

CHARTER TOWNSHIP OF OAKLAND
COUNTY OF OAKLAND, STATE OF MICHIGAN
TREE PROTECTION ORDINANCE
ORDINANCE NO. 60

.01.00.00 Article I - Findings, Rationale, Purpose

.01.00.00 Findings - The Township finds that rapid growth, the spread of development, and increasing demands upon natural resources have had the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation and natural resources and processes associated therewith which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreation and economic assets to existing and future residents of the Township. Specifically the Township finds that:

- .01 Woodland growth protects public health through the absorption of air pollutants and contamination, through buffering in the reduction of excessive noise, wind, storms and visual screening, and through its cooling effect in the summer months.
- .02 Woodlands provide for public safety through the prevention of erosion, siltation, and flooding.
- .03 Trees and woodland growth are an essential component of the general welfare of the Township by maintaining natural beauty, recreation, and an irreplaceable heritage for existing and future Township residents.
- .04 The protection of such natural resources is a matter of paramount public concern, as provided by Article IV, Section 52 of the

NOV-13-98 WED 17:13

FENN & ASSOC SURVEYING

PBA NO. 0102049020

Constitution of 1963, and the Environmental Protection Act of 1970, Act No. 127 of the Public Acts of Michigan of 1970 (MCL 891.1201 et seq., MSA 14.528 (201) et seq.), as amended.

.01.02.00 Purpose -

- .01 To provide for the protection, preservation, replacement, proper maintenance and use of trees and woodlands located on a parcel of land twenty-five (25) acres in size or greater in the Township in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or the destruction of the natural habitat.
- .02 To place priority on the preservation of woodlands, trees, similar woody vegetation, and related natural resources.
- .03 To protect the woodlands, including trees and other forms of vegetation, of the Township for their economic support of local property values when allowed to remain uncleared and/or unharvested and for their natural beauty, wilderness character of geological, ecological or historical significance.
- .04 To provide for the paramount public concern for these natural resources in the interest of health, safety and general welfare of the residents of the Township.

.02.00.00 Article II - Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning; the word "shall" is always mandatory and not merely directory.

Silviculture means a land use to derive income from growing plants and trees on land including but not limited to land used principally for fruit grove and timber production, and not including land used principally for another use and incidentally for growing trees or plants for income.

NOV-13-86 WED 17:14

FENN & ASSOC SURVEYING

FAX NO. 8102549020

Building Envelope for platted lots and site condominiums shall be the buildable area remaining on a lot after satisfying Township Zoning Ordinance setback requirements; for all other residential developments, the building envelope shall include the area of the residential buildings, plus a reasonable area beyond the buildings, up to ten (10) feet, so long as the area is not in any required setback.

Commercial Nursery/Tree Farm means a licensed plant or tree nursery or farm in relation to those trees planted and growing on the premises of the licensee, which are planted and growing for sale or intended sale to the general public in the ordinary course of the licensee's business.

Development includes any lawful land use authorized under the Oakland Township Zoning Ordinance as amended.

Diameter Breast Height (d.b.h.) means the diameter in inches of a tree measured at four and one-half (4-1/2) feet above the existing grade.

Drip Line means an imaginary vertical line that extends downward from the outermost tips of the tree branches to the ground.

Groundcover means low-growing shrubs, woody vegetation, wild flowers and other small herbaceous plants within a woodland area.

Grubbing means the effective removal of understory vegetation, groundcover, shrubs or trees.

Historic Tree means a tree which has been designated by the Planning Commission to be of notable historic interest to the Township because its age, type, size or historic association.

Land Clearing means those operations where trees and vegetation are removed and which occur previous to construction of a building; e.g., road right-of-way excavation and paving, lake and drainage systems excavation, utility excavation, grubbing, and any other necessary clearing operations.

8-25-90

NOV-13-88 WED 17:14

FENN & ASSOC SURVEYING

FAX NO. 8102549020

r.02

Material includes soil, sand, gravel, clay, peat, mud, debris and refuse, or any other material organic or inorganic.

