

Report for **Citizens for Glen Ellyn Preservation**
on the Proposed Amendments to the
Tree Preservation Ordinance

August 2, 2007

The following headings are included in this report:

1. Summary of Background Information
2. Summary of Current Tree Preservation Ordinance
3. Definition of Terms
4. Summary of the Purpose of the Tree Preservation Ordinance
5. Summary of the Proposed Amendments to the Tree Preservation Ordinance
6. Sources

Summary of Background Information:

o In February of this year, the Environmental Commission presented to the Village Board a summary of its careful and extensive study of the effects of the current tree preservation requirements of the Village of Glen Ellyn Tree Preservation Ordinance (TPO) that was adopted in 2001. This study and the accompanying proposal for amendments to the TPO were instigated by concerns over the considerable losses of both private and public trees due to redevelopment of property throughout the historically wooded neighborhoods of Glen Ellyn.

o Beginning with a summary of historical data, the Commission noted the following:

The current TPO had been drafted in 1995. Numerous revisions and deletions occurred at the request of the staff, Village Board and a hired consultant. The ordinance was redrafted and submitted to the Board in 1998, with many of the original protection requirements removed. In spite of the expressed concerns of the Village Forester that the new, weakened version was problematic, the ordinance for protecting trees on private property was adopted on March 26, 2001.

o The Environment Commission cited the following weaknesses of the 2001 ordinance:

1. The main focus during the creation of that ordinance seemed to be regarding the burden that would be placed on the developer. Therefore, the ease of the construction process was given priority over tree preservation concerns.
2. In-fill houses and additions built 10 years ago, when the ordinance was first written, were smaller than those that are being built today. With today's construction practice of using the entire buildable area of the lot, tree preservation is an even more critical issue.
3. Pollution issues were not addressed nor were the problems of increased storm water run-off

due to tree loss taken into account.

4. There was no education effort aimed at informing residents and developers of the value of trees to the community.

o The Village Staff cited numerous problems with the current ordinance including:

1. Enforcement during construction is very difficult. There is no language in the ordinance that gives the staff power to control the contractor from changing protection on the site or to make sure that trees on the border of neighboring properties are protected.
2. Developers are increasingly reluctant to designate trees as preserved. In addition, trees are being cut down prior to development to avoid the need for a tree preservation plan.
3. Designated trees are inadequately protected and there is confusion as to what is actually regulated.
4. Although builders are required to file a tree protection plan, the actual preservation of those trees is completely voluntary.

o Preservation data from 1999 to 2004 was collected by the Village staff and submitted to the Commission for review in October of 2005. It was determined that 1,454 plans associated with construction on private property had been reviewed and recorded from this 5 year period.

16,797 trees were identified on these plans.

9,038 were voluntarily protected.

Over 7,500 trees were not protected, with 3,701 of these to be cut down at the start of construction.

No records were made as to whether any of the rest of the unprotected trees survived.

In 2004, a review of remaining protected trees showed 142 already in decline.

There were 343 replacement trees on these sites.

o The Commission acknowledged that final figures on tree loss on these sites is incomplete since research indicates that many trees will begin to die at least 2 to 3 years after root and limb damage.

Summary of Current Tree Preservation Ordinance:

- A tree preservation plan is required for all development on private property and must be filed prior to filing a request for a building permit. This must show all trees, whether to be protected, unprotected or significant. Designation is voluntary.
- It is up to the owner to designate trees as *unprotected*, which, after the initial protection has been set up, are not subject to additional regulation.
- Trees on neighboring properties within 15 feet of the lot line should be shown on the plan and must be protected.
- Tree protection must remain in place during the entire construction period.
- The plan must be posted on the site throughout construction and all subcontractors must be notified.
- No materials, construction activity, or equipment may be placed within the critical root zone of any *protected* tree. Nor may excess soil, fill, liquids or debris be placed there.
- Construction pruning and root pruning must be approved by the Village Forester.
- The soil level may not be changed within the critical root zone.
- Fees for filing for tree preservation plans range from 110.00 to 150.00.
- A stop-work order may be authorized for noncompliance with the filed plan.
- The minimum fine for violations is \$250.00 and the maximum fine is 750.00

Definition of terms:

critical root zone: One foot out from the trunk for each inch of DBH, but not less than 6 feet.

