

Charter Township of Ypsilanti

Office of Community Standards

7200 S. Huron Drive, Ypsilanti, MI 48197

Phone: (734) 485-3943

Website: <https://ytown.org>

**WOODLANDS PROTECTION
USE APPLICATION**

I. PROJECT LOCATION

Address: _____ City: _____ State: ____ Zip: _____

Parcel ID #: K-11-_____ Zoning _____

Name of Project/Proposed Development: _____

Project description: _____

Statement of purpose: _____

II. APPLICANT INFORMATION

Applicant: _____ Phone: _____

Address: _____ City: _____ State: ____ Zip: _____

Fax: _____ Email: _____

Property Owner (if different than applicant): _____ Phone: _____

Address: _____ City: _____ State: ____ Zip: _____

Fax: _____ Email: _____

Engineer/Architect: Firm: _____ Individual: _____

Address: _____ City: _____ State: ____ Zip: _____

Phone: _____ Fax: _____ Email: _____

III. FEES

Total: \$ _____

Breakdown of fee:

Non-refundable Fee: \$100

Refundable Deposit: \$1,000

IV. APPLICANT SIGNATURE

Woodlands Protection Use Application Checklist:

- The applicant has read Article III: Woodlands Protection Ordinance (attached)
- Name(s) and address(es) of all record owner(s) and proof of ownership are included. If applicant is not the fee-simple owner, the owner's signed authorization for application must be attached to this application.
- Scaled and accurate survey drawing, correlated with a legal description and showing all existing buildings, drives and other improvements.
- Description/Statement of purpose included.

Applicant Signature

Print Name

Date

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ARTICLE III. - WOODLANDS PROTECTION

Sec. 24-56. - Short title.

The ordinance codified shall be known and may be cited as the Ypsilanti Township Woodlands Protection Ordinance.

(Ord. No. 97-163, 1, 2-28-97)

Sec. 24-57. - Purpose.

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, constitutes important physical, aesthetic, recreational, and economic assets to existing and future residents of the township. Specifically, the township finds:

- (1) That woodland growth protects public health through the absorption of air pollutants and contamination, the buffering of excess noise and wind, the screening of undesirable views, the cooling of buildings in summer and insulating buildings in winter;
- (2) That woodlands provide for public safety through the prevention of erosion, siltation, and flooding;
- (3) That trees and woodland growth are an essential component of the general welfare of the township by maintaining natural beauty, recreational opportunities, wildlife habitat, and irreplaceable heritage for existing and future township residents;
- (4) That the protection of such natural resources is a matter of paramount public concern, as provided by Article IV, 552 of the Constitution of 1963, and the Environmental Protection Act of 1970, MCL 691.1201 et seq.; MSA 14.528(201);
- (5) To protect significant individual trees located on sites subject to development during the course of construction of improvements to benefit the development site and buildings on the site:
 - a. To provide for the protection, preservation, replacement, proper maintenance, and use of trees and woodlands located in the township in order to minimize disturbance to them and to prevent damage from erosion, siltation, and flooding;
 - b. To protect the woodlands (including trees and other forms of vegetation) of the township for their economic support of local property values when allocated to remain uncleared and/or unharvested;
 - c. To protect the woodlands (including trees and other forms of vegetation) of the township for their significance as large specimens of their species and/or rare and endangered species;
 - d. To protect functional strips of vegetation (including fencerows, hedgerows, shrubby borders of streams and public rights-of-ways, railroad-edge and road-edge) of the township for their significance as travel lanes for wildlife, noise buffer, visual screens, aesthetically pleasing enclosures and vistas for pedestrian and vehicular traffic;
 - e. 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.

(Ord. No. 97-163, 2, 2-28-97)

Sec. 24-58. - Definitions.

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The following terms, phrases, words and their derivatives shall have the meaning, given in this section, unless the context requires otherwise:

Bona fide agriculture 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.

Commercial nursery or 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 said licensee's business.

Development includes any lawful land use authorized under the township zoning ordinance, as amended.

Diameter breast high (d.b.h.) means the diameter in inches of a tree measured at four and one-half 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.

