

ARTICLE V. LAND CLEARING DRAFT

Sec. 22-171. Findings.

The Township Board of the Charter Township of Meridian finds the following:

- (a) Regulation of the removal or alteration of trees; forest resources; other forms of existing vegetation and topography will protect important physical, aesthetic, recreational and economic assets for both present and future generations of the Charter Township of Meridian; and
- (b) Trees, forest resources and other forms of existing vegetation are essential components to the general welfare of the township by providing natural beauty, natural character, recreational opportunities, and wildlife habitat and by protecting public health through the absorption of airborne pollutants and generation of oxygen, through the reduction of excessive noise pollution, through their cooling properties in the summer months and through their root systems, stabilizing the soil, playing an important and effective part in soil conservation, erosion control, and flood control; and
- (c) Disturbance of or alteration of existing topography impacts drainage ways which can contribute to erosion and damage to adjacent properties if undertaken without site review prior to the disturbance or alteration to assure that proper measures are installed to prevent or reduce erosion or damage; and
- (d) In order to assure the assessment of parcels, in compliance with the Meridian Township Code of Ordinances, parcels must remain undisturbed by clearing, grading and removal of vegetation prior to the review and issuance of permits, approvals, special use permits or variances.

(Ord. No. 2002-12, § 1(128-1), 10-15-2002)

Sec. 22-172. Purpose.

The purpose of this article is to provide:

- (a) For the protection, preservation, and use of trees, forest resources, and other forms of existing vegetation and to minimize adverse impacts and loss of resource value in the removal of vegetation and alteration of existing topography.
- (b) For the paramount public concern for these natural resources in the interest of the health, safety and general welfare of the residents of this township, in keeping with Article IV, Section 52 of the Michigan Constitution of 1963, and the intent of the Michigan Natural Resources and Environmental Protection Act (Act 451, Public Acts of 1994, as amended).
- (c) Compliance with Part 17, Michigan Environmental Protection Act (Act 451, Public Acts of 1994, as amended), which imposes a duty on government agencies and private individuals and organizations to prevent or minimize the pollution, impairment or destruction of the natural resources that is likely to be caused by their activities.
- (d) For the protection of the general health, welfare and safety of the township pursuant to MCL 42.15.
- (e) For a complete and accurate site assessment required under the Meridian Township Code of Ordinances prior to disruption or alteration of natural site conditions and resources.

(Ord. No. 2002-12, § 1(128-2), 10-15-2002)

Sec. 22-173. Definitions.

The following definitions shall apply to the words and terms used in this article:

Arborist: shall be a person skilled and trained in the arts and sciences of municipal arboriculture, and shall hold a college degree or its equivalent in arboriculture, horticulture, forestry, or other closely related field.

Clear or clearing: means disturbance of the existing topography and all or a portion of the existing trees and/or vegetation on a parcel by operations including, but not limited to, tree and vegetation cutting or removal, grading, filling, or excavating materials such as soil, sand, gravel, clay, peat, mud, debris, refuse, or underground structures and facilities or wells.

d.b.h. (diameter at breast height): means the diameter of a tree measured at 4.5 feet above grade.

Drip line: means an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Grading: means earth stripping, cutting, filling, excavating or stockpiling or any combination thereof.

Hazardous tree: means a tree that is likely to cause injury to person or property as determined by the criteria established by the International Society of Arboriculture.

Nuisance tree: means a tree species which is prone to excessive droppings, wind damage, disease, and infestation, as determined by the township.

Parcel: means a designated parcel, lot, tract, building site or other interest in land established by plat, subdivision, conveyance, condominium master deed or as otherwise permitted by law to be used, developed or built upon as a unit.

Person: means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, or an instrumentality or agency of the federal government, or other legal entity.

Root zone: means the area surrounding a tree equivalent to one and one-half times the height of the tree. (Ord. No. 2002-12, § 1(128-3), 10-15-2002)

Sec. 22-174. ~~Application~~ Applicability.

This article shall apply to all parcels in the Township of Meridian ~~which are undeveloped or unimproved at the time of the effective date of this article~~. The regulations contained in this article shall not apply to required street trees and landscaping approved as part of a plat, special use permit, planned unit development, mixed use planned unit development, planned residential development, or site plan. Required street trees or approved landscaping shall not be altered or removed without prior approval by the Department of Community Planning and Development.

(Ord. No. 2002-12, § 1(128-4), 10-15-2002)

Sec. 22-175. Exemptions ~~from a permit~~.

It shall be unlawful for any person to clear or permit the clearing of a parcel except as follows:

~~(1) Fourteen days after receipt of, and in accordance with the following:~~

~~a. Preliminary plat approved pursuant to the Meridian Township Code of Ordinances and regulations.~~

~~b. A finally approved site plan issued pursuant to section 86-151 et seq. of the Meridian Township Code of Ordinances; or~~

(1) Removal of trees, shrubs or bushes within 100 feet of a residential dwelling when located on the same parcel.

