

**ARTICLE VII. - SUBDIVISION DESIGN STANDARDS**

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[Sec. 58-51. - Generally.]

Sec. 58-52. - Streets.

Sec. 58-53. - Blocks.

Sec. 58-54. - Lots.

Sec. 58-55. - Natural features.

Sec. 58-56. - Landscape easement.

Sec. 58-57. - Floodplains.

Sec. 58-58. - Topsoil.

Sec. 58-59. - Cluster or planned unit development.

Sec. 58-60. - Trees.

Secs. 58-61—58-70. - Reserved.

**Sec. 58-55. - Natural features.**

The natural features and character of lands must be preserved, wherever possible. Due regard must be shown for all natural features, such as large trees, natural groves, water courses and similar community assets that will add attractiveness and value to the property if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers (dams, bulkheads, retaining walls, etc.), where appropriate, shall be required.

*(Ord. No. 53, 8-17-98)*

**Sec. 58-56. - Landscape easement.**

(a)

A landscape easement shall be required to be placed next to incompatible features and existing or proposed land uses, such as commercial and industrial land contiguous to residential uses; highways, regional, major, secondary and collector roads (without residential frontage); railroads, etc., to screen the view from incompatible features and land uses; to minimize noise;

and to assure adequate outdoor living areas. A landscaping plan shall be submitted to the planning commission and reviewed based on the following standards:

(1)

A landscape easement shall be a minimum of 20 feet wide.

(2)

A landscape easement shall not be a part of a roadway right-of-way, utility easement or lot.

(3)

A landscape easement must be identified on the plat as a common area, park or other appropriate designation.

(4)

The area of the plat designated as the landscape easement must contain the following statement on the plat: "The entire common area is subject to a private easement dedicated to the ownership association for landscaping."

(5)

Should the landscape easement be separated by a roadway, etc., then the continuation of the landscape easement must be identified and contain the dedication as set forth above.

(6)

A complete site plan prepared and sealed by a registered professional licensed by the State of Michigan to prepare such plan. The plan must show the finished grade of the landscape easement; the topography, including berms, drainage, relationship to the structures built on each lot, the sidewalks, catch basins, slopes, watering systems; the location of all trees and shrubs, including their spacing and size; signs; lighting; and other landscape features. The plan must be drawn to scale and labeled to explain all features.

(7)

The plan must show a complete plant list, with the number, size, genus and species of each plant noted. Although a specific number of plants are not required, the number of trees and shrubs planted must effectively screen the subdivision from incompatible features and land uses. The final design and number of trees rests with the township board of trustees.

(8)

An ample variety and quantity of ornamental plants, trees and shrubs should be used in the plan. Some dominant types are usually chosen, with subordinate types interspersed for accent. Repeating certain

types creates unity, but no types should be overused. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity.

(9)

The plan must also indicate the planting and staking details of all plantings to be installed. Further, all plant materials used in the plan shall be of acceptable varieties and species, hardy in Macomb County, conform to standards of the American Association of Nurserymen, and have passed any inspections required under state regulations. All plants must be planted in fertile soil.

(10)

The following plant materials are specifically prohibited for use in any plan considered under provisions of these regulations: box elder, soft maple, elm, poplar, willow, nut-bearing horse chestnut, tree of heaven, catalpa, fruit-bearing trees, all thorned trees and shrubs, gooseberry and cottonwood.

(11)

The acceptable size of the plant materials used in the plan must meet or exceed the sizes listed in the following:

Large evergreen trees (including arborvitae)	5 feet to 6 feet in height
Large deciduous shrubs	3 feet to 4 feet in height
Small and large deciduous trees	2-inch to 2½-inch caliper
Small deciduous shrubs	18 inches to 2 feet in height
Small evergreen shrubs	18-inch to 2-foot spread
Large evergreen shrubs	2 feet to 3 feet in height
Ground cover	2-inch peat pot
Vines	2-gallon container

(12)

The landscape easement area must be provided with a watering system that is separately metered and utilized to provide the plants with scheduled watering to maintain the landscaping in a healthy growing condition. Adequate drainage must also be provided per township engineering standards.

