Kane County

KC Energy and Environmental Committee

Agenda

Government Center
719 S. Batavia Ave., Bldg. A
Geneva, IL 60134

BATES, Tarver, Allan, Kious, Roth, Strathmann, Young, ex-officios Pierog (County Chair), and Tepe (County Vice Chair)

Friday, June 14, 2024 **9:00 AM** **County Board Room**

1. **Call To Order**
2. **Roll Call**
3. **Remote Attendance Requests**
4. **Approval of Minutes: May 17, 2024**
5. **Public Comment (Agenda Items)**
6. **Public Comment (Non- Agenda Items)**
7. **Environmental (J.Wollnik)**
8. **Recycling/Solid Waste (C. Ryan)**
   - **A.** Assessing Need for a New Landfill in Kane County
9. **Sustainability (S.Hinshaw)**
   - **A.** Tree Protection Ordinance
10. **New Business**
11. **Chairs Comments**
    - A. Goals and Objectives for FY2025
12. **Reports Placed On File**
13. **Executive Session (if needed)**
14. **Adjournment**

STATE OF ILLINOIS)
SS.
COUNTY OF KANE)

PRESENTATION/DISCUSSION NO. TMP-24-2437

ASSESSING NEED FOR A NEW LANDFILL IN KANE COUNTY

STATE OF ILLINOIS)
SS.
COUNTY OF KANE)

PRESENTATION/DISCUSSION NO. TMP-24-2466

TREE PROTECTION ORDINANCE

CHAPTER 31 – TREE PROTECTION

31.00. Policy and Purpose.

The preservation, protection, and replacement of trees under this Chapter is intended to accomplish the following benefits:

A. Recognize and maintain the historic significance and natural heritage of the County; and

B. Protect and enhance the quality of life and the general welfare of the County and its residents, and conserve and enhance the County's physical and aesthetic environment by:

   1. Reducing energy consumption through summer shade and protection from winter wind; and

   2. Providing natural buffers between neighboring properties, and to screen against noise and light pollution; and

   3. Reducing air pollution through the removal of harmful carbon dioxide and the generation of oxygen; and

C. Protect and increase property values in a manner that maintains each property owner's enjoyment of other owners' property; and

D. Enhance economic stability by attracting business and visitors, and to minimize the visual and environmental impacts of paved surfaces and buildings; and

E. Deter the invasion of nuisance species and preserve indigenous vegetation; and

F. Protect existing healthy trees during the course of construction and development;

G. Stabilize topsoil by preventing or minimizing soil erosion and sedimentation, and to restore, to the greatest extent possible, the denuded soil that results from construction and grading work accompanying development;

H. 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 disease-carrying insects;

I. Assist in controlling stormwater runoff; and

J. Protect the important link in the hydrologic cycle that trees provide to the transpiring of water and the neutralization of waste that pass through to the groundwater table and other aquifers; and

K. To preserve trees on both public and private property and, in the event that tree removal is necessary, to ensure that appropriate replacement trees are planted; and

L. It also is the intent of this Chapter to balance the property rights of individual property owners with the overall health, safety, and welfare of the residents of the County and the County itself.

31.01. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AGGREGATE DIAMETER means the combined diameter of a Multiple Stemmed Tree of each stem that has a diameter of six inches or greater when measured at breast height as follows:

- For Multiple Stemmed Trees where the trunk separations begin at lower than four and one-half feet from the ground, but higher than one foot from the ground, measurement shall be taken one foot below the separation.

- For Multiple Stemmed Trees where the trunk separations begin below one foot from the ground, the measurement shall be taken at four and one-half feet above the average ground level at the base of the tree.

CALIPER or (TREE CALIPER) means the diameter of a tree as measured at a point six (6) inches above the existing grade at the base of the tree. This point of measurement is used only for measuring nursery stock and replacement trees.

CANOPY means the area occupied by the live leaves and branches of a tree.

BUILDING ACTIVITY AREA means that buildable area of a lot or parcel in which construction and building activities occur, which shall be the smallest practical area of a lot or parcel to be determined with the objective of preserving trees.

CERTIFIED ARBORIST means an individual who is trained in the art and science of planting, caring for and maintaining individual trees and is certified by the International Society of Arboriculture (ISA), the National Arborist Association (NAA) or the American Society of Consulting Arborists (ASCA). For the purposes of this chapter, the certified arborist would be the choice of the County, whose services would be paid for by the party responsible for the project.

