

Changes shall be as follows:

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# Chapter 19

## Tree Preservation

AN ORDINANCE TO AMEND CHAPTER XIX, TREE PRESERVATION AND REMOVAL AND SETTING THE REQUIREMENTS FOR SAME IN THE BOROUGH CODE OF THE BOROUGH OF SEA GIRT, MONMOUTH COUNTY

### 19-1 PURPOSE.

[Ord. No. 18-2018]

The purpose of this chapter is to prevent indiscriminate, uncontrolled, and excessive destruction, removal, and clear cutting of trees upon lots and tracts of land within the Borough of Sea Girt in order to maintain the aesthetic character of the Borough of Sea Girt, prevent erosion, and control actions that will substantially change drainage patterns, and restrict actions that will cause a hazard to persons or property.

### § 19-2 DEFINITIONS.

[Ord. No. 18-2018]

As used in this chapter:

#### **CLEAR CUTTING**

Shall mean the removal of all standing trees on a site or portion of a site.

#### **COMPETENT PUBLIC AUTHORITY**

Shall mean the members of the Shade Tree Commission, the Code Enforcement Officer, Borough Engineer, members of the Sea Girt Police or Public Works Departments, or a N.J. Certified Tree Expert.

#### **CONSTRUCTION**

Any development on the property that requires a zoning permit, construction permit, or combination thereof.

#### **DIAMETER AT POINT OF MEASURE (DPM)**

Shall mean the diameter (caliper) of a tree at a point on the tree 54 inches above the actual ground level.

#### **EMERGENCY**

Shall mean any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property as determined by a N.J. Certified Tree Expert or competent public authority (Borough Engineer);

#### **PUBLIC RIGHT-OF-WAY**

Shall mean any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Borough of Sea Girt.

## **REMOVAL**

Shall mean the actual removal of trees, or direct or indirect actions resulting in the effective removal of trees through damage or poison, or similar actions directly or indirectly resulting in the death of trees subject to the provisions of this chapter. Moving a tree to a different location on the same property does not constitute removal. Removal shall not include pruning for maintenance purposes.

## **SIGNIFICANT SPECIMEN TREES**

Shall mean any tree with a diameter at point of measure exceeding 60% of that of the largest similar tree listed in either the Monmouth County's Largest Trees, prepared and annually updated by the Monmouth County Shade Tree Commission or New Jersey's Big Trees, prepared and updated bi-annually by the Division of Parks & Forestry of the New Jersey Department of Environmental Protection.

## **SITE**

Shall mean any lot, tract, parcel or parcels of land within the Borough.

## **TREE**

Shall mean any living deciduous or evergreen tree with a single trunk at a height of one foot above the root crown, with a normally anticipated mature height of 30 feet or greater (including, but not limited to: Norway; Silver and Sugar Maple; Sweetgum; London Plane; American Sycamore; White and Red Pin Oak; American Elm; Yellow and White Poplar; Copper Beech; Cedar; Spruce; Pine; and Fir).

## **TREE REMOVAL PERMIT**

Shall mean a certificate issued by the Borough to remove trees as defined in this chapter.

## **UNDISTURBED AREA**

Shall mean an area in which trees, shrubs, and understory will not be disturbed by filling, cutting or by any other means.

### **§ 19-3 TREE REMOVAL PROHIBITED. [Ord. No. 18-2018]**

No person shall remove, or cause to be removed any existing trees with a diameter of ~~six~~ four inches or greater caliper at point of measure, upon any lands within the Borough of Sea Girt without a tree removal permit except as follows:

- a. ~~Trees that are to be removed as the direct result of a development application that has been approved by the Borough of Sea Girt Planning Board;~~
- b a. Any trees cut or removed in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, filed with the Construction Official of the Borough;
- e b. Trees directed to be removed by municipal, County, State or Federal authority. No person shall remove any tree growing on ~~or over~~ a public right-of-way or public land without the express written consent of a competent municipal authority (Code Enforcement Officer, Borough Engineer, etc.) or Shade Tree Commission.

