

Section 719.100 – Tree and Woodlands Protection

A. The Township finds that the 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 Environmental Protection Act of 1970, being Act No. 127 of the Public Acts of 1970, as amended. Continued growth, new development and redevelopment in Lenox Township, and increased demand for natural resources have the effect of infringing 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 essential aesthetic, recreational, and economic assets to existing and future residents of the Township.

B. Definitions

1. Agricultural Use - The production of plants and animals beneficial to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive Cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; beneficially stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use does not include the management and harvesting of a woodlot.
2. Clear Cutting – The indiscriminate removal of any or all trees from a parcel of land in the Township of Lenox that an approved Woodlands Management Plan does not govern. As defined herein, nominal activity and development shall not constitute clear-cutting.
3. Commercial Nursery or Tree Farm – A licensed plant or tree nursery that plants and grows trees for sale to the public.
4. Diameter Breast Height (d.b.h.) – The diameter of a tree, in inches, measured at 4½ feet above the ground.
5. Farmland Exemption – Property that has filed a claim for Farmland Exemption with the Michigan Department of Treasury under P. A. 237 of 1994 as amended and where the owner has agreed with Lenox Township in writing that the property shall be actively maintained for agricultural use for a minimum of four years from the time that the Farmland Exemption is claimed.

6. Historic Tree – A tree designated by the Planning Commission to be of notable historic interest to the Township because of its age, type, size, or historic association.
7. Indiscriminate Removal – The removal of trees in any fashion not consistent with tree harvesting, as permitted and defined herein.
8. Normal Activity – Remove three or fewer trees having 6 inches or greater d.b.h. within 12 months.
9. Nominal Development – The removal of any tree within 10 feet of the foundation wall of a building, structure, or an addition to a building.
10. Removable Tree – Those trees designated by a Township Board resolution as appropriate for removal due to their characteristics. The Zoning Administrator shall maintain such a list and initially include the following tree species.

Chinese Elm
Cottonwood
Large-Toothed Aspen Lombardi Poplar
Russian Olive
Trembling Aspen
Weeping Willow
White Poplar

11. Regulated Development – All commercial, office, industrial, or multiple-family development or redevelopment, and all new single-family residential development that results in 4 or more lots (including the terms parcels, homesites, units, or the like) or any single lot that is five (5) acres or larger upon which there is an occupied residence.
12. Specimen Tree – A tree that the Planning Commission has designated 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.
13. Tree Harvesting – The removal of trees from a parcel of land in accordance with an approved Woodlands Management Plan for purposes of woodlot improvement.

14. Woodlands Trust Fund – A fund to be exclusively used for activities associated with the acquisition and maintenance of woodland areas, land acquisition for preservation and reforestation, or planting woodland areas and natural corridors.

D. Applicability

The provisions of this Section shall apply to a Regulated Development or a Nominal Development, as defined herein, that requires site plan approval, special land use approval, lot split approval by the Planning Commission, subdivision plat approval, or condominium approval. The provisions of this Section shall also apply to all property in the Township regarding clear-cutting, indiscriminate removal, and tree harvesting.

E. Requirement Established

1. For all Regulated Development, no person shall remove, cause to be removed, transplant, or destroy any tree having 6 inches or greater d.b.h. or any conifer greater than 20 feet in height without obtaining approval from the Township. Approval shall require submitting a tree survey for the property under consideration. In instances where the applicant is proposing to remove fewer than 10% of the total trees on site, not including those trees identified by this Chapter as a removable tree, the applicant may provide generalized information showing the location and the number of trees that will be removed to satisfy the survey requirements of this section.
2. Provisions for protecting trees on-site and on adjoining properties during construction and preservation of trees in connection with grading and drainage shall be provided. All trees to be retained shall be protected from heavy equipment, material storage, and other construction activities by temporary fencing at the drip lines and posting signs prohibiting encroachment in that area during construction.

F. Tree Survey Content

For any site that proposes to remove more than 10% of the total trees on site that are not classified as removable trees, a tree survey shall be prepared to scale. It shall identify the location and type of all trees 6 inches or greater, d.b.h., and all conifers over 20 feet tall.