(13)

The landscape easement area must be sodded with pre-grown grass seed and placed to enhance the tree and shrub installation.

(14)

All signs and landscape features, such as walls, light standards or fixtures, kiosks and/or other ornamental structures such as gazebos

and arches, constructed in accordance with township standards, must be shown on the plan.

(15)

The construction of any feature of the plan must respect any and all easements of the plat. Any encroachment into an easement must have approval of the township and/or county or other entity which may have jurisdiction over said easement.

(16)

The plan must include a written cost breakdown of each item of the plan determined by the registered professional who sealed the plan.

(17)

The restrictive covenants of the subdivision shall make provision for the responsibility and maintenance of the landscape easement. A homeowner association shall be established for the subdivision to maintain the landscaping easement. In the event the association shall, at any time, fail to maintain the landscape easement in accordance with the approved landscape plan, then the township is authorized to enter the landscape easement to maintain the same. Cost and expenditures for such maintenance shall be at the expense of the association.

(18)

The location of all shrubs must respect the property lines of each lot.

(b)

Building permit for construction of structures within a subdivision shall not be issued until such time as the landscape easement is completed and accepted by the township.

*(Ord. No. 53, 8-17-98)*

### **Sec. 58-60. - Trees.**

(a)

Existing trees near street rights-of-way shall be preserved by the subdivider.

(b)

Street trees shall be provided: at least one per lot, or not less than one tree for each 50 feet —placed in the front yard in an area not encumbered by utility easements.

(c)

The following species of trees shall be permitted:

(1)

Norway maple

(2)

- (3) London plane
  - (4) Pin oak
  - (5) Honey locust
  - (6) Cork tree
  - (7) Sugar maple
  - (8) Little leaf linden
  - (9) Modesta ash
  - (10) Idaho locust
  - (11) Moraine locust
  - (12) Hop horn beam
  - (13) Paul scarlet hawthorne
- Such other species as may be approved by the superintendent of the department of public works.

*(Ord. No. 53, 8-17-98)*

**ARTICLE V. - ENVIRONMENTAL PROVISIONS**

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Sec. 76-171. - Intent.

Sec. 76-172. - Screening requirements.

Sec. 76-173. - Tree preservation requirements.

Sec. 76-174. - Landscaping requirements.

Sec. 76-175. - Parking lot landscaping requirements.

Sec. 76-176. - Reserved.

Sec. 76-177. - Lighting.

Sec. 76-178. - Performance standards.

Secs. 76-179—76-210. - Reserved.

Sec. 76-173. - Tree preservation requirements.

(a)

Intent. The intent of this section is to protect and preserve trees and related natural resources in the Charter Township of Chesterfield, Macomb County, Michigan; to regulate the use of land area subject to development; to conserve property values and natural resources; to encourage the use of land in accordance with its character and sound environmental development; to protect aesthetic, recreational and other natural resource values associated with trees; to require permits for the removal of trees; to establish application requirements and review procedures and standards; to require the installation of tree protection devices prior to development, construction or land clearing activities; and, to require replacement trees under certain circumstances.

(b)

Purpose. The purpose of this section is to promote feasible and prudent alternatives to the destruction and removal of trees consistent with promotion of the public health, safety and welfare in light of the paramount public concern for the protection of natural resources from impairment or destruction; to provide for the protection and preservation of trees in order to minimize destruction and disturbance to them, the wildlife habitat that they provide and other consequential effects on other natural resources; to protect and preserve trees for their economic support of the character, and ecological significance. The purpose of this section is not to be excessively restrictive or prohibitive but to provide for the submission and evaluation of feasible and prudent alternatives to the destruction, removal and relocation of trees in accordance with the standards and procedures set for herein prior to such action being taken.