"No Tree" Affidavit means a signed, notarized statement by the owner or agent stating that no trees exist upon the site of six inch d.b.h. or greater.

Operations includes the locating, moving or depositing of any material, or any construction use or activity, or a combination thereof which in any way modifies the conditions of lands subject to this Ordinance.

Owner means any person who has dominion over, control of, or title to woodlands.

Person includes any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies conducting operations within the Township and all tree removal companies and persons removing trees on behalf of others.

Planning Commission means the Oakland Township Planning Commission.

Protective Barrier means a physical structure limiting access to a protected area, composed of wood or other suitable materials which ensures compliance with the intent of this Ordinance. Variations of these methods may be permitted upon written request if they satisfy the intent of this Ordinance.

Remove, Removal includes the cutting of trees and injury and/or destruction of any form of vegetation, by whatever method, on any lands subject to this Ordinance.

Site Plan means an illustration of a proposed development as required in the Oakland Township Zoning Ordinance, Ordinance Number 16, as amended.

Specimen Tree means a tree which, because of its high value as a representative tree of a particular type or species, due to its size, age or other prominent botanical characteristics, has been designated as a specimen tree by the Planning Commission.

8-25-88

NOV-13-98 WED 17:15

FENN & ASSOC SURVEYING

FAX NO. 8102549020

Structure means any assembly of materials above or below the surface of the land or water, including but not limited to houses, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, towers, utility transmission devices.

Transplant means the digging up by a property owner of a tree from one place on a property and planting of the same tree in another place on the same property.

Tree means a living woody plant with an erect perennial trunk, which at maturity is thirteen (13) feet or more in height and which has a more or less definite crown or foliage.

Tree Survey is a minimum one (1) inch equals 100 feet scale drawing which provides the following information: location of all trees having six (6) inches or greater d.b.h., plotted by accurate techniques, and the common or botanical names of those trees and their d.b.h.

Underdeveloped means a parcel of land which is unplatted and substantially unimproved. With respect to land which, on the effective date of this Ordinance, is partially improved by virtue of a building(s) or other improvement(s) located on a portion of the land, the portion of the land which does not contain the building(s) or improvement(s) shall be considered undeveloped.

.03.00.00 Article III - Interpretation and Application

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to activities within woodlands areas; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits the provisions of this Ordinance shall control.

8-25-90

NOV-13-98 WED 17:16

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.01

.04.00.00 Article IV - Applicability

.04.01.00 Approved Site Plans, Plats, Site Condominiums, and Land Divisions - This Ordinance shall apply to land for which a site plan or land division plan was or is submitted for approval to the Planning Commission on or after the effective date of this Ordinance, or for which a preliminary plat or preliminary site condominium development plan has received tentative approval on or after such date, provided the site plan, land division plan, plat, or condominium plan remain in effect in good standing under the Oakland Township Zoning Ordinance and other applicable Ordinances.

.04.02.00 Individual Trees

.01 This Ordinance shall further apply for the protection of any individual tree with a d.b.h. of thirty six (36) inches or greater, anywhere in the Township, or any individual tree designated as a historic or specimen tree anywhere in the Township.

.02 A person may nominate a tree within the Township for designation as a historic or specimen tree based upon its age, type, size or historical or cultural associations. Such a nomination shall be made upon that form provided by the Planning Commission.

A. A nomination for designation of a historic or specimen tree shall be brought on for consideration by the Planning Commission. Where the nomination is not made by the owner of the property where the tree is located, the owner shall be notified in writing at least fifteen (15) days in advance of the time, date and place that the Planning Commission will consider the designation. The notice shall be made by registered mail and shall advise the owner that the designation of the tree will make it unlawful to remove, damage or destroy the tree without a tree removal permit. The notice shall further advise the owner that if he objects to the tree designation the

8-25-90

NOV-13-98 WED 17:18

FENN & ASSOC SURVEYING

FAX NO. 8102549020

Planning Commission shall refuse to so designate the tree.

