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46-O-05

AN ORDINANCE

**Amending Title 7, Chapter 8 of the
Evanston City Code to
Provide for an Elm Tree Injection Program**

WHEREAS, the City of Evanston takes pride in its numerous beautiful trees and has earned the designation of a Tree City U.S.A. for nineteen consecutive years; and

WHEREAS, trees are a benefit to the City and its citizens and enhance the beauty and pride of the City of Evanston; and

WHEREAS, the City has, since the early 1960s, mounted an aggressive sanitation program to arrest the spread of Dutch Elm Disease in American elm and Red elm trees located in the City; and

WHEREAS, this Sanitation Program has included intense scouting and inspection of all American and Red elm trees, the prompt testing of samples, and the prompt removal of infected trees; and

WHEREAS, in 2004, there was a higher than average number of incidents of Dutch Elm Disease among City American elm and Red elm trees; and

WHEREAS, from 1999-2003, the average parkway American elm and Red elm tree losses from Dutch Elm Disease were just under 3.5% annually; and

WHEREAS, in 2004, the percentage of parkway American elms and Red elms lost to Dutch Elm Disease increased to over 6.3%; and

WHEREAS, the City's current sanitation program for Dutch Elm Disease is not obtaining the desired results of limiting the losses of parkway American elm and Red elm trees to 3.5% or less annually; and

WHEREAS, the City Council has determined a more aggressive approach to curtail Dutch Elm Disease must be adopted; and

WHEREAS, according to USDA Forest Service Forest Pathologist Linda Haugen and Consulting Arborist Mark Stennes, many arborists have successfully used the highest label dosage of Arbortect 20S on a two- (2-) to three- (3-) year rotation to protect high value elms from DED for fifteen (15) years; and

WHEREAS, the City Council plans to implement an Elm Tree Injection Program to inoculate all healthy American elm and Red elm trees in City parkways and in City parks with a diameter of thirty inches (30") or more; and

WHEREAS, trees on the parkways benefit property owners by providing shade, a cooling effect, and energy savings during the summer months; by improving air quality by filtering carbon dioxide; and by improving property values; and

WHEREAS, according to a University of Illinois at Urbana-Champaign study in Chicago Public Housing by the University's College of Agricultural, Consumer and Environmental Sciences, the greener the surroundings, the fewer the crimes committed against people and property; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the foregoing recitals are found as fact and incorporated herein.

SECTION 2: That Chapter 8 of Title 7 of the Evanston City Code, 1979, as amended, is further amended by adding the following new section:

7-8-7: TREATMENT OF PUBLIC ELM TREES:

7-8-7-1: DEFINITIONS:

(A) **Parkway:** For the purpose of determining the location of trees for the Elm Tree Inoculation Program, the parkway is hereby defined as that area on the public right-of-way bounded by the property line of the parcel which is contiguous with the street right-of-way, the curb line of the street, and the extensions of the property lines on each side of a parcel. If the parcel is adjacent to two or more streets (corner properties, for example), the parkway includes all of the right-of-way adjacent to the property.

(B) **Root Graft Zone:** This is the area where roots of adjacent elms may be connected underground, and is defined as one and one-half (1-1/2) times the distance from the trunk of the tree to the outer tips of the branch ends. This Root Graft Zone extends in all directions from the trunk of the tree unless interrupted by natural barriers such as streets or structures.

(C) **Adjacent:** Contiguous.

7-8-7-2: INJECTION PROGRAM: The City hereby establishes an Elm Tree Injection Program for healthy American elm and Red elm trees on City property, including parkways as defined in 7-8-7-1(A) of the Code and parks (owned and leased).

- (A) Injections will occur every three (3) years.
- (B) Injections will be done only on signature trees thirty inches (30") or more in diameter.
- (C) Injections will not be done on any public American elm or Red elm tree located within the root graft zone of an adjacent private elm tree.

Exceptions to (C) above will be made if:

- 1) The owner of the adjacent private American elm and/or Red elm tree agrees to have that private elm injected in conjunction with the injection of the public elm at his/her own cost; or
- 2) The owner of the adjacent private American elm and/or Red elm tree can show proof that the private elm tree was injected within the previous twenty-four (24) months; or
- 3) The adjacent private American elm and/or Red elm tree is ten inches (10") or more in diameter, and has been inspected and certified to be free of Dutch Elm Disease prior to the injection of the public tree.

SECTION 3: That Section 7-8-6-6 of the Evanston City Code, 1979, pertaining to the penalty for violation of the Dutch Elm Disease provisions, as amended, is further amended by deleting said Section in its entirety and substituting *in lieu* thereof the following new Section:

7-8-6-6: PENALTY: Any person violating any provision of Sections 7-8-6-2 through 7-8-6-5 of this Chapter by failing, neglecting, or refusing to comply with the provisions of any notice herein provided for, within thirty (30) days after service thereof, or who shall resist or obstruct the City Manager or his or her duly authorized representative in carrying out the provisions of this Chapter, shall be prosecuted through the Administrative Adjudication system of the City and shall be punished by a fine of not less than \$50.00 (fifty and no/100 dollars) and no more than \$750.00 (seven hundred fifty and no/100 dollars) per day per violation.

SECTION 4: SEVERABILITY: If any provision, clause, sentence, paragraph, section or part of the ordinance, or application thereof to any person

or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of the Ordinance.

SECTION 5: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: May 9, 2005

Adopted: June 13, 2005

Approved:

June 20, 2005
Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris
Mary P. Morris, City Clerk

Approved as to form:

[Signature]
Corporation Counsel