(c)

Findings. The township finds that protection of natural resources is a matter of paramount public concern as provided by Article IV, Section 52 of the Constitution of the State of Michigan and the Natural Resources and Environmental Protection Act, being Act No. 451 of the Public Acts of 1994, as amended. The removal of trees constitute destruction of a natural resource and may be protected from removal under the aforesaid Act; rapid growth and the spread of development have had the effect of encroaching upon, despoiling and eliminating many trees and other forms of vegetation within the township with a significant consequential effect on other natural resources; and, such growth and development has clearly emphasized the need for regulatory control to achieve harmonious integration of improvements to land with these natural resources in order to maximize preservation of such natural resources.

The township further finds that trees protect public health through the absorption of air pollution and contamination, by conserving water quality, by the reduction of noise, and the mental and physical damage related to noise pollution, and through their cooling effect in the summer months; that trees contribute to public safety through the prevention of soil erosion, siltation and flooding; and that trees and the wildlife habitat that they provide promote the general welfare by maintaining natural beauty, recreation and education opportunities, natural visual screening of land uses and improvements thereon, and represent an irreplaceable heritage for existing and future residents of the township.

(d)

Definitions. For the purposes of this section, the following terms, words and phrases, and their derivatives, shall have the meanings ascribed to them in this section. Terms, words and phrases not defined in this section shall have meanings ascribed to them in Article XVII of this Code.

Activity shall mean any use, operation, development or action caused by any person, including, but not limited to, constructing, operating or maintaining and use or development; erecting buildings or other structures; depositing or removing material; dredging; ditching; land balancing; draining or diverting of water; pumping or discharge of surface water; grading; paving; tree removal or other vegetation removal; excavation; mining or drilling operations.

A.E.G. shall mean the diameter in inches of a tree measured at four-and-one-half feet above the existing grade.

Farm shall mean the land, buildings, and machinery used in the commercial production of farm products as defined by the Michigan Right to Farm Act, being Act No. 93 of the Public Acts of 1981, as amended. Existing, active farming operations shall be exempt from the provisions of this Code.

Farm operation shall mean a condition or activity, which occurs on a farm in connection with the commercial production of farm products as defined by the Michigan Right to Farm Act, being Act No. 93 of the Public Acts of 1981, as amended.

Farm products shall mean those plants and animals useful to human beings as defined by the Michigan Right to Farm Act, being Act No. 93 of the Public Acts of 1981, as amended.

Generally accepted agricultural and management practices shall mean those practices as defined by the Commission of Agriculture of the State of Michigan.

Grubbing shall mean the effective removal of understory vegetation from a site.

Land clearing shall mean those activities where trees and vegetation are removed from a site prior to construction or development.

Person shall mean any individual, firm, partnership, association, corporation, company, organization or other legal entity of any kind.

Regulated tree shall mean a tree measuring six-inch A.E.G. or greater.

Remove or removal shall mean the act of removing a tree by digging up or cutting down, or inflicting damage to a tree or its root system.

Removable tree shall mean those trees designated by resolution of the township board as being appropriate for removal due to their characteristics. Such trees shall be listed by common and botanical name. Such a list shall be maintained by the planning department and shall initially include the following tree species.

Common Name Botanical Name

1. Chinese elm *Ulmus Pumila*
2. Cottonwood *Populus Deltoides*
3. Large-toothed aspen *Populus Grandidentata*
4. Lombardy poplar *Populus Nigra* (var. *italica*)
5. Russian olive *Elaeagnus Augustifolia*
6. Trembling aspen *Populus Tremuloides*
7. Weeping willow *Salix Babylonica*
8. White poplar *Populus Alba*
9. Silver maple *Acer Saccharinum*
10. Fruit-bearing trees

Site shall mean any parcel or parcels of land, the dimensions of which are shown on a deed recorded with the Macomb County Register of Deeds, or any parcel or parcels which have been separated therefrom in accordance with the provisions of the Subdivision Control Act of 1967, as amended, and which exists as described on the effective date of this Code. For the purpose of this section, "site" shall include all parcels utilized for meeting the lot area requirements, setback requirements, detention and retention requirements, and other developmental requirements for the proposed development or project.

