

Chapter 389 OAK WILT

§ 389-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Oak wilt fungus. *Ceratocystis fagacearum* is a disease of oak trees carried by way of grafted root systems between infected and healthy trees or by insects carrying spores.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-2. Nuisances declared.

The following are declared to be public nuisances whenever and wherever they may be found within the designated oak wilt control areas:

- A. Any living or standing tree or part thereof in the red oak group, such as red oak, pin oak, and black oak, infected to any degree with the oak wilt fungus, *Ceratocystis fagacearum*.
- B. Any living or standing tree in the white oak group, such as white oak and bur oak, infected to any degree with the oak wilt fungus, *Ceratocystis fagacearum*.
- C. Any parts of infected oaks that do not have bark removed, including logs, branches, stumps and firewood.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-3. Inspection procedures.

- A. Annual inspection. The tree inspector or his/her duly appointed agents shall survey the designated oak wilt control areas of the village to determine whether any conditions described in the "nuisances declared" section of this chapter exist. The tree inspector shall, in addition, conduct emergency inspections, whenever deemed necessary, and take action as authorized in this chapter.
- B. Entry upon private premises. The tree inspector, so designated by the village board, or his/her duly appointed agents, will provide 24-hour notice to the landowner of the need to inspect the property. If access is denied, the agent may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned to him/her in this chapter.
- C. Diagnosis. The tree inspector shall, whenever possible, upon finding indications of oak wilt, make a diagnosis based upon accepted field symptoms and, if deemed necessary, will deliver appropriate samples or specimens for laboratory analysis. The cost of the sample analysis will be the responsibility of the landowner upon whose lands the diseased trees are located.
- D. It is unlawful for any person to prevent, delay or interfere with the village tree inspector or his/her agents in the performance of duties imposed by this chapter.
- E. If the tree inspector finds evidence of oak wilt infection or the potential for infection of other trees, he/she shall notify, by certified mail, the owner of the property on which the nuisance is found. Said notice shall contain the survey information with respect to the subject trees on the property. Such notice shall describe the nuisance and recommend procedures for its abatement within a period of time specified by the

inspector. The notice shall further state that unless the owner abates the nuisance in the manner specified or appears at a hearing to show such a nuisance does not exist or does not endanger the health of other trees, the inspector may cause the abatement thereof at the expense of the property served. The tree inspector reserves the right to extend abatement procedures under difficult circumstances of compliance. If the owner cannot be found, such notice shall be given publication in a newspaper of general circulation in the village. After the expiration of the time limited by such notice, the tree inspector may proceed to abate the nuisance as herein provided. The cost of such abatement shall be assessed against the owner of the property involved or against the property itself.

- F. Any owner of real estate in the control area, who receives any notice as provided herein, may request that the tree inspector obtain a laboratory test of such trees. Such a request shall be made to the tree inspector within five days after the date of such notice with the costs of such test being the responsibility of the landowner.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-4. Responsibility for abatement.

- A. *Private landowner.* An owner of the existence of oak wilt on his/her property or a nuisance as described in this chapter shall abate or direct the abatement of the nuisance within the specified time on this notice. The abatement of nuisances and disposal of all associated materials shall be done in a manner satisfactory with the tree inspector, so as to ensure the elimination of the nuisance.
- B. *Jurisdictional abatement.* If the homeowner does not initiate abatement procedures in the allotted time, the tree inspector may then proceed to contract for the prescribed abatement procedure as soon as possible and shall report to the village clerk all charges resulting from the abatement procedures. The clerk shall list all such charges along with additional administrative costs as determined in this chapter against each separate lot or parcel as a special assessment to be collected commencing with the following year's taxes.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-5. Controlling spread of oak wilt.

- A. Oak wilt is a community problem, and because oak wilt control may benefit an entire neighborhood, the tree inspector shall recommend and encourage neighborhood participation and cooperation, including cost sharing, in root graft disruption and other control efforts, especially where oak wilt is in danger of spreading across property boundaries.
- B. To control overland spread of oak wilt, pruning, cutting or other wounding of oaks is prohibited from April 15 until August 15, without a written approval from the village. During this period (April 15 until August 15), if wounding occurs or pruning is necessary in response to an emergency (storm, equipment damage), a tree wound dressing shall be applied immediately or as soon as possible, within 12 hours, to each wound. The cut surface of stumps from living noninfected oaks shall be immediately painted with a tree wound dressing.
- C. Any diseased material (died within the past 12 months) to be used as fuel wood or to be salvaged for other purposes must be debarked or completely covered and wrapped with heavy plastic (minimum of four mil) for a period of time from April 15 until August 15. At any time, stumps of infected trees (died within the past 12 months) shall be removed or debarked to ground line to eliminate all possibilities of formation of fungal mats and overland spread by insects. At any time, any branch (from a tree that died within the past 12 months) greater than two-inch diameter shall be disposed of by burning, chipping, or removal to an authorized dump site.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-6. Transporting wood prohibitions.

It is unlawful for any person to transport, into, within or through the control area, any diseased wood that has been determined to be a nuisance as described in the previous sections, without having obtained a permit from the tree inspector. Such permits shall only be granted when the purposes of this chapter will be served thereby.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-7. Permit procedure.

- A. Any person seeking a permit to trim, cut, prune or otherwise wound (e.g., cabling) any oak tree(s) in the control area between April 15 and August 15 or transport diseased trees or parts thereof shall request a permit from the tree inspector. Transported wood permits shall describe the origin and final disposition of the wood and state protective measures that must be followed to ensure against the spread of oak wilt within the control area. Permits shall not be written for more than a ten-day period.
- B. Permits for trimming of oaks shall not be given except in emergency situations. The person doing the cutting, pruning, trimming or transporting shall have a copy of the permit in his/her possession at all times while doing the activity.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-8. Tree and woodland preservation.

Individuals/developers/realtors proposing sale or construction in areas containing oaks are required to schedule an on-site inspection, with the tree inspector, to develop a plan to protect oaks from infection. This written plan must be on file with the village before any brushing, surveying, testing, or construction activities take place. The existence of the plan must be communicated to any prospective buyers.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-9. Transfer of property.

At the time of sale or transfer of real property, the grantor(s) or his/her agent bears the affirmative obligation to disclose the terms of this chapter regulation to the grantee(s). In the event that a nuisance has been declared against the grantor(s) through this chapter, full disclosure shall be made, including the ramifications of noncompliance.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)

§ 389-10. Violations and penalties.

- A. Any person violating any of the provisions of this chapter shall be subject to the general penalty in chapter 1, General Provisions, section 1-2, General penalty, of the Code of the Village of Kronenwetter. Each day a violation exists shall constitute a separate offense.
- B. Compliance with the provisions of this chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease-and-desist order before resorting to in-junctional proceedings.

(Ord. No. 14-01, 1-28-2014; Ord. No. 16-25, 12-13-2016)