

46-O-08

AN ORDINANCE

**Amending Section 7-8-6 of the Evanston City Code,
"DUTCH ELM DISEASE - EMERALD ASH BORER"**

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

SECTION 1: That Section 7-8-6 of the Evanston City Code of
1979, as amended, is hereby further amended to read as follows:

7-8-6: DUTCH ELM DISEASE – EMERALD ASH BORER:

7-8-6-1: NUISANCES DECLARED:

(A) **Infected Trees:** All species and varieties of elm trees (trees of *genus Ulmus*) infected with the fungus known as Dutch elm disease (*Ceratocystis ulmi*) as determined by laboratory analysis by the section of applied botany and plant pathology, Illinois natural history survey, or other such laboratories, are hereby declared to be public nuisances.

(B) **Infested Trees:** All species and varieties of ash trees (trees of *genus Fraxinus*) infested with the emerald ash borer (*Agrilusplanipennis Fairmarie*), are hereby declared to be public nuisances as determined by two (2) or more visual symptoms as listed herein: basal sprouting, bark fissures, woodpecker damage (holes), 1/8" D-shaped holes, presence of larvae or the adult emerald ash borer (*Agrilusplanipennis Fairmarie*), bark falling off exposing S-shaped galleries.

(C) **Certain Dead Trees:** All species and varieties of elm or ash trees that are dead or substantially dead, and all dead Elmwood or ashwood to which the bark is still attached, which, because of their condition, may serve as a breeding place for the European elm bark beetle (*Scolytus multistriatus*) and the native elm bark beetle (*Hylurgopinus rufipes*) or the emerald ash borer (*Agrilusplanipennis Fairmarie*), are hereby declared to be public nuisances.

7-8-6-2: DISPOSITION OF INFECTED OR INFESTED TREES:

It shall be unlawful for any owner of any lot or parcel of land in the City to permit or maintain on any such lot or parcel of land, any elm or ash tree or dead

elmwood or ashwood which, as provided in Section 7-8-6-1 of this Chapter, is a public nuisance, and it shall be the duty of any such owner to promptly remove any such elm or ash tree or dead elmwood or ashwood under the supervision and direction of the City Manager, or his duly authorized representative.

7-8-6-3: CITY MANAGER MAY ENTER PREMISES FOR INSPECTION:

In order to carry out the purposes of this Chapter and to implement the enforcement thereof, the City Manager or his duly authorized representative is hereby authorized and empowered to enter upon any lot or parcel of land in the City between the hours of seven o'clock (7:00) A.M. and five o'clock (5:00) P.M. for the purpose of inspecting any elm or ash trees or dead elmwood or ashwood situated thereon, and the City Manager or his duly authorized representative may remove such specimens from any such tree as are required for the purposes of the laboratory analysis referred to in section 7-8-6-1(A) of this Chapter, or to determine whether such tree because it is dead or substantially dead, may serve as a breeding place for the European elm bark beetle or the native elm bark beetle, or the emerald ash borer.

7-8-6-4: NOTICE TO COMPLY; FAILURE TO COMPLY:

If on laboratory analysis of specimens removed from any elm tree by the City Manager or his duly authorized representative, it is determined that such tree is a public nuisance as provided in Section 7-8-6-1 of this Chapter, or if the City Manager determines that any dead or substantially dead elm or ash trees or dead elmwood or ashwood is a public nuisance, as provided herein, the City Manager shall serve or cause to be served upon the person that is the owner of the lot or parcel of land on which such street or dead elmwood or ashwood is located, a written notice requiring such owner to comply with the provisions of this Chapter. If the person upon whom such notice is served fails, neglects or refuses to remove and destroy, and properly dispose of, such elm or ash tree or dead elmwood or ashwood within thirty (30) days after service of such notice, the City Manager or his duly authorized representative may proceed to remove and dispose of such tree or dead elmwood or ashwood and assess the cost thereof against the owner of such lot or parcel of land, and the amount of such cost shall be paid by such owner to the City.

If the City removes from any lot or parcel of land in the City, pursuant to the provisions of this chapter, any infected elm or infested ash tree which is a public nuisance or any dead or substantially dead elm or ash tree or dead elmwood or ashwood which is a public nuisance, the assessment of the cost of the work done by the City against the owner of the lot or parcel of land involved shall be in addition to the penalties imposed by this Chapter for any violation or noncompliance with the provisions of this Chapter.

Service of notice provided for herein shall be first by certified mail, addressed to said owner at his last known address. Upon proof of unsuccessful mail delivery, notice shall be served personally by duly authorized representatives of the City Manager. Upon unsuccessful personal service, there shall be one publication in a newspaper of general circulation in the City.

If the City removes from any lot or parcel of land, pursuant to this Chapter, any infected elm tree or infested ash tree which is a public nuisance or any dead or substantially dead elm or ash tree or dead elmwood or ashwood which is a public nuisance, the assessment of the cost of the work done by the City against the owner of the lot or parcel of land involved shall be in addition to the penalties imposed herein for any violation of noncompliance with any provision of this Chapter.

7-8-6-5: INFECTED OR INFESTED TREES BELONGING TO CITY:

Any elm or ash tree or dead elmwood or ashwood on property owned by the City which is a public nuisance, as hereinabove provided, shall promptly be removed and properly disposed of under the supervision of the City Manager or his duly authorized representative, at the expense of the City.

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 the 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 fifty dollars (\$50.00) and no more than seven hundred fifty dollars (\$750.00) per day per violation.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: That if any provision of this Ordinance 46-O-08 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance 46-O-08 that can be given effect without the invalid application or provision, and each invalid application of this Ordinance is severable.

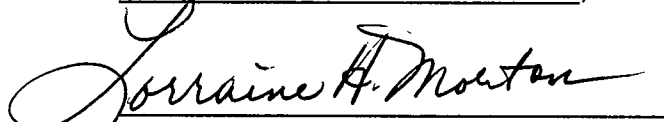
SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: March 24, 2008

Approved:

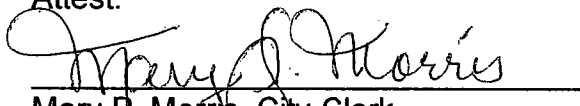
Adopted: March 24, 2008

March 25, 2008



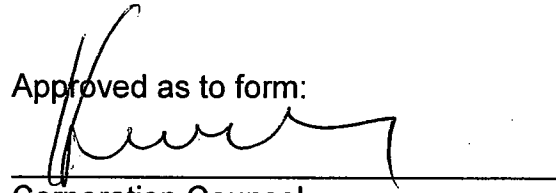
Lorraine H. Morton, Mayor

Attest:



Mary R. Morris, City Clerk

Approved as to form:



Corporation Counsel