

STATE OF MICHIGAN, COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-705

**DEAD, DISEASED OR DANGEROUS TREES, SHRUBS
AND PLANTS ORDINANCE**

An Ordinance regulating privately owned dead, diseased or dangerous trees, shrubs and plants, including any stumps and/or branches thereof, in the Charter Township of West Bloomfield.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Chapter 23 of the West Bloomfield Charter Township Code, entitled "Vegetation," is hereby amended by adding Article III, Section 23-19 through 23-35, to read as follows:

ARTICLE III
DEAD, DISEASED OR DANGEROUS TREES, SHRUBS AND PLANTS

Sec. 23-19. Purpose

To protect the health, safety and welfare of owners or occupants of land in the township, their family members, guests, vendors and members of the public, upon which dead, diseased or dangerous trees, shrubs and plants, including stumps and/or branches thereof, are located.

Sec. 23-20. Definitions.

The following terms when used in this Article shall have the meanings set forth in this section:

Branch includes any limbs, trunk(s), twigs and leaves of a tree, shrub or plant.

Dangerous means anything that threatens the health, safety and welfare of the public, including but not limited to the owner as defined below, his or her family members, guests and vendors

Dead means no longer living.

Diseased means showing evidence of an illness or abnormal condition or disorder, including an infestation by insects or animals, which threatens or afflicts the wellbeing of a tree, shrub or plant, whether

contagious or not contagious.

Owner means a person who owns, rents, leases or occupies any lot, parcel of land, or premises in the township, upon which trees, shrubs and plants are located.

Plant means a photosynthetic organism that has cellulose cell walls, growing in soil or water, with leaves and sometimes flowers, lacking locomotion, and without obvious nervous or sensory organs from the kingdom classification of *plantae*. It includes trees, shrubs and any other form of plant life.

Privately owned means any tree, shrub or plant, located on a lot, parcel of land, or premises in the township under the legal or equitable control of an owner as defined above, excluding that which is owned by the township, county or state, or their agencies.

Premises means any structure, house, garage or building of any type.

Shrub means any form of plant life less than four and one-half (4 1/2') feet in height.

Stump means that part of a tree, shrub or plant remaining attached to the root after the trunk is cut.

Tree means any form of plant life at least four and one-half (4 1/2') feet or more in height and at least four (4") inches or more in diameter. The diameter size shall be measured four and one-half (4 1/2') feet from the base of the tree.

Wooded area means a relatively small area of land containing a dense collection of trees, shrubs and/or plants.

Sec. 23-21. Dead, Diseased or Dangerous Trees, Shrubs or Plants

The owner shall remove a dead, diseased or dangerous tree, shrub or plant from his or her property in the township.

Sec. 23-22. Stumps

Unless located within a wooded area, the owner shall remove a stump below the surface of the ground so that the top of the stump does not project above the pre-existing surface of the ground. Further, the pre-existing surface of the ground may not be raised in order to hide or cover the stump. Within a wooded area, stumps may be left no higher than 24" inches above grade.

Sec. 24-23. Branches

The owner shall trim, prune or remove a dead, diseased or dangerous branch hanging from or on his or her property in the township.

Sec. 25-24. Overhang or Encroachment on Sidewalk

The owner shall trim, prune or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any sidewalk, bicycle path or safety path in the township in a manner so as to interfere with the free passage of persons using such sidewalk, bicycle path or safety path.

Sec. 23-25. Overhang or Encroachment on Street, Road or Highway

The owner shall trim, prune, or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any street, road or highway in the township, in a manner so as to interfere with the free passage of persons and/or motor vehicles using such street, road or highway.

Sec. 23-26. Overhang or Encroachment on Utility Poles or Lines

The owner shall trim, prune or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any utility pole or line, telephone pole or line, electrical pole or line, streetlight or line, or their equivalent, or upon or under any existing premises in the Township.

Sec. 23-27. Overhang or Encroachment on Neighboring Lands

The owner shall trim, prune or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any neighboring lots, parcels of land or premises in a manner so as to interfere with the neighbor's quiet enjoyment or use of his or her property.

Sec. 23-28. Owner's Cost and Expense

The owner, or his or her agent, shall perform the duties and requirements in this article at his or her sole cost and expense.

Sec. 23-29. Township Authority to Perform Acts and Assess Costs; Procedure.

