

## Village of Bingham Farms – Tree Ordinance

### CHAPTER 93: TREE AND WOODLANDS PROTECTION

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#### **§ 93.01 FINDINGS.**

The Village of Bingham Farms 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 (Act 451, Public Acts of 1994 as amended). Continued growth, new development, and redevelopment in Bingham Farms, and increased demand on natural resources have the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation, natural resources, and processes associated with wooded areas. If preserved and maintained in an undisturbed and natural condition, these resources constitute important physical, aesthetic, recreational, and economic assets to existing and future residents of the village. Specifically, the village finds that:

- (A) Woodland growth protects public health through the absorption of air pollutants and contamination, through the reduction of excessive noise and mental and physical damage related to noise pollution, and through its cooling effect in the summer months;
- (B) Woodlands provide for public safety through the prevention of erosion, siltation, and flooding;
- (C) Trees and woodland growth are an essential component of the general welfare of the village by virtue of maintaining play areas for children and natural beauty, recreation opportunities and irreplaceable heritage for existing and future residents; and
- (D) The protection of such natural resources is a matter of paramount public concern in the interest of health, safety and general welfare of the residents of the village.

(Ord. 189, passed 8-23-04)

## § 93.02 INTENT AND PURPOSE.

The intent and purpose of this chapter is to promote feasible and prudent alternatives to the destruction and removal of trees and woodlands 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 and woodlands in order to minimize destruction and disturbance to them, the wildlife habitat that they provide, and other consequential effects on other natural resources; and to protect and preserve trees and woodlands for their economic support of local property values, natural beauty, wilderness character, and ecological significance. The intent of this chapter is not to be excessively restrictive nor prohibitive, but to provide for the submission and evaluation of feasible and prudent alternatives to the destruction and removal of trees and woodlands in accordance with the standards and procedures set forth herein prior to such action being taken.

(Ord. 189, passed 8-23-04)

## § 93.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONIFEROUS TREES.** Trees that are typically evergreen and bear cones.

**DECIDUOUS TREES.** Trees, including ornamental and canopy, that shed their leaves.

**DIAMETER BREAST HEIGHT (d.b.h.).** The diameter of a tree, in inches, measured at 4 ½ feet above the ground.

**HISTORIC TREE.** A tree which has been designated by the Planning Commission to be of notable historic interest to the village because of its age, type, size, or historic association.

**NUISANCE TREE.** A tree that is diseased or infected by parasites and where an outbreak of infestation has caused the State of Michigan to issue a quarantine or ban the transportation of such species.

**REGULATED TREES.** Include all deciduous trees having a six inch d.b.h. or greater and coniferous trees 20 feet in height or greater.

**REMOVE, REMOVED, REMOVAL.** To fully or partially cut down, damage, destroy, or move (transplant) a tree.

**SITE.** A parcel of land such as a subdivision lot, condominium unit and every other separately described area of land in the village.

**SPECIMEN TREE.** A tree which has been designated by the Planning Commission because of its high value as a representative tree of a particular type or species, due to its size, age, or other prominent botanical characteristics.

**TREE.** A woody plant which attains the height of at least ten feet at maturity and has a single main stem or trunk.

**VILLAGE ADMINISTRATOR.** The Village Clerk or other person designated to administer this chapter by resolution of the Village Council.

(Ord. 189, passed 8-23-04)

## § 93.04 REMOVAL PROHIBITIONS AND PERMIT REQUIREMENTS.

(A) No more than three regulated trees may be removed from a site within a two year time period without first obtaining a tree removal permit from the Village Administrator and no regulated tree shall be removed from a site without first providing notice to the Village Administrator that identifies the tree and removal date. Every person that removes or authorizes removal of a regulated tree from a site is responsible for complying with this section.

(B) No tree removal permit may be approved or issued for activity that will or may cause or result in the removal of more than 20% of the regulated trees on a site unless a tree replacement plan conforming to the requirements in § 93.09 is submitted and approved by the village.

(Ord. 189, passed 8-23-04)

## **§ 93.05 TREE REMOVAL PERMIT EXEMPTIONS.**

The following activities are exempt from the tree removal permit requirements of this chapter:

(A) The removal of dead or damaged trees where the death or damage resulted from an accident or non-human cause;

(B) The trimming, maintenance, or care of trees in accordance with standard forestry and horticultural practices and techniques as established by the American Association of Nurserymen or an equivalent organization promulgating standards for care and improvement of trees;

(C) The removal or destruction of trees damaged by tornado, windstorm, flood, freeze, fire, dangerous insect infestation, or man-made or natural disaster, in order to prevent injury or damage to persons or property;

(D) 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;

(E) The removal, trimming, maintenance, transplanting or destruction of trees in the area encompassed by the right-of-way of a public street or an easement for public utilities.

(Ord. 189, passed 8-23-04)

## **§ 93.06 PERMIT APPLICATIONS.**

A tree removal permit application shall include the following:

(A) A tree removal permit application form containing the following information:

(1) Address, legal description and parcel identification for the site.

(2) Property owner names and mailing addresses.

(3) Where tree removal will be by other than property owners, contractor name, address, licensing and insurance information.

(4) Scaled map or drawing of the site showing the size, description and location of the trees proposed for removal.

(5) Information or statements that confirm that the standards and conditions for approval of a tree removal permit in § 93.08 will be satisfied.