- B. Absent objection by the owner, the Planning Commission may designate a tree as a historic or specimen tree upon a finding that because of one (1) or more unique characteristics the tree should be preserved as a historic or specimen tree.

.05.00.00 Article V - Tree Removal Permit Required

.05.01.00 Requirement Established - Subject to the exceptions enumerated in Section .05.00.00, no person shall remove, cause to be removed, transplant or destroy, on any land in the Township to which this Ordinance applies, any tree having six (6) inches or greater d.b.h., or conifer greater than twenty (20) feet in height, without first obtaining a Tree Removal Permit.

.05.02.00 Plat or Plan Approval - Where a final subdivision plat, site plan, site condominium development plan or land division plan has been reviewed and approved by the Township, and conforms with this Ordinance, the plat or plan, together with any additional terms and conditions attached thereto, shall be considered to have fulfilled the requirements for a Tree Removal Permit.

.05.03.00 Residential Development - in addition to other requirements of this Ordinance, there shall be compliance with the following requirements in all residential developments:

.01 Building Envelopes - the developer shall designate building envelopes for all structures.

A. Platted Subdivisions - the building envelope for platted lots and site condominiums shall be the buildable area remaining on a lot after satisfying Township Zoning Ordinance setback requirements.

B. Other Residential Developments - for all other residential developments the developer shall designate as building

NOV-13-98 WED 17:17

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.UY

envelopes the building areas, plus reasonable area beyond the buildings up to ten(10) feet, so long as the area is not in any required setback.

C. Activities Within Building Envelope - no additional Tree Removal Permit shall be required for construction of structures or improvements or other activities within a building envelope.

D. Activities Outside Building Envelope - Subject to the exceptions enumerated in Section .06.00.00, construction or activities beyond the building envelope shall require an additional Tree Removal Permit. The Planning Commission may waive the requirement for a tree removal permit when the Township Engineer verifies that tree removal is necessary and there is no reasonable alternative in connection with drainage improvements or driveways.

.05.04.00 Non-Residential Development - for non-residential developments which require land clearing, such clearing shall be limited to designated street rights-of-way, drainage retention/detention basins and utility areas, and areas necessary for the construction of buildings, structures or other site improvements. An objective in determining the layout and design of buildings and parking shall be the prevention of protected trees, with a priority given for preservation of the largest trees deemed to have a reasonable likelihood of survival.

.05.05.00 Minimum Preservation Requirement - the developer shall preserve and leave standing and undamaged a minimum of forty percent (40%) of the total number of trees having six (6) inches or greater d.b.h. which exist within the platted area prior to development. However, trees contained within the designated building envelopes or within required drainage detention and retention areas shall not count toward the required minimum preservation percentage.

NOV-13-98 WED 17:18

FENN & ASSOC SURVEYING

FAX NO. 8102548020

P. 10

.06.00.00 Article VI - Exceptions

Notwithstanding the requirement of Section .05.00.00, the following activities are permitted unless otherwise prohibited by statute or other Township Ordinances.

- .06.01.00 Agriculture Exception** - tree removal or transplanting occurring during use of land for agriculture or the operation of a commercial nursery or tree farm, provided, this exception shall only be applicable if the commercial nursery or tree farm has been licensed with the State of Michigan and in operation on the property for three (3) years or more, or the property owner records an affidavit that the commercial nursery or tree farm shall continue in active operation for a period of no less than five (5) years.
- .06.02.00 Conservation** of soil, vegetation, water, fish, wildlife, and other natural resources.
- .06.03.00 Emergencies** - actions made necessary by an emergency, such as tornado, windstorm, flood, freeze, dangerous and infectious insect infestations or disease, or other disaster, in order to prevent injury or damage to persons or property or restore order.
- .06.04.00 Public Utilities** - repair or maintenance work performed by public utilities necessitating the trimming or cutting of trees.
- .06.05.00 Dead or Damaged Trees** - removal or trimming of dead, diseased or damaged trees, where the damage resulted from an accident or nonhuman cause, and provided that the removal or trimming is accomplished through the use of standard forestry practices and techniques.
- .06.06.00 Residential Parcels Containing Less than Twenty-Five (25) Acres** - tree removal or transplanting occurring during the use of the parcel in support of one (1) residential dwelling and permitted residential accessory uses. All contiguous land owned in common shall be included in the acreage calculations. This provision shall not exempt such parcels from regulation under the terms of this Ordinance at the time of application for approval of site plans.