CERTIFIED ARBORIST REVIEW CERTIFICATE or CERTIFICATE means a certificate provided and signed by a Certified Arborist that shall be filed with a Tree Removal Permit. The certificate shall, in the professional opinion, based upon Best Management Practices of the International Society of Arboriculture, of the signing Certified Arborist identify, the location, size, species,

condition and form of each tree, and the purpose of the Removal for the tree sought to be removed as applied for in the Tree Removal Permit.

CONDITION RATING means rating system used to determine the health and overall condition of a tree, based upon "Appraisal Factors" specifically for Illinois, as prepared by the Illinois Arborist Association.

CONSTRUCTION ACTIVITY means all new planned developments and subdivisions in the County or any manmade change to improved or unimproved property, including, but not limited to, the construction, addition, alteration, or replacement of buildings or structures, excavation, fill, grading, paving, underground irrigation, or utility work on a property.

CRITICAL ROOT ZONE (CRZ) means the area of the ground near or beneath a tree having its point of beginning at the center of the trunk of the tree and having a radius equal to one (1) foot of radius for every one (1) inch of tree DBH.

CROWN means parts of a tree above the trunk including leaves, branches and scaffolds.

DAMAGE means any act that results in the death, likely death, loss in value, loss in aesthetic value, or substantial destruction of a tree, or causes the tree to become diseased or a hazard to persons or property, as determined by the County Forester/Tree Preservation Officer. "Remove" or "Removal" of a tree shall be considered as "Damage" to a tree. Without limitation of the foregoing, the term "damage" does not include the pruning of trees in accordance with national pruning standards.

DIAMETER BREAST HEIGHT (DBH) means the diameter of the trunk of the tree measured in inches at a point four and one-half feet above the existing grade at the base of the tree or the Aggregate Diameter of a Multiple Stemmed Tree. This point of measurement is used for measuring mature and established trees.

DISEASED means a severe disease or pest that is known to cause or is causing the death of a tree.

FEE IN LIEU means the fee to be paid, in lieu of planting a Replacement Tree, for the Removal of a Protected Tree or Heritage Tree.

GOVERNMENTAL ENTITY means the United States Government, the State of Illinois, or any Political Subdivision of the State.

HAZARDOUS TREE means a tree or any part of the tree:

- That is damaging an existing structure or utility; or

- That because of damage, or because of its deteriorated or damaged state constitutes a possible risk for harm associated with the tree or part of the tree falling on any person or property.

HEALTHY TREE means a tree that is not dead, dying, diseased, hazardous, or an Invasive Tree.

HERITAGE TREE means any tree of the following genera or species or size:

- All trees in the genus Quercus (Oaks) greater than or equal to 10" DBH;
- All trees in the genus Carya (Hickory) greater than or equal to 10" DBH; or
- All trees greater than or equal to 20" DBH, except for Invasive Trees

IMPACT means any act that results in the death, likely death, loss in value, loss in aesthetic value, or substantial destruction of a tree, or causes the tree to become diseased or a hazard to persons or property, as determined by the County Forester/Tree Preservation Officer.

INVASIVE TREE means those trees as determined by the Director and provided for in the County Tree Regulations Manual, that regardless of size, shall not be considered to be a Protected Tree or Heritage Tree. The list of invasive trees may be amended as necessary and as determined by the Director.

JOINTLY OWNED TREE means a tree that has any portion of its trunk, where that trunk has emerged from the ground, located across two or more property boundary lines when such properties are not owned by the same party.

LOT means any lot of record in the County, or any lot as defined in the County zoning regulations.

MULTIPLE STEMMED TREE means a single tree made up of two or more main stems originated below the height used for measuring DBH.

NATIONAL PRUNING STANDARDS means the standards adopted by the American National Standards Institute, ANSI A300 (part 1), 2001, pruning, as such standards may be amended from time to time.

PERSON means any public or private individual, group, company, firm, corporation, partnership, association, society, entity, or any other combination of human beings, whether legal or natural, including, without limitation, public utilities, but not the County or its employees or officials acting in their official capacity.

PROTECTED TREE means any single trunk tree or any Multiple Stemmed Tree, with at least one stem, having a DBH of six (6") inches or more, when located on private property, or a tree of any size when planted as a Replacement Tree, except for Invasive Trees.

