

**STATE OF MICHIGAN
COUNTY OF OAKLAND
Holly Township**

ORDINANCE NO.

An ordinance to amend Article V, Environmental Regulations of the Holly Township Code.

HOLLY TOWNSHIP ORDAINS

Section 1 of Ordinance

The Holly Township Code is amended to read as follows:

Section 32-204- TREE AND WOODLANDS PROTECTION

Section 2 of Ordinance

(a) Purpose and Intent

The purpose and intent of this Ordinance is to help prevent unregulated and, in many cases, unnecessary removal of trees and related natural resources. This will help to protect and maintain trees and woodlands within the Township for the following reasons:

- (1)** The protection of trees within the Township is desirable and essential to the present and future health, safety, and welfare of all the citizens of the Township;
- (2)** Trees contribute significantly to the natural beauty, character, and value of property within the Township;
- (3)** The protection of trees is consistent with the goal of the Holly Township Master Plan to maintain the trees and woodlands that contribute to the unique character of the community.
- (4)** Trees and woodlands help protect ground water recharge areas, reducing risk of groundwater contamination.
- (5)** Trees and woodlands help protect public health through the absorption of air pollutants and contamination and reducing carbon dioxide content in ambient air.

(b) Applicability – Tree Removal Permit Requirements

- (1)** A tree removal permit is required for removal of Regulated Trees, unless exempt under Section (c) of this ordinance.
- (2)** Any tree removal which is not subject to exemption must comply with the Section (d) or Section (e) of this ordinance, as applicable.

- (3) The application for a tree removal permit shall be submitted to the zoning administrator or designee for review and approval pursuant to Section (d) or Section (e).
- (4) No tree that was planted or preserved as part of any landscape plan or in accordance with any street tree requirements approved in conjunction with a subdivision or site plan shall be removed, except for such trees directed to be removed pursuant to Sections (d), (e), and (f).
- (5) **Any clear cutting (land clearing) activity on any property in Holly Township.**
- (6) **On any property in Holly Township undergoing new construction or redevelopment.**

(c) Exemptions

Notwithstanding the provisions of this article, the following activities are exempt from the provisions of this Article, unless otherwise prohibited by statute or ordinance.

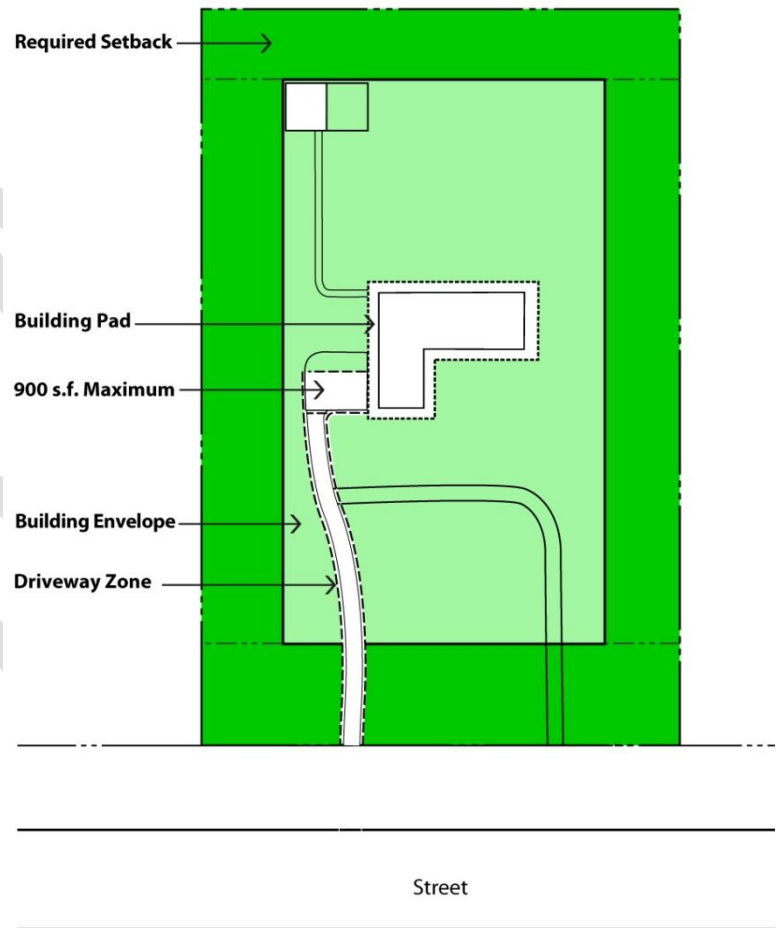
- (1) *Public Utilities.* The trimming of trees necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities which grants such permission. Removal of trees for public utilities shall comply with Section (e).
- (2) *Public Agencies.* The removal or trimming of trees if performed by or on behalf of the Township, County, State or other public agencies in a public right-of-way, on public property or on an easement for public utilities in connection with a publicly awarded construction project such as the installation of public streets or public sidewalks.
- (3) *Routine Maintenance.* The trimming and pruning of trees as part of normal maintenance if performed in accordance with accepted forestry or agricultural standards and techniques.
- (4) *Public Safety.* The removal or trimming of dead, diseased or damaged trees if performed by or on behalf of the Township, County, State, Public Utility, or other public agencies in a public right-of-way, utility easement, or on public property if done to prevent injury or damage to persons or property.
- (5) *Dead, Diseased, or Damaged Trees.* The removal or trimming of dead, diseased or damaged trees provided that the damage resulted from an accident or non-human cause and provided further that the removal or trimming is accompanied through the use of standard forestry practices and techniques.
- (6) *Disasters and Emergencies.* Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze or dangerous and infectious insect infestation or disease or other disaster, in order to prevent injury or damage to persons or property or to restore order.

