Village Clerk