

**STATE OF MICHIGAN
COUNTY OF WAYNE
CHARTER TOWNSHIP OF PLYMOUTH**

TREE ORDINANCE

**ORDINANCE #1016
AMENDMENT #25**

SECOND READING

AN ORDINANCE OF THE CODE OF ORDINANCES OF THE CHARTER TOWNSHIP OF PLYMOUTH REGULATING TREES; PROVIDING FOR INTENT, DEFINITIONS, TREE CARE, PRUNING, CORNER CLEARANCE, TREE TOPPING, REMOVAL OF STUMPS, TREE FUND, TREE BOARD, MAINTENANCE AND CARE PROVISIONS; PROVIDING FOR REGULATION OF CERTAIN PUBLIC AND PRIVATE TREES; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING FOR EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF PLYMOUTH ORDAINS:

Ordinance No. 1016, Amendment No. 25, the Tree Ordinance is hereby adopted to read as follows:

SECTION I. TITLE.

This Ordinance shall be known and may be cited as the "Tree Ordinance."

SECTION II. ORDINANCE.

DIVISION 1. – GENERALLY.

Sec. 98.01. - Intent.

The purpose of this ordinance is to provide for the protection, preservation, maintenance and safety of the Charter Township of Plymouth's trees where indicated herein, and to promote tree preservation for new development.

Sec. 98.02. - Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dead tree means any tree that has no visible growth (within the appropriate growing season for all deciduous trees), no visible buds, twigs that do not exhibit flexibility, and twigs that do not appear green at the cambium layer when outer bark has been physically removed.

Developer means a person who buys and sells buildings, (both commercial and/or residential) and land, with the intention of arranging for new buildings (both commercial and/or residential) to be built on such lands for eventual sale.

Development means any new construction by a developer on a parcel. This may include expansion of an existing residential or commercial building under the Township Building Code.

Diameter breast height (DBH) means the diameter, in inches, of a tree measured at four and one-half feet above the existing grade.

Dripline means the imaginary vertical line, which extends downward from the outermost tips of the tree branches to the ground.

Heritage Tree means any live tree that is 18 inches DBH or greater, unless determined by the Township Building Official to be a detrimental, hazardous, diseased, or otherwise unpermitted tree under Section 98.03.

Park or Public tree means any tree located in public parks and all publicly owned land, or to which the public has free access.

Private tree means any tree located on land, easement, or right of way that is owned by an individual or group having a vested or financial interest in the subject property.

Street tree means any trees planted or located within a public street, easement, or road right-of-way.

Topping means the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree(s).

Tree means a woody perennial plant, typically having a single stem or trunk which at maturity is 13 feet or more in height and which has a definite crown of foliage.

Tree Canopy means generally the uppermost parts of a tree providing shade and cover below on the land, made up of branches, stems and leaves for a deciduous tree; branches, stems and needles for an evergreen tree.

Tree fund means the budget account located in the Township's general fund to be used for activities associated with public tree inventory, protection, maintenance, and planting.

Tree protection plan means the plan reviewed and approved by the Township that shows how trees will be protected from construction activities.

Tree removal permit means the permit application reviewed and approved by the Township that shows the location, species, and size of Heritage Tree(s) that are intended to be removed by a developer.

Tree replacement plan means the permit application reviewed and approved by the Township that shows how the requirement for replacing removed Heritage Tree(s) will be satisfied by a developer.

Unsafe Condition means a tree that by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, is blocking street or sidewalk clearance, or is blocking the spread of light or view of traffic control devices, or is a dead or diseased tree as determined by the Building Official or his/her designee.

Sec. 98.03. – Non-recommended Trees.

It is recommended that the following trees not be planted or replanted in the Township:

Common Name	Scientific Name
Ash	Fraxinus species
Autumn and Russian-Olive	Elaeagnus species
Boxelder	Acer negundo
Black Locust	Robinia pseudoacacia
Buckthorn	Rhamnus species
Chinese Elm	Ulmus parvifolia
Colorado Blue Spruce	Picea pungens
Eastern Cottonwood	Populus deltoides
Mulberry	Morus species

Poplar	Populus species
Siberian Elm	Ulmus pumila
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus altissima
White Poplar	Populus alba
Willow	Salix species

Sec. 98.04. – Tree Maintenance and Care; Public Safety Standards.

(a) All trees shall be planted, pruned, maintained, and removed, as may be necessary to ensure public safety. Trees shall be pruned so that branches do not obstruct the light from any street light or obstruct the view of any street intersection. A clear space of 15 feet above the surface of the street and eight (8) feet above the surface of the sidewalk shall be maintained. No trees shall be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. No trees shall be planted closer than ten feet from any manhole structure. No tree shall be planted closer than ten feet from any hydrant. No tree shall be planted closer than ten feet from any streetlight pole. No tree shall be planted closer than ten feet from any traffic control device.

(b) The Township reserves the right to remove or cause to be removed, any tree or part thereof which is in an unsafe condition as defined in Section 98.02.