8-25-90

NOV-13-88 WED 17:18

FENN & ASSOC SURVEYING

FAX NO. 8102549020

plats, site condominiums, and land divisions as outlined in Article IV, Section .04.01.00.

.06.07.00 Outdoor Recreation - such as the utilization of field trails or woodlands on publically owned property for nature study, hiking, horseback riding, trapping and hunting as otherwise legally permitted and regulated.

.06.08.00 Tree Management - where a tree management plan, prepared by a State of Michigan registered forester, or registered landscape architect, is submitted to and approved by the Township supervisor, after consultation with the Township expert, tree cutting may occur without a permit. To qualify under this exception, tree management activity shall be for the purpose of reducing the density of trees so as to promote and maintain the health and viability of the remaining trees. The management plan shall include the means by which cut trees shall be removed from the property without damaging remaining trees. The person seeking approval and exemption under this provision shall establish an escrow with the Township Clerk for the purpose of covering the cost of the Township's expert.

.07.00.00 Article VII - Application For Tree Removal

.07.01.00 Time of Application - application for a Tree Removal Permit shall be made before removing or transplanting trees on sites to which this Ordinance applies.

.07.02.00 Application and Fee -

.01 A person seeking removal of any designated historical tree, specimen tree, or any tree with thirty-six (36) inches d.b.h. or greater shall submit an application to the Township Clerk on an approved form, along with a nonrefundable application/permit fee as determined by the Township Board. Completion of the approved form shall suffice as application for a Tree Removal Permit.

.02 Where the site is proposed for development necessitating site plan, site condominium, plat review, request for a Tree Removal

NOV-13-96 WED 17:18

FENN & ASSOC SURVEYING

FAX NO. 8102649020

P. 12

Permit at the time of preliminary site plan, preliminary site condominium plan, or preliminary plat submittal, along with an additional nonrefundable application/permit fee as determined by the Township Board.

- .03 Where the site is proposed for development necessitating approval for division of land, request for a Tree Removal Permit shall be included at the time of application for division of land, along with an additional nonrefundable application/permit fee as determined by the Township Board.

.07.03.00 Contents of Application -

- .01 In addition to or in conjunction with information required for site plan, site condominium, or plat review, or for application for division of land, an application for a Tree Removal Permit shall submit 16 copies of the following information to the Township Clerk:

- A. Detailed Description - and statement of the purpose of the proposed activity.
- B. Tree Survey - for all areas for which a Tree Removal Permit is required.
- C. Location of Trees - trees, having six (6) inches or greater d.b.h., that are proposed to remain, to be transplanted or to be removed from the areas for which a Tree Removal Permit is required, shall be so designated and identified by common or botanical name on a minimum one (1) inch equals one hundred (100) feet scale drawing.
- D. Tree Identification - a statement that all trees being retained will be identified by some method, such as painting, flagging, etc., and, where protective barriers are necessary, that they will be erected before work starts.
- E. Tree Protection - a statement describing how trees intended to remain will be protected during development.

8-25-90

NOV-13-06 WED 17:19

FENN & ASSOC SURVEYING

- F. Cost of Replacement - a cost estimate for the proposed tree replacement program with a detailed explanation including the number, size and species.
- G. A Topographical Survey - sealed by a registered engineer or registered surveyor, with contours drawn at an interval of not more than two (2) feet, and vertical contour data at an interval of no more than one (1) foot for all areas to be disturbed by proposed tree removal operations, extending for a distance of at least fifty (50) feet beyond the limits of such areas. Indicated elevations shall be based on United States Geological Survey datum.
- H. Grade Changes - designation of proposed grade changes and proposed drainage pattern changes.
- I. Existing General Soil Conditions Throughout the Parcel.

