

ORIGINAL

ORDINANCE NO. CO-2016-15

**AN ORDINANCE AMENDING VARIOUS SECTIONS
OF CHAPTER 92 (HEALTH AND SANITATION)
AND CHAPTER 150 (BUILDING REGULATIONS)
OF THE MAYWOOD VILLAGE CODE
RELATIVE TO NUISANCES AND ABATEMENTS**

WHEREAS, the Village of Maywood (the "Village") is a home rule unit pursuant to the provisions Article VII, Section 6(a) of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of local government, the Village may regulate property and property owners located within the corporate boundaries of the Village; and

WHEREAS, the definition, prohibition and abatement of public nuisances pertain to the government and affairs of the Village; and

WHEREAS, the Village of Maywood has the authority under Illinois law, including but not limited to 65 ILCS 5/11-60-2, to define, prohibit, prevent and abate public nuisances, as well as the general duty and authority to exercise its police power to promote the public health, safety, and welfare; and

WHEREAS, citizens, residents and owners and occupiers of property within the Village of Maywood have the right to be free from the undesirable and adverse effects generated by public nuisances within the Village; and

WHEREAS, it is in the best interest of the citizens, residents and owners and occupiers of property within the Village for the Village to amend its Village Code relative to the procedures for abating public nuisances within the Village.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Each whereas paragraph set forth above is incorporated by reference into this Section 1.

SECTION 2: Chapter 92 (Health and Sanitation; Nuisances), Sections 92.22 through 92.28 of the Maywood Village Code are amended to read in their entirety as follows:

§ 92.22 ABATEMENT OF PUBLIC NUISANCES.

An abatement action under this Chapter is a remedy cumulative to other remedies at law and equity. Injunctive relief may be sought to prevent or restrain violations of this Chapter. An abatement action in no way preempts, supersedes or bars civil or criminal prosecution for violation of this Chapter or any other applicable building, property maintenance, fire prevention, health or public safety regulation. The commencement of a nuisance abatement action is not a condition precedent to the initiation of civil or criminal prosecution or any other remedy. Failure to adhere to the procedure prescribed in this Section shall not bar relief or remedy if such failure causes no prejudice and merely constitutes harmless error.

The following shall be the procedure for the abatement of nuisances within the jurisdiction of the village:

(A) *Notice.* Notice shall be given to the owner of the nuisance or of the property on which the nuisance exists. For purposes of this chapter, the person to whom the last general tax bill on the property was sent shall be presumed to be the owner. Personal service, or notice by regular mail and posting of notice on the front entrance to the structure or similar location shall be deemed sufficient, legal notice to the owner and all other responsible parties. If there is no structure on the property, a sign may be posted anywhere on the premises.

(B) *Contents of Notice.* The notice shall state the location and nature of the nuisance. It shall apprise the owner that if the nuisance is not abated within a specified number of days, the village shall, at the expense of such owner, have such nuisance abated. Ten (10) days shall be such specified number unless otherwise stated in this code, or the public health and safety require a shorter abatement period. The obligations of the owner are continuing obligations which are effective for one year from the date of the notice, which date shall be the last date the notice was mailed or the date the notice was posted, whichever comes last.

(C) *Abatement.* If upon the giving of notice, the owner fails to abate said nuisance within the time and in the manner specified in the notice, the village may cause the nuisance to be abated, as it deems appropriate. The cost of the abatement shall be assessed against the owner of the land upon which the nuisance is located. The amount of such costs shall be paid by such owner to the village.

(D) *Summary Abatement.* If the nuisance is of such threat to the welfare, safety and comfort of the community that it must be abated immediately, the village manager is hereby authorized to take whatever steps are necessary to effect the abatement of same regardless of the requirements herein.

§ 92.23 COST OF ABATEMENT.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if proper notice to abate the nuisance has been given to the owner, such cost shall constitute a lien against the real estate in accordance with the provisions of state law, this chapter, and any other applicable provisions of this Code. The Village may authorize the preparation and filing of liens against title to real estate and memoranda of judgment against individuals and corporate entities as well as the preparation and filing of releases related thereto to preserve its rights to collect fines, penalties and other costs imposed by the Village for violations of state law, this chapter and any other applicable provisions of this Code. Village liens and memoranda of judgment shall be filed with the Office of the Cook County Recorder of Deeds or such other appropriate state, federal or county agency. The owner, occupant or person causing, permitting or maintaining the nuisance or violating state law or any provision of the Code shall be obligated to pay to the Village the amount of any fines, penalties or any lien amounts or memorandum of judgment imposed under this Chapter or the Code, and all expenses and costs incurred by the Village with respect to abating a public nuisance, subject to adjustment by the Village Manager, or his or her designee, or the Village Prosecutor. In order to obtain a release of a Village lien or memorandum of