(c) If any owner, occupant or person having charge of any land within the Township shall refuse or neglect to resolve public safety issues caused by private trees or shrubs as provided in subsection 98.04(b). The Township will notify, in writing, the owner(s) of such tree(s). Removal shall be done by such owners at their own expense within 60 days after the date of service of notice. Upon the owner's failure to comply with such provisions, the Township shall have the authority to remove such trees. The Building Official shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the cost thereof may be placed on the lot or parcel's tax roll and collected as provided by the Township Charter.

(d) In the event of an immediate threat to public health or safety, the Building Official shall cause the land to be entered upon by Township employees or a Township contractor for the purpose of pruning or removing said trees, tree debris, or shrubs at the sole cost to the property owner, and such entering upon shall not be deemed a trespass. The cost thereof may be placed on the lot or parcel's tax roll and collected as provided by the Township Charter.

(e) No person shall break, injure, mutilate, kill or destroy any public tree or shrub or set any fire or heat thereof to injure any portion of any tree or shrub on public property. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied upon, near, or about any public tree or shrub. No electric wires or installation of any other lines or wires shall be attached to any public tree in any manner to cause damage. No person shall use any public tree as an anchor unless approved by the Building Official and no sign, poster, notice or other material shall be attached to or hung on any public tree.

Sec. 98-05. - Corner clearance.

No tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets and extending for a distance of 20 feet each way from the intersection of the right-of-way lines on any corner lot within the township shall not be permitted to grow to a height of more than 30 inches in height from top of curb at street level in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of fifteen (15) feet above the roadway surface. Any owner of any property failing to trim any tree, shrubs or bushes in conformity with this section shall be notified by the Building Official by mailing the notice by certified mail to the owner at his or her last known address or, if the owner is unknown, by posting the notice in some conspicuous place on the premises. The notice shall require trimming in conformity with this section, within thirty (30) days after the date of the notice. Upon the expiration of such period, the Building Official may cause the trimming to be done and the cost thereof shall be placed on the lot or parcel's tax roll and collected as provided by the Township Charter.

Sec. 98.06. - Tree topping.

It shall be prohibited for any person to top any tree. Trees severely damaged by storms, an Act of God, or other causes out of the Township's or property owner's control, may be exempted from this section at the determination of the Building Official. This section does not apply to a utility company who may be required to top a tree for purposes of public safety or valid equipment issues.

Sec. 98.07. - Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The stump excavation site shall be backfilled to match the grade.

Sec. 98.08. - Tree fund.

This section formally establishes the Township's tree fund. The purpose of the tree fund shall be to maintain and reestablish the Township's public and/or private tree canopy. The Township Board shall review the rate structure as needed.

DIVISION 2. - PUBLIC AND PRIVATE TREES.

Sec. 98-09. - Permitted street trees.

Any street trees (also referred to as an easement or right-of-way tree) to be planted must be approved by the Building or Planning Official prior to installation from a list to be maintained by the Building Department and updated from time to time.

Sec. 98.10. - Tree size.

The minimum size for a street tree or public park tree shall be one and one-half inches in caliper DBH. All trees planted must be of the tree form variety, have a single stem with branching limbs, and branches must be at least eight feet off the ground at maturity with the exception of evergreen trees in public parks.

Sec. 98.11. - Removal and replacement of street trees; role of County.

- (a) Should a property owner wish to have the street tree (also referred to as an easement or right of way tree) adjacent to his or her property removed, he or she shall submit a request, in writing, to the Township Building Department, which shall refer the request to the Wayne County Department of Public Services.
- (b) A private property owner may replace a street tree on their own, and at their own expense, with prior written approval by Wayne County and the Township Building Official from the Township's approved tree list.

Sec. 98.12. - Installation of street trees for new residential construction.

- (a) Residential developers shall install a minimum of one (1) new street tree at the affected property when a new construction home is built as part of the site approval process. If the right-of-way adjacent to the residential property is not suitable for the long-term health requirements of the developer shall pay into the tree fund.

(b) Residential developers must choose one of the following tree replacement processes from the following options:

- 1) Plant a street tree before final certificate of occupancy is issued.
- 2) Pay into the tree fund prior to the issuance of final certificate of occupancy at a rate approved by the Township Board.

DIVISION 3. – ADMINISTRATION AND ENFORCEMENT.

Sec. 98.13. – Permits, Plans required by Developers.

(a) A tree removal permit is required when any Heritage Tree(s) are is planned for removal by a developer. This may take the form of a blanket permit covering an overall development site.

- 1) The Building Official or its designee shall perform a site visit to measure and document the affected Heritage Tree(s) or if applicant submits a certified tree survey.
- 2) The Building Official or his/her designee shall provide a report to the applicant detailing the Heritage Tree(s) planned for removal.
- 3) After review, the Building Department shall issue a permit to applications that meet the requirements of this ordinance.