- (7) *Removable Trees.* The removal of Removable Trees as defined in section (d).
- (8) *Exemptions for Individual Parcels, Excluding Parcels Being Divided or Subdivided Into Three or More Lots or Units.* The owner may remove the greater of 4 Regulated Trees or 10% of the Regulated Trees within a two year period without a permit. If the owner elects to remove a percentage of the Regulated Trees on the parcel, they must adequately document the total number of Regulated Trees on the parcel.

(d) Definitions

The following terms, words and phrases shall have the following meaning for purposes of this Section.

- (1) *Activity* shall mean any operation, development or action, including but not limited to constructing buildings or other structures; depositing or removing material; land balancing; draining, pumping or diverting water; paving; tree removal or other vegetation removal.
- (2) *Building Pad* shall mean the building footprint plus that area within fifteen (15) feet of the building footprint of any principal structure and the applicable area for accessory structures as defined in Section 32-134 of the Zoning Ordinance, and required septic fields.
- (3) *Building Envelope* shall mean that area between the Setback and the Building Pad, as defined herein.
- (4) *Diameter Breast Height (DBH)* shall mean the diameter in inches measured four and one half (4 ½) feet above ground of a Regulated Tree.
- (5) *Drip Line* shall mean an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.



Building Envelope

(6) *Driveway Zone* shall mean an area leading from the street to either the garage in the case of a residence, or the main building in the case of a non-residential parcel. The Driveway Zone may include an area up to 900 square feet located directly in front of the garage or main building. The Driveway Zone shall not apply to circular driveways for residential property or parking lots for non-residential parking lots.

(7) *Land Clearing* shall mean operations which remove trees and vegetation in connection with the installation of storm or sanitary sewers, public or private utilities, streets, parking, or any other clearing or grading of the property at any time prior to or during construction of a building.

(8) *Regulated Tree* shall mean any tree eight (8) inches DBH or greater that is not a Removable Tree.

(9) *Removable Tree* shall mean those trees designated by resolution of the Planning Commission as being appropriate for removal due to their nuisance characteristics. Such trees shall be listed by common and botanical name. Such list shall be maintained by the Township and shall initially include the following tree species. Additional trees may be added to this list by Township Commission resolution:

- Ash (diseased only)
- Autumn Olive
- Box Elder
- Catalpa
- Common or Glossy Buckthorn
- Cottonwood
- Elm, except American
- Horse Chestnut (nut bearing)
- Poplar
- Russian Olive
- Soft Maples (Silver)
- Tree-of-Heaven
- Black Willow
- Weeping Willow

(10) *Replacement Tree* shall mean any tree not listed as a Removable Tree, as defined above. Replacement Trees shall be species, varieties or cultivars that are commonly grown and available in Michigan tree nursery stock. Replacement Trees may not be counted toward landscaping required by other ordinances.