Forbs means flowering plants commonly referred to as "weeds" or "herbs" that are nonwoody and grown close to the ground.

Grubbing means the effective removal of under-story vegetation from a site which does not include the removal of any tree with a d.b.h. of greater than three inches.

Historical tree means a tree which, pursuant to section 24-61 of this article, has been designated by the township planning commission to be of notable historic interest to the township because of age, type, size, or historic association.

Land clearing means those operations where trees and vegetation are removed and which occur previous to construction of building (e.g. road right-of-way excavation, utility excavation, grubbing, and any other necessary clearing operation).

Large tract means a tract of one acre or more in an area.

Linkage vegetation means strips of vegetation defined as primary linkage strips and secondary linkage strips including fencerows, hedgerows, shrubby stream banks, road-edge, railroad-edge, and public rights-of-way that function as travel lanes for wildlife, pedestrian and vehicular traffic, as passive and recreational green belts, and as visual screens, noise buffers, and weather control vegetation.

Locate means construct, place, insert, or excavate.

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 owner or agent stating that no tree exists upon the site of eight-inch d.b.h. or greater, or no linkage vegetation of significant value to the township.

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

Owner means any person who has domain 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, including all tree removal companies and persons removing trees on behalf of others.

Commission means the planning commission of the township, organized under article XXV of the township zoning code as amended.

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Primary linkage strips means strips of vegetation, 20 to 30 feet across, that exist as old fencerows, hedgerows, road-edge, railroad-edge, shrubby stream sides, and are composed of trees in the center, shrubs bordering the trees and grasses and forbs on the edge and serve as a connective link to other linkage strips in the township or abutting communities.

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

Remove and *removal* include the cutting of trees and the injury and/or destruction of any form of vegetation, by whatever method, on any lands subject to this article.

Secondary linkage strips means strips of vegetation, ten to 20 feet across, that exist as old fencerows, hedgerows, road-edge, railroad-edge, shrubby stream sides, and are composed primarily of shrubs bordered by grasses and forbs. Isolated trees may be present but are not historical or specimen trees.

Significant individual trees means deciduous hardwood or coniferous trees existing in a healthful condition with d.b.h. in excess of eight inches.

Small tract means a tract of less than one acre in an area.

Specimen tree means a tree which, pursuant to section 24-61 of this article, has been designated as a specimen tree by the township planning commission because of its high value as a representative tree of a species, due to its size, age, or other prominent characteristic.

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 and landings, dams, waterway obstruction, towers, or utility transmission devices.

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

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

Woodlands areas means all lands which are subject to this article under section 24-59.

(Ord. No. 97-163, 3, 2-28-97)

Sec. 24-59. - Land to which article applies.

This article applies to:

- (1) All large or small tracts of land which have a historic tree, specimen tree, an endangered species of plant, or any significant individual tree with d.b.h. of 36 inches or greater.
- (2) All large or small tracts of land which have a canopy cover of at least 10,000 square feet formed by trees, a majority of which trees have a d.b.h. of eight inches or greater.
- (3) All primary and secondary linkage strips; and
- (4) All trees, eight-inch d.b.h., within 20 feet of the road's edge.

(Ord. No. 97-163, 4, 2-28-97)

Sec. 24-60. - Reserved.

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Sec. 24-61. - Historic or specimen trees and linkage strips.

