

ORDINANCE 2014-37

AN ORDINANCE AMENDING CHAPTER 26 ENVIRONMENT, ARTICLE VII DISEASED, DEAD OR DAMAGED TREES, SECTION 26-138 DUTIES OF PROPERTY OWNERS AND SECTION 26-144 REMOVAL BY TOWN TO ESTABLISH A VOLUNTARY REMOVAL PROCEDURE OF TREES AFFLICTED BY EMERALD ASH BORER AND WHICH ARE LOCATED WITHIN PARKWAYS.

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 ORDAINED, by the Town Council of the Town of Griffith that Municipal Code, Chapter 26 Environment, Article VII Diseased, Dead or Damaged Trees, Section 26-138 be amended as follows:

Sec. 126-138. Duties of property owners.

Except as otherwise provided in this Article, 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.

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NOW, THEREFORE, BE IT FURTHER ORDAINED, by the Town Council of the Town of Griffith that Municipal Code, Chapter 26 Environment, Article VII Diseased, Dead or Damaged Trees, Section 26-144 be amended as follows:

Sec. 126-144. Removal by town.

(a) Involuntary Removal. 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.


(b) Voluntary Removal. A property owner may notify the code enforcement officer and request removal of a tree located in the property owner's parkway which is believed to be afflicted with Emerald Ash Borer. The Town shall have sole discretion to determine whether any such tree reported by a property owner is afflicted with Emerald Ash Borer. If it is determined by the Town that a reported tree is afflicted with Emerald Ash Borer, the Town shall remove the tree in a method and manner deemed appropriate by the Town and at its own expense.

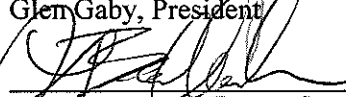
NOW, THEREFORE, BE IT FURTHER ORDAINED, that any and all such Ordinances or parts of Ordinances of the Town of Griffith that are in conflict with the provisions of this Ordinance are hereby repealed and of no further force or effect.

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 7th day of October, 2014.

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


Glen Gaby, President



Larry Ballah


Rick Ryfa


Patricia Schaadt


Stan Dobosz

Attest:


George N. Jerome
Clerk-Treasurer