

Ad Hoc Committee Recommendations Regarding Trees

The Ad Hoc Committee for Community Planning has deliberated on the matter of protecting mature trees. This was an important matter of concern for respondents in the community-wide survey. In the survey, 93% of the residents responding felt that having large mature trees in Kenilworth was important in defining the character of the Village. Further, 85% of respondents believe that the Village should be involved in reviewing the loss of mature trees, and 80% felt that the Village should apply tree replacement requirements by Ordinance. Having considered this matter, the Ad Hoc Committee recommends that the Village Board adopt a tree preservation ordinance as outlined below.

Purpose of Ordinance

The regulation of trees by this ordinance is intended to accomplish the protection, preservation, replacement and planting of trees within the Village and the following related benefits:

1. Protect and enhance the quality of life and the general welfare of the Village and its residents, and conserve and enhance the Village's physical and aesthetic environment by:
 - a. Reducing energy consumption through summer shade, protection from winter wind, and by providing a buffer and screen against noise, light and pollution
 - b. Reducing air pollution through the removal of carbon dioxide, generation of oxygen and the precipitation of dust and other airborne pollutants
2. Protect and increase property values in a manner that maintains each property owner's enjoyment of his property, as well as the adjacent property owner's enjoyment of his property
3. Recognize the historic significance of and maintain the natural heritage of the community
4. Protect and enhance the natural environment by providing habitat and food that are essential for wildlife, including migratory and nesting birds, and to sustain them and the many benefits they provide, including control of insects
6. Stabilize topsoil by preventing or minimizing soil erosion and sedimentation
7. Help control storm water runoff
8. Protect existing healthy trees during the course of development

Tree Ordinance Recommendations

The Tree Preservation Ordinance should include the following components:

#1 A Summary Statement on Trees in Kenilworth

This statement should characterize the nature of the Village's existing forestry environment and resources to use as a basis for identifying significant tree species and sizes. The statement should include consideration of trees on all lands in the Village, including privately owned trees, publicly owned parkway trees, and trees in public parks and other public places. The statement should include such things as: types and species of trees that make up the Kenilworth urban forestry environment; an identification of those species that are significant or of higher quality for purposes of establishing protected class; the threshold caliper size, based on specie, for inclusion in a protected class; an estimation of the number of such protected trees remaining in the Village; and the identification of "landmark" or "heritage" trees, if appropriate.

#2 Definition of Terms

Heritage trees, mature trees, DBH, auguring, root zone, clean cutting and other necessary terms.

#3 Goals

The ordinance should include an articulation of the goals intended to be accomplished by passage of the ordinance. Specific goals should include:

- Maintaining the value of property by conserving trees
- Reducing the loss of mature trees
- Reducing damage to standing trees during construction
- Providing for replacement of trees lost during construction
- Providing for planting of trees where none occurred previously

#4 Covered Areas

The intent of the Committee's recommendation is that the removal of all trees 8" and greater in size in the community (both private and publicly owned) be regulated by this ordinance, irrespective of whether the removal is driven by a development petition.

Specific Administrative Provisions of the Ordinance

The ordinance should require that a permit be issued prior to removal of any tree defined as a "protected tree", a "landmark/heritage tree", or a "nuisance".

"Protected trees" shall be those greater than 8" in diameter as measured at 54" above ground level (Diameter breast height, or DBH).

"Landmark/heritage trees" shall be defined as:

- Any Oak tree measuring 28" or greater DBH
- Any Sugar Maple measuring 24" or greater DBH
- Any Hickory tree measuring 25" or greater DBH
- Any other specie measuring 25" or greater DBH

The removal of a protected class or landmark/heritage tree should require a permit, and in addition trigger replacement requirements.

