

**ORDINANCE NO. 2018-10**

**AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 310-8, SECTION 310-11 B. (2), SECTION 276-17 C., AND SECTION 63-6 R. OF THE VILLAGE OF FOX POINT VILLAGE CODE RELATED TO COLLECTION OF YARD WASTE THAT INCLUDES DISEASED TREES AND SHRUBS**

WHEREAS, the Village of Fox Point Tree Commission has found that large numbers of ash trees in Fox Point have died or are dying from emerald ash borer (hereinafter "EAB") infestation; that the Village has expended substantial resources to treat or remove ash trees on Village property; that private property owners in the Village are responsible for removing diseased ash trees from their property; that the removal of diseased trees and shrubs is a matter of public health and safety as well as property value; that best practices should be used when removing diseased trees; that the DPW needs the ability to hire contractors to remove EAB-related waste left by the roadside and to charge the cost of removal back to property owners; and that waste from diseased ash trees left at the roadside is subject to special pickup fees; and

WHEREAS, the Village of Fox Point Tree Commission has recommended that certain changes be made to the Village of Fox Point Village Code to address these concerns; and

WHEREAS, the Village of Fox Point Village Board hereby adopts the findings of the Village Tree Commission and adopts the following amendments to the Village Code as recommended.

NOW, THEREFORE, the Village Board of the Village of Fox Point, Milwaukee County, Wisconsin does hereby ordain as follows:

**SECTION I** Chapter 310 of the Village of Fox Point Village Code entitled, "Trees, Shrubs and Other Plant Material," Article II entitled, "Diseased Trees and Shrubs," Section 310-8 entitled, "Purpose," is hereby repealed and re-created as follows:

Many trees and shrubs growing on private as well as public property in the Village are threatened by injurious insects and disease; the loss of these trees and shrubs would substantially depreciate the market value of property in the Village; the Village is engaged in a program to protect such trees and shrubs on public property; and in order to be effective, it is necessary that a similar program be carried out on private property; therefore, this article is adopted for the purpose of preventing the spread of these injurious insects and diseases and the resulting loss of trees and shrubs in order to protect and preserve the market value of property in the Village and to protect and preserve public health and safety. The terms "tree" and "shrub" as used in this article shall have the meaning defined in § 310-2 in Article I of this chapter.

**SECTION II** Chapter 310 of the Village of Fox Point Village Code entitled, "Trees, Shrubs and Other Plant Material," Article II entitled, "Diseased Trees and Shrubs," Section 310-11 entitled, "Abatement of Public Nuisance," Subsection B entitled, "Private Premises," Subsection (2) is hereby repealed and re-created as follows:

(2) Removing declared nuisances. If an examination made as above provided, or made at the request of the owner of the real estate, discloses that the tree, shrub, log, branch, stump or firewood is infected/infested with a plant disease or injurious pest as described in § 310-9 above, the Village Forester shall give notice to the owner of the real estate, at the owner's last known address, and to the person in possession of the real estate to have such declared nuisance lawfully removed from the Village within 30 days of giving such notice. All such shrubs, wood chips, non-chipped wood, branches, stumps and logs shall be disposed of by the owner outside Village limits and in accordance with best management practices so as to avoid the spread of destructive insects or pathogens. Such notice shall also indicate that the owner or person in charge of the premises may, within 14 days, request a hearing before the Village Tree Commission on the issue.

**SECTION III** Chapter 276 of the Village of Fox Point Village Code entitled, "Solid Waste," Section 276-17 entitled, "Management of Lead-Acid Batteries, Major Appliances, Waste Oil, Yard Waste and Waste Tires" Subsection C is hereby repealed and re-created as follows:

C. Yard waste shall be placed at the roadside in front of the occupant's dwelling for collection on the same day as regular rubbish collection. Material shall be placed in containers as prescribed from time to time by the Village Board. The Village will collect yard waste only at dwellings/facilities at which it collects rubbish. Yard Waste too large or voluminous to be collected as part of the weekly rubbish and yard waste collection shall be subject to special pick up fees pursuant to Section 63-6 R. of this Code.

**SECTION IV** Chapter 63 of the Village of Fox Point Village Code entitled, "Fees," Section 63-6 entitled, "Miscellaneous Fees" Subsection R entitled, "Special Pickup Fee" is hereby repealed and re-created as follows:

R. Special pickup fee. There shall be a fee imposed and collected for the collection of items too large or voluminous to be collected as part of the weekly rubbish or yard waste collection in the amount of \$75, except as follows. If the collection of such items takes longer than 15 minutes and includes unusually large items or requires extra equipment, the fee imposed will be the actual cost of hiring a contractor to collect and dispose of the waste, including a reasonable charge for Village administrative costs, and/or of the employee(s) and equipment time to pick up the material and the cost to dispose the material at the landfill/recycling center. Items that are too large or voluminous to be collected as part of the weekly rubbish or yard waste collection include the following:

(1) Rubbish that totals more than one cubic yard of material.

- (2) Rubbish that includes items that are too large for one person to pick up.
- (3) Yard waste in an amount that the Village Director of Public Works/Village Engineer or his/her designee estimates will take more than one hour to take away from the property.
- (4) Yard waste that includes materials that are larger than six inches in diameter.
- (5) Waste from the removal of diseased trees and shrubs.

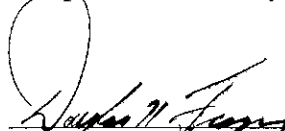
**SECTION V SEVERABILITY.**

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other Ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

**SECTION VI EFFECTIVE DATE.**

This ordinance shall take effect following its passage and publication or posting as provided by law.

Adopted this 13<sup>th</sup> day of November, 2018.

  
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Douglas H. Frazer, Village President

Attest:

  
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Kelly A. Meyer, Village Clerk