- (a) A person may nominate a tree within the township for designation as a historic tree, or specimen tree, or a linkage strip based upon its age, type, size, historic, or cultural associations. Such a nomination shall be made upon that form provided by the planning commission.
- (b) A nomination for designation of a historic or specimen tree shall be brought up 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 15 days in advance of the time, date, and place that the planning commission will consider the designation. The notice shall advise the owner that the designation of the tree as a linkage strip or historic or specimen tree will make it unlawful to remove, damage, or destroy the vegetation absent the granting of a woodlands use permit by the township.
- (c) The planning commission may designate a tree upon finding that, because of one or more of the following unique characteristics, the tree should be preserved as a historic tree:
 - (1) The tree is associated with a notable person or historic figure;
 - (2) The tree is associated with the history or development of the nation, the state, or the township;
 - (3) The tree is associated with an outstanding person or institution;
 - (4) The tree is associated with early forestry or conservation;
 - (5) The tree is associated with American Indian history, legend or lore.
- (d) The planning commission may designate a tree as a specimen tree upon a finding that, because of one or more of the following unique characteristics, the tree should be preserved as a specimen tree:
 - (1) The tree is the predominant tree within a distinct, scenic or aesthetically valued setting;
 - (2) The tree is of unusual age or size for that species and this climatic and geographic location. Examples include trees listed on the American Associate Social Register of Big Trees or the Michigan Botanical Club as a large tree;
 - (3) The tree has gained prominence due to unusual form or botanical characteristics.
- (e) The planning commission may designate a vegetative linkage strip as a strip of vegetation that, for one or more of the following reasons, should be preserved as a linkage strip:
 - (1) Roadside strips of vegetation which contain large trees or shrubs that are scenic or aesthetically valued;
 - (2) The strip of vegetation offers passive or recreational opportunities as travel lanes for pedestrian traffic around the community by linking different parts of the township with walking trails, bike trails and so forth;
 - (3) The strip of vegetation is adjacent to streams, drains, creeks, swamps, or bogs so designated on the wetlands map.
- (f) The tree or vegetative strip designated by the planning commission as a specimen tree, a historic tree, or linkage strip shall be so depicted on a woodlands map.

(Ord. No. 97-163, 6, 2-28-97)

Sec. 24-62. - Property inspection.

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The township, its officials, agents, and employees may make reasonable entry upon any lands or water within the township for the purpose of enforcement of this article or the conduct of any investigation, survey or study contemplated by this article.

(Ord. No. 97-163, 7, 2-28-97)

Sec. 24-63. - Use permits required.

- (a) Except for those activities expressly permitted by section 24-64 it is unlawful for any person to conduct any activity within a woodlands area without first having obtained a use permit upon proper application, including but not limited to the following:
- (1) Remove, damage, or destroy any tree or similar woody vegetation with a d.b.h. of eight inches or more;
 - (2) In a woodlands area that is also within a wetland or watercourse regulated by the wetlands protection act MCL 324.30301 et seq., remove, damage or destroy any tree or similar woody vegetation of any d.b.h.;
 - (3) Remove, damage, or destroy any historic or specimen tree;
 - (4) Remove, damage, or destroy any vegetation within a linkage strip designated by the planning commission; and
 - (5) Land clearing or grubbing.

(Ord. No. 97-163, 8, 2-28-97)

Sec. 24-64. - Permitted activities.

Notwithstanding the prohibition of section 24-64, the following activities are permitted within woodlands areas without a use permit, unless otherwise prohibited by statute or ordinance:

- (1) The transplanting of a tree on a small tract within the designated woodlands areas;
- (2) The removal of a tree with a d.b.h. of less than eight inches on a small tract where a valid certificate of occupancy has been issued;
- (3) The removal or trimming of dead, diseased, or damaged trees or other woody vegetation provided that the damage resulted from an accident or nonhuman cause and provided further that the removal or trimming is accomplished through the use of standard forestry practices and techniques;
- (4) Conservation of soil, vegetation, water, fish, wildlife, and other natural resources;
- (5) Outdoor recreation, such as field trails for nature study, hiking and horseback riding, boating, trapping, hunting, and fishing where otherwise legally permitted and regulated;
- (6) Farming, gardening, grazing of small animals, harvesting of crops, forestry, and nursery practices, where otherwise legally permitted, and where compatible with the individual woodland ecology and not in conflict with the standards contained in section 24-67, provided that a forest management use permit is obtained pursuant to section 24-65(d) for forestry activities within a woodlands area;
- (7) The operation and maintenance of existing dams and other water control devices, if in compliance with all applicable statutes and ordinances; and

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- (8) Actions taken in times of emergency, including the repair or restoration of public roads, electrical line, natural gas lines, sewage lines, and storm drainage systems when immediate action is necessary to protect public health or safety or to prevent damage to property. A person taking such emergency action shall within 14 days thereof provide a report to the township planning commission describing the action taken, the nature of the emergency necessitating the action, and the extent of any cutting or removal of, or damage to, any trees within the woodlands area. The matter be reviewed by the township planning commission who shall make a determination as to whether the resulting tree cutting, removal or damage was reasonably necessitated by the emergency situation. To the extent the resulting tree cutting, removal, or damage exceed that reasonably necessitated by the emergency situation, the person shall be required to provide replacement trees in accordance with the replacement standards of section 24-68.