The removal of certain trees should require a permit prior to removal, provided that the permit for removal shall be given at no cost, and the removal of such trees shall not require the planting of replacement trees. Examples of such "no-cost" removals shall include the removal of sick, diseased and/or dying trees; the removal of those trees affecting the structural integrity of buildings or driveways; the removal of trees whose existence may otherwise cause undesirable building design adjustments; those being removed where the removal is consistent with established good forestry practices; and those trees of a species defined as a "nuisance" type in this Ordinance as follows:

"Nuisance" trees shall include, but not be limited to the following species:

- Ailanthus/tree-of-heaven
- Buckthorn
- Russian olive
- Female Cottonwood
- Female Ginkgo
- Box Elder

Requirements for Tree Removal for Construction

#1 File a plan with regard to trees in the affected area. Determination of affected area shall be made by a certified arborist in the case of additions and new construction, as shall be as defined in the permit application and approved by the Village. Plan submission should include:

- a. A survey identifying existing trees on the subject property, with identification of specie, size and condition
- b. An accurate footprint of proposed building/addition
- c. Identification of any trees proposed for removal
- d. Identification of trees to be saved
- e. Identification of the root zone perimeter of trees to be protected during construction

#2 Evaluation of Plan

- a. The survey shall be evaluated by a certified arborist, professional forester or landscape architect, or other person of expertise as determined by the Village to determine if trees identified for removal are appropriate and to corroborate the root zone perimeter for protection.
- b. The evaluation may include whether tree removal as proposed is necessary to accommodate the building design. *Note: The Committee in its discussion did note concern that tree protection provisions could have the effect of causing home designs that have detrimental impact to surrounding properties, and recommends that such evaluation give consideration to the primacy of the structure versus trees proposed for removal.

#3 Payment of Permit Fees

- a. Permit fees required to cut down healthy trees within a designated protected class
- b. Permit fee should be based upon the administrative cost incurred by the Village to review the request and issue the permit, including the fee of a professional certified arborist contracted by the Village to evaluate the request.

#4 File a Landscape/Tree Replacement Plan

- a. Any healthy protected class tree removed must be replaced on an inch for inch basis; “heritage” trees, if included, should require replacement at a double inch for inch rate
- b. Replacement trees must be a minimum size diameter of 3” DBH at the time of planting so that a row of arbor vitae cannot replace a 30” mature tree. The location and the species of such replacement trees shall be shall be as approved by the Village.
- c. If a certified arborist or other person of expertise designated by the Village agrees that there is inadequate space on the property to allow for the planting of all replacement trees, in keeping with good arboriculture practices, then a fee-in-

lieu of replacement shall be charged. The fee shall be charged at a rate of \$150 per caliper inch removed for protected trees, and at the rate of \$300 per caliper inch removed for landmark/heritage trees. The proceeds of the fee are to be placed into a dedicated fund for tree planting, and used only for the planting of trees on public parkways or other public properties.

- d. Replacement trees shall be planted pursuant to a written schedule as submitted by the applicant and approved by the Village. The Village shall inspect the replanting to verify compliance subsequent to job completion and, preferably, at the time of final inspection.

Tree Protection during Construction

The Tree Preservation ordinance shall also include requirements for tree protection during construction as follows:

- a. No trench digging within the root zone
- b. Any digging within the root zone area of any tree on public or private land must be augured and/or clean cut but there must be a limit to this. Best practice for the tree's health is the goal.
- c. Trees designated to be saved must be fenced around the entire root zone.
- d. Fences must be unmovable and made of chain link fencing.
- e. The root zone shall be protected. No storage of materials, dirt or equipment shall occur on the root zone nor shall any equipment be driven across the area.
- f. Monetary fines are to be issued for violations.
- g. Stop work orders will occur after three violations. A start work order permit must be paid before work can begin again.
- h. Performance bond required up front for the affected site location in an amount that is proportionate.

Other Items for Consideration

As part of the ordinance, or an addendum thereto, the Village should create appropriate education and a printed piece for each work site listing pertinent tree protection regulations and recommendations for tree preservation.

Related Topics for Board Attention

There is a company that implements trees ordinances for villages. The villages that use their service require the homeowner to pay the fee. The company is Urban Forest Management.

As part of its deliberations, the Committee has discussed the emerging use of rows of vegetation as a living fence in the front and corner side yards. The fencing effect of this may be in contradiction to the Kenilworth Zoning Ordinance fencing regulations, as it allows higher barriers with less open space. The Committee recommends the Board look at this immediately.