### **§ 19-4 TREE REMOVAL PERMIT. [Ord. No. 18-2018]**

A Tree Removal Permit shall be required for the removal of any trees of ~~six~~ four inches or greater caliper at point of measure, as follows:

- a. ~~Trees that are dead, severely damaged by natural causes or accident to the point that the natural habit of the tree cannot be restored as determined by a N.J. Certified Tree Expert or competent public authority trees that are severely diseased and require removal as certified by a N.J. Certified Tree Expert; or trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (Police, Department of Public Works, Borough Engineer, etc.).~~
- b a. An application for zoning approval for the construction of new residences, additions to residences in excess of 300 square feet, or, the construction of swimming pools, or other accessory buildings, or structures improvements for the zoning permit ~~or to the Planning Board for a variance~~ shall include an inventory of all trees on the site. Such trees shall clearly be shown on the ~~construction~~ application plans and identified by size and the removal of same shall be limited to no more than 30% of the total number of trees on the site and shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure. If no trees are to be removed as part of the improvement, then a permit shall not be required.
- e. ~~Trees required to be removed subject to a construction permit as issued by the Construction Official for construction of new residences, additions to residences in excess of 300 square feet, or the construction of swimming pools or other accessory buildings or structures that are not the subject of Planning Board application approvals. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure.~~
- d. ~~Trees removed by a property owner on his own property where no building permit for a new or replacement principal structure is sought.~~

**§ 19-5 TREE REMOVAL PERMIT REQUIREMENTS.**  
**[Ord. No. 18-2018]**

- a. Application Form. An application form can be obtained from the Code Enforcement Officer or Borough Clerk and shall include the following information:
  - 1. Name and address (street and lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation).
  - 2. Description of the premises where removal is to take place, including lot and block numbers, and street address as assigned if different than the address of the owner.
  - 3. Purpose of tree removal.
  - 4. In addition to the application form, a survey showing the approximate location and size of all trees with a diameter at breast height of ~~six~~ four inches or greater caliper that exist on the lot, and identifying those trees to be removed. At the discretion of the Code Enforcement Officer or his/her designee, other appropriate documents may be substituted if a survey is not available.
  - 5. If a tree is removed under the requirements of Section **19-3** or Section **19-4** ~~paragraph b., c., or d.,~~ a mitigation plan must be submitted and approved by the Code Enforcement Officer or his/her designee prior to the issuance of any permit that will provide for the replacement ~~of at least 1/2 of all removed trees~~ by planting a tree of three inches to ~~3-1/2~~ 2 1/2 inches caliper or remitting a fee to the Borough of Sea Girt ~~in the amount of \$500 per tree removed.~~ in accordance with the following:

Tree Replacement Requirements

Size of Each Tree Removed	Replacement Trees Required
4 Inches but not more than 6 Inches	1 Tree
6 Inches but not more than 10 Inches	2 Trees

10 Inches but no more than 16 Inches	3 Trees
16 Inches or Greater	4 Trees

#### Tree Replacement Fund Requirements

Size of Each Tree Removed	Replacement Trees Value
4 Inches but not more than 6 Inches	\$500.00
6 Inches but not more than 10 Inches	\$750.00
10 Inches but no more than 16 Inches	\$1,000.00
16 Inches or Greater	\$1,500.00

b. Trees on a property line requested to be removed shall require written consent of adjoining property owners prior to any approvals or removal.

#### § 19-6 FEES.

**[Ord. No. 18-2018]**

1. Upon the filing of an application with the Code Enforcement Officer for a tree removal permit under the terms of this chapter, the applicant shall pay an application fee of \$50 for any trees removed. ~~No fee is required for a tree removed under Section 19-4 paragraph a.~~
2. The applicant may elect, in lieu of planting replacement trees, to pay to the municipality a sum of money as set forth in Subsection 19-5.5 for each tree required to be planted pursuant to this subsection for the purpose of planting trees and maintenance elsewhere in the Borough. Said funds shall be deposited into the Tree Replacement Fund.
3. Tree Replacement Fund.
  - a. Where an applicant chooses to make a contribution to the Tree Replacement Fund in lieu of physically replacing the trees on said property as provided in 19-5.5, the amount of said contribution shall be as set forth in 19-5.5. The Tree Replacement Fund shall be in a separate fund with the dedicated purpose of tree replacement and maintenance within the Borough of Sea Girt

#### § 19-7 PERMIT APPROVAL.

**[Ord. No. 18-2018]**

- a. Time Limits for Action.
  1. The Code Enforcement Officer or his/her designee shall act on an application for a tree removal permit within 30 business days of the receipt of a complete application. Failure to act within 30 days shall be deemed to be an approval of the application and thereafter, a tree removal permit shall be issued.
- b. Duration of Permits.
  - ~~1. If granted for a lot or parcel of land for which no building permit is required, three months from the date of issuance.~~
  - ~~2 1. If When granted for a lot or parcel of land for which a building or zoning permit is required but for which no variance, subdivision, or site plan approval is required or has been approved by the Planning Board, until expiration of building permit granted with such tree removal permit. permit shall remain open until applicant requests close out.~~