When the Township discovers that a tree, shrub or plant, including any stump and/or branch thereof, is in violation of these sections, the Township shall serve written notice, by first class mail and certified mail, return receipt requested, upon the owner of the subject property. The notice shall describe the tree, shrub or plant, its location, the nature of the violation, and order the owner to trim, prune or remove the tree, shrub or plant, including any stump and/or branch thereof. The notice shall also specify a date and time, not less than thirty (30) days from the date of the last mailing or within such additional time as the notice may specify, for compliance by the owner. The owner shall comply with any such notice within the time period specified therein, unless the owner provides written proof to the Township from an Arborist, certified by the International Society of Arboriculture, or equivalent, stating that the offending tree, shrub or plant, including any stump and/or branch thereof, is not dead, diseased or dangerous and does not require trimming, pruning or removal.

Section 23-30. Failure to Pay

If the owner refuses, fails or neglects to perform any duty required of him or her by the foregoing sections, the township may seek a warrant, and if issued, shall enter upon the lot, parcel of land, or premises, without further notification to the owner, and perform the work required. Upon completion of the work, the township shall serve written notice on the owner, by first class mail, of its intention to assess the owner's property for the cost of the work, along with the penalties specified in section 23-35 below. If the owner fails to pay the same within 30 days from the date of mailing, the township treasurer shall assess such amount against the real property on the next tax roll. This assessment shall be collected and treated in the same manner as property taxes assessed under the general laws of this state. In addition thereto, the township may file and have recorded at the Oakland County Register of Deeds, a Claim of Interest in Land securing repayment to the township. Upon repayment, the township shall discharge its Claim of Interest in Land.

Sec. 23-31.

Emergency Removal

When a tree, shrub or plant, including any stump and/or branch thereof, constitutes an immediate hazard to the health, safety and welfare of the owner or the public, and where the delay of notification would serve to further endanger the public, the Township may enter upon such lot, parcel of land, or premises, without notification to the owner, and perform the work required and assess the cost thereof to the owner, in the same manner indicated above. Such events include, but are not limited to storm damage where a tree is endangering a utility pole or line, or endangering an existing structure, home, building, street, road or highway.

Sec. 23-32.

Hardship

Where the enforcement of any part of this article constitutes a hardship on an owner, and upon an appeal by the owner, the township board may waive the application any such part of this article as it deems necessary.

Sec. 23-33.

Environmentally Protected Areas

Unless there is an immediate hazard to the health, safety and welfare of the owner or the public, a tree, shrub or plant, including any stump and/or branch thereof, located within the twenty-five (25') foot environmental features setback area, a woodlands area or a wetlands, as defined in the Code, or within a wooded area, as defined herein, is hereby exempted from the foregoing requirements, unless the trimming, pruning or removing is permitted or approved pursuant to the applicable township ordinance(s).

Sec. 23-34.

Private Property

The requirements in this article pertain to trees, plants, shrubs, including any stumps and/or branches, which are privately owned as defined above.

Sec. 24-35.

Violations and Penalties

In addition to the sanctions specified in section 23-28 above, a violation of this article is designated as a municipal civil infraction, as that term is defined in chapter 1, section 1-10 et. seq of the township code of ordinances. Unless set by separate resolution of the township board, an owner that refuses, fails or neglects to perform any duty required of him or her by the foregoing sections shall be subject to costs in the amount of \$300.00.

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Section 2 of Ordinance

All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed.

Section 3 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance, be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 4 of Ordinance

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this

Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 5 of Ordinance

Every word importing the masculine gender will extend to and be applied to females as well as males. Every word importing the feminine gender will extend to and be applied to males as well as females. Every word importing the singular number may extend to and embrace the plural number. Every word importing the plural number may be applied to and limited to the singular number.

Section 6 of Ordinance

The provisions of this Ordinance are hereby ordered to take effect immediately upon publication.

CERTIFICATION

It is certified that the Ordinance set forth above was duly adopted by the Board of Trustees of the Charter Township of West Bloomfield at a meeting duly called and held on February 5, 2007, to be effective upon publication as provided by law.

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By: (Signature of Sharon A Law)

Sharon A. Law, Clerk

INTRODUCED: 01/22/07
ADOPTED: 02/05/07
EFFECTIVE: 02/12/07
PUBLISHED: 02/11/07