DBH: Diameter at Breast Height- which is 54 inches above grade.

protected: Any tree on a plan with a 10 inch DBH or greater, or any significant tree with a 5 inch DBH or greater. Protection is voluntary, not mandatory. Removal, failure to protect or damage to the tree may result in a fine.

significant: All hickory, oak or walnut species shown on a plan as being retained after development, when they reach 5 inches DBH.

unprotected: Any tree that would qualify as protected tree, but has been designated as unprotected by the owner. These trees will initially receive protective fencing but the owner will not be subject to penalties for removal, failure to protect or for damage to the tree.

Summary of the Purpose of the Tree Preservation Ordinance

- The Environmental Commission identified the goal of the Tree Preservation Ordinance as follows:

To preserve the overall character of the Village through tree protection, preservation and reforestation

- The Commission explained this goal further:

What our Tree Preservation Ordinance should do:

1. *Encourage action that will contribute to the beauty that Glen Ellyn's trees offer.*
2. *Preserve the Village forest by protecting an ecosystem that provides wildlife habitat and natural storm water management.*
3. *Allow citizens the opportunity to enjoy the environmental benefits of cooling and air pollution abatement from our tree canopy.*
4. *Balance the interests of the community by protecting private property rights, considering economic, social and aesthetic impacts to property owners, developers and residents living adjacent to property developments.*
5. *Provide continuing education about the value of trees for the benefit of all of the Village's citizens and developers.*

Summary of the proposed amendments to the Tree Protection Ordinance:

- There will be three levels of protection, with the third level comparable to the current TPO.
- **Level 1 - Heritage Trees** - is a voluntary program in which residents can register a significant tree with the Village of Glen Ellyn. The proposal will be submitted to the Environmental Commission for review and then approved by the Village Board. If approved, it will be added to the Village registry and listed on the Village website. The following would apply:
 1. Heritage trees cannot be cut down as long as they remain healthy.
 2. Pruning must be by a professional tree care expert.
 3. A Heritage Tree may only be removed if a variance is applied for and approved by the Board.
 - 4.. The tree must satisfy one or more of the following requirements to qualify as a Heritage Tree:

- A. Special history. (Documented)
- B. Age - at least 75 years old
- C. A native species to Illinois

- **Level 2:** This protects larger, healthy trees in the set-back area (the unbuildable part of the lot). Trees located in the buildable area of a lot are not included in this level. Those that are included must be healthy trees with a DBH (diameter at breast height) of 8 inches or more. These trees must be protected during construction. This is not voluntary. However, a property owner may remove a Level 2 tree:
 - 1. With approval from Village staff.
 - 2. If it is replaced by a tree from an approved list, having a minimum DBH of 4 inches, placed at an approved location.
 - 3. If the tree is proven unhealthy.
 - 4. If the tree poses a threat to the safety of life or existing structures.
 - 5. If the tree is an invasive species.
 - 6. If the tree threatens healthy adjacent non-invasive trees.
 - 7. If none of the above, the owner still may remove the tree, but would pay \$1,000 per Level 2 tree removed, with a cap at \$10,000. per project. This fee would go into a Tree Fund to be used in *arboricultural improvements* within the Village.

In case of a dispute between staff and property owner, the owner may request the Environmental Commission to review the case.

- **Level 3:** These are trees not in set backs, which are to be shown protection unless the owner decides to identify these trees as unprotected. This is the manner in which the current TPO treats all trees on a property.
- Deposits will be held for 3 years after completion of a construction project.
- If a tree is destroyed or damaged during this period the owner must:
 - 1. Replace the tree from an approved list with a specimen with a minimum DBH of 4 inches, at an approved location.
 - 2. Or the owner may pay \$1,000. per tree removed, with a cap of 10,000., into the Tree Fund.
- Penalties will be for removal of a tree without written approval, or for removal of a protected tree. This will be \$1,000. per tree, with a cap at 10,000. which will be paid into the Tree Fund. The penalty is waived if a tree is removed under emergency circumstances.

Sources:

Tree Preservation Ordinance Proposal by the Environmental Commission of the Village of Glen Ellyn, Illinois

Tree Preservation Ordinance, Title 8, APublic Ways and Property@, Chapter 4, Village of Glen Ellyn, Illinois

www.glenellyn.org , Official Village of Glen Ellyn website

Citizens for Glen Ellyn Preservation

www.glenellynpreservation.org

LHGilbert/August 2, 2007