

ORDINANCE NO. 2013-27

AN ORDINANCE AMENDING CHAPTER 26 ENVIRONMENT TO ESTABLISH ARTICLE VII DISEASED, DECAYED OR DAMAGED TREES, FOR THE PURPOSE OF PRESERVING AND PROTECTING TREES LOCATED WITHIN THE TOWN OF GRIFFITH.

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs; and

WHEREAS, IC 36-1-3-6(b)(1) prescribes that any such exercise of power shall be authorized through enactment of an ordinance passed by the legislative body; and

WHEREAS, the Town of Griffith is a municipal government which may pass and codify ordinances for its operation, all pursuant to IC 36-1-4 and IC 36-1-5; and

WHEREAS, there are many diseases and infestations that can be harmful or deadly to trees and foliage growing within the Town of Griffith; and

WHEREAS, one such disease that is of particular concern to the Town of Griffith and Northern Indiana as a whole is caused by the recent onset of the Emerald Ash Borer ("EAB"), an exotic beetle that rapidly infects and kills ash trees; and

WHEREAS, the outbreak of EAB is not a problem unique to Northern Indiana and, according to data gathered by the United States Department of Agriculture ("USDA"), EAB has killed tens of millions of ash trees throughout twenty states, including Indiana and parts of Canada; and

WHEREAS, the outbreak of EAB has been so severe that it has led federal regulatory agencies, including the USDA, to enforce quarantines and fines aimed at preventing potentially infested ash trees and logs from moving out of areas where EAB occurs; and

WHEREAS, after careful consideration, the Town Council of the Town of Griffith has found it to be of vital importance to the public health, welfare, and safety of the town that measures be enacted to preserve and protect trees within the town from EAB infestation as well as other potentially deadly diseases and infestations that threaten trees and create hazardous conditions to both persons and property within the town; and

NOW, THEREFORE, BE IT FURTHER ORDAINED, by the Town Council of the Town of Griffith that Municipal Code, Chapter 26 Environment, be amended to add Article VII entitled "Diseased, Dead or Damaged Trees" as follows:

ARTICLE VII. DISEASED, DECAYED OR DAMAGED TREES

Sec. 26-137. Definitions.

For purposes of this Article, the following definitions shall apply unless the context clearly indicates a different meaning:

Damaged tree means any tree or part thereof which is broken or damaged by natural causes such as fire, wind, storm, hail or lightning.

Decayed tree means any tree which is rotted or decayed by reason of injury, disease or age.

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Diseased tree means any tree inflicted with or infected by any form of disease or infection or that is infested with insects including, but not limited to, Emerald Ash Borer or termites, and that is beyond the ability of the horticultural or entomological sciences to cure or control.

Sec. 126-138. Duties of property owners.

Property owners within the town shall be responsible for the care, treatment, maintenance, and removal of all diseased, damaged, or decayed trees located on or along their property including such trees located within a parkway. Nothing in this Article shall be construed to limit the Town's authority to have such work performed nor does it create a duty or impose liability on the Town or its officers or employees, for the care, treatment, maintenance, or removal of any tree that is diseased, damaged, decayed, or that poses a hazard.

Sec. 126-139. Diseased or hazardous trees prohibited.

No person shall keep, cause, or permit to be kept on or along their property or within the parkway abutting their property:

- (1) Any diseased tree; or
- (2) Any dead, decayed, or damaged tree which, by reason of its location, constitutes a hazard to either persons or property.

Sec. 126-140. Diseased and hazardous trees declared a public nuisance.

Any tree kept in violation of section 126-139 of this Article is hereby declared a public nuisance and may be abated by any proceeding permitted under this Article or as authorized by the laws of the state.

Sec. 126-141. Authorized Inspections.

The code enforcement officer or designee is hereby authorized to inspect and enter upon any premises within the town for the purpose of inspecting any tree suspected of being dead, diseased, decayed, or damaged. The code enforcement officer or designee may take specimens from any tree suspected of being diseased for the purpose of submitting said specimens to a reliable agency for a written scientific determination of the existence and nature of the disease.

Sec. 126-142. Issuance of removal notice.

Upon determining that any tree within the town is diseased or in such a condition so as to constitute a hazard to any person or property, the code enforcement officer or designee shall issue a notice to the property owner on whose property such tree stands ordering the property owner to remove and destroy all or any part of such tree that is diseased or constitutes a hazard. Unless the notice is appealed pursuant to section 126-142, the property owner shall have twenty (20) days to comply with the notice from the date it was issued.

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Sec. 126-143. Appeal of removal notice.

Any property owner aggrieved by an order issued by the code enforcement officer or designee pursuant to section 126-142 may appeal such order to the town council by filing a notice of appeal in writing with the clerk-treasurer within ten (10) days after receipt of said notice. The town council shall hear such appeal and take action confirming, modifying, or vacating the order issued by the code enforcement officer or designee. If the order issued by the code enforcement officer or designee is affirmed or modified, the property owner shall comply with the order within twenty (20) days thereafter.

Sec. 126-144. Removal by town.

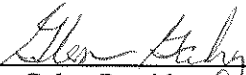
Upon failure of a property owner to timely comply with an order issued pursuant to section 126-142, the town shall have the right to enter upon the premises of such property owner to perform or have a contractor perform the work required by the order. The property owner shall be responsible for all costs and fees incurred by the town to enforce compliance with the order which include, but are not limited to the costs of any requisite permits, removal, clean-up, as well as professional and attorney fees.

NOW, THEREFORE, BE IT FURTHER ORDAINED, that any and all such Ordinances or parts of Ordinances of the Town of Griffith that are in conflict with the provisions of this Ordinance are hereby repealed and of no further force or effect.

NOW, THEREFORE, BE IT FURTHER ORDAINED, that this Ordinance shall be in full force and effect thirty (30) days after its passage and publication in accordance with IC 5-3-1.

PASSED AND ADOPTED by the Town Council for the Town of Griffith, Lake County, Indiana this 5th day of November, 2013.

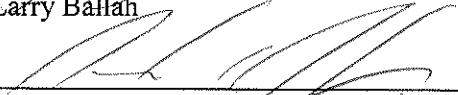
COUNCIL MEMBERS OF THE TOWN OF
GRIFFITH, LAKE COUNTY, INDIANA



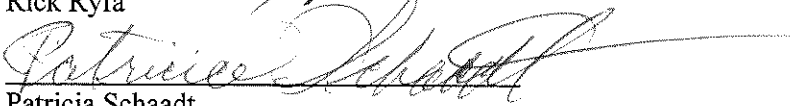
Glen Gaby, President



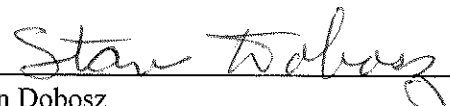
Larry Ballah



Rick Ryfa




Patricia Schaadt



Stan Dobosz

Attest:



George Jerome
Clerk-Treasurer