(Ord. No. 97-163, 9, 2-28-97)

Sec. 24-65. - Use permit application.

- (a) A use permit applicant shall submit the following materials to the community development department:
- (1) A completed use permit application which includes the following:
 - a. The name, address, and telephone number of the applicant and of the applicant's agent;
 - b. The name, address, and telephone number of the owner of the property;
 - c. The project location, including, as applicable, the street, road, or highway, section number, name of subdivision, and name of any watercourse which will or may be impacted; and
 - d. A detailed description and statement of purpose of the proposed activity.
 - (2) A use permit application fee in an amount as set by resolution of the township board;
 - (3) Where the applicant is not the owner of the property, a written authorization from the owner permitting the proposed activity; and
 - (4) A site plan including topographical survey, sealed by a registered engineer or registered surveyor, which includes the following information:
 - a. The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structure and improvements, if any;
 - b. Locations, based upon actual field survey, identifying by number all existing trees of eight-inch d.b.h. or greater and all other trees to be protected. All such trees proposed to remain, to be transplanted or to be removed shall be so designated. The plan shall be accompanied by a separate key identifying the trees numbered by size, common and genus name (e.g.: maple/acer), condition, density and spacing. All such trees shall be tagged in the field with their identifying numbers;
 - c. Location, based upon actual field survey, of all primary and secondary linkage strips on the site as well as descriptions of the dominant shrubs and, if present, trees within the association;
 - d. Existing general soil conditions throughout the parcel;
 - e. A statement showing how trees not proposed for removal are to be protected during land clearing, construction, and on a permanent basis, including the proposed use of protective barriers, tree wells, tunneling or retaining walls (see section 24-69, Tree Protection During Construction);

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- f. Location and dimensions of all setbacks, easements, and existing and proposed public and private utilities;
 - g. Statements as to grade changes proposed and proposed drainage pattern changes for the lot or parcel and how such changes will affect these regulations. Existing contour interval of no more than two feet, and vertical contour data at an interval of no more than one foot for all areas to be disturbed by proposed tree removal operations, extending for a distance of at least 50 feet beyond the limits of such areas. Indicated elevations shall be based on United States Geological Survey datum;
 - h. The number of trees to be cut which have a d.b.h. of eight inches or more or the number of shrubs to be cut in a linkage strip, plus a plan and cost estimate for their replacement.
 - i. Information as to how all trees and linkage strips to be retained shall be identified at the site, whether by painting with a water base paint, flagging, etc., prior to field inspection; and
 - j. The legal property description, zoning classification (including adjacent parcels), existing structures, the extent of existing woodland areas, and the size and location of all elements of proposed activity.
- (b) *Alternative site plan information.* Where the proposed activity is located on a site with no trees of eight-inch d.b.h. or greater or linkage strips, the applicant shall so indicate in his/her application, and submit a no-tree affidavit. In such case, the township shall conduct an inspection of the site. If the inspection substantiates the applicant's claim, the applicant shall be relieved of the necessity of providing unnecessary information, such as the topographic survey, etc. However, where there are trees less than eight inches d.b.h. that are otherwise potentially good specimens of that particular woodlot or linkage strip, additional information will be required, such as quality, size species, health, and such additional information as the township request. In those instances where areas of woodlands or linkage strips on a site are not to be disturbed, the site plan shall designate such areas as "not to be disturbed" and shall not be required to identify, except for general information as to species, number and size of protected trees and shall further be required to protect such areas from encroachment during construction activities.
- (c) *Land clearing or grubbing.* Where the proposed activity is land clearing or grubbing only, the preparation of a site plan which depicts the location of all trees as required by subsection (a)(4)b of this section shall not be required. However, the applicant shall provide general information as to the number, species, and size of the protected trees on the property before a use permit for the clearing or grubbing may be granted.
- (d) *Forest management use permit.* An owner may be granted a forest management use permit for the purpose of maintaining and improving a woodlands area by professional forestry management methods. Application for this permit must 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 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 article which are applicable solely to development or land clearing activities shall not apply. The township shall not levy any fee for this special permit.
- (e) *De Minimis activities.* Where the proposed activities involve the removal of not more than ten trees of eight inches d.b.h. or greater on lots or tracts of up to five acres; not more than 20 trees of eight-inch d.b.h. or greater on the tracts over five acres and up to ten acres; and not more than 30 trees of eight-inch d.b.h. or greater on the tracts over ten acres, and is not taken in conjunction with the development of a parcel.