PUBLIC PROPERTY means any public street, public cul-de-sac, parkway, right-of-way, or any other place owned or controlled by the County or another Governmental Entity.

PROTECTIVE ROOT ZONE (PRZ) means the area of the ground near or beneath a tree having its center point at the center of the trunk of the tree and having a radius equal to one (1) foot of radius for every one (1) inch of tree DBH.

REMOVE or *REMOVAL* means the physical detachment or elimination of a tree, or the effective detachment or elimination of a tree, through damage or other direct or indirect action resulting in, or likely to result in, the death of the tree. Without limitation of the foregoing, the term "remove" or "removal" does not include the pruning of trees in accordance with national pruning standards.

REPLACEMENT TREE means a tree on the County's list of approved tree species, planted pursuant to the Removal of a Protected Tree or Heritage Tree. The list of approved tree species appropriate to be planted as a Replacement Tree, as well as the required size and maturity of the Replacement Tree sought to be planted, shall be provided for in a County Tree Regulations Manual, and may be amended as necessary and as determined by the Director, with consultation from the County Forester/Tree Preservation Officer.

TREE means a woody, self-supporting perennial plant usually with one (1) trunk, or a multi-stemmed trunk system, and having a crown.

TREE BANKING means a program that allows a monetary donation for the planting of trees within the County.

TREE PROTECTION AREA means the area within the Critical Root Zone of a tree.

TREE PRESERVATION AREA means that area of a lot or parcel of land within which all trees shall be protected as designated on a tree preservation plan.

TREE PROTECTION DEVICES means barriers, fences, other devices and techniques reasonably required to protect the tree preservation area from intrusion by construction vehicles and equipment, materials and spoils.

TREE PRESERVATION PLAN means a written plan having text and/or graphic illustrations indicating the methods that are to be used to preserve existing trees during construction

including the information and submittals described in this chapter, and prepared by a Certified Arborist, as required by this chapter.

TREE REGULATIONS MANUAL means a comprehensive guide and summary of the Tree Protection Ordinance for the public, including copies and instructions of all required applications, permits and notices, including but not limited to, the most current Replacement Tree Approved Species List. The Tree Regulations Manual may be amended as necessary, and as determined by the Director, with consultation from the County Forester/Tree Preservation Officer.

TREE REMOVAL PERMIT means the permit required by this chapter prior to the Removal of a Protected Tree or a Heritage Tree.

TREE SURVEY means a graphic display of all existing trees upon the property and within 15 feet of the lot lines on an adjoining property, with a six-inch DBH or greater and existing trees of any size located on the adjacent rights-of-way, which survey shall also contain the approximate outline of the Critical Root Zone of each and every tree located upon the subject property, within 15 feet of the lot lines, and the adjacent rights-of-way. The survey shall also identify the DBH and species of each tree, and an opinion, from a Certified Arborist, of the condition and form of each tree.

YARD (and its sub-definitions), shall have the same definition as provided for in the general definitions of the Kane County Zoning Ordinance, Article III, Section 25-3-1~~means the required open, unoccupied space on a lot, unobstructed from the ground to the sky, except for those encroachments allowed by appendix A of the County Code. Yard size shall be determined by the yard regulations of the Zoning District as provided for in appendix A of the County Code~~, in which the property is located. To wit:

- ~~-~~YARD: An unoccupied open space on the same zoning lot with a building or structure. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

- YARD, CORNER SIDE: A side yard which adjoins a public street.

- YARD, FRONT: A yard extending along the full length of the front lot line between the side lot lines.

- YARD, INTERIOR SIDE: A yard which is located immediately adjacent to another recorded or zoning lot or to an alley separating such side yard from another lot.

- YARD, REAR: A yard extending along the full length of the rear lot line between the side lot lines.

- YARD, SIDE: A yard extending along a side lot line from the front yard to the rear yard.

31.02. Unlawful to Damage or Remove a Tree; Exceptions.

A. It shall be unlawful for any person to cut down, destroy, remove or move, or effectively destroy through damaging, or authorize the cutting down, destroying, removing, moving or damaging of any tree, unless exempted under this Ordinance, or without first obtaining a tree removal permit for a Protected Tree or Heritage Tree.