G. Minimum Preservation Requirements

Except for the area within the right-of-way of a public street, an easement for public utilities, or the area defined as Nominal Development, all Regulated Development shall leave standing and undamaged a minimum of 80% of the total number of trees having 6 inches or greater d.b.h. and 80% of all conifers greater than 20 feet in height.

H. Replacement Option

If a developer must remove certain trees more than the 80% Minimum Preservation Requirement, replacement of trees shall occur on the site of the principal building, within a public right-of-way, in a boulevard island, or on property permanently preserved as open space [for example a subdivision outlot-park, dedicated public park or open space, and the like]. Every tree 6 inches or greater d.b.h. and all conifers greater than 20 feet in height that will be removed shall each be replaced with one or more trees of equal value, as determined by the Tree Value Evaluation Guide currently in use by the Township and adopted by resolution of the Township Board.

I. Agriculture and Other Exemptions

The following activities are exempted from the requirements of this Section:

1. The removal, transplanting, or destruction of trees located on five (5) acres or less in the area upon which there is an occupied residential structure for which a valid certificate of occupancy has been issued.
2. The removal of dead or damaged trees where the death or damage resulted from an accident or non-human cause.
3. The trimming, maintenance, or care of trees by standard forestry and horticultural practices and techniques as established by the American Association of Nurserymen or an equivalent organization promulgating standards for the care and improvement of trees.
4. The removal or destruction of trees damaged by a tornado, windstorm, flood, freeze, fire, insect infestation, or man-made or natural disaster to prevent injury or damage to persons or property.
5. The removal, transplanting, or destruction of trees occurring during a farm operation if the farm operation conforms to generally accepted agricultural and management practices and meets the farmland exemption definition of this Section.

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

J. Woodlands Management Plan

Tree removal may occur on property where a Woodlands Management Plan, prepared by a Michigan Registered Forester or Michigan Registered Landscape Architect, is approved by the

Township Board following consultation with and a recommendation from a consulting Township Forester and the Planning Commission. The Woodlands Management Plan shall demonstrate that removal activities are designed to reduce the density of trees to promote and maintain the health and viability of the remaining trees. The Woodlands Management Plan shall include how cut trees shall be removed from the property without damaging the remaining trees. No more than 20% of existing trees 6 inches or greater d.b.h. shall be released in 12 months under an approved Woodlands Management Plan.

K. Nominal Activity Exemption

As defined herein, Nominal Activity is exempt from tree preservation and replacement requirements.

L. Right-of-Way, Public Utility Exemption

The area encompassed by the right-of-way of a public street or an easement for public utilities is exempt from tree preservation and replacement requirements.

M. Historic or Specimen Tree Designation

Any resident or property owner in the Township of Lenox may nominate a tree for Historic Tree or Specimen Tree designation by the Planning Commission based on age, type, size, and historical or cultural association. The nomination shall be made on a form provided by the Planning Commission. Suppose the nomination is caused by a person who is not the owner of the property on which the tree is located. In that case, the owner shall be notified in writing, by regular U.S. Mail, at least 15 days before the date, time, and place the Planning Commission will consider the designation. The notice shall advise the owner that the designation will make damaging, destroying, or removing the tree unlawful.

If the owner does not object, the Planning Commission may designate the tree if it meets one or more of the criteria above.

N. Clear-Cutting Prohibited

Clear-cutting, as defined in this Chapter, shall be prohibited. All removal of trees, including tree harvesting, that does not constitute nominal activity or nominal development or that is not incidental to a regulated development shall require the approval of a Woodlands Management Plan.

O. Violation

Any person who violates any provision of this Section shall forfeit and pay the Township a fine equal to the total replacement value of those trees illegally removed or damaged as determined by the Tree Value Evaluation Guide currently in use by the Township and adopted by resolution of the Township Board. Such a sum shall accrue to the Township. It may be recovered in a civil action brought by the Township and placed in the Township Woodlands Trust Fund. Replacement of illegally removed trees may be required as restoration instead of money. This replacement will be computed on an inch-for-inch ratio based on the total diameter at breast height (d.b.h.) in inches of the illegally removed trees and include labor costs associated with replanting.