(Ord. No. 97-163, 10, 2-28-97)

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Sec. 24-66. - Review of use permit application.

- (a) The township administration shall review the submitted use permit application to ensure that all required information has been provided. At the request of the applicant or the township, an administrative review meeting shall be held to review the proposed activity in light of the purpose and review standards of the chapter. A field inspection of the site may be conducted. A report and recommendation shall be prepared by either the township administration or the consultant following the review.
- (b) After review of the use permit application and site visit by the township administration or consultants, the application shall be granted subject to clarification or denied by one of the following parities. The granting or denial of the use permit shall be governed by the review standards contained in section 24-67.
 - (1) If the subject property is a single-family residential site, the township administration shall process the application. The issuance of permits under these circumstances would not involve the review of the planning commission. The township administration shall consult the township community development director prior to issuing the permit.
 - (2) If the proposed activity does not otherwise require site plans or plat approval (not including activities addressed in subsection (b)(1) of this section) the granting or denying of the use permit shall be the responsibility of the township community development director.
 - (3) The granting or denying of all other use permits shall be the responsibility of the township planning commission.

(Ord. No. 97-163, 11, 2-28-97)

Sec. 24-67. - Review standards.

The following standards shall govern the grant or denial of use permit applications:

- (1) No application shall be denied solely on the basis that some trees are growing on the property under consideration. However, the protection and conservation of irreplaceable natural resources from pollution, impairment or destruction is a paramount concern. While the preservation of woodlands, trees, linkage strips and endangered species and related natural resources is the object of this article, every effort will be made to meet not only that objective but to preserve the basic property rights of the landowner as well.
- (2) The integrity of woodland areas shall be maintained irrespective of whether such woodlands cross property lines.
- (3) Diversity of tree species shall be maintained where essential to preservation of woodland.
- (4) The removal or relocation of trees or shrubs shall be limited to those instances:
 - a. When necessary for the location of a structure or site improvement and when no feasible alternative location for the structure or improvements can be achieved without causing undue hardship;
 - b. The tree is dead, diseased, injured and in danger of falling, is too close to proposed or existing structures, interferes with existing utility services, interferes with safe vision clearances, or conflicts with other ordinances or regulations.

Replacement of trees as provided in section 24-68 shall not apply to removals permitted under this paragraph. This exemption shall not be construed by affected property owners as an exemption from providing new plantings on the development site as a part of a

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landscaping plan which may be required by the planning commission in order to address the loss of trees or other vegetation due to construction activity.

Replacement trees when required shall be provided as follows:

1. Tree replacement at 100 percent of trees removed will be required except in instances where the location of buildings, structures or grading are necessary to allow the development of the site and replacement of the trees cannot be accommodated on the site.
 2. In instances where 100 percent tree replacement, is not feasible as provided in this section, the planning commission may allow reduction of the replacement trees to not less than 30 percent for industrial and business properties and not less than 50 percent replacement for residential properties.
 3. Tree replacement as required shall be on the site in question; or, in lieu thereof, monies may be placed in escrow with the township at a fee established by the township for tree purchase and planting on public properties within the township.
 4. Street trees required for subdivision may serve as a credit of 50 percent toward the number of replacement trees required.
- (5) Where the removal or cutting of linkage strip, a portion of linkage strip, or any trees eight inches d.b.h. or greater is permitted, replacement trees shall be provided in accordance with section 24-68.
- (6) The proposed activity shall include necessary provisions for tree protection in accordance with section 24-69.
- (7) Where the proposed activity consists of land clearing, it shall be limited to designated street rights-of-way, drainage, and other utility areas, and areas necessary to the construction of proposed buildings and structures, as depicted on the plat or site plan. Where the proposed activity consists of grubbing, all trees with a d.b.h. of three inches or greater will be left undisturbed with the drip line understory left intact.
- (8) Where the proposed activity includes residential development, residential units shall blend into the natural setting of the landscape for the enhancement of the sound, orderly, economic growth and development and for the protection of property values in this township.
- (9) The proposed activity shall be in compliance with all other applicable statutes and ordinances.
- (10) The burden of demonstrating that no feasible and prudent alternative location or improvements without undue hardship shall be upon the applicant.