(11) *Setback* shall mean a distance of 25 feet from all property lines for the purpose of this ordinance.

(12) *Tree survey* shall mean a drawing and listing prepared and sealed or signed by a registered land surveyor, landscape architect, or civil engineer and verified by a registered arborist, forester, or landscape architect containing all of the following information:

1. The shape and dimensions of the property and the location of any existing and proposed structure or improvement;
2. The identification (common and botanical name), size, location and tagging in the field of all Regulated trees using numbered, non-corrosive metal tags, and shown on the plan with the corresponding number.

(13) *Undeveloped* shall mean a parcel of land which is substantially unimproved with buildings or structures on the effective date of this Section.

(e) Tree Removal on Individual Parcels, Excluding Parcels Being Divided or Subdivided Into Three or More Lots or Units

- (1) *Submittal Requirements.*** A tree removal permit shall be required when the activity does not satisfy an Exemption in Sec. (c). The tree removal application shall be submitted to and reviewed by the building official. The application and development proposal shall conform to the provisions contained herein.
- (2) *Permit Application.*** A completed tree removal permit application on a form prescribed by the township which shall include the following information:
- a. The name, address and telephone number of the property owner and applicant, if different from owner;
 - b. The project location, including as applicable, the address, the street, road or highway, section number, lot or unit number and the name of the subdivision or development;
 - c. A description of the activity to be undertaken, including a sketch or plot plan showing the location of Regulated Tree(s) to be removed and Replacement Trees that satisfy Section (g); and
 - d. A tree removal permit application fee in the amount established by resolution of the Township Board.
- (3) *Review Standards.*** A tree removal permit shall be granted when application and tree replacement requirements specified herein are satisfied based upon one or more of the following circumstances:
- a. Where no other practical alternative exists for the placement of a building, building addition, structure, driveway, deck, patio, recreation facility or lawn area for use by the inhabitants of the building or dwelling, or any other authorized improvements, but in the vicinity of an existing tree.
 - b. Where the location or growth of a tree inhibits the enjoyment of any outdoor pool, patio, recreation facility or deck.
 - c. Where the location, angle or growth of an existing tree makes it a hazard to structures or human life.
 - d. Where the selective removal of trees will result in a healthier and more sustainable woodland environment without adversely impacting the character of the surrounding area.
- (4) *Reviewing Body.*** The zoning administrator shall be the reviewing body for individual parcels, excluding parcels being divided or subdivided into three or more lots or units

(5) *Planning Commission Review.* If, in the opinion of the zoning administrator, the request for tree removal does not satisfy the above criteria, then the application may be forwarded to the Planning Commission for review and decision.

(6) *Appeals.* If, in the opinion of the Planning Commission, the request for tree removal does not satisfy the above criteria, then within 30 days from the Planning Commission's decision, an applicant may appeal in writing to the Zoning Board of Appeals for review and decision.

(f) Tree Removal on Parcels Being Divided or Subdivided Into Three or More Lots or Units.

A. *Submittal requirements.* An applicant for subdivision approval of three or more lots shall submit the following materials to the Township:

1. *Tree Removal Permit Application.* A completed tree removal permit application on a form prescribed by the township which shall include the following information:

- a. The name, address and telephone number of the applicant and/or the applicant's agent;
- b. The name, address and telephone number of the owner of the property and written authorization from the owner allowing the proposed activity;
- c. The project location, including as applicable, the address, the street, road or highway, section number, lot or unit number and the name of the subdivision or development;
- d. A detailed description of the activity to be undertaken including a Tree Survey and Landscape Plan as described below; and
- e. A tree removal permit application fee in the amount established by resolution of the Township Township Board.

2. *Tree Survey.* A sufficient number of copies as determined by the Building official of a Tree Survey and a plan for proposed tree removal shall be provided.