B. The following properties and/or entities shall be exempt from the tree preservation requirements of this chapter:

1. Single-family residentially zoned lots that are less in area than one (1) acre on which a residence has been constructed and occupied.

~~1.~~2. Commercial nurseries or orchards.

~~2.~~3. Parkway trees within a public right-of-way.

~~3.~~4. The provisions of this chapter do not apply to any Governmental Entity Removing a tree from their own property, property that is leased by a Governmental Entity, or for property when the use of that property is granted to a Governmental Entity pursuant to an easement, license or similar grant of authority.

~~4.~~5. The provisions of this chapter do not apply to public utilities when a tree is located in a public utility easement on private property and the removal of the tree is necessary to the operation of the utility. Trees located in a public utility easement shall not be removed without a right-of-way permit (or the appropriate permit as determined by the County Engineer and Director) or as otherwise authorized in a franchise agreement. All tree-trimming and vegetation control performed by a utility shall be performed in accordance with national pruning standards.

B. It is the policy of the County to attempt to follow the spirit and intent of this chapter, as it would apply to its own property, where practical.

31.03. Tree Removal - General

A. Removal of Heritage Trees.

Unless otherwise authorized in this Subsection, the Removal of a Heritage Tree is prohibited except upon approval of a variation, which may or may not be granted.

1. For Heritage Tree removal requests related to demolition, new home construction, addition construction, and detached garage construction, review will be conducted

first by the County Forester/Tree Preservation Officer and then by the County Zoning Board of Appeals (ZBA).

a. If the removal is authorized, the property owner may remove the Heritage Tree upon fulfilling the permit requirements, including tree replacements as described in Table 1 of this Chapter.

b. If approval is not granted through the ZBA process, the property owner may bring the request to the Energy & Environmental Committee and the County Board.

2. For Heritage Tree removals for purposes other than demolition, new home construction, addition construction, and detached garage construction, review will be conducted first by the County Forester/Tree Preservation Officer, and then by the Energy & Environmental Committee and County Board.

B. Removal of Protected Trees.

1. Protected Trees located on a property may only be removed upon the following:

a. Submittal and approval of a Tree Removal Permit; and

b. All Replacement Trees have been planted, the fee in lieu paid in full, or any combination thereof. For those Replacement Trees that cannot be planted prior to removal of the Protected Tree, the Director may provide for a schedule for the planting of the Replacement Trees.

C. Removal of Trees without a Tree Removal Permit.

1. A tree may be removed without a Tree Removal Permit when the tree is not otherwise classified as a Protected Tree or as a Heritage Tree.

31.0~~3~~4. Tree Removal Permit Required; Fee.

Applications for a tree removal permit shall be submitted to the Development Administrator. Applicants shall pay the required Tree Removal Permit Fee of $75.00, per tree to be removed, which shall be in addition to the fee in lieu and any other fees or costs required by the County, for any related building permit or zoning petition fee.

A. Tree removal permits shall be issued for the following reasons:

1. The tree is dead or dying;

2. The tree is diseased;

3. The tree is damaged or injured to the extent that it is likely to die or become diseased, or that constitutes a hazard to persons or property; or
4. Removal of the tree is consistent with good forestry practices.

B. The application for such permit shall contain:

1. Name and address of applicant;
2. Name, address, telephone number, facsimile number and e-mail address of contractor or another person responsible for tree removal;
3. Tree survey indicating the tree to be removed, including species, size and condition;
4. The reasons for removal of any trees;
5. A letter of credit equaling the cost of replacement of the trees that are to be removed;
6. When required by this chapter, submit at the time the application is filed, a Certificate and Tree Survey, and
7. Determine and disclose if the tree is a Jointly Owned Tree. Prior to the issuance of a Tree Removal Permit for a Jointly Owned Tree, the express authorization to remove the Jointly Owned Tree from all the owners of the Jointly Owned Tree shall be submitted to the County as part of the application for the Tree Removal Permit.

C. When a tree removal permit is sought in connection with construction activity requiring a building permit, the application shall be accompanied by a Tree Preservation plan.

31.045. Removal and Replacement Standards.

A. *Basis of tree replacement.* The replacement of trees is based on the condition rating as identified by a Certified Arborist. The condition rating is based upon "Appraisal Factors" specifically for Illinois, as prepared by the Illinois Arborist Association (ww.illinoisarborist.org), which is determined by the Illinois Regional Plant Appraisal Committee, in conjunction with the most recent edition of the *Guide for Plant Appraisal*, published by the International Society of Arboriculture.