#### § 19-8 COMPLETION.

**[Ord. No. 18-2018]**

1. The holder of a tree removal permit shall notify the Code Enforcement Officer when the tree removal has been completed. The Code Enforcement Officer shall review all cut trees and compare with application. Any deviations to the prior approval shall have the application modified, and any change in replacement tree planting or replacement fund requirements shall be identified and acknowledged by the applicant.
2. Upon construction project completion, a review of the application, replacement plan application, and an on-site review of all trees planted on the property shall be reviewed by the Code Enforcement Officer to ensure compliance.
3. No Certificate of Completion, Certificate of Approval, or Certificate of Occupancy from the Zoning Official or Construction Official shall be issued until all requirements of the replacement plan have been met

#### 19-9 Removal Requirements

1. No tree or portion thereof shall be permitted to be felled, dropped, or further cut within the public right-of-way
2. Upon approval, the applicant shall not have any stumps, roots balls, or tree remains on the property for more than 30 days.

#### **§ ~~19-9~~ 19-10 SIGNIFICANT SPECIMEN TREES.** **[Ord. No. 18-2018]**

It is presumed that Significant Specimen Trees should only be removed in the most compelling and extraordinary circumstances. Removal will be permitted only after approval by a Hearing Panel, as described in Section ~~19-10~~ 19-11. The loss of lot yield, building area, or profitability of developmental layout shall be deemed neither compelling nor extraordinary.

#### **§ ~~19-10~~ 19-11 APPEALS.** **[Ord. No. 18-2018]**

Whenever any application for a tree removal permit shall be denied by the Code Enforcement Officer or his/her designee, the applicant may appeal the denial to the Borough Administrator by filing a written notice of appeal with the Borough Clerk within 10 days after receiving notice of the denial. Upon receipt of the notice of appeal, the Borough Administrator shall appoint a hearing panel consisting of three members: The Borough Engineer, an employee of the Department of Public Works, and any other designee of the Borough Administrator. This panel shall proceed to hear the appeal upon notice to the applicant within 30 business days of the filing of such notice of appeal. This panel shall have the discretion, after interviewing both the applicant and the Code Enforcement Officer or his/her designee, to reverse, affirm, or modify the aforesaid decision.

#### **§ ~~19-11~~ 19-12 PROTECTION OF EXISTING TREES.** **[Ord. No. 18-2018]**

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Borough Engineer, shall be placed around trees that are not to be removed. The protective barriers shall be placed at the dripline or canopy line of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits, or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

**§ ~~19-12~~ 19-13 EMERGENCY ACTION.**  
**[Ord. No. 18-2018]**

In the event of an emergency, trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (Police, Department of Public Works, Borough Engineer, etc.), shall have the authority to have such tree removed without requiring that the property owner first apply for a permit. ~~However, the property owner or the designee of such person shall apply for a tree removal permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration until a permit is obtained.~~

**§ ~~19-13~~ 19-14 PENALTIES.**  
**[Ord. No. 18-2018]**

When regulated trees are removed without a tree removal permit, the affected areas shall be replanted as required by the Code Enforcement Officer or his/her designee. Any such replanting shall be in accordance with the requirements of development regulations. Any person found guilty of violating any of the provisions of this chapter shall be subject to a fine not exceeding ~~\$1,000~~ \$2,000 as determined by the Shade Tree Commission, per removed tree. Each tree removed or destroyed in violation of this section shall be considered a separate violation.

**PUBLIC NOTICE**

**PUBLIC NOTICE IS HEREBY GIVEN** that the foregoing Ordinance No. 01-2023 was introduced at the Regular/Virtual Meeting of the Borough Council of the Borough of Sea Girt, County of Monmouth on the 8<sup>th</sup> day of February, 2023 and was then read for the first time. The said Ordinance will be further considered for final passage by the Borough Council on the 8th day of March, 2023 at 7:00 PM during the virtual Borough Council Meeting to be held in The Sea Girt elementary School and on the Zoom platform; login <https://us02web.zoom.us/j/86943992878>; [Meeting ID 869 4399 2878](#). At such time and place, or at any time and place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning the said Ordinance.

Dated:

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Dawn Harriman, RMC, CMR  
Municipal Clerk