

Tree and Woodland Resource Preservation – Draft Ordinance Amendments

Ann Arbor Township

Sec. 74-605. - Tree and woodland resource preservation.

- (a) *Introduction and purpose.* Trees and woodlands provide for a number of public benefits, including environmental, social, and aesthetic benefits. Uncontrolled development or tree removal could result in unnecessary removal of trees, woodlands and related natural resources. Therefore, it is the intent of this section to:
- (1) Encourage the preservation of trees and related natural resources of the Woodland ecosystem on undeveloped land and in connection with the development of land;
 - (2) Prohibit clear cutting of Woodland areas prior to or in anticipation of development without prior approval from the Planning Commission;
 - (3) Prohibit removal of protected trees or woodlands without a permit when required by this section;
 - (4) Provide for the protection, preservation, proper maintenance and use of trees and Woodlands to minimize damage from erosion and siltation, loss of wildlife and vegetation, and/or from the destruction of the natural habitat;
 - (5) Provide for the paramount public concern for these natural resources in the interest of the health, safety and general welfare of the residents of the Township, in keeping with article IV, section 52 of the Michigan Constitution of 1963 and the intent of the Michigan Natural Resources and Environmental Protection Act, PA 451 of 1994.
- (b) *Applicability.* This section shall apply to all land located in the Township, unless exempt pursuant to subsection (d) below, including parcels that are in the process of being annexed to the City of Ann Arbor until the date that such annexation is final and notice of such official annexation is provided to the Township by the State of Michigan.
- (c) *Prohibitions.*
- (1) Clear cutting of woodlands, including grubbing, on parcels covered by this section is prohibited without first obtaining a tree/woodland removal permit. Clear cutting as a long term forestry management practice for long term regrowth of the woodland and not prior to or in anticipation of development of land is allowed without a tree/woodland removal permit if consistent with a woodland stewardship plan described in subsection (m) below that has been reviewed, approved and is on file with the Township prior to the start of any forestry management practices or operations.
 - (2) Removal of protected trees or woodlands without a permit when required by subsection (g) below is prohibited.
- (d) *Exemptions.* Tree and Woodland removal associated with the following shall be exempt from the requirements of this section:
- (1) Parcels that are not subject to site plan review or subdivision plat review as defined in article II, and:
 - a. Are three acres or less.
 - b. Are greater than three acres, but where no more than 100 dbh inches of protected trees are removed within 12 months.

- (2) **As defined by the Right to Farm Act, Farming operations, as defined by the Right to Farm Act, which are lawfully existing and operating in accordance with Generally Accepted Agricultural Management Practices as adopted by the Michigan Department of Agriculture.**
 - (3) Forestry operations conducted in compliance with a woodland stewardship plan that has been filed with the Township Building Official and has been reviewed and approved by the Township Environmental Consultant prior to the start of any forestry management practices or operations.
 - (4) Installation, repair or maintenance of public utilities lawfully operating in the township in accordance with an operating permit or right-of-way permit issued by the township but only to the extent that such tree or woodland removal is necessary for protection of utility lines and the public health, safety and welfare.
 - (5) Work within an existing public road right-of-way or an existing private road easement but only to the extent necessary for safe access along such right of way or private road easement and to protect the public health, safety and welfare in accordance with an operating permit or right-of-way permit issued by the Township.
 - (6) Any trees which are demonstrated by the property owner to the satisfaction of the Township Building Official, in consultation with the Township Environmental Consultant, to have a health and condition standard factor of less than 50 percent based upon the standards established by the International Society of Arboriculture.
 - (7) Any tree that poses a safety hazard, whose removal will prevent injury or damage to persons or property, and provided that removal is accomplished through the use of accepted standard forestry practices.
- (e) *Authorization.* Under certain conditions defined in this section, a tree/woodland removal permit may be authorized by the Planning Commission to allow limited removal of tree/woodland resources, or construction, activity, use, or operations within a woodland area, if preservation techniques described in this section have been applied to the greatest extent practical, and tree and/or woodland removal is found by the Planning Commission to be unavoidable.
- (f) *Filing of application; fee; amendment.* Application for proposed tree/woodland removal permit shall be made by filing an application form and required fee with the Township Clerk. The fees shall be set by resolution of the Township Board. In addition, when this section requires or permits review, approval and filing of a woodland stewardship plan, the plan shall be filed with the Township Clerk on an application form provided by the Township and the required fee. The fee for review of the woodland stewardship plan shall be set by resolution of the Township Board. Any request for amendment to a tree/woodland removal permit shall be made by filing an application form with the Township and the required fee. The fee for amendment to a tree/woodland removal permit shall be set by the Township Board. Any amendment to a tree/woodland removal permit shall be processed in the same manner as the initial permit, and the amendment request and the amended plan submittals shall highlight the proposed changes, including any additional tree/woodland removal proposed, the reasons for such changes, and any additional mitigation proposed, unless otherwise required by the Township environmental consultant in consultation with the Planning Commission due to the nature of the proposed amendment.
- (g) *Application procedure for tree/woodland removal permit.* The provisions of this section shall apply to all parcels in the Township that (1) require site plan review or subdivision plat review as defined in Article II, or (2) are greater than three acres in area (unless exempted in (c) or (d)(1)(b) above). The procedure for review and approval of a tree/woodland removal permit is as follows:

- (1) *When site plan or subdivision plat review is required.* If protected trees or woodlands are proposed for removal as part of a development proposal, the following are required as a component of the preliminary site plan submission pursuant to section 74-175, or the preliminary plat, tentative approval pursuant to section 58-72.
- a. A Tree/woodland survey prepared within the 12-month period preceding submittal of the tree/woodland removal permit application. If the application is a re-submittal of an expired tree/woodland removal permit, then the Planning Commission may permit use of the survey submitted with the expired tree/woodland removal permit; however, the survey must have been completed within the 36-month period preceding submittal of the new tree/woodland removal permit application.
 - b. A tree replacement plan (see tree replacement options section 74-605 (n)).
The planning commission shall review the tree/woodland survey, any tree replacement plan, and all information required by this section and the site plan or plat review sections, as applicable. The planning commission shall approve, approve with conditions or deny the applicant's tree/woodland removal permit in accordance with the standards set forth in this section and the site plan or plat review sections, as applicable.

- (2) *When site plan or subdivision plat review is not required.* If protected trees or woodlands are proposed for removal and are *not* part of a development proposal, the Planning Commission shall conduct a review of permit applications in the following situations:
- a. For parcels that are greater than three acres in area, when more than 100 DBH inches of protected trees are to be removed within 12 months (unless exempt pursuant to (c) or (d)(1)(b) above).
 - b. The Planning Commission may require a tree/woodland survey in circumstances where the Commission determines that it would be helpful in understanding the number and/or sizes of trees proposed for removal. At a minimum, a plot plan, as defined in subsection 74-605(l) of this section, shall be submitted that provides the location, size and type of all protected trees and/or woodlands to be removed as well as a tree replacement plan and tree protection method where necessary.

The Planning Commission, in consultation with any appropriate consultants if needed, shall approve or deny the applicant's tree/woodland removal permit in accordance with the standards set forth in this section.

- (h) *Review criteria.* In determining whether the proposed disturbance or removal of trees and/or woodlands is limited to the minimum necessary to allow a reasonable use of the land, the Planning Commission shall apply the following criteria:
- (1) The importance and overall value of the trees/woodlands on the site. In general, the importance of trees/woodlands increases with rarity, size, and age.
 - (2) The existence of overlapping natural features such as wetlands, 100-year flood plains, woodlands, landmark trees, steep slopes or endangered species in one area. Overlapping natural features increase the importance and overall value for preservation of the area.
 - (3) The impact of the proposed disturbance on the integrity of ecological systems or the continuity between natural features. Wherever possible, ecological systems and continuity between natural features should be preserved.
 - (4) The amount of disturbance in relation to the scale of the proposed development.
 - (5) The adequacy of the tree replacement plan or other mitigation plan.
 - (6) The justification for forestry management practices, the benefits of the proposed disturbance and proposed coordination with the recommendations in the woodland stewardship plan.

(i) Expiration of approval.

- (1) If a tree/woodland removal permit expires without commencement of the work approved by the permit, then a new permit must be re-applied for with the required information updated as needed, and the permit granted, before any work regulated by this Section begins on the site.
- (2) In association with approved site plan. If a tree/woodland removal permit is granted as a component of site plan approval, then the tree/woodland removal permit shall be in effect as long as the site plan approval is in effect, as described in subsection 74-176(f). Expiration of approval for the associated site plan shall also apply to the tree/woodland removal permit.
- (3) In association with approved subdivision plat. If a tree/woodland removal permit is granted as a component of subdivision plat approval, then the tree/woodland removal permit shall be in effect as long as the subdivision plat approval is in effect, as described in subsection 58-74(d). Expiration of approval for the associated subdivision plat shall also apply to the tree/woodland removal permit.
- (4) Not in association with approved site plan or subdivision plat. If a tree/woodland removal permit is granted under circumstances where a site plan or subdivision plat approval is not required,
 - i. The tree/woodland removal permit shall expire and be of no effect unless development/construction permits have been applied for and issued by applicable governmental authorities and tree removal commenced within 180 days after Planning Commission approval of the tree/woodland removal permit, or is not completed within 545 days following the commencement date of construction/development in accordance with the issued building permits.
 - ii. If there are no associated building permits, the tree/woodland removal permit shall expire and be of no effect unless the approved tree removal commences, as determined by the Building Official, within 180 days after Planning Commission approval of the tree/woodland removal permit, or is not completed within 545 days after Planning Commission approval.
 - iii. Expiration of a tree/woodland removal permit is subject to extensions requested and granted in accordance with subsection 74-605(j) below.