1. Replacement trees shall be chosen from the County's Replacement Tree Approved Species List.

2. The health and potential viability of a dead, dying or diseased tree and the danger posed by a Hazardous Tree shall be determined by the County Forester/Tree Preservation Officer prior to the issuance of a Tree Removal Permit.

B. *Replacement Trees and Fee in Lieu.* When a Protected Tree or a Heritage Tree is removed, the applicant shall plant the required number of Replacement Trees, or if authorized by the Director, pay the fee in lieu or a combination thereof as provided for below.

1. The following Table 1 shall be used to determine, based upon the size of the Protected Tree or Heritage Tree, the required number of Replacement Trees the applicant shall plant on the property where the Protected Tree or Heritage Tree was removed, or if authorized, pay a fee in lieu, or a combination thereof. Any fee in lieu authorized to be paid by the applicant shall be in addition to any other fees or costs charged by the County.

Table 1 ~~– Protected Trees~~

Size of Tree Removed (DBH)	Replacements Trees	Fee in Lieu
Greater or equal to 10" but less than 12"	2	$1,000
Greater or equal to 12" but less than 16"	3	$1,500
Greater or equal to 16" but less than 20"	4	$2,000
Greater than 20”	5	$175 per inch removed

C. *Guaranty of replacement.* At the time of replacement of the trees, the owner shall provide to the County a copy of a written guaranty from the vendor of the tree to the owner that the tree will be replaced if the tree dies or becomes diseased within one (1) year after the installation of the trees. The owner shall provide for reasonable maintenance of a replacement tree including necessary watering thereof until such time as the tree is self-sustaining. An owner shall replace a replacement tree planted pursuant to the requirements of this chapter if such a replacement tree dies or becomes diseased within one (1) year after the installation of the tree.

D. *No replacement required for dead, dying, diseased or Hazardous Trees.* Except as provided in this chapter, the owner is encouraged but not required to replace any tree in the event the tree is diseased and cannot be treated, dead or dying from natural causes, or in the event the tree is damaged or injured by natural causes where it is likely to die or become diseased. The owner shall not be required to replace any tree in the event that a Certified Arborist determines that removal of the tree is consistent with good forestry practices or if its removal will enhance the health of the remaining trees within the immediate vicinity.

a. The Tree Removal Permit fee, the Replacement Tree requirements, and the fee in lieu of replacement, shall not apply to the removal of any dead, dying, diseased tree, or a Hazardous Tree.

E. *Tree Banking.* Where, due to the scope of development, such that there is insufficient space in the lot to allow for the planting of all replacement trees, or replacement at the required rate would otherwise be inconsistent with current standards generally observed by professionals in the forestry, landscaping and landscape architecture professions, including by way of example prairie restoration projects involving the removal of invasive trees, tree banking can be used. In such instance, the County shall charge a fee in lieu of some or all of the replacement trees otherwise required under this chapter. The fee to be charged in lieu of replacing any tree shall be in the amount as provided in the most recently enacted ordinance establishing fees for various County services, permits, licenses, use of facilities and other matters. The proceeds of any fees collected under this section shall be used for the planting of trees on public parkways or other public properties in the County. Where consistent with good forestry practices, the fees collected for a particular lot shall be used for replacement trees within the blocks or lots on which the lot is located or on the blocks or lots on the opposite side of the street or streets in which the lot is located.

31.0~~5~~6. Tree Preservation Involving Construction.

A. A tree preservation plan shall be submitted as an attachment to the application for:

1. A building permit or other permit in connection with projects involving construction activity; or

2. Zoning petitions or applications involving site plan or development plan approval.

B. Consistent with the various setback requirements of the County's zoning ordinance, all buildings and other structures shall be located upon a lot or parcel of land to minimize tree damage and/or removal. The building activity area shall be the smallest practical area of a lot or parcel of land.