(b) Heritage Trees shall be replaced for each Heritage Tree diameter inch removed. Replacement tree(s) shall be located on the parcel(s) where each heritage tree is removed, in the right-of-way adjacent to the affected property, or by mutual agreement of the Township and developer.

(c) If replacement trees cannot be reasonably planted on the property or elsewhere, the developer shall pay into the tree fund pursuant to a fee schedule set by the Township Board.

(d) If the requirements of Section 98.13(b) and (c) cannot be met, a combination of paying into the tree fund and replacement trees shall be used.

(e) The minimum size for a replacement tree shall be one and one-half inches in caliper DBH. All trees planted must be of the tree form variety from the permitted street tree list as provided by the Building Department.

(f) A tree replacement plan is required after tree(s) have been removed by a developer pursuant to the site plan approval process. After review, the Building

Department shall issue a permit to applications that meet the requirements of this ordinance.

(g) A tree protection plan is required when a development project is planned for a property. No building permit shall be issued by the Building Department until an approved tree protection plan permit has been issued.

(h) The permit fees shall be set and reviewed by the Township Board.

Sec. 98.14. - Notice.

The Township Building Official shall notify, by certified mail or by posting notice in a conspicuous location on the property, the owner, agent or occupant of any lands on which a violation of this ordinance is found to exist. Such notice shall require that the person having charge of such land to resolve any violations of this ordinance; and shall contain a summary of the provisions of this ordinance. If the property is not in compliance with this article at the end of the period specified in the notice of violation, an appearance ticket may be issued.

Sec. 98.15. - Enforcement.

(a) The Township shall have the right to enter property to investigate the removal of heritage trees on a development site. A developer who removes a heritage tree(s) without a required permit shall pay into the tree fund for each heritage tree removed pursuant to a fee schedule set by the Township Board.

(b) Discretionally removed trees or trees that are intentionally damaged that are not replaced according to the provisions of this ordinance require payment into the tree fund pursuant to a fee schedule set by the Township Board.

Sec. 98.16. - Appeals.

Any appeals to this ordinance shall be submitted, in writing, to the Township Supervisor or his/her designee within 21 days of the Township's determination. The Township Administrative Review Committee shall hear the appeal at its earliest opportunity and shall determine the matter under such expert advice as may be necessary.

Sec. 98.17. – Tree Board.

The Township's Environmental Leadership Commission is hereby designated as the Plymouth Township Tree Board in addition to their regular statutory duties. The Tree Board shall be responsible for advising the Township on matters pertaining to the protection, preservation, and reforestation of the Township public and private tree canopy, trees, and woodlands. In the absence of such commission, the Planning Commission shall serve as the Tree Board.

Secs. 9.18—98.30. - Reserved.

SECTION III. REPEAL.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect. Specifically, Article XI, Chapter 7 ("Tree Regulations") is repealed in its entirety.

SECTION IV. SEVERABILITY.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION V. SAVINGS CLAUSE.

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance.

SECTION VI. PUBLICATION.

The Clerk for the Charter Township of Plymouth shall cause this Ordinance to be published in the manner required by law.

SECTION VII. EFFECTIVE DATE.

Except for this Ordinance shall take full force and effect upon publication.

CERTIFICATION

The foregoing Ordinance was duly adopted by the Board of Trustees of the Charter Township of Plymouth at its regular meeting called and held on the 27th day of July, 2021, and was ordered to be given publication in the manner required by law.

Paula Jefferson, Deputy Clerk
Charter Township of Plymouth MI

**STATE OF MICHIGAN
COUNTY OF WAYNE
CHARTER TOWNSHIP OF PLYMOUTH**

**RESOLUTION TO ESTABLISH TREE ORDINANCE FEE SCHEDULES
RESOLUTION #2021-XX-XX-XX**

At a regular meeting of the Charter Township of Plymouth Board of Trustees, Wayne County, Michigan, held at the Township Hall located at 9955 N Hagerty Road, Plymouth Michigan on July 27, 2021, at 7:00 p.m.

WHEREAS, it is the intention of the Charter Township of Plymouth Board of Trustees to create a fee schedule for the Building Department, Department of Public Services and Planning/Zoning Department with respect to Ordinance #1016, Amendment #25 Sections 98.01 et. seq, hereinafter referred to as the "Tree Ordinance," and

WHEREAS, the Board of Trustees has the responsibility to create, amend, or adjust fee schedules periodically pursuant to Tree Ordinance Section 98.13(h), and to make necessary adjustments to either increase, decrease, or remove redundant fees for implementation after adoption;

NOW THEREFORE BE IT RESOLVED, that the Charter Township of Plymouth Board of Trustees does hereby move to implement the fee schedules as required in Sections 98.13 and 98.15 of the Tree Ordinance as further described in the attachment hereto.

Motion By: _____

Seconded By: _____

Roll Call:

___Clinton, ___Curmi, ___Doroshewitz, ___Heise, ___Monaghan, ___Stewart, ___Vorva