(2) Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or restore order, and where it would be contrary to the interest of the public, or to the health or safety of one or more persons, to defer cutting pending submission and processing of an application to cut or remove.

(3) The removal of a dead, diseased, nuisance, or hazardous tree.

~~(4) Where the owner of the parcel can show all of the following:~~

~~a. The clearing is necessary for the economic use of the parcel.~~

~~b. The clearing will have minimal impact on the resources intended to be protected by this article, to the greatest extent possible.~~

~~c. The proposed use of the parcel is dependent on the clearing.~~

~~d. The clearing will cause no unacceptable disruption to natural resources.~~

~~e. That there is no feasible and prudent alternative location or methods to accomplish the benefits from the clearing activity that will have less of an impact on resources.~~

~~f. The proposed use of the parcel is a reasonable use in accordance with applicable local ordinances and state law.~~

(4) The maintenance of rights-of-way, easements, lines or facilities by a public utility, drainage district, the Ingham County Drain Commissioner, the Ingham County Road Commission, Michigan Department of Transportation or Township of Meridian. Maintenance work performed by the Meridian Township Parks Department.

(5) Operations of a plant or tree nursery farm or orchard which is licensed by the State of Michigan, in relation to those trees planted and growing on the premises of the license, which are planted and grown for sale to the general public in the ordinary course of the licensee's business.

(6) Activities associated with a commercial or family agricultural operation, nursery, tree farm, orchard, or similar entity.

(7) The pruning of trees, shrubs or bushes as part of the routine care and maintenance of a parcel. All pruning shall be done in a manner consistent with the best management practices of the International Society of Arboriculture. Topping and the disfigurement of trees shall not be considered pruning and shall be prohibited unless conducted to enhance production of fruit bearing trees.

(8) Mowing ordered by Meridian Township to comply with sections 82-26 and 82-27 of the Meridian Township Code of Ordinances.

(Ord. No. 2002-12, § 1(128-5), 10-15-2002)

Sec. 22-176. Review and determination of permit.

A determination for the allowance of clearing pursuant to section 22-175(3) and (4) above shall be made by the director of community planning and development following submittal of a complete application by the person proposing the clearing activity and inspection by the director of community planning and development. The receipt of the application shall constitute permission from the owner for the township or its consultant to conduct an on-site investigation. In making the determination to allow or disallow the clearing activity the director shall retain the services of a qualified forester or other qualified environmental consultant. The cost of the fees for said forester or consultant shall be paid by the person proposing the clearing activity. The person seeking approval and exemption under this provision shall establish an escrow with the township for the purpose of covering the costs of the consultant retained by the director. An application form shall be developed by the director of community planning and development. Applications for clearing shall be accompanied by an application fee in an amount specified by resolution of the township board. The director of community planning and development shall approve, approve with conditions or deny the application within ~~30~~ 45 days after receipt of a complete application.

A permit granted under this article does not waive the requirement for a grading permit or for a soil erosion permit.

(Ord. No. 2002-12, § 1(128-6), 10-15-2002)

Sec. 22-177. Review criteria. The director of community planning and development shall consider the following review criteria in evaluation of a land clearing permit:

- a. The clearing is necessary for the economic use of the parcel.
- b. The clearing will have minimal impact on the resources intended to be protected by this article, to the greatest extent possible.
- c. The proposed use of the parcel is dependent on the clearing.
- d. The clearing will cause no unacceptable disruption to natural resources.
- e. There is no feasible and prudent alternative location or methods to accomplish the benefits from the clearing activity that will have less of an impact on resources.
- f. The proposed use of the parcel is a reasonable use in accordance with applicable local ordinances and state law.

Sec. 22-177.8. Appeal and waiver.

(a) Any person aggrieved by the decision of the director of community planning and development may appeal the decision to the township board by filing a written statement containing the specific reasons for the appeal with the township clerk within ten calendar days following the date of the decision. The timely filing of an appeal shall have the effect of staying the approval for clearing pending the outcome of the appeal.

(b) Any person may seek a waiver of the requirements of this article, by filing a request for review by the township board of trustees. The township board may grant a total or partial waiver if it finds that proposed activity is not inconsistent with the purposes and intent of this article.

(c) The township board shall hold a hearing on the appeal or request for waiver which shall be open to public comment and shall include opportunity for the appealing party to present their appeal.

(d) Notice of the time and place for consideration of an appeal or request for waiver shall be placed in a newspaper of general circulation in the township not less than five days prior to the date of the hearing. A notice shall also be sent by mail or personal delivery to the owners of the property considered in the

appeal or request for waiver, and to all owners listed on the most recent tax roll of real property within 300 feet of the boundary of the property in question. Said notice to be sent not less than five days prior to the hearing.

