

ARTICLE XX, Tree Removal and Replacement.

§ 300-147. Tree removal.

- A. The indiscriminate, unnecessary and excessive removal of trees upon land both developed and undeveloped may result in increased surface runoff and soil erosion, increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon dioxide, the establishment of a heat island effect and increased dust and pollution, thereby increasing municipal costs for the control of drainage. Excessive removal and destruction of trees also damages the aesthetic value of existing residential areas and impairs the stability and value of improved and unimproved real property with accompanying deterioration of conditions thereby affecting the health, safety and general welfare of the inhabitants of the Borough B. It is recognized that there is a strong interrelationship between the integrity of Borough water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources. Fewer trees throughout the Borough also correlates with increased air pollution. The appropriate management of these resources is an important health, safety and general welfare concern. Managing the Borough's tree resource is consistent with its state-approved Community Forestry Management Plan.

§ 300-148. Definitions.

For the purpose of this subsection, the following words shall have the meanings indicated:

BUILDING PLOT -- A parcel of land upon which a building has been or may be erected in accordance with this chapter.

COMMUNITY FORESTRY MANAGEMENT PLAN -- A plan developed by the Borough outlining the goals and objectives for managing trees on Borough property with the intent of minimizing liability to the Borough and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, Forest Service.

DIAMETER AT BREAST HEIGHT (DBH) -- The diameter of a tree measured four feet and six inches above the ground level.

DRIPLINE -- The extent to which the leaves and outer branches extend outward from the trunk to a point on the ground at which a line drawn vertically from the leaves furthest from the trunk touches the ground.

EROSION -- The detachment and movement of soil or rock fragments by water, ice, wind and gravity.

EXEMPT AREA -- The lot area as provided in this chapter for which tree replacement shall not be required.

EXTENSION TILE -- Four or six inch agricultural tile or split sewer pipes are laid in a wheel-and-spoke design with the tree as the hub. The radial lines of the tile near the tree should be at least one foot higher than the ends joining the circle of tile. A few radial tiles should extend beyond the circle and should slope sharply downward to ensure good drainage. An open-jointed

stone or brick well is then constructed around the trunk up to the level of the new fill. The inner circumference of the stone well should be about two feet from the circumference of the trunk. Six-inch bell tiles are placed above the junction of the two tile systems, the bell end reaching the planned grade level, and stones are placed around the bell tiles to hold them erect. All ground tiles are covered with small rocks and cobblestones to a depth of 18 inches.

HAZARDOUS TREE – A tree is hazardous if it is an imminent hazard and a threat to the safety of persons or property. If a tree possesses a structural defect that may cause the tree or part of the tree to fall on someone or something of value (i.e. ‘target’), and the condition is determined to be imminent, the tree is considered hazardous.

IMPROVED PROPERTY -- Any property on which a residential structure exists at the time of the tree removal.

INVASIVE TREE -- Species of tree that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Tree of heaven (*Ailanthus altissima*) and Norway maple (*Acer platanoides*) are examples of invasive trees in the Borough of Franklin Lakes.

TREE -- Any tree, whether dead or alive, having a single or multi-stemmed trunk with a diameter at breast height (DBH) of seven inches or greater, or, where the tree's height or the remainder of the tree (the stump), is less than four feet six inches in height, the measurement shall be taken at the highest point of the trunk. Trees that grow out of one root system, with two or more trunks, that divide below DBH, will be counted as two or more trees. A multistemmed trunk that splits below four feet six inches will be counted as two or more trees.

TREE ESCROW FUND -- A fund established for the maintenance, repair, replacement, and planting of trees on public property throughout the Borough. The fund may be utilized for the administration and promotion of tree and shrubbery resource sustainability projects and practices consistent with the Community Stewardship Incentive Program as outlined in the New Jersey Shade Tree and Community Forestry Assistance Act. The Tree Escrow Fund shall be administered by the Mayor and Council, following referral and recommendation by the Shade Tree Commission.

TREE PLANTING PLAN -- A specific plan adopted by the Borough for the location and placement of trees on public property.

TREE REMOVAL PERMIT -- The permit issued by the Shade Tree Commission or the Tree Specialist to remove or destroy a tree or trees located on any improved land or vacant or unimproved property as defined in this section. The permit shall be valid for a period of 90 days.

TREE REPLACEMENT PLAN -- A specific plan for replacement of removed trees in accordance with the provision of this chapter.