Township shall mean the Charter Township of Chesterfield.

Transplanting shall mean the digging up of a tree from one place on a site and the planting of the same tree in another place on the site.

Tree shall mean a woody plant with an erect perennial trunk, which at maturity are 13 feet or more in height, which has a more or less definite canopy of foliage.

Tree canopy shall mean the area of land where the outermost limits of the branches of a tree or group of trees projects perpendicularly to the existing grade of a site.

Wetland shall mean any area of land, which is subject to and regulated by the provisions of Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

(d)

Tree removal permit required. It shall be a violation of this Code for any person, except as otherwise provided herein, to remove, cause to be removed, transplant or destroy a regulated tree within the township without obtaining a tree removal permit issued in accordance with this Code. A tree removal permit shall be required for the removal, transplanting or destruction of any regulated tree, unless such removal, transplanting or destruction is otherwise permitted by this section.

(e)

Exceptions to tree removal permit requirements. Notwithstanding the requirements of subsection (d), the following activities are allowed without a tree removal permit unless otherwise prohibited by law:

(1)

On occupied property which is five acres or less and a valid certificate of occupancy has been issued, removal, transplanting, or destruction of no greater than ten percent of the total number of regulated trees on the property per calendar year.

(2)

The removal of "removable trees", dead or damaged trees.

(3)

The trimming, maintenance, or care of trees or other woody vegetation in accordance with standardized forestry and horticultural practices and techniques as established by the American Nursery and Landscape Association or the Natural Arborist Association.

(4)

The removal or destruction of trees damaged by tornado, windstorm, flood, freeze, lethal insect infestation, or man-made or natural disaster, in order to prevent injury or damage to persons or property.

(5)

The removal, transplanting or destruction of trees in order to perform maintenance or repair of lawfully located roads, public utilities, structures and facilities used in the service of the public, provided that such roads, public utilities, structures and facilities are not materially changed or enlarged.

(6)

Existing and active farm operations shall be exempt from this section of the Code.

(f)

Application for tree removal permit. An application for a tree removal permit shall be filed with the planning department. When a site is proposed for site plan, plat, division of land or other permit pursuant to the codes of the township, said application for a tree removal permit shall be made at the same time as such other related application. The application for a tree removal permit shall consist of the following:

(1)

Tree removal permit application and payment of the application fee. The application fee shall be established by resolution of the township board.

(2)

Current county aerial photographs or copy thereof suitable quality (minimum scale of 1" = 100') of the site.

(3)

The current U.S.G.S. quadrant map of the site.

(4)

A tree location survey, which shall have the following information and details:

a.

A topographical map at the same scale as the related site plan, plat, or survey drawing.

b.

The shape and dimensions of the site, together with the existing and proposed locations of structures and improvements, including existing and proposed utilities and proposed changes to existing grades.

c.

Location and dimensions of all set back and existing or proposed easements.

d.

All existing regulated trees on the parcel shall be inventoried by actual field survey and shown on the topographical map by type, location and tree canopy drawn to scale. Existing trees of six inches A.E.G. or greater shall be shown on the topographical map with the ground elevation at the base of each such tree. All existing regulated trees shall be superimposed on the related site plan, plat or survey drawing for division of land. Groups of trees whose individual bases are located at a ground elevation within one foot of each other may be shown on the topographical map as a group with the overall tree canopy drawn to scale, by predominant species with an average base elevation of each group.

e.

Isolated regulated trees shown on the topographical map shall be tagged in the field with identifying numbers, using non-corrosive metal tags. Groups of trees shall be tagged sufficiently to identify the group upon field inspection. Such identifying numbers shall be shown on the topographical map.

f.

All regulated trees proposed to remain, to be relocated or to be removed, shall be so designated by the identifying number.

g.

If existing regulated trees are to be relocated, the proposed location for such trees, together with a statement setting forth how such trees are to be removed, protected and/or stored during land clearing, development and construction and how they are to be maintained after construction.

h.