(e) The township board's decision on the appeal shall affirm, affirm with conditions, or reverse, the decision of the director of community planning and development. The board's decision on the appeal or request for waiver shall be based on written findings.

(Ord. No. 2002-12, § 1(128-7), 10-15-2002)

Sec. 22-1789. Endangerment or threatened species.

In no case shall any person remove, clear or cut vegetation listed as endangered or threatened species or a species of special concern by the State of Michigan or United States of America without a permit issued by the authorized state or federal agency. Prior to the removal, cutting or clearing of endangered, threatened or special concern species, copies of the state or federal permit shall be filed with the director of community planning and development.

(Ord. No. 2002-12, § 1(128-8), 10-15-2002)

Sec. 22-1790. Tree protection during construction.

(a) Before development, land clearing, filling, or any operation commences, the owner, developer or builder shall be required to erect protective measures for remaining trees. Such measures shall be as approved by the director of community planning and development. The protective measures shall, at a minimum, comply with the provisions as set forth in subsection (2b). Such protection shall remain in its approved location until such time as it is authorized to be removed by the director, or issuance of a final certificate of occupancy. During construction, no attachments or wires shall be affixed to any trees so protected. Substantial material shall be utilized in the construction of the barriers. Barriers will be required for all trees being protected. Property areas separate from the construction or land-clearing area into which no equipment will venture shall be ~~ribboned off~~ cordoned off with silt fence or snow fencing.

(b) The following methods of tree protection shall be used during construction:

(1) The root zone should be protected from compaction by fencing this area around the tree. The drip line should be fenced if space does not allow the entire root zone to be protected. If the area inside the drip line must be affected, an arborist needs to be consulted to consider alternate construction methods, provide remedial treatment to the tree, and determine the minimum space allowable. The amount of soil area the tree requires to survive is determined by the age, health and species. At a minimum, "protective fencing" should consist of a metal chain link or wire farm fence or wood 4 x 4 posts with 2 x 6 cross pieces constructed as noted in Figure 1. No activity shall be conducted within the area of protective fencing of any tree designated to be retained.

(2) When determined by the arborist, as necessary, wood chips (mulch) with a minimum depth of four to six inches are to be placed under all protected trees before construction begins. Wood chips should start a foot from the trunk and extend to the drip line to prevent compaction should a vehicle violate the protective fence. Wood chips shall be left in place after construction.

(3) Trenching or digging in the root zone of a tree shall be avoided unless approved by the director of community planning and development. Directional boring machines shall be used instead of trenching to install gas and electrical lines where feasible.

(4) Roads and driveways shall be located as far from trees as possible, preferably beyond the drip line. If a temporary drive is needed in the root zone, up to 12 inches of wood chips shall be used as base for the equipment to drive on.

(5) Water and fertilization needs of the trees are to be monitored during and after construction for a time period determined by the department of community planning and development based on the best management practices of the International Society of Arboriculture for the species and size of the tree(s).

(Ord. No. 2002-12, § 1(128-9), 10-15-2002)

Sec. 22-1801. Enforcement and penalties.

(a) Any person violating any of the provisions of this article shall be responsible for a municipal civil infraction. The municipal civil infraction is subject to issuance and sanctions as provided by section 1-8 of this Code.

(b) In addition to the penalties provided for in this section, any person who violates any provision of this article shall forfeit and pay to the township a civil penalty of \$350.00 per inch d.b.h. of each tree removed in violation of this article. Such sum shall accrue to the township and may be recovered in a civil action brought by the township. Replacement of illegally removed trees and vegetation may be required as restoration in lieu of money. This replacement will be computed on an inch-for-inch ratio based on the total diameter measured at d.b.h. in inches of the illegally removed trees and restoration of vegetation. If, because of destruction of the removed trees, exact inch-for-inch measurements cannot be obtained, the township may use other means to estimate the tree loss. A combination of money and tree replacement may be required.

(c) Any use or activity in violation of the terms of this article is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction. The township board, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator.

(d) If activities are conducted contrary to the provisions of this article or other applicable laws or ordinances, the director of community planning and development shall give written notice to the person conducting the activity, notifying him of the violation of this article, or other applicable law or ordinance, ordering that the activity be stopped, and to appear and show cause why the activity should not be stopped. If the person conducting the activity fails to appear and show good cause within one full workday after notice is delivered, the director of community planning and development shall cause a written order to stop the activity to be posted on the premises. A person shall not continue, or cause or allow to be continued, activity in violation of an order to stop, except with permission of the director to abate a dangerous condition or remove the violation, or except by court order. If an order to stop is not obeyed, the township may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(e) Any person violating the provisions of this article shall become liable to the township for any expense or loss or damage occasioned by the township by reason of such violation including, but not limited to, actual attorneys fees, filing fees and witness fees.

(Ord. No. 2002-12, § 1(128-10), 10-15-2002)