judgment, the following additional payments to the Village are required: (a) \$50 for the preparation, handling and filing costs of the Village lien or memoranda of judgment, or the actual costs, if greater; and (b) \$50 for the preparation, handling and filing costs of the release of Village lien or release of memorandum of judgment or the actual costs, if greater.

§ 92.24 HIGH GRASS AND WEEDS; TREES, BUSHES.

(A) *Nuisance.* It shall be unlawful and constitute a public nuisance for any person who owns or controls any real estate to permit nuisance greenery upon the property, including but not limited to allowing grass or weeds to grow on such premises or on the parkways contiguous to such premises to a height of 6 inches or more, or to permit trees or bushes on the property to be untrimmed or otherwise neglected.

(B) *Notice Prior to Abatement.* The Village shall give to the owner of the property where such public nuisance is found a written notice of the existence of such nuisance and requiring the removal of such nuisance through cutting, trimming or other removal activities within ten (10) days following such notice. The notice shall also notify the owner of the property that unless such nuisance is removed or compliance otherwise achieved within such ten (10) day period, the Village will proceed with the removal of such nuisance, and assess the cost thereof against the property owner. Service of such notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property.

(C) *Post-Abatement Notice; Lien.* Should the Village abate the nuisance through removal, the cost of such removal shall be a lien upon the property affected, superior to all other liens and encumbrances, except tax liens; provided that notice prior to abatement has been given as herein described, and the owner fails to pay the cost and expense incurred following receipt of a post-abatement notice stating the substance of this section, identifying the property by common description, and describing the cutting, trimming or other removal activity. Service of such post-abatement notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property. A notice of lien shall be filed within one year after an unreimbursed removal cost and expense is incurred the Village. Notices of lien may be filed by the Village, or person performing the removal by authority of the Village, in his or its own name, and shall be filed in the office of the Recorder of Deeds of Cook County. The notice of lien shall consist of a sworn statement setting out:

- (1) A description of the property sufficient for identification thereof;
- (2) The amount of money representing the cost and expense incurred or payable for the cutting, trimming or removal, including the related administrative costs and activities;
- (3) The date or dates when such cost and expense was incurred by the Village.

However, the lien shall not be valid as to any purchaser whose rights in and to such property have arisen subsequent to the removal and prior to the filing of such notice, and the lien shall not be valid as to any mortgagee, judgment creditor or other lien or whose rights in and to such property arise prior to the filing of such notice.

(D) *Release of lien.* Upon payment of the cost and expenses, including those costs provided for in § 92.23, by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien.

(E) *Minimum penalty.* Any person who violates the provisions of division (A) of this section shall be subject to the penalty provided for violation of this Code. Any person who

receives more than 2 violations within the same calendar year for the same property shall receive a ticket from the Village for the minimum citation amount required by law.

(1997 Code, § 12.05) (Ord. 79-10, passed 7-31- 1979; Am. Ord. CO-08-36, passed 8-19-2008; Am. Ord. CO-09-27, passed 10-6-2009; Am. Ord. CO-2012-30, passed 8-21-2012)

§ 92.25 PEST EXTERMINATION.

(A) *Nuisance.* The owner, occupant or lessee of any property in the Village shall maintain his or her property free of pests, as defined in 65 ILCS 5/11-20-8. A failure to maintain a property free of pests shall be a public nuisance.

(B) *Notice Prior to Abatement.* The Village shall give to the owner of the property where such public nuisance is found a written notice of the existence of such nuisance and requiring the removal of such nuisance through pest control activities within ten (10) days following such notice. The notice shall also notify the owner of the property that unless such nuisance is removed or compliance otherwise achieved within such ten (10) day period, the Village will proceed with the removal of such nuisance, and assess the cost thereof against the property owner. Service of such notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property.