(Ord. No. 97-163, 12, 2-28-97)

Sec. 24-68. - Relocation or replacement.

- (a) Whenever use permit allows the removal of trees of eight-inch d.b.h. or greater or shrubs within a linkage strip, said trees shall be relocated or replaced by the permit grantee. Such plant relocation or replacement shall be on a one-to-one ratio, provided that all replacement trees are of a two-inch caliper or greater. Shrubs should be at least two feet high. No credit shall be given for trees otherwise required pursuant to the landscaping requirements of the township zoning ordinance or the planned development district.
- (b) All replacement trees shall satisfy American Association Nurseryman standards, and be:
 - (1) Nursery grown;

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- (2) State department of agriculture inspected;
 - (3) Tree spade transplanted while in the dormant state, or, if not in the dormant state, having been balled and burlapped with a solid well-laced root ball when in the dormant state;
 - (4) No. 1 grade, with a straight unscarred trunk and a well-developed uniform crown (park grade trees are unacceptable);
 - (5) Staked, fertilized, watered and mulched in accordance with standard planting practices;
 - (6) Guaranteed for one year, including labor, to remove and dispose of dead materials;
 - (7) Approved through inspection by the township;
 - (8) Of the same species as the removed plants where available from Michigan nurseries. Where plants of the same species are not available, replacement shall be made by recommendation of the planning commission and shall only consist of species within the forest association the woodland is composed of.
- (c) The location of replacement trees shall be subject to the approval of the township, and shall be such as to provide the optimum enhancement, preservation and protection of woodland area. Where woodland densities permit, tree relocation or replacement shall be within the same woodland area as the removed plants.
- (d) Where tree relocation or replacement is not feasible within the woodland area, or on the property where the activity is to be conducted, or on other approved property within the township, the permit grantee shall pay into the township tree fund monies for tree replacement in a per-tree amount representing the current market value for the tree replacement that would be utilized for the maintenance and preservation of woodland areas and the planting and maintenance of trees within the township.

(Ord. No. 97-163, 13, 2-28-97)

Sec. 24-69. - Tree protection during construction.

- (a) Before development, land clearing, filling or land alteration for which a use permit is required by this article commences, the developer shall be required to erect for the protection of remaining plants, barriers as approved by the township. Such protection shall remain in its approved location until such time as it is authorized to be removed by the township, or issuance of a final certificate of occupancy. During construction, no attachments or wires shall be attached to any of said trees so protected. Wood, metal, or other substantial material shall be utilized in the construction of barriers. Barriers will be required for all trees being protected, except in the following cases:
- (1) Street right-of-way and utility easements may be ribboned by placing stakes a maximum, of 50 feet apart and tying ribbon, plastic tape, rope, etc., from stake along the outside perimeters of such areas to be cleared; and
 - (2) Large property areas separate from the construction or land clearing area into which no equipment will venture may also be ribboned off as above.
- (b) It is unlawful for any person to conduct any activity within the drip line of any tree designated to be retained, including but not limited to the placing of any solvents, material, construction machinery, or soil within such drip line.
- (c) The township may require the developer to also reasonably highlight those trees which are to be preserved during the course of construction, through such means as flagging, use of biodegradable paint or other form of designation determined by the township staff.

Charter Township of Ypsilanti

Office of Community Standards

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WOODLANDS PROTECTION USE APPLICATION

(Ord. No. 97-163, 14, 2-28-97)

Sec. 24-70. - Display permits.