C. The tree preservation plan shall be shown on a plan that has the engineering plans (grading, utilities) as the base and shall specify the following:

1. The tree preservation area and building activity area;

2. Steps to be taken to provide tree protection devices adjacent to the tree preservation area. Detailed drawings of the protection devices shall be included;

3. The name, address, telephone number, facsimile number and e-mail address of the general contractor responsible for the construction, erection, and maintenance of tree protection devices adjacent to the tree preservation area;

4. The location, shape and spatial arrangement of all existing and proposed structures, driveways, parking areas, roads, and access drives designed in such a way as to avoid unnecessary removal of trees;

5. Location of existing property lines, proposed or existing utility services, including gas, electric, telephone, and cable television. Every effort shall be made to protect existing trees during the placement of utility service lines including auguring as opposed to open cutting where feasible. A copy of the tree preservation plan and this chapter shall be submitted to the appropriate public utilities in order to alert said regulated public utilities to the proposed placement of the regulated utility service lines;

6. A tree survey showing the location, species, DBH and condition of every tree with a DBH of two (2) inches or larger on the property. The survey shall distinguish existing trees, which are proposed to be destroyed, relocated, replaced, preserved at their present location, or introduced into the area from an off-site source and identified on either the map or an accompanying sheet. The development administrator shall have the authority to allow a modified tree survey for heavily wooded properties. A premeeting with County staff is recommended prior to preparing a tree survey.

D. Approval of an application for a building permit or a permit for other construction activity involving tree removal activity shall be granted only if the County finds that all reasonable efforts have been undertaken in the architectural layout and design of the proposed development to preserve existing trees and to otherwise enhance the aesthetic appearance of the development by the incorporation of trees in the design process. Relocation or replacement of trees may be required as a condition of approval in accordance with the criteria set forth in this chapter. No tree removal shall take place until the issuance of a tree removal permit.

E. Work shall not begin on the site, until the site has been inspected by the County for compliance with the tree preservation plan.

F. An approved tree preservation plan shall be available on the building site before work commences and at all times during construction of the project. The general contractor shall be responsible for notifying all other contractors of the tree preservation plan and providing the County with written confirmation of this notification.

31.0~~6~~7. Tree Protection During Construction.

During construction, reasonable steps necessary to prevent the destruction of or damage to trees (other than those specified to be removed) shall be taken, including, but not limited to, the following:

A. No construction activity, movement and/or placement of equipment or material or spoils storage shall be permitted outside the building activity area or within the tree preservation area.

B. Trees to be preserved shall be protected during construction by tree protection devices around the critical root zone (CRZ) of each tree to prevent compaction of soil and other damage to the tree by equipment or materials. No excess topsoil, construction materials, debris or chemicals are allowed within the CRZ of any tree, which is to be preserved. In addition, no parking of vehicles, on site offices or machinery is allowed inside the CRZ. All refueling, maintenance and burning areas shall be located away from all trees.

C. All required protective fencing or other similar physical barriers not less than thirty-six (36) inches in height must be in place around the tree preservation area and/or trees and approved by the County prior to beginning construction. The fencing or other similar physical barrier must remain in place during the entire construction period. All fencing or other similar physical barriers must be secured to metal posts driven into the ground spaced no further than ten (10) feet apart.

D. No attachments, signs, fences or wires, other than those approved for bracing, guying or wrapping, shall be attached to trees during the construction period.

E. Whenever a change of ground grading is planned, the trees to be preserved shall be protected by a wall so as to preserve the existing grade for the roots. The wall and its design shall be shown on the tree preservation plan.

F. Wherever a change of grading is planned, the topsoil shall be preserved for the new landscaping to be installed. Unless otherwise authorized by the tree removal permit, no soil is to be removed from within the CRZ of any tree that is to remain.

G. When trenching alongside existing trees is unavoidable, the trench must be one (1) foot for every one (1) inch DBH away from the base of the existing tree to be protected.

H. Construction pruning and root pruning of trees directly impacted by construction may be required for preservation of existing trees. These measures must be indicated on the tree preservation plan or the submitted application for permit.

I. All utilities, including service lines, shall be installed in accordance with the tree preservation plan. Regulated public utilities that have been notified of the tree

preservation plan in accordance with this chapter herein shall be responsible for adhering to said tree preservation plan during installation of necessary utility services lines.

31.0~~7~~8. Removal of Certain Dangerous Trees Without Permit.

In the event that any tree shall pose a threat to health, safety or property and require immediate removal (for example, a tree which has blown over or been struck by lightning), the County may give verbal authorization, and the tree removed without a written permit as herein required. The Development Administrator or County Forester shall require a written record be made of any such verbal authorization to remove a tree.