3. *Landscape Plan.* A sufficient number of copies of a landscape plan prepared by a registered landscape architect shall be submitted with the application for tree removal, and shall include the following information:

- a. The total number and location of Regulated Trees on site and Regulated Trees to be removed.
- b. The replacement plan showing the type, location, and size of Replacement Trees on the plan and in a separate tabular summary.

B. *Review standards.* Reviews of an application for a tree removal permit for subdivisions of three or more lots shall be conducted by the Planning Commission. The following

points shall be considered in the review and approval of an application for a tree removal permit, if required by this section.

1. The protection and conservation of natural resources from pollution, impairment or destruction is of paramount concern. Therefore, all woodlands, trees and related natural resources shall have priority over development when there are feasible and prudent location alternatives on the site for proposed buildings, structures or other improvements. The applicant must consider and pursue alternative development options available under the Zoning Ordinance in order to preserve the woodlands and trees.
 2. The developer may remove Regulated Trees within those portions of the site that are set aside or required for installation of storm water management, sanitary and water lines, roads, utilities, and other requirements of the Township without replacement. The developer may not clear cut woodland areas on the property and must consider routes for sewer and utilities that preserve the established woodlands on the property.
 3. The developer may remove Regulated Trees within other areas of the site, including those for building construction, provided they comply with the applicable replacement requirements in Section (g) of this ordinance. The integrity of woodland areas shall be maintained to the greatest extent reasonably possible, regardless of whether such woodlands cross property lines.
 4. Where the proposed activity involves residential development, the residential structures shall, to the extent reasonably feasible, be designed and constructed to use the natural features of the site.
 5. The suitability of the Landscape and Replacement plan based on maintaining the character and harmony of the surrounding area.
- C. *Reviewing Body.* The Planning Commission shall be the reviewing body for tree removal permits on subdivisions of three or more lots.
- D. *Appeals.* If, in the opinion of the Planning Commission, the request for tree removal does not satisfy the above criteria, then within 30 days from the Planning Commission's decision, an applicant may appeal in writing to the Zoning Board of Appeals for review and decision.

(g) Relocation and Replacement

- A. *Replacement ratio.* The permit holder shall provide Replacement Trees for each Regulated Tree to be removed in excess of exemption in accordance with the following schedule based on the location of the tree to be removed. When the number of Replacement Trees results in a fraction, any fraction up to one-half shall be disregarded, and any fraction over and including one-half shall require one Replacement Tree. The

minimum size for Replacement Trees is 8 feet in height for coniferous trees and 2.5 inches in caliper for deciduous trees.

Replacement Tree Size	Number of Replacement Trees Per Tree to Be Removed ¹		
	Building Envelope	Front Setback	Other Setback
Coniferous (height):			
8 feet	1.0 trees	2.0 tree	1.5 trees
8.01 – 10 feet	0.75 trees	1.5 trees	1.0 trees
Greater than 10 feet	0.5 tree	1.0 trees	0.75 trees
Deciduous (Caliper):			
2.5 – 3 inches	1.0 trees	2.0 tree	1.5 trees
3.5 – 3.99 inches	0.75 trees	1.5 trees	1.0 trees
4 inches or greater	0.5 tree	1.0 trees	0.75 trees

1. No replacement trees are required within the Building Pad and Driveway zone as defined in this ordinance.
2. An applicant may request a modification of the number or Replacement Trees required to the Planning Commission for the use of coniferous Replacement Trees greater than 12 feet in height and deciduous trees greater than 6 inches in caliper.
3. For non-single family lots located in a sending zone, as defined in the Holly Township Master Plan, the Number of Replacement Trees per Tree to be Removed shall be doubled.

B. *Minimum requirements.* All Replacement Trees shall satisfy current American standards for nursery stock and shall be as follows:

1. Nursery grown or comparable, or relocated from the same parcel.
2. Number one (1) grade, with a straight, unsecured trunk and a well-developed uniform crown.
3. Guaranteed for one (1) year from the time of planting.
4. A species not included on the list of Removable Trees.
5. Tree replacement shall occur within one year of permit issuance except for parcels greater than 10 acres. For parcels greater than 10 acres Replacement Trees shall be planted within three years or prior to a change in use, whichever occurs first or by providing an acceptable tree removal and replacement plan approved by the Planning Commission.