The permit grantee shall prominently display on the site the permit issued. Such display shall be continuous while trees are being removed or replaced or while work authorized under the permit is being done, and for at least ten days after the completion thereof. Failure to allow entry for inspection by township representatives pursuant to the conditions attached to the permit shall constitute a violation of this article.

(Ord. No. 97-163, 15, 2-28-97)

Sec. 24-71. - Taking without compensation.

- (a) This article shall not be construed to abrogate rights or authority otherwise protected by law.
- (b) For the purposes of determining if there has been a taking of property without just compensation under Michigan law, an owner of property who has sought and has been denied a permit or has been made subject to modifications or conditions in the permit, under this article, may file an action in a court of competent jurisdiction.
- (c) If the court determines that an action of the township pursuant to this article constitutes a taking of the property of a person, then the court shall order the township, at the township's option, to do one or more of the following:
 - (1) Compensate the property owner for the full amount of the lost value;
 - (2) Purchase the property in the public interest as determined before its value was affected by this article;
 - (3) Modify its action with respect to the property so as to minimize the detrimental effect to the property's value; and
 - (4) Modify its action with respect to the property so that the action will not constitute a taking of the property.

(Ord. No. 97-163, 16, 2-28-97)

Sec. 24-72. - Appeals.

If a person subject to regulation under this article disagrees with an official interpretation of a certain provision of this article, they may appeal the interpretation to the township board. The request for appeal shall be in letter form to the township board submitted to the attention of the township clerk. The township board shall consider the matter of the appeal at a regular scheduled board meeting. The township board may refer the matter to the planning commission for their review and recommendation. In any case, the decision of the township board shall be final.

(Ord. No. 97-163, 17, 2-28-97)

Sec. 24-73. - Interpretation and application.

In the interpretation and application, the provisions of this article 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 article 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 woodland area; provided, however, that where this article imposes a greater restriction than is required by existing ordinance or by rules, regulations, or permits, the provisions of this article shall control.

(Ord. No. 97-163, 18, 2-28-97)

Sec. 24-74. - Violation; penalties; enforcement.

- (a) Any person violating any of the provisions of this article shall be guilty of a municipal civil infraction, and upon conviction thereof shall be fined not more than \$500.00 for each such violation. Each day upon which such violation occurs shall constitute a separate offense.
- (b) In addition to the penalties provided in this article, any person who violates any provision of this article shall forfeit and pay to the township a civil penalty equal to the total value of those trees illegally removed or damaged, as computed from the International Society of Arboriculture shade tree value formula. Such sum shall accrue to the township and may be recovered in a civil action brought by the township. Said sum so collected shall be placed in the township tree fund. Replacement of illegally removed trees may be required as restoration in lieu of money. This replacement will be computed on an inch-for-inch ratio based on the total diameter measured at d.b.h. in inches of the illegally removed trees. If, because of destruction of the removed trees, exact inch-to-inch measurements cannot be obtained, the township may use other means to estimate the tree loss. A combination of money and tree replacement may be required.
- (c) Any use or activity in violation of the terms of this article is declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction. The township board in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate, or restrain the violation. All cost, fees, and expenses in connection with such action shall be assessed as damages against the violation.
- (d) If activities are conducted in a woodlands area contrary to a use permit, this article or other applicable laws or ordinances, the township community development department shall give written notice to the permit grantee, or if a permit has not been issued, then to the person conducting the activity, notifying him/her of the violation of the permit, this article, or other applicable law or ordinance, and to appear and show cause why the activity should not be stopped. If the permit grantee or the person conducting the activity fails to appear and show cause within one full work day after notice is delivered, the community development department shall cause a written order to stop the activity to be posted on the premises. A person shall not continue or cause or allow to be continued, activity in violation of such an order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop is not obeyed, the enforcing agency may apply to the circuit court of Washtenaw County for an order enjoining the violation of the order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.
- (e) Any person violating the provisions of this article shall become liable to the township for any expense or loss or damage occasioned by the township by reason of such violation.

(Ord. No. 97-163, 19, 2-28-97) Secs. 24-75—24-95. - Reserved.