.02 When requesting a Tree Removal Permit for an area that does not require site plan, site condominium, or plat review, or application for land division, the applicant shall, in addition to the information required in Section .07.03.01, submit sixteen (16) copies of the following information to the Township Clerk:

- A. A completed use permit application, on a use form predescribed by the Township, which includes the following information:
 - 1. The name, address and telephone number of the applicant and of the applicant's agent.
 - 2. The name, address and telephone number of the owner of the property.
 - 3. The project location, including as applicable, the street, road or highway, Section Number, name of subdivision, and name of any

8-25-90

NOV-13-96 WED 17:20

FENN & ASSOC SURVEYING

FAX NO. 8102649020

P.14

watercourse which will or may be impacted.

- B. Where the applicant is not the owner of the property, a written authorization from the owner permitting the proposed activity.
- C. A nonrefundable application/permit fee as determined by the Township Board.

.07.04.00 "No Trees Affidavit" -

- .01 Where proposed activity requires site plan, site condominium, or plat review, or application for land division, and is located on site with no trees of six (6) d.b.h. or greater, the developer shall, at the time of plan, plat, or application submittal, include a "no tree" affidavit.
- .02 Where "no tree" affidavit is submitted, the Township shall conduct an inspection of the site. If the inspection substantiates the developer's claims, the developer shall be relieved of the necessity of providing the information listed in Section .07.03.01 as it pertains to this Ordinance.
- .03 If, during the inspection by the Township, the site is found to have tree specimens with a d.b.h. of less than six (6) inches, but which are of value because of quantities such as health, habitat, size, species, or other positive attributes, the Township may require the developer to request a Tree Removal Permit.
- .04 Forest Management - an owner may be granted a Tree Removal Permit for the purpose of maintaining and improving a woodlands area by professional forestry management methods. Applications for this permit must, in addition to the information listed in Section .07.03.02 (A, B, C), be accompanied by a management plan for the subject area prepared by a forester licensed and registered in the state. The management plan shall include a description of and a schedule for the program, justifying reasons for the work specified, and a summary of the benefits to

8-25-90

NOV-13-96 WED 17:20

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.15

be obtained. Work under a forest management use permit shall be directed by a licensed and registered forester. Under the forest management use permit, provisions of this Ordinance which are applicable solely to development or land clearing activities shall not apply. The Township shall not levy any fee for this special permit.

08.00.00 Article VIII - Application Review Standards

The following standards shall govern the granting or denial of an application for a Tree Removal Permit.

- 08.01.00 Preservation and Conservation - no application shall be denied solely because some trees grow on the site. Nevertheless, tree preservation and conservation shall be of paramount concern and importance.
- 08.02.00 Developmental Alternatives - prevention and conservation of wooded areas, trees, similar woody vegetation, wild life and related natural resources and processes shall have priority over development when there are feasible and prudent location alternatives on site for proposed building, structures or other site improvements.
- 08.03.00 Diversity of Species - diversity of tree species shall be maintained where essential to preserving a wooded area.
- 08.04.00 Woodland Integrity - the integrity of a stand of trees shall be maintained irrespective of whether such stand crosses property lines.
- 08.05.00 Quality of Woodland - the reviewing authority shall evaluate the quality of the involved tree area, including in its evaluation consideration of:
- .01 Soil quality;
 - .02 Habitat quality;
 - .03 Tree species (including diversity of tree species);
 - .04 Tree size and density;
 - .05 Health and vigor of tree stand;
 - .06 Wildlife within the woodland area;
 - .07 Understory species and quality;