(C) *Post-Abatement Notice; Lien.* Should the Village abate the nuisance through removal, the cost of such removal shall be a lien upon the property affected, superior to all other liens and encumbrances, except tax liens; provided that notice prior to abatement has been given as herein described, and the owner fails to pay the cost and expense incurred following receipt of a post-abatement notice stating the substance of this section, identifying the property by common description, and describing the removal activity. Service of such post-abatement notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property. A notice of lien shall be filed within one year after an unreimbursed removal cost and expense is incurred the Village. Notices of lien may be filed by the Village, or person performing the removal by authority of the Village, in his or its own name, and shall be filed in the office of the Recorder of Deeds of Cook County. The notice of lien shall consist of a sworn statement setting out:

- (1) A description of the property sufficient for identification thereof;
- (2) The amount of money representing the cost and expense incurred or payable for the removal, including the related administrative costs and activities;
- (3) The date or dates when such cost and expense was incurred by the Village.

However, the lien shall not be valid as to any purchaser whose rights in and to such property have arisen subsequent to the removal and prior to the filing of such notice, and the lien shall not be valid as to any mortgagee, judgment creditor or other lien or whose rights in and to such property arise prior to the filing of such notice.

(D) *Release of lien.* Upon payment of the cost and expenses, including those costs provided for in § 92.23, by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien.

§ 92.26 RESERVED.

§ 92.27 DUTCH ELM DISEASE AND EMERALD ASH BORER.

(A) *Nuisance.*

(1) *Dutch Elm Disease.* Trees of all species and varieties of *Ulmus* (elm) and *zelnka* affected with the fungus *Ceratostomella ulmi*, as determined by laboratory analysis, are declared to be a public nuisance, and shall be removed and burned within 10 days following notification of the discovery of such infection. It shall be unlawful for any person being the owner of property whereon such a tree is situated to possess or keep such a tree after the expiration of 10 days following notification of the discovery of said infection.

Trees or parts thereof of *Ulmus* (elm) or *zelnka* in a dead or dying condition that may serve as a breeding place for the European Elm Bark Beetle, *Scolytus Multistriatus*, are declared to be a public nuisance, and it shall be unlawful for the person owning property whereon the same is situated to possess or keep the same.

(2) *Emerald ash borer.* Trees of all species and varieties of *Fraxinus* (ash) infected with the *Agrilus planipennis* Fairmaire (Emerald Ash Borer) beetle are declared to be a public nuisance and shall be removed and burned within ten (10) days following notification of the discovery of such infection. It shall be unlawful for any person being the owner of property whereon such a tree is situated to possess or keep such a tree after the expiration of ten (10) days following notification of the discovery of the infection.

(B) *Enforcement.* The Director of Public Works is charged with the enforcement of this section. When the Director or his representative is unable to effect voluntary entry onto private property for the purpose of inspecting the trees thereon, he shall seek the necessary authorization to make or cause entry to be made onto the property.

(C) *Notice Prior to Abatement.* The Village shall give to the owner of the property where such public nuisance is found a written notice of the existence of such nuisance and requiring the removal and burning of such nuisance within ten (10) days following such notice, such removal and burning to be done under the direction and supervision of the Director of Public Works or his representative. The notice shall also notify the owner of the property that unless such nuisance is removed and burned within such ten (10) day period, the Village will proceed with the removal and burning of such nuisance, and assess the cost thereof against the property owner. Service of such notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property.

(D) *Duty of owner to remove diseased tree or breeding place.*

Upon receipt of notice it shall become the duty of the owner of the property to cause such tree or breeding place to be removed and burned under the supervision of the Director of Public Works or his representative. In lieu thereof the person charged with such removal and burning may request in writing that the same be done by the Director of Public Works or his representative. If the Village shall remove and burn any tree or breeding place, all expenses incurred in connection therewith shall be assessed against and paid by such property owner.

(E) *Post-Abatement Notice; Lien.* Should the Village abate the nuisance through removal, the cost of such removal shall be a lien upon the property affected, superior to all other liens and encumbrances, except tax liens; provided that notice prior to abatement has been given as herein described, and the owner fails to pay the cost and expense incurred following receipt of a post-abatement notice stating the substance of this section, identifying the property by common description, and describing the removal activity. Service of such post-abatement notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property. A notice of lien shall be filed within one year after an unreimbursed removal cost and expense is incurred the Village. Notices of lien may be filed by the Village, or person performing the removal by authority of the Village,

in his or its own name, and shall be filed in the office of the Recorder of Deeds of Cook County. The notice of lien shall consist of a sworn statement setting out:

- (1) A description of the property sufficient for identification thereof;
- (2) The amount of money representing the cost and expense incurred or payable for the removal, including the related administrative costs and activities;
- (3) The date or dates when such cost and expense was incurred by the Village.

