



140037
1/28/14

MEMORANDUM

TO: Environmental Concerns Committee

THROUGH: Carl S. Goldsmith, Director of Public Works *CG*

FROM: David P. Gorman, PE, Asst. Director of Public Works *DPG*

SUBJECT: **Proposed Ordinance for Emerald Ash Borer**

DATE: January 7, 2014

The Village had enacted Ordinance No. 6151 in 2008 to require that ash tree removals included on-site chipping, in accordance with Illinois Department of Agriculture guidelines for areas in the quarantine area. This permit program provided some measure of benefit by slowing the rate of infestation and contributing to a level of protection for those outside of the quarantine area when it was much smaller than it is today.

Staff has issued 1,600 permits, each requiring a site visit to identify the tree species and, if ash, look for signs of EAB infestation. As indicated by the attached map, the quarantine area set by the Illinois Department of Agriculture has expanded since 2008 from northeastern part of the State to all of northern Illinois. As such, Staff finds that there is not much benefit in continuing the permit program or restricting the season for ash tree removals. As such, Staff recommends that the Board of Trustees vote to approve the attached draft ordinance that would rescind the permitting requirement.

Please contact me at 620-5765 if you have any questions.

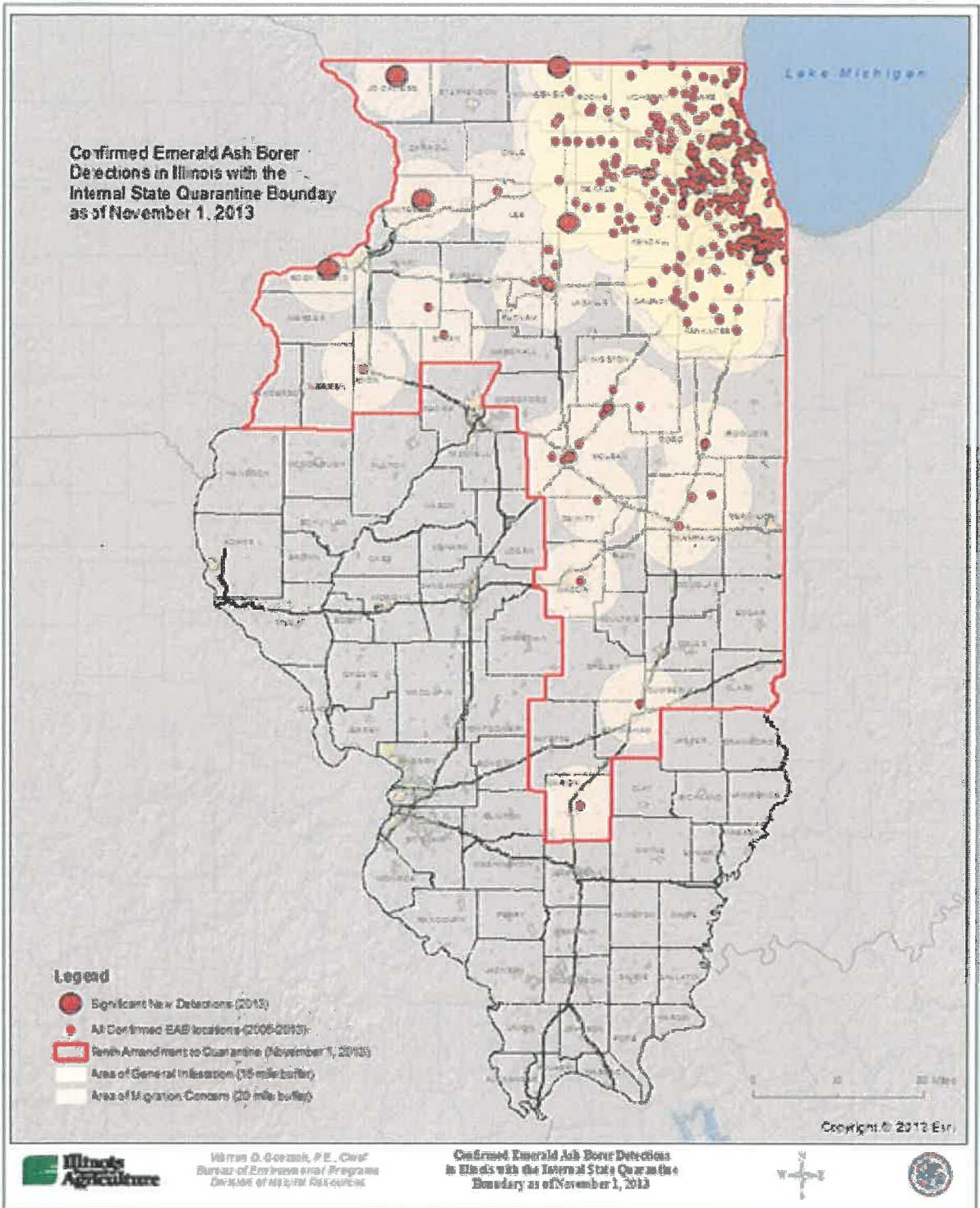
attachments: IDOA and USDA's Quarantine Maps

