

OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation
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STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of an Order for
the establishment of
Protective Zones to Prevent the Spread
of Oak Wilt disease pursuant
to ECL Sections 9-1303

ORDER

WHEREAS:

- Oak Wilt is a serious tree disease that was first detected in the Great Lakes Region of the United States in 1944. Since that time it has spread, killing thousands of oak trees each year. Oak Wilt is caused by a fungus, *Ceratocystis fagacearum*, which causes blockage of the water conducting vessels (xylem) of host trees slowing the movement of water within the tree whereby the leaves wilt and drop off. Infected red oak trees typically die within a few weeks of infection. The disease is spread through underground root systems and by beetles that colonize within infected trees. In addition, the spread of oak wilt disease is associated with the movement of firewood and other wood products. Thus, immediate action by the Department is necessary to eliminate this infestation and prevent the spread of this fungus to protect oak trees in the surrounding area and the entire state;
- In January, 2016 Department was notified by the Cornell Plant Disease Diagnostic Clinic and New York State Department of Agriculture and Markets that samples from a symptomatic oak tree had been submitted by Ralph Tuthill of LeMay Tree Care and tested positive for oak wilt by the Cornell Plant Disease Diagnostic Clinic.
- In June, 2016 Department staff confirmed that Oak Wilt disease had infected oak

- trees in the Central Islip area of the Town of Islip, Suffolk County, New York;
- The Environmental Conservation Law (ECL) section 9-1303(5) empowers the Department to establish protective zones for the purpose of preventing the spread of forest tree diseases;
 - ECL section 9-1303(7) also authorizes the Department by order to prohibit the movement of materials which may be harboring forest tree diseases;
 - Department forestry staff has consulted with United States Forest Service oak wilt experts and are developing a response and eradication plan, which will be discussed with the affected homeowners and community.
 - Department staff has delineated the area infected with oak wilt disease as described on Schedule A and on the attached map, which shall be known hereinafter as the “Protective Zone”; and
 - ECL Section 9-1303(7) provides that in establishing protective zones, the Department shall have the authority to enter onto private lands to make such modification in the composition of forest growth as it may deem necessary for the purpose of preventing the spread of forest tree diseases including spraying, cutting, destroying or otherwise treating trees or other vegetation located in the Protective Zone.

NOW, THEREFORE, pursuant to ECL Section 9-1303 and based upon the above findings:

1. **I HEREBY FIND** that oak wilt disease has infested oak trees in the Town of Islip, Suffolk County, New York and that, in order to protect the forests of New York State, the Department must take immediate action to eradicate this infestation and prevent its spread;
2. **I HEREBY ORDER** Department staff to continue to develop and implement, with public involvement, an eradication plan including: (1) the removal of infected and potentially infected host trees, (2) proper disposal of infected material, and (3) any other action reasonably necessary to prevent the spread of oak wilt disease.
3. **I FURTHER ORDER** Department staff to continue to take reasonable steps and