However, the lien shall not be valid as to any purchaser whose rights in and to such property have arisen subsequent to the removal and prior to the filing of such notice, and the lien shall not be valid as to any mortgagee, judgment creditor or other lien or whose rights in and to such property arise prior to the filing of such notice.

(F) *Release of lien.* Upon payment of the cost and expenses, including those costs provided for in § 92.23, by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien.

(G) *Trees partly on private property and partly on public property.* Dutch elm diseased trees and Emerald Ash Borer infected trees, the trunks of which, in the opinion of the Director of Public Works, are partly on Village property and partly on private property shall be removed by the Village. The cost of such tree removal shall be shared equally by the Village and the record owner of the private property. In the event that the owner of the private property, upon notice from the Village fails to pay one-half of said cost within thirty (30) days following the removal and receipt of a post-abatement notice stating the substance of this section, identifying the property by common description, and describing the removal activity, then the Village shall pay the entire cost of the tree removal and shall have the right to collect from the owner one-half of the cost by lien or suit for judgment. The cost shall be a lien upon the real estate, provided that notice is given to the owner prior to the tree removal, the owner fails to pay the cost and expense incurred following receipt of a post-abatement notice, and a notice of lien is recorded in the Recorder's office within one year after the expense is incurred. For purposes of this section the Village property line shall be deemed to be 33 feet from the center line of each street except in those instances where a street may be more than 66 feet in width, in which case the Director of Public Works and the Village Manager shall determine the location of the property line.

(H) *Village to remove its own trees.* Infected trees on Village owned property and on public streets and highways within the corporate limits shall be removed at the expense of the Village.

(1997 Code, § 12.08) (Ord. 69-6, passed 5-22- 1969; Am. Ord. CO-08-36, passed 8-19-2008; Am. Ord. CO-2012-30, passed 8-21-2012)

§ 92.28 GARBAGE AND REFUSE.

(A) *Requirements.* The owner, occupant or lessee of any premises in the Village shall remove from his property or otherwise dispose of all garbage, ashes, rubbish, debris and refuse and shall keep the property free and clear of any accumulation of same.

Pending disposal of garbage from any premises, the garbage shall be deposited in watertight containers with close fitting covers. Pending disposal from any property, cans, bottles, metalware and similar inorganic household rubbish shall be deposited in rigid containers. All garbage and refuse shall be so stored as not to invite insects or rodents or be unsightly or a nuisance.

No person shall deposit any garbage, rubbish or refuse on any street or public place or on any public or private property not his own except at any dump site which may be authorized by the Board of Trustees.

No person shall bury any garbage within the Village.

(B) *Nuisance.* Garbage, ashes, rubbish, debris and refuse existing on property and not in compliance with the above requirements is a public nuisance.

(C) *Notice Prior to Abatement.* The Village shall give to the owner of the property where such public nuisance is found a written notice of the existence of such nuisance and requiring the removal of such nuisance within ten (10) days following such notice. The notice shall also notify the owner of the property that unless such nuisance is removed or compliance otherwise achieved within such ten (10) day period, the Village will proceed with the removal of such nuisance, and assess the cost thereof against the property owner. Service of such notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property.

(D) *Post-Abatement Notice; Lien.* Should the Village abate the nuisance through removal, the cost of such removal shall be a lien upon the property affected, superior to all other liens and encumbrances, except tax liens; provided that notice prior to abatement has been given as herein described, and the owner fails to pay the cost and expense incurred following receipt of a post-abatement notice stating the substance of this section, identifying the property by common description, and describing the removal activity. Service of such post-abatement notice shall be by personal service or by certified mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property. A notice of lien shall be filed within one year after an unreimbursed removal cost and expense is incurred the Village. Notices of lien may be filed by the Village, or person performing the removal by authority of the Village, in his or its own name, and shall be filed in the office of the Recorder of Deeds of Cook County. The notice of lien shall consist of a sworn statement setting out:

- (1) A description of the property sufficient for identification thereof;
- (2) The amount of money representing the cost and expense incurred or payable for the removal, including the related administrative costs and activities;
- (3) The date or dates when such cost and expense was incurred by the Village.

However, the lien shall not be valid as to any purchaser whose rights in and to such property have arisen subsequent to the removal and prior to the filing of such notice, and the lien shall not be valid as to any mortgagee, judgment creditor or other lien or whose rights in and to such property arise prior to the filing of such notice.