A statement setting forth how existing regulated trees which are not to be relocated are to be protected during land clearing, development, construction and on a permanent basis including proposed use of tree wells, protective barriers, tunneling or retaining walls.

i.

The number of regulated trees to be removed which are six inches A.E.G. or greater.

j.

All information and details shall be provided by a registered landscape architect, certified arborist or forester who must verify the contents by seal or signature, whichever applies.

(5)

In lieu of the tree location survey required by subsection (f)(4), the applicant may submit an affidavit that no regulated trees exist on the site. Upon submission of such certification, the township shall conduct an inspection of such site. If one or more regulated trees are found to exist on such site, the applicant shall submit the tree location required by subsection (f)(4) and pay to the township the cost of said inspection.

(g)

Review of tree removal permit application. The township shall process a tree removal permit application as follows:

(1)

The planning department or other designated department shall review the tree removal permit application to verify that all required information has been provided. At the request of the applicant or the planning department, an administrative meeting (pre-planning) may be held to review the application in light of the intent, purpose and review standard of this section.

(2)

Upon receipt of a completed application, the planning department may conduct or authorize a field investigation to review and verify the accuracy of the information and details provided by the applicant. The receipt of the application shall constitute permission from the owner of the site to conduct such on-site investigation, and inspect the site of any land disturbing or tree removal activities.

(3)

No person shall refuse entry or access to any authorized representative or agent who requests entry for the purpose of inspection and who presents appropriate identification, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(4)

If the tree removal permit application requests the commission to waive the required tree location survey of subsection (f)(4) for all or any area of the site, the commission may waive such requirement for all or any area of the site upon the following conditions being satisfied:

a.

A field investigation of the site to review and verify the accuracy of the information and details provided by the applicant;

b.

The location of the proposed activity being flagged, marked or otherwise identified by the applicant on site at the time of field investigation;

c.

The applicant or an authorized representative of the applicant being present during such field investigation; and

d.

The commission finding that the proposed activity in the area of the site, for which a waiver is sought, meets the standards set forth in subsection (h).

(5)

If a tree removal permit application relates to an activity on a site necessitating review and approval by the township board, the board shall consider said application concurrent with its review of the related site plan, plat, division of land or other permit application together with the recommendations, if any, of the commission. If the board approves the related site plan, plat, division of land or other permit application, such approval together with any terms and conditions attached thereto, shall be considered approval of the application for a tree removal permit.

(6)

When a tree removal permit application is not related to an activity necessitating review and approval by the township board, the planning commission shall be responsible for granting or denying the application. The commission shall consider said application concurrent with its review of any related site plan or other permit application. If the commission approves the related site plan or other permit application, such approval together with any terms and conditions attached thereto, shall be considered approval of the application for a tree removal permit.

(7)

Whenever an application for a tree removal permit is granted, the township board or the commission may:

a.

Attach to the granting of the tree removal permit any reasonable conditions considered necessary to ensure that the intent and purpose of this section will be fulfilled;

b.

Affix a reasonable time to carry out the activities approved by the permit; and

c.

Require the applicant to post with the township a cash deposit, certified check or irrevocable bank letter of credit, whichever the applicant selects, or a surety bond acceptable to the approving authority, in an amount sufficient to ensure compliance with any tree removal permit conditions and this section.

(8)

Whenever an application for a tree removal permit is denied, the applicant shall be notified, in writing, of the reasons for such denial.

(h)

Standards for review by the approving authority. Applications to remove regulated trees shall not be approved unless and until the applicant demonstrates that:

(1)

No feasible alternative location(s) is available on the site for the proposed building, structures or other improvements which would allow for the preservation of all regulated trees or a greater amount of regulated trees. The applicant shall demonstrate that all reasonable efforts have been undertaken in the site plan layout, architectural layout and engineered design of the proposed development to preserve regulated trees. The plan shall show, at a minimum, that:

a.  
Building placement, driveway, walkway and parking areas shall be designed in such a way as to avoid unnecessary removal of regulated trees.

b.  
The required utility, drainage and grading plan shall be developed in such a way as to avoid removal of regulated trees wherever possible and to protect remaining regulated trees from risk of loss through change in grade or moisture.

c.  
Landscape planning shall incorporate tree preservation and replacement required by this Code and shall respect the locations and types of such trees with regard to the long-term health of such trees and plants.