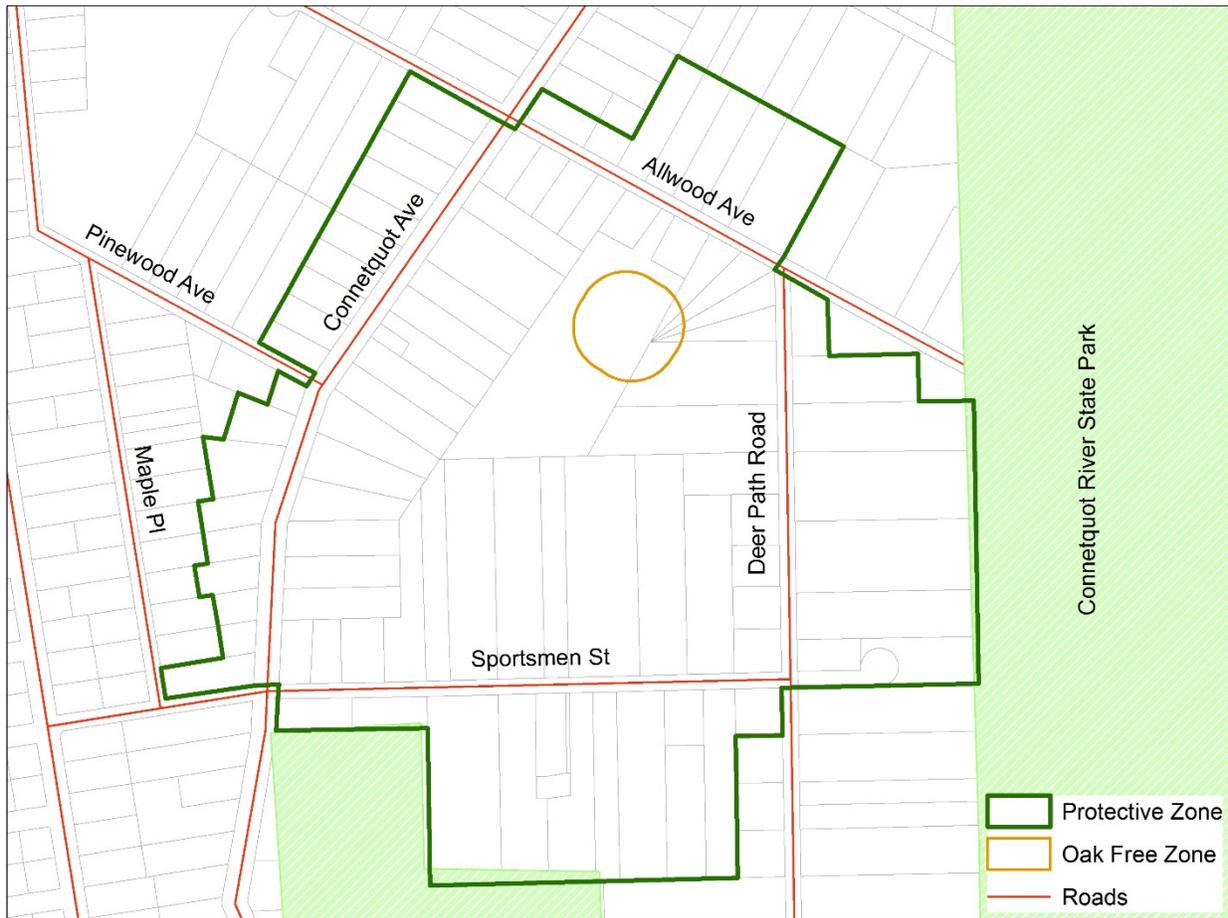
exercise due diligence to notify, work cooperatively with and enter into agreements with affected landowners as appropriate to implement the Department's eradication plan;

4. **I FURTHER ORDER** that the infected area, as delineated on Schedule A and the attached maps of boundaries, is designated as the Protective Zone for the purposes of carrying out this order;
5. **I FURTHER ORDER** that, except as authorized by the Department in writing, no person shall move any living, dead, standing, cut or fallen oak trees or any portion thereof, including branches, logs, stumps or roots, green oak lumber and firewood (of any species) outside of the Protective Zone unless it has been chipped to less than one (1) inch in two (2) dimensions;
6. **I FURTHER ORDER** that the area located within 150 feet of the infected trees shall be a red oak free zone containing no red oak trees;
7. **I FURTHER ORDER** that a copy of this order be immediately filed in the Office of the Clerk of Suffolk County; and
8. **THIS ORDER SHALL BE EFFECTIVE** ten days from the filing thereof with such Office and shall remain effective until oak wilt disease has been declared eradicated from within the Protective Zone.

DATED:

Kenneth P. Lynch
Executive Deputy Commissioner
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Schedule A



Those parts of the Town of Islip, Suffolk County lying within a continuous line beginning at the intersection of Connetquot Avenue and Allwood Avenue; thence southwesterly along a line that corresponds to the back boundary of lots located on the west side of Connetquot Avenue between Allwood Avenue and Sportsmen Street; thence easterly along a line corresponding to the back boundary of lots located on the south side Sportsmen Street between Connetquot Avenue and Deer Path Road; thence northerly along a line that corresponds to the back boundary of lots located on the east side of Deer Path Road between Sportsmen Street and Allwood Avenue; thence northwesterly along a line that corresponds to the back boundary of lots located on the north side of Allwood Avenue between Deer Path Road and Connetquot Avenue.