8-25-90

NOV-13-98 WED 17:21

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.18

- .09 Impact on the human environment, such as windblock, noise buffer, and cooling effect;
- .10 Historic or specimen trees within the woodland area.
- .08.06.00 Land Clearing - where the proposed activity consists of land clearing, it shall be limited to designated street rights-of-way, drainage and utility areas and areas necessary for the construction of buildings, structures or other site improvements.
- .08.07.00 Grubbing - where grubbing is permitted, it shall not include the removal of any trees with a d.b.h. of greater than three (3) inches.
- .08.08.00 Residential Development - where the proposed activity involves residential development, residential units shall, to the extent reasonably feasible, be designed and constructed to blend into the natural setting of the landscape.
- .08.09.00 Compliance with Statutes and Ordinances - the proposed activity shall comply with all applicable statutes and ordinances.
- .08.10.00 Relocation or Replacement - the proposed activity shall include necessary provisions for tree relocation or replacement, in accordance with Section .09.00.00, and tree protection, in accordance with Section .10.00.00.
- .01 Limitation - tree removal or transplanting shall be limited to instances where:
- A. Necessary for Construction - removal or transplanting is necessary for the construction of a building, structure or other site improvement, and the permit application has shown there is no feasible and prudent location alternative on-site for a proposed building, structure or other site improvement; or

NOV-13-98 WED 17:22

FENN & ASSOC SURVEYING

FAX NO. 8102548020

P.17

B. Disease, Damage, etc. - the tree is diseased, damaged or in danger of falling, is located too close to existing or proposed buildings or structures, interferes with existing utility service or drainage, creates unsafe vision clearance or does not conform to other Township ordinances or regulations.

.08.11.00 The reviewing authority shall consider the total acreage of woodlands existing within the township.

.08.12.00 The burden of demonstrating that no feasible and prudent alternative location for structures or improvements without undue hardship shall be upon the applicant.

.09.00.00 Article IX - Tree Relocation or Replacement

A Tree Removal Permit grantee shall replace or relocate each removed tree having six (6) inches or greater d.b.h.

.09.01.00 Basis for Determining Relocation or Replacement - the permit grantee shall relocate or replace removed trees on a d.b.h. or height basis, as follows:

For deciduous trees, replacement shall be on a total caliper basis, that is, for example, for each tree with a 12 inch d.b.h., there shall be replacement trees with an aggregate of calipers totaling 12 inches, provided, no replacement trees shall have a d.b.h. less than 2 1/2 inches; for conifers, replacement shall be based upon total height, with no replacement tree having a height less than six feet. If it is determined, based upon the opinion of a registered forester or registered landscape architect that replacement to the extent required under this provision will result in plantings which do not have sufficient area for growth in the future, a reduction in the requirement specified in this paragraph may be permitted to the extent necessary to insure adequate room for growth, with the provisions of Section 09.02.00(B) to apply with regard to those trees which have not been planted under this provision.

8-25-90

NOV-13-98 WED 17:22

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.18

.09.02.00 Replacement Tree Location -

- A. Approval Required - Township shall approve tree location or replacement locations in order to provide optimum enhancement, preservation and protection of wooded areas. To the extent feasible and desirable, trees shall be relocated or replaced on-site and within the same general area as trees removed.
- B. Tree Fund - where it is not feasible and desirable to relocate or replace trees on-site or at another approved location in the Township, the Tree Removal Permit grantee shall pay into the Township Tree Fund, which fund is hereby created, an amount of money approximately the current market value of the replacement trees that would otherwise be required. The Township shall use the Tree Fund for the purpose of maintaining and preserving wooded areas and for planting and maintaining trees within the Township.