DG:dg H:\PWF\Forestry & Urban Landscape\Emerald Ash Borer\EAB 2014 Ordinance\ECC Memo.doc

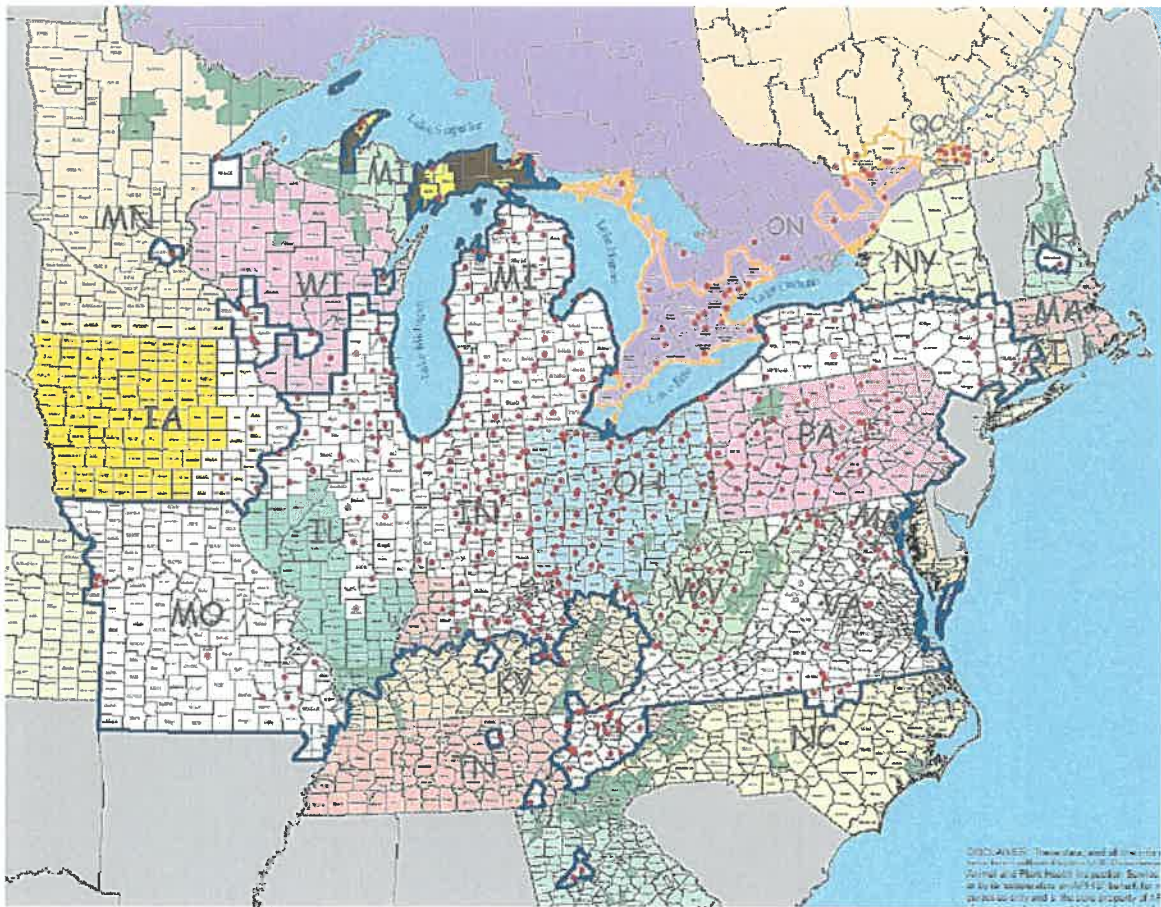
cc: Tom Ellis, Operations Superintendent