UNIMPROVED OR VACANT LAND -- Privately owned land upon which no home has been completely built, and for a period of two years after the certificate of occupancy is issued.

WOODLAND MANAGEMENT PLAN -- A plan for the management of timbered or forested lands approved by the New Jersey Department of Environmental Protection, Forest Service, or similar state or federal agency.

§ 300-149. Removal of trees from land within the Borough.

No tree shall be removed, damaged or destroyed on any land whether improved, unimproved, commercial or residential, within the Borough without the issuance of a proper tree removal permit as described herein.

§ 300-150. Tree removal permits issued by Construction Official or Tree Specialist; Additional Tree Removal.

- A. Purpose. The goal of tree removal permit requirements is to maintain the forest canopy in the Borough of Franklin Lakes. The Borough of Franklin Lakes is a forested community and maintenance of the existing trees is important. Tree removal permit requirements help maintain the forest canopy. Some trees need to be protected from indiscriminate removal.
- B. Unless tree removal is being considered as part of a development application before the Planning Board or Zoning Board, the Construction Official or Tree Specialist shall issue a permit for removal of trees:
- (1) From the following areas:
 - (a) Within 20 feet of a principal structure.
 - (b) Within 10 feet of a pool or pool cabana.
 - (c) Within five feet of a driveway or walkway.
 - (d) Within five feet of a septic tank or field.
 - (e) Within 10 feet of a tennis court or similar recreational facility.
 - (2) Where the total number of trees to be removed is less than 10% of the total number of trees on the property, including trees to be removed pursuant to paragraph B(1) hereinabove; provided however that, if the total number of trees to be removed pursuant to paragraph B(1) is 10% or more of the total number of trees on the property, then the property owner may remove the number of trees as is permitted pursuant to paragraph B(1). Except as otherwise provided for tree removal pursuant to paragraph B(1), no more than 10% of the total number of trees on the property may be removed within any five year period.
 - (3) For any tree that is hazardous, dead or dying.
 - (4) For any tree that is invasive, except that replacement trees shall be required in accordance with paragraph C of this section.
 - (5) For any tree or trees removed or cut in accordance with a Woodland Management Plan or a Forest Stewardship Plan that has been approved by the New Jersey Forest Service, provided that such plan is filed with the Construction Official, Tree Specialist, Shade Tree Commission and Tax Assessor.
 - (6) For any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District, provided that such plan has been filed with the Shade Tree Commission and Tax Assessor.

- (7) For any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantations or tree orchards.
 - (8) For any tree growing in a utility right-of-way or fire trail subject to the approval of the Shade Tree Commission.
 - (9) The Construction Official or Tree Specialist may not issue a permit for removal of trees within the street right of way (generally within 10 feet from the curb or edge of pavement), except for any tree that is hazardous, dead or dying. Trees within 10 feet of the curb or edge of pavement along a street may only be removed with approval of the Shade Tree Commission.
- C. An applicant may apply to the Mayor and Council to remove trees in addition to those permitted under paragraph B hereunder; except that trees within 10 feet of the curb or edge of pavement along a street may only be removed with approval of the Shade Tree Commission. Such application shall be referred by the Mayor and Council to the Shade Tree Commission for its review and recommendation. The Mayor and Council may, in its discretion, require that the applicant provide written notice to adjoining property owners of the application under this paragraph. For purposes of this section, adjoining property owners shall not include property owners across a street. An application to the Mayor and Council under this paragraph shall include the information required under paragraph E of this section and the Mayor and Council may require a site plan which complies with the site plan requirements set forth in paragraph B of section 453-10 of this chapter for a tree removal application submitted to the Planning Board or Zoning Board. In reviewing the application for tree removal, the Mayor and Council shall consider the criteria set forth in paragraph D of section 453-10 of this chapter for a tree removal application submitted to the Planning Board or Zoning Board.
- D. Replacement trees. For removal of trees in accordance with paragraph C of this section, the applicant shall be required to plant replacement trees on-site in accordance with the provisions of section 300-152 of this chapter.
- E. An application for a permit for removal or destruction of any tree under this section shall contain the name of the applicant, the name of the owner, consent of the owner if the applicant name is different than the owner, the name and address of the tree service, the reasons for the removal or destruction, and a sketch of the property which shall include the location, size and species of trees proposed for removal, and such further information as may be required by the Construction Official or Tree Specialist. An application for tree removal shall be reviewed and decided by the Construction Official or Tree Specialist within 14 days of the submission of a complete application.