.10.00.00 Article X - Tree Protection During Construction

- .10.01.00 Placing Materials Near Tree - no person may conduct any activity within the drip line of any tree designated to remain, including, but not limited to, placing solvents, building material, construction equipment or soil deposits within the drip line.
- .10.02.00 Attachment to Trees - during construction, no person shall attach any device or wire to any remaining tree.
- .10.03.00 Protective Barrier - before development, land clearing, filling or any land alteration for which a Tree Removal Permit is required, the developer shall erect and maintain suitable barriers to protect remaining trees. Protective barriers shall remain in place until the Township authorizes their removal or issues a final certificate of occupancy, whichever occurs first, wood, metal or other substantial material shall be utilized in the

8-25-90

NOV-13-96 WED 17:23

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.18

construction of barriers. Barriers are required for all trees designated to remain, except in the following cases:

- .01 Rights-of-Way and Easements - street right-of-way and utility easements may be cordoned by placing stakes a minimum of fifty (50) feet apart and tying ribbon, plastic tape, rope, etc., from stake to stake along the outside perimeters of areas to be cleared.
- .02 Large, Separate Area - large property areas separate from the construction or land clearing area onto which no equipment will venture may also be cordoned off as described in Section 10.03.01.

.11.00.00 Article XI - Application Review Procedure

.11.01.00 Review and Authority

- .01 The Township Clerk shall review all applicable materials submitted for a Tree Removal Permit to verify that the applicant has provided all required information.
- .02 All applicable materials shall be reviewed by the Township Planner for his/her technical analysis and recommendation. The Township Planner shall notify the Planning Commission of his/her recommendation for either granting or denial of the Tree Removal Permit.
- .03 All applicable materials shall be reviewed by the Township forester for his/her technical analysis and recommendation. The Township forester shall notify The Planning Commission of his/her recommendation for either granting or denial of the Tree Removal Permit.
- .04 Where the site is proposed for development necessitating site plan review, site condominium approval, or plat approval by the Planning Commission, the Planning Commission shall be responsible for granting or denying the Tree Removal Permit, subject to approval, reversal, or modification by the Township Board with respect to site condominium or plat approvals.

NOV-13-98 WED 17:23

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.24

- .05 Where the site is proposed for development necessitating land division, the Planning Commission shall be responsible for granting or denying the Tree Removal Permit, subject to approval, reversal, or modification by the Township Supervisor.
- .06 Where the site plan review, site condominium approval, or plat approval by the Planning Commission is not required by Township Ordinance, and where the development does not necessitate land division, denying of a Tree Removal Permit shall be the responsibility of the Planning Commission.
- 11.02.00 Notice - Prior to a determination by the Planning Commission on a Tree Removal Permit application, notice of the application and the date, time and location of a planning commission meeting at which the application will be considered shall be published in a paper of general circulation within the Township. A copy of the notice shall be mailed to those persons to whom real property adjacent to the proposed activity is assessed including property directly across public right-of-ways and easements.
- .01 Where the proposed activity does not require site condominium or plat approval, the notice shall indicate a date prior to which written comments regarding the application may be submitted to the Township for consideration by the reviewing authorities.
- 11.03.00 Denial of Tree Removal Permit -
Whenever an application for a Tree Removal Permit is denied, the permit applicant shall be notified, in writing, of the reasons for denial.
- 11.04.00 Granting of a Tree Removal Permit -
Whenever an application for a Tree Removal Permit is granted, the reviewing authority shall:

8-25-90

- .01 Conditions. Attach to the granting of the permit any reasonable conditions considered necessary by the reviewing authority to ensure the intent of this Ordinance will be fulfilled and to minimize damage to, encroachment in or interference with natural resources and processes within wooded areas;
- .02 Completion of Operations. Fix a reasonable time to complete tree removal operations; and
- .03 Security. Require the permit grantee to file with the Township a cash or corporate surety bond or irrevocable bank letter of credit in an amount determined necessary by the Township to ensure compliance with Tree Removal Permit conditions and this Ordinance.
- .04 Validity of a Permit.
 - A. Any and all permits issued by the Township as requirements of this Ordinance shall be declared null and void if commencement of work so permitted is not started within a reasonable time, but not to exceed six (6) months.
 - B. In no case will the permit be valid for more than twenty-four (24) months. Permits not used within this period will become null and void, and future work will require a new application.
 - C. For purposes of this section, a permit shall be used when the work authorized by the permit is completed.