Eric Hendrickson, Urban Landscaping Supervisor

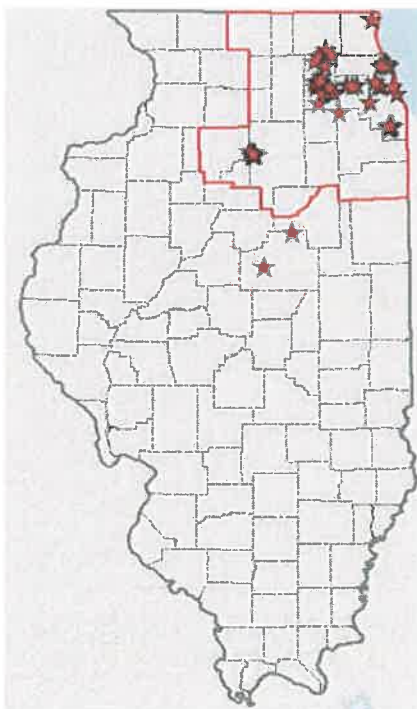
Illinois Dept. of Agriculture's EAB Quarantine Map dated 11/1/13:



USDA's EAB Quarantine Map dated 12/2/13 (blue boundary):



Illinois Dept. of Agriculture's 2008 Map (the year the Village's ordinance was enacted):



ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 99
OF THE LOMBARD VILLAGE CODE IN REGARD TO TREES AND SHRUBS**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title 9, Chapter, Sections 99.02 and 99.03 of the Lombard Village Code is amended to read in its entirety as set forth on Exhibit "A" attached hereto and made part hereof.

SECTION 2: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2014.

First reading waived by action of the Board of Trustees this ____ day of _____, 2014.

Passed on second reading this ____ day of _____, 2014, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2007.

Keith Giagnorio, Village President

ATTEST:

Janet Downer, Deputy Village Clerk

Published by me in pamphlet form this ____ day of _____, 2014.

Brigitte O'Brien, Village Clerk

§ 99.02 AUTHORITY OF VILLAGE MANAGER.

(A) The Village Manager shall have exclusive jurisdiction and supervision over all trees, shrubs, other plants, and grassy areas planted or growing in public places.

(B) The Village Manager shall have the authority and it shall be his duty to order to plant, trim, spray, preserve, and remove trees, other plants, and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.

(C) The Village Manager shall have the authority and it shall be his duty to order the trimming, preservation, or removal of trees or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

(D) Control of Dutch Elm Disease and Emerald Ash Borer.

(1) Any elm tree infected with "Dutch Elm Disease" or any ash tree infested with the Emerald Ash Borer as determined by the Village of Lombard Forestry Division personnel is a public nuisance and shall be removed within thirty (30) days following notification of such infection or infestation. It is unlawful for any person, being the owner of the property whereon such tree is situated, to possess or keep such a tree after the expiration of the thirty (30)-day period following notification of the infection on their property.

(2) Elm trees and ash trees or parts thereof in a dead or dying condition that serve as a breeding place for the Elm Bark Beetle (*Hylurgopinus rufipes* or *Scolytus multistriatus*) or the Emerald Ash Borer (*Agrilus planipennis* fairmaire) are a public nuisance and it is unlawful for the person owning such property whereon the same is situated to possess or keep same in such condition more than thirty (30) days following notification of the condition on their property.

(3) The Village Manager or his designee to enforce this division may enter upon private property at all reasonable hours for the purpose of inspecting trees thereon, and may cause to be removed such specimens as are required for the purpose of analysis to determine whether or not the same is infected or infested, and to cause to be removed such diseased trees upon failure of the owner to do so after due notification.

(4) It is unlawful for any person, firm, or corporation to prevent the Village Manager or his designee entering on private property for purposes of carrying out his duties hereunder or to interfere with such Village Manager or his designee in the lawful performance of his duties.

(5) In accordance with 65 ILCS 5/11-20-12, in cases where the property owner fails to remove the elm tree or elmwood or ash tree as required by this Chapter, the Village Manager or his agents may go upon such property to cut down and remove such nuisance, and the owner shall be assessed the cost of removal. In cases where the owner is a nonresident of Lombard, notice shall be served by certified mail, addressed to said owner at his last known address.

(6) In accordance with 65 ILCS 5/11-20-12, whenever such charges shall remain unpaid for a period of thirty (30) days from the date of the bill herein provided for, the Village Attorney is authorized to:

(a) Institute suit in the name of the Village to enforce collection of such charge; or

(b) To file a sworn statement showing such obligation in the office of the Recorder of Deeds of the County; and the filing of such statement shall be deemed notice of the lien for payment of such charges.

(E) The Village Manager or his designee shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with the terms of this Chapter.

(F) The Village Manager or his designee shall have the authority to affix reasonable conditions to the grant of a permit hereunder.