31.~~08~~09. Appeals - Generally.

When in this Chapter there is a requirement for any approval or review, the following procedures, requirements and standards shall apply:

A. Property owners may discuss alternative layouts and present the reasons why the literal provisions of this chapter cause hardship for their development. The intent of this Chapter is to establish standards for development and redevelopment within the County and to preserve trees as an important public resource enhancing the County's natural character and heritage. However, it is acknowledged that, in order to obtain the very best development plan, latitude from these provisions can be evaluated in consideration of plans with unique site design or properties with physical limitations inhibiting tree preservation. If the literal application of this chapter results in hardship, the applicant may apply for a variation from the requirements of this chapter.

B. Zoning Board of Appeals Review:

1. A request to remove a Heritage Tree that requires a variation before the Zoning Board of Appeals shall follow the procedures and requirements of the Kane County Code, except as provided herein.

2. No variation may be recommended for approval by the Zoning Board of Appeals unless findings have been made, based upon the evidence presented at the public hearing, to support the conclusion that:

i. The particular physical condition and location of the Heritage Tree would impose upon the owner a hardship or practical difficulty if the Heritage Tree were not to be removed; and

~~i.~~ii. There are no other reasonable alternatives to Removing the Heritage Tree.

3. The Zoning Board of Appeals may consider the specific attributes of the existing Heritage Tree and its likelihood to remain as a Healthy Tree. The Zoning Board of Appeals may also consider other trees currently located on, or to be planted upon the property.

31.~~09~~10. Violations, Penalties, Remedies.

A. Any person who violates any of the provisions of this article shall be guilty of a violation punishable by a fine of not less than $100.00 and not more than $~~7,500~~1,000.00 for each offense. A separate offense shall be deemed committed for each day that an offense continues.

B. The fine imposed shall not include any fees or "fees in lieu" imposed in this article, which shall be charged in addition and separate of any fine.

C. Failure to obtain a tree removal permit prior to removing or damaging protected trees shall constituted a violation of this article.

D. It shall be unlawful for any person, firm or corporation to fail to abide by the terms of any tree preservation plan pursuant to which a building permit or tree removal permit has been issued including all regulated public utilities.

E. Any damage or removal of a tree located upon County owned property or right-of-way under the jurisdiction of the County, the value of the damaged or removed tree as determined by industry standard, plus the cost of the replacement of the tree of species and size as determined by the County, shall be charged in addition and separate of any fine.

F. If the precautions, as specified in the tree preservation plan, were not undertaken before construction commenced or are not maintained at any time during construction, the County ~~shall~~ may issue a stop work order until such time as the permittee complies with these precautions.

G. Trees removed without a tree removal permit must be replaced with trees whose sum of caliper equals the sum of DBH of the trees removed, with a minimum caliper of two and one-half (2½) inches.

H. Any violation of this chapter in which the DBH and/or species of a tree cannot be determined, the tree shall be replaced with a total of sixteen (16) trees, with a minimum caliper of two and one-half (2½) inches, and any other penalties pursuant to this chapter.

I. The levy and/or payment of any penalty or fine provided in this chapter shall not be deemed a waiver of the power of the County to suspend, revoke or refuse to renew a permit or other approval or to seek injunctive relief to enjoin violations of this chapter or other applicable provisions of law.

J. County Department Authority. Upon an individualized assessment of an application, the Department may, upon good cause shown, waive or reduce the Tree Replacement requirements or the fee in lieu in cases where imposing such requirements would be excessive or otherwise unjust.

31.11 Tree Planting Incentive Program

A. The Director is authorized to create a Tree Planting Incentive and Cost-Sharing Program (the "Program").

1. The Program shall provide a 50% percent reimbursement, with a maximum reimbursement of three hundred dollars ($300) for pre-approved, non-commercial, tree planting projects.
2. Only Residents living in unincorporated Kane County shall be eligible to participate in the Tree Planting Incentive Program.
3. Trees purchased through the Program cannot be counted towards required tree plantings after removal of trees under the County Tree Protection Ordinance or for required landscaping in accordance with a multifamily, homeowner's association, business, or commercial property's Landscape Plan.
4. The Director will establish rules and guidelines for the Program, including but not limited to, the application process, a list of eligible trees and requisite caliper, the inspection and reimbursement process, which may be updated from time to time and as needed.

31.12. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

END DOCUMENT