(E) *Release of lien.* Upon payment of the cost and expenses, including those costs provided for in § 92.23, by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien.

(1997 Code, § 12.09)

SECTION 3: Chapter 150 (Building Regulations), Sections 150.029 and 150.030 of the Maywood Village Code are amended to read in their entirety as follows:

§ 150.029 UNSAFE STRUCTURES.

Dangerous and unsafe buildings or uncompleted and abandoned buildings within the Village are declared a public nuisance. The corporate authorities of the Village may demolish, repair, or

enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the Village and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings, in accordance with the provisions set forth in Article 11, Division 31 of the Illinois Municipal Code (65 ILCS 5/11-31 et seq.), as amended. If the nuisance is of such an emergency nature or threat to the welfare, safety and comfort of the community that it must be abated immediately, the village manager is hereby authorized, in conformance with Section 92.22(D), to take whatever steps are necessary to effect the abatement of same regardless of the requirements herein.

(Ord. C0-02-2, passed 1-22-2002)

(Ord. C0-04-05, passed 3-1-2004)

SECTION 4: Chapter 150 (Building Regulations), subsections 150.032(F) (Minimum Requirements for Vacant Buildings; Fines and Penalties) of the Maywood Village Code is amended to read in its entirety as follows:

(F) *Fines and penalties.* Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500 and not more than \$1,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property. Any building in which violations under this chapter remain uncorrected for a period of over ten (10) days may be declared a public nuisance and shall be subject to abatement pursuant to Section 92.22 and to liens in the amount of any abatement pursuant to Section 92.23.

SECTION 5: Chapter 150 (Building Regulations), Section 150.034 (Improperly Maintained Buildings Subject to Nuisance Abatement Proceedings) of the Maywood Village Code is amended by adding a new subsection (D), to read in its entirety as follows:

(D) In lieu of the foregoing procedure, the Village may instead proceed to abate any public nuisance existing at a property and to subsequently lien the property pursuant to the procedures set forth in Sections 92.22 and 92.23 of this Code, where applicable, or to pursue any other abatement procedure or remedy set forth in this Code or available under Illinois law.

SECTION 6: To the extent necessary, all table of contents, indexes, headings and internal references or cross-references to sections contained in the Maywood Village Code, as amended, that have been deleted or amended by the Code Amendments set forth above shall be amended by the Village's codifier so as to be consistent with the Code Amendments of this Ordinance.

SECTION 7: Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 8: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed. Except as to the Code Amendments set forth above in this Ordinance, all Chapters and Sections of the Maywood Village Code, as amended, shall remain in full force and effect.

SECTION 9: This Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED this 26th day of July, 2016, pursuant to a roll call vote as follows:

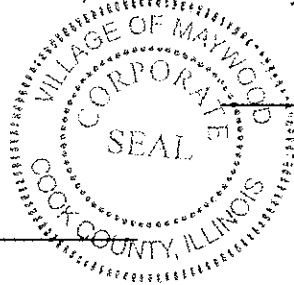
AYES: Mayor Edwenna Perkins, Trustee(s) I. Brandon, A. Dorris, M. Rogers,
M. Lightford and R. Rivers
NAYS: None
ABSENT: Trustee H. Yarbrough, Sr.

APPROVED by me as Village President, and attested by the Village Clerk, on this 28th day of July, 2016.

ATTEST:



VILLAGE CLERK





VILLAGE PRESIDENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, certify that the attached and foregoing is a true and correct copy of that certain Ordinance now on file in my Office, entitled:

ORDINANCE NO. CO-2016-15

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 92 (HEALTH AND SANITATION) AND CHAPTER 150 (BUILDING REGULATIONS) OF THE MAYWOOD VILLAGE CODE RELATIVE TO NUISANCES AND ABATEMENTS

which Ordinance was passed by the Board of Trustees of the Village of Maywood at a Regular Village Board Meeting on the 26th day of July, 2016, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 28th day of July, 2016.

I further certify that the vote on the question of the passage of said Ordinance by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor Edwenna Perkins, Trustee(s) I. Brandon, A. Dorris, M. Rogers, M. Lightford and R. Rivers

NAYS: None

ABSENT: Trustee H. Yarbrough, Sr.

I do further certify that the original Ordinance, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 28th day of July, 2016.

[SEAL]





Village Clerk