(2)  
The proposed activity complies with all applicable statutes and ordinances.

(3)  
The proposed activity includes necessary provisions for tree relocation or for tree replacement as permitted by this article.

(4)  
Tree removal or transplanting shall be limited to the following:

a.  
When removal or transplanting is necessary for the construction of a building, structure or other improvement, and the applicant has demonstrated there is no feasible and prudent location alternative for a proposed building, structure or other improvement; or,

b.  
When a tree is dead, in decline, in danger of falling, is located too close to existing buildings or structures, interferes with existing utility service or drainage, creates unsafe vision clearance or otherwise endangers persons or property; or,

c.  
The tree is a "removable tree".

(5)  
Trees removable, meeting the standards of this section, shall not have the effect of reducing the tree canopy of regulated trees on a site in excess of the standards of this paragraph. The regulated tree canopy on said site or parcel shall not be reduced below the following minimum requirements, unless otherwise permitted in this Code:

Proposed Development Activity Minimum Percentage of Tree Canopy Preservation

One-family Residential Subdivision or Site Condominium 25%

One-family Residential Acreage 35%

Multiple Family 25%

Mobile Home Park 05%

Office 20%

Commercial 15%

Industrial 10%

Forested wetlands preserved in accordance with Part 303, Wetlands Protection of NREPA, as amended, may be used in the above calculation of tree canopy area.

(i)

Tree protection. Prior to development, construction and/or land clearing the applicant shall do the following:

(1)

All regulated 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. Regulated trees selected for transplanting shall be flagged with a separate distinguishing color.

(2)

Erect construction limit fencing to restrict access to protected areas and install tree protection devices where required to protect tree roots, branches and/or tree trunks. All tree protection fencing and tree protection devices shall be approved by the building official prior to any tree removal or construction activity on the site.

(3)

No damaging attachments, wires (other than cable wires for trees), signs or permits may be fastened to any tree protected by this Code.

(4)

The township may assess fees to the developer to utilize services of an arborist or similar expert to verify plans and on-site compliance.

(j)

Replacement of trees.

(1)

The removal or relocation of regulated trees which results in the reduction of the site's tree canopy in an amount greater than permitted in Section 9.00 herein, shall only be approved if such removal and/or relocation meets all of the following applicable requirements:

a.

The location of existing regulated trees prevents the reasonable development of a lot or parcel or the physical use thereof. It shall be the burden of the applicant to prove that no feasible alternative location of the structures or improvements can be achieved without causing undue hardship. Regulated tree removal shall not be granted where an alternative design solution exists consistent with the permitted use of the property.

b.

The regulated trees interfere with safe vision clearances or conflicts with other ordinances or regulations.

c.

The trees are dead, diseased or otherwise damaged to the extent that it will not survive. Such trees shall be exempt from replacement requirements of this Code.

d.

The regulated trees pose a safety hazard to buildings, structures, pedestrians or vehicular traffic or threaten to cause disruption to public utility service.

e.

Regulated trees that completely prevent access to a lot or parcel shall be permitted to be removed to the extent to provide a means of ingress/egress acceptable to the township and the road authority with jurisdiction.

f.

Removal of the regulated trees is consistent with good arboricultural and/or forestry practices with regard to the health of the overall woodland area.