- C. *Location.* The location of any Replacement Tree shall be on the same parcel as the removed tree whenever feasible, as determined by the reviewing body. If the tree replacement on the same parcel is not feasible the reviewing body may:
1. Designate another planting location for the Replacement Tree within the Township, approved by the Township Board; or
 2. Require the permit holder to deposit into the Township General Fund, Tree Preservation Line, an amount determined by resolution of the Township Board for tree replacement that would otherwise be required. These funds shall be utilized for the planting, maintenance and preservation of trees and woodland areas within the Township.
- D. *Maintenance.* Replacement Trees shall be staked (where practical), fertilized, watered and mulched to ensure their survival in a healthy, growing condition.
- E. Property Owners are responsible to take all measures necessary to ensure the health of Replacement Trees.
- F. Performance guarantees.
1. For permits issued under Sec. (e), if the replacement requirement is not satisfied within one year of the permit issuance, then the township may bill the property owner for the cost of said Replacement Trees and their planting. At the end of each fiscal year the Zoning Administrator shall report any such charges to the Township Board. When reported, the charges shall become a lien upon the property on which such Replacement Trees should have been planted and shall be assessed and collected and the township may deposit any funds received in the township's tree fund. In the case where the tree removal permit was issued in connection with a building permit, the zoning administrator may withhold final project approval until the replacement obligation is satisfied or bond is provided. The property owner shall be responsible for timely advising the Township when the required Replacement Trees have been planted on the property owner's property.
 2. For permits issued under Sec. (f), the applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other township-approved performance security in an amount determined by the building official, equal to one and one-half (1-1/2) times the amount required for the required Replacement Trees according to the approved landscape plan, together with reasonable administrative expenses. Required performance guarantees shall be provided to the Township after approval of the proposed tree removal permit but prior to the initiation of any tree removal. After determination by the building official that all Replacement Trees are in compliance with the approved landscape plan, the letter of credit or other securities shall be released.

(h) Terms of Permit

- A. Any and all tree removal permits issued by the Township to a developer shall expire (unless extended) at the same time as the contemporaneous approval granted by the Township, for the development, if any (i.e. tentative preliminary plat, preliminary site plan, special land use, site plan approval, etc.).
- B. Any and all tree removal permits issued by the Township to any persons for an activity regulated under this Section for which a contemporaneous approval of the development is not required by the Township (i.e. removal of trees by a builder in connection with construction of a residence upon a parcel) shall expire one (1) year from the date of issuance.
- C. Any activity regulated under this Section which is to be commenced after expiration of a tree removal permit shall require a new applicant, additional fees and new review and approval.

(i) Display of Permit

The permit holder shall conspicuously display the tree removal permit on-site. The permit shall be displayed continuously while trees are being removed or while activities authorized under the permit are performed and for ten (10) days following completion of those activities. The permit holder shall allow the Township to enter and inspect the premises during reasonable business hours or any other time during which activity is conducted as regulated by this Ordinance. Failure to allow an inspection authorized under this Section is a violation of Sections (e) or (f) above.

(j) Enforcement and Administration

To ensure enforcement of this Section and the approved plan for tree removal, various inspections may be performed at the site at the direction of the Township. The applicant will be responsible for all inspection fees. The Township shall have the authority to promulgate additional regulations to implement the terms of this Section.

(k) Violations

A violation of this Article shall be subject to the same penalty provisions as violations of the Zoning Ordinance.

(l) Variance

Applicants may seek variances from the provisions of this Ordinance by filing a written request with the Township which variances may be granted by the Zoning Board of Appeals upon a showing of practical difficulty.

(m) Tree Protection

The following tree protection standards shall be followed:

- A. All trees which have been approved for removal shall be so identified on site by fluorescent orange spray paint (chalk base) or by red flagging tape prior to any activity. Trees selected for transplanting shall be flagged with a separate distinguishing color.
- B. No person shall conduct activity within the drip line of any tree designated to remain, including but not limited to the placing of solvents, building materials, construction equipment or soil deposits.
- C. During construction, no person shall attach a device or wire to any remaining tree, except to cordon off protected areas as required.

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