(B) If a tree/woodlands management plan is required it shall include:

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

(2) Location and dimensions of all setbacks and existing or proposed easements.

(3) An identifying number designating all existing trees proposed to remain, to be relocated or to be removed.

(4) If replacement of trees is required, the location and method by which trees will be replaced, including the size and type of replacement trees.

(5) If existing 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 clearance, development and construction and how they are to be maintained after construction.

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

(7) The number of regulated trees to be removed.

(8) Other information and detail regarding the proposed activity and its impacts on trees and other vegetation on the site as may be requested by the Village Administrator.

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

(C) Review fees as established by resolution of the Village Council.

(Ord. 189, passed 8-23-04)

## **§ 93.07 PERMIT APPLICATION REVIEW, DECISION AND APPEAL PROCEDURE.**

(A) Tree removal permits require that formal application be made to the village. All tree removal permit applications will be reviewed and approved or denied by the Village Administrator or designee. The Village Administrator may enlist the assistance of an outside woodlands expert to perform reviews of tree removal permit applications.

(B) Appeals from decisions made on a tree removal permit, tree/woodlands management plan or tree replacement requirements shall be to the Village Council upon written request filed with the Village Clerk within 21 days of the decision.

(Ord. 189, passed 8-23-04)

## **§ 93.08 PERMIT REVIEW STANDARDS AND CONDITIONS.**

The following standards and conditions shall govern the granting or denial of a tree removal permit and to the extent applicable and unless otherwise excluded, shall be considered part of every such permit:

(A) The preservation and conservation of trees, woodlands, associated vegetation, related wildlife and other 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.

(B) The integrity of woodland areas shall be maintained irrespective of whether such woodlands cross property lines.

(C) Diversity of tree species shall be maintained when essential to preserving a woodland area.

(D) Where the proposed activity consists of land clearing, it shall be limited to designated road rights-of-way, drainage and utility areas, and areas necessary for the construction of buildings, structures or other improvements.

(E) Where the proposed activity involves residential development, the residential structures shall, to the extent feasible, be designed and located to incorporate the existing natural features of a site.

(F) The proposed activity shall comply with all applicable statutes and ordinances.

(G) The proposed activity shall include necessary provisions for tree relocation or replacement as may be required by this section.

(Ord. 189, passed 8-23-04)

## § 93.09 TREE REPLACEMENT OPTION AND STANDARDS.

(A) If the Village Administrator determines that a tree removal permit meets all of the standards of §§ 93.06 and 93.08 and that a justification for removal of regulated trees in excess of the standards of § 93.04(B) above has been established, then tree replacement will be required as a condition of the tree removal permit.

(B) Replacement of trees shall occur on the site or on property permanently reserved as open space. Removal of trees must be in accordance with a tree/woodlands management plan.

(C) All replacement trees shall have a 2 ½ inch d.b.h. or greater. Tree replacement shall be at the following ratio:

<b>Removed Tree Size</b>		<b>Ratio Replacement/ Removed Trees</b>
Conifers (height)	Deciduous (d.b.h.)	
20 ft. to 25 ft.	6 ≤ 8	1
26 ft. or larger	> 8 ≤ 15	2
	> 15	3

(D) All replacement trees shall satisfy American Association of Nurseryman standards.

(E) The location of replacement trees shall be subject to the approval of the Village Administrator and shall provide the optimum enhancement, preservation and protection of woodland areas.

(Ord. 189, passed 8-23-04)

## § 93.10 HISTORIC AND SPECIMEN TREE DESIGNATIONS AND PROTECTIONS.

(A) Any resident or property owner in the Village of Bingham Farms may nominate a tree for Historic Tree or Specimen Tree designation by the Planning Commission, based upon its age, type, size, and historical or cultural association. As a guideline the Planning Commission may consider a significant size to be a minimum d.b.h. of 18 inches or a size significant to the tree's species.

(B) Historic or Specimen Trees must be in good health/condition as determined by the village.

(C) The nomination shall be made on a form provided by the Planning Commission. If the nomination is made by a person who is not the owner of the property on which the tree is located, the owner shall be notified in writing, by regular U.S. Mail, at least 15 days in advance of the date, time, and place that the Planning Commission will consider the designation. The notice shall advise the owner that designation will make it unlawful to damage, destroy, or remove the tree. If the owner does not object, the Planning Commission may designate the tree if it meets one or more of the criteria

outlined above. If the owner objects, the Planning Commission shall not designate the proposed Historic or Specimen Tree.

(D) It shall be unlawful for any person to remove, damage or destroy a Historic or Specimen Tree.

(Ord. 189, passed 8-23-04)

## **§ 93.11 ENFORCEMENT AND PENALTIES.**

(A) The provisions of this chapter may be enforced by the Building Official, Clerk, Officers of the Franklin-Bingham Police Department and other duly authorized personnel of the village, with violations of this chapter punishable as municipal civil infractions as provided in Chapter 32 of this code.

(B) Each occurrence of a violation, and each day a violation exists, shall constitute a separate offense.

(C) Violations are considered to be a nuisance per se, with such violations and correction of any conditions resulting from violations, subject to abatement by and injunctive or other appropriate order of a court of competent jurisdiction.

(D) Violations of this chapter subject the violator to village enforcement through one or more of the remedies provided above, and the election by the village to pursue one form or remedy does not waive or restrict the village's option to pursue other remedies at the same or later time.

(Ord. 189, passed 8-23-04)

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