~~(G) Removal of ash trees or parts thereof between April 15 and September 15 shall be prohibited unless the ash wood is processed onsite to less than 1" (one inch) in size.~~

~~—(H) Ash tree removal may only be performed by a contractor that has signed a Compliance Agreement with the Illinois Department of Agriculture.~~

~~—(I) Any ash tree or parts thereof that are positively identified as infested with EAB shall be removed and processed to less than 1" (one inch) in size, within 30 days.~~

~~(J) In order to assure the proper identification, removal and processing of ash trees and parts thereof, a permit shall be required. (See Section 99.03)~~

(‘70 Code, § 6.16.020) (Ord. 1150, passed 1-17-66; Am. Ord. 2000, passed 10-14-76; Am. Ord. 2070, passed 6-14-77, Ord. 5184, passed 8/15/02; Ord. 6151, passed 3/6/08)

§ 99.03 PERMITS REQUIRED.

(A) No person or public utility shall spray, move, trim, prune, cut, remove, disturb, alter, or do surgery to public trees or other plants in public places without first filing an application and procuring a permit from the Village Manager.

(1) The application required herein shall state the name and kind of trees to be sprayed, moved, trimmed, pruned, cut, removed, disturbed, altered, or put under surgery; the kind of treatment to be administered; and such other information as the Village Manager shall find reasonably necessary to fair determination of whether a permit should be issued hereunder.

(2) The Village Manager shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.

(3) Only Contractors that have signed a Compliance Agreement with the Illinois Department of Agriculture may trim/remove ash trees or remove ash logs/brush from the Village of Lombard.

(B) No permit shall be required to cultivate, fertilize, or water public trees or shrubs.

(C) As a condition to any permit to remove any public tree or shrub, the Village Manager may require that the permittee plant one or more trees or shrubs to replace the one removed. Whenever any such tree or shrub has been removed or destroyed pursuant to any such conditional permit, it shall be a misdemeanor for the permittee to fail, refuse, or neglect to plant another tree or shrub or other trees or shrubs of the type, size, and at the location specified in the permit, within the time specified by the Village Manager from the date of issuance of the permit.

(D) No person or public utility shall plant or set out any tree or plant in a public place without first filing an application and procuring a permit from the Village Manager or his designee.

(1) The application required herein shall state the number of trees or plants to be planted or set out; the location, grade, and variety of each tree or plant; the method of planting, including the supplying of suitable soil; and such other information as the Village Manager shall find reasonably necessary to a fair determination of whether a permit should be issued hereunder.

(2) The Village Manager shall issue the permit provided for herein when he finds that the proposed plantings are not listed in Section 99.06 of this Code.

(E) Whenever a permit is issued under this section to a public utility to spray, move, trim, prune, cut, remove, disturb, alter, or do surgery in any public tree or shrub, the Village Manager shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit.

~~(F) It shall be unlawful to remove or cut down any tree on private property without first filing an application and procuring a permit from the Village Manager or his designee.~~

~~(G) The permitting process for this Subsection shall be as follows:~~

~~(1) Apply for removal permit at Public Works Department.~~

~~(2) Site visit by Public Works staff to verify species to be removed.~~

~~(3) If tree species is not ash (Fraxinus):~~

~~i. Permit is approved and work can proceed.~~

~~(4) If tree species is ash (Fraxinus), before permit is approved:~~

~~i. Proof that work is to be done by a contractor that has signed a Compliance Agreement with the Illinois Department of Agriculture.~~

~~ii. Proof tha the contractor will sample at least ten (10) branches/logs for Emerald Ash Borer through destrutive bark stripping and will contact Public Works Department if Emeral Ash Borer is found.~~

~~(5) Upon permit approval, contractor must:~~

~~i. Not transport ash logs or ash material from site from April 15th to September 15th unless the ash wood is processed onsite to less than 1" (one inch) in size and transported within regulated areas in an enclosed vehicle or a vehicle enclosed by a covering such as canvas or plastic.~~

~~ii. Sample at least ten (10) branches/logs for Emerald Ash Borer through destructive bark stripping and will contact the Public Works Department if Emeral Ash Borer is found.~~

~~iii. Process all ash material left onsite to less than one (1) inch in size.~~

~~iv. De-bark all ash logs left on site.~~

~~(6) Upon completion of the work, contact Public Works Department for site inspection to verify compliance with regulations set forth within this Subsection.~~

~~(H) Permits issued under this Subsection shall remain in effect for six (6) months and are only valid for the tree(s) specified at the time of approval.~~

(*70 Code, § 6.16.030) (Ord. 1150, passed 1-17-66; Ord. 6151, passed 3/6/08)