(2)

The township shall not permit regulated tree removal or regulated tree relocation requests until such time that a tree replacement plan is submitted and approved by the township. Trees shall be planted evenly throughout the property in areas suitable for such trees. The sum of the canopy area of the replacement trees and the trees preserved on the site shall equal or exceed the tree canopy required to be preserved under subsection (h)(5) of this Code. No trees required by this Code such as, but not limited to, screening trees, parking lot trees or frontage trees shall be counted towards the tree replacement calculations. The canopy calculations shall be based on the average size canopy at planting time for the types of trees being planted (canopy at maturity is not an acceptable means for meeting replacement requirements).

(3)

All replacement trees shall be at least eight feet tall and have a three-inch A.E.G. or greater, and shall be inspected and approved by a building official or other designated official on-site upon planting. Such trees shall be planted with a minimum tree spacing of 15 feet apart and in accordance with the standardized forestry and horticultural practices as established by the American Nursery and Landscape Association or the Natural Arborist Association. Each such tree shall be staked, fertilized, mulched and watered. All replacement trees shall be guaranteed for one year.

(4)

All replacement trees shall satisfy American Nursery and Landscape Association standards and shall be:

a.

Nursery grown;

b.

State department of agriculture inspected;

c.

No. 1 grade with straight unscarred trunk and a well developed uniform crown; and

d.

Tree spade transplanted while in a dormant state, or if not in a dormant state, having been balled and burlapped with a solid well-laced root ball when in a dormant state.

(5)

The applicant and any person who applies for a building permit in connection with the proposed activity shall be responsible for planting replacement trees as required by this section.

(6)

Replacement trees shall not be planted within any easements of record and shall be planted prior to the issuance of a final certificate of occupancy.

(7)

Removable trees shall not be planted as replacement trees.

(k)

Bonding.

(1)

The commission will evaluate all applications requesting the removal of regulated trees. If upon completion of the site evaluation, the commission deems it appropriate to allow such regulated tree removal, a bond shall be required. The bond shall be secured by the township as a mechanism to ensure performance and compliance with this section. The township board may waive this requirement for tree removal activities on individually owned single family residential lots.

(2)

The required bond amount will be 110 percent of the total cost for purchasing and replanting trees to satisfy the tree replacement requirements of this Code. A tree replacement cost obtained from a plant nursery will be provided to the township with the tree removal request and the bond amount will be based on the tree replacement cost. The township reserves the right to request additional replacement cost if deemed appropriate. The township will hold the bond until the project activity, including tree replacement to satisfy the tree replacement requirements, is completed. If the required tree replacement is not completed within six months from the date of the issuance of a tree removal permit, the township will attempt to contact the property owner (via certified mail) for a project update. Should the property owner not respond within 30 days of receipt of the status request, the bond will be utilized to complete the tree planting requirement.

(l)

Appeal. A tree removal permit approved by the commission shall not be issued until ten days following the date of the approval. An applicant who is aggrieved by the grant or denial of a tree removal permit may request an appeal of the decision to the township board. A request for appeal must be filed within ten days following the grant or denial. If a request for an appeal is filed, the issuance of the tree removal permit shall be suspended pending the outcome of the appeal. The township board shall, within 20 days, affirm, modify or reverse the determination of the commission.

(m)

Variances for hardship. The township board may grant a variance from the provisions of this section when undue hardship may result from strict compliance therewith.

(1)

In granting any variance, the township board shall prescribe conditions that it deems necessary or desirable in the public interest and in furtherance of the intent and purpose of this section.

(2)

No variance shall be granted unless the township board finds:

a.

There are special circumstances or conditions affecting the site such that the strict application of the provisions of this section would deprive the applicant of the reasonable use of his or her land;

b.

That the variance is necessary for the preservation and enjoyment of a substantial property of the applicant; and,

c.

That the variance will further the objectives and policies of this section and other Code provisions of the township.

(3)

No variance shall be granted for financial hardships.

(Ord. No. 125, § 1(1.1), 4-1-02)

Editor's note—

Ord. No. 125, § 1(1.1), adopted April 1, 2002, repealed and replaced in its entirety § 76-173, which formerly pertained to preservation of wooded and shrubbed areas, and derived from Ord. No. 110, § 5.02, effective November 1, 1996.