12.00.00 Article XII - Appeal

12.01.00 A permit approved by the Planning Commission shall not be issued until ten (10) calendar days following the date of the approval. Any person who is aggrieved by the granting or denying of a Permit required by this article may request an appeal of the decision to the Township Board.

NOV-13-98 WED 17:24

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P.22

12.02.00 A request for appeal must be filed within ten (10) calendar days following the grant or denial. If an appeal is requested during such ten-day period, the issuance of any permit shall be suspended pending the outcome of the appeal.

12.03.00 The Township Board upon review, may reverse, affirm or modify the determination and/or permit issued by the Planning Commission.

13.00.00 Article XIII - Display of Permit, Inspection

13.01.00 The Tree Removal Permit grantee shall conspicuously display the permit on-site. The permit grantee shall display the permit continuously while trees are being removed or replaced or while activities authorized under the permit are performed, and for ten (10) days following completion.

13.02.00 The permit grantee shall allow Township representatives to enter and inspect the premises at any reasonable time, and failure to allow inspection shall constitute a violation of this Ordinance.

14.00.00 Article XIV - Enforcement

14.01.00 Violation, Misdemeanor - Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor.

14.02.00 Injunction - Any activity conducted in violation of this Ordinance is declared to be a nuisance per se, and the Township may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation.

14.03.00 Fee for Illegally Removed Trees - In addition to any penalty provided for in the event of a conviction for violation of this Ordinance, any person who removes or causes any tree to be removed except in accordance with this Ordinance shall forfeit and pay to the Township a civil fee equal to the total value of trees illegally removed or damaged, as computed from the International Society of Arboriculture shade tree value formula.

NOV-13-98 WED 17:25

FENN & ASSOC SURVEYING

FAX NO. 8102549020

P. 23

- A. The fee shall accrue to the Township, and, if necessary, the Township may file a civil action to recover the fee. The Township shall place any sum collected in the Township Tree Fund.
- B. Alternatively, the Township may require replacement of illegally removed or damaged trees as restitution in lieu of the fee. Replacement will be on an inch-for-inch basis computed by adding the total diameter measured at d.b.h. in inches of the illegally removed or damaged trees.
- C. The Township may use other reasonable means to estimate the tree loss if destruction of the illegally removed or damaged trees prevents exact measurement. The Township may also require a combination of fee payment and tree replacement.

14.04.00 The Township may also issue a stop-work order or withhold issuance of a certificate of occupancy, permits, or inspections until the provisions of this Ordinance, including any conditions attached to a Tree Removal Permit, have been fully met.

14.05.00 Compliance with this Ordinance shall be enforced by the Township Supervisor and other enforcement officers so designated by Township Board resolution.

15.00.00 Article XV - Variance for Hardship

15.01.00 Authority Established - The Zoning Board of Appeals may grant a variance from these regulations if a finding by the Zoning Board of Appeals is made that undue hardship would result from strict compliance.

15.02.00 Conditions to be Prescribed - In granting any variance, the Zoning Board of Appeals shall prescribe conditions that it deems necessary or desirable for the public interest.

15.03.00 Findings - No variance shall be granted unless the Township Board finds:

NOV-13-98 WED 17:25

FENN & ASSOC SURVEYING

FAX NO. 8102549320

P. 24

- .01 That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land;
- .02 That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- .03 That the variance will further the objectives and policies of this Ordinance, the Code of Ordinances and the Master Plan.

18.00.00 Article XVI - Severability

This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

17.00.00 Article XVII Penalty

All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine or not more than \$500, or both, in the court's discretion.

18.00.00 Article XVIII - Repeal, Effective Date, and Adoption

18.01.00 Repeal - All regulatory provisions contained in other Township ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

18.02.00 Effective Date - To become effective thirty (30) days from publication in the Rochester Clarion July 26, 1990.

18.03.00 Adoption - Adopted by the Board of Trustees of the Charter Township of Oakland at a regular meeting thereof held on Tuesday, July 10, 1990.

Carolyn L. Phelps, Clerk
Charter Township of Oakland