(j) Extensions.

- (1) In association with approved site plan. If a tree/woodland removal permit is granted as a component of site plan approval, then any extension(s) granted to an approved site plan, as described in subsection 74-176(g), shall also apply to the associated tree/woodland removal permit.
- (2) In association with approved subdivision plat. Chapter 58, Article II, Subdivisions, does not provide for the extension of subdivision plat approval. Therefore, if a subdivision plat approval expires, the tree/woodland removal permit in association with the subdivision plat also expires.
- (3) Not in association with approved site plan. In such circumstances, the time limits set forth in subsection 74-605(i) above may be extended, in accordance with the following:
 - a. Any extension of a tree/woodland removal permit shall be requested in writing at least 30 days prior to the expiration of the time limit to be extended, and the extension must be granted before the expiration or lapse of the tree/woodland removal permit approval, or any approved extension.

- b. If an extension of a tree/woodland removal permit is necessary, the applicant shall apply to the Building Official for the first extension, and to the Planning Commission for any subsequent extensions.
- c. The Building Official may grant one extension of a tree/woodland removal permit. An extension, if granted, shall begin on the date the original time limit would have expired, and shall continue for the period determined by the Building Official, but for not more than 12-months.
- d. If an additional extension needed, the Planning Commission may grant up to two additional extensions. The Planning Commission extension shall begin on the date the Building Official's extension would have expired, and shall continue for the period determined by the Planning Commission, but for not more than 12-months per extension.

(k) Amendment of Approved Tree/Woodland Removal Permit.

- (1) In association with approved site plan. If a tree/woodland removal permit is granted as a component of site plan approval, and the permittee wishes to make changes to the scope or conditions of the approved tree/woodland removal permit, such as amount of tree removal or type of mitigation for example, then the changes shall be reviewed in accordance with section 74-179, Amendment of approved site plan, or 74-180, Changes during construction. An applicant must apply for a determination that the proposed change in the scope, or conditions of an approved tree/woodland removal permit is a minor or major amendment by filing with the Township a completed application for amendment, the fee, and number of copies of a scaled plot plan, as required in subsection 74-605(l), including the proposed changes.
 - a. Minor changes shall be reviewed administratively by Township staff.
 - b. Major changes shall be reviewed by the Planning Commission. A major change shall include:
 - i. Increase in the dbh of removed protected trees totaling 24 dbh inches or more, or removal of any Landmark Tree, as defined herein.
 - ii. Change in concept of the approach to proposed mitigation, such as contribution to Township Woodlands/Natural Features Fund instead of planting replacement trees on site, or proposing a different alternative mitigation measure than the measures shown on the approved tree/woodland removal permit plans.

These procedures will apply whether the changes to the approved tree/woodland removal permit, and/or the site plans that are the basis for the approved permit, are proposed before, during or after construction of the project is complete.

- (2) Not in association with approved site plan. All tree removal and mitigation activities shall conform to the approved tree/woodland removal permit. When changes are to be made to an approved tree/woodland removal permit and/or the plans that are the basis for the approved permit, and the approved permit is not in association with an approved site plan, the Building Official shall have the authority to determine if the proposed change is a minor or major amendment to the tree/woodland removal permit. An applicant may apply for such a determination by filing with the Township a completed application for amendment, the fee, and number of copies of a scaled plot plan, as required in subsection 74-605(l), including the proposed changes.
 - a. Minor changes shall be reviewed administratively by Township staff.
 - b. Major changes shall be reviewed by the Planning Commission. A major change shall include:
 - i. Increase in the dbh of removed protected trees totaling 24 dbh inches or more, or removal of any Landmark Tree, as defined herein.
 - ii. Change in concept of the approach to proposed mitigation, such as contribution to Township Woodlands/Natural Features Fund instead of planting replacement trees on

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site, or proposing a different alternative mitigation measure than the measures shown on the approved Tree Removal Permit plans.

These procedures will apply whether the changes to the approved tree/woodland removal permit, and/or the plans that are the basis for the approved permit, are proposed before, during or after construction of the project is complete.

[NO OTHER CHANGES ARE PROPOSED TO THE REMAINDER OF THIS ORDINANCE.]