

## CHAPTER XVIII

### TREES

#### 18-1 TREE REMOVAL AND FARMING.

##### 18-1.1 Purpose.

The purpose of this chapter is to control and regulate indiscriminate and excessive removal, cutting, harvesting and destruction of trees and to control, regulate and prevent conditions which cause increased surface drainage, sedimentation and soil erosion, cause decreased soil fertility and impair the stability and value of real estate, all of which conditions are, and will be in the future, a deterrent to public safety, health and welfare.  
(Ord. 12-14-82 § 83A-1)

##### 18-1.2 Definitions.

As used in this chapter:

*Agricultural use* shall mean which is devoted to the production for sale of plants and animals, including but not limited to forages and sod crops; grain and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and raising of any or all such animals; bees and apiary products; fur animals; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal government.

*Approved plan* shall mean a tree removal plan which has been approved by the Planning Board, Board of Adjustment, and any other State or County agency as required by law.

*Community buildings* shall mean schools, churches, clubs, lodges or any such building used by any organized group or by the public generally, or any other County or State agency as required by law.

*Preferred trees* shall mean trees recommended by the Bureau of Forest Management as best adopted to the climate, soil and topography of the Township. A list of such trees shall be kept on file for the use and guidance of persons presenting plans for tree planting.

*Relevant land* shall mean any contiguous real property, owned by the same owners, five (5) acres or more in size. Property shall be deemed to be owned by the “same owners” if any owner of one (1) parcel owns, legally or beneficially, through a partnership, corporation or other entity, ten (10%) percent or more of an abutting parcel of property, or if an owner of ten (10%) percent or more of one (1) property or ownership entity owns ten (10%) percent or more of an abutting property or, through an ownership entity, ten (10%) percent or more of that entity.

*Tree* shall mean any perennial plant having a diameter greater than four (4”) inches, measured at a point four and one-half (4 ½’) feet above the ground (diameter breast height).

*Tree removal plan* shall mean a plan of tree removal and/or planting prepared by the New Jersey Bureau of Forest Management, a forestry consultant who is a graduate of forestry school accredited by the Society of American Foresters, a landscape architect or similarly qualified person. (Ord. 12-14-82 § 83A-10)

### **18-1.3 Compliance Required.**

No person shall farm, harvest, cut or remove any tree upon any relevant land within the Township unless the removal, cutting, harvesting or farming is done in accordance with regulations and provisions of this chapter. (Ord. 12-14-82 § 83A-2)

### **18-1.4 Tree Removal Plans Required.**

- a. No person shall cut, remove, harvest or farm any tree upon relevant land within the Township without first obtaining an approved plan.
- b. A tree removal plan shall be filed with every application relating to relevant land before the Planning Board or Board of Adjustment for approval of a subdivision, resubdivision, site plan, planned development, conditional use or zoning variance or prior to any other development requiring tree removal or planting, except as otherwise provided in this section.
- c. Where preliminary approval of a subdivision, resubdivision, site plan or planned development has been granted, a tree removal plan must be submitted to the Planning Board or Board of Adjustment as applicable, incidental with filing for final approval. Nothing in this requirement shall abrogate any vested subdivision rights acquired by preliminary approval.

- d. When final approval of a subdivision, resubdivision, or planned development has been granted by the Planning Board or Board of Adjustment but where tree removal has not yet been undertaken on the subject property, a tree removal plan shall be filed with the relevant Board within sixty (60) days of the passage of this chapter. Nothing in this requirement shall abrogate any vested subdivision rights acquired by final approval.
- e. No building permit with respect to relevant land shall be issued for the construction of any residential, commercial, industrial, recreational or community building or accessory buildings unless and until the developer, builder or owner files with the Construction Code Official a tree removal plan and obtains approval or submits a plan previously approved by the Board of Adjustment or Planning Board.
- f. No certificate of occupancy with respect to relevant land shall be issued unless tree removal has been in accordance with the approved plan and all trees required to be planted have been planted in accordance with the approved plan or a bond guaranteeing that planting has been posted with the Township Clerk. A performance bond may be required by the Township Engineer in the site plan. Posting of a bond may be waived or as otherwise provided in this section.

(Ord. 12-14-82 § 83A-3)

#### **18-1.5 Data Required for Tree Removal Plans.**

Any applicant for major subdivision or site plan approval shall be required to submit for approval:

- a. Tax map, lot and block number.
- b. Area of tract.
- c. Location of trees or wooded area.
- d. Number of trees or percent of stock (trees per acre).
- e. Species involved.
- f. General slope and topography, taken from a recognized map of such features.
- g. Location of streams and wetlands.
- h. Map of locations and surrounding properties showing wooded areas.

- i. A list of trees to be planed, preferably selected from preferred species.
  - j. Tree removal plan and tree planting plan in relation to principal and accessory buildings and septic systems, roads and driveways, parking lots, garden areas, etc., showing also the relation to survey stakes.
  - k. Location of buildings.
  - l. Location of roads, driveways, parking lots, staging areas, recreation areas and garden areas.
  - m. Grading plan.
  - n. Schedule for tree removal and planting.
  - o. Provision for removal of excess stumps and branches from the property.
  - p. Map, as applicable, showing number of trees to be harvested, location of proposed loading dock, staging areas, area to be harvested and streams with crossings.
  - q. Description of soils and soil capabilities.
  - r. Wildlife conditions and projections.
  - s. Description of tree quality.
  - t. Description of stock and goals with management.
  - u. Description of silvicultural prescriptions to be applied.
  - v. Estimate of product removal.
  - w. Staging plans.
  - x. Method of location of major skid trails and related technical items.
- (Ord. 12-14-82 § 83A-5)

#### **18-1.6 Exceptions.**

Under this subsection, the following trees may be removed without filing a plan:

- a. Any tree which is part of a cemetery.

- b. Trees directed to be removed by municipal, County or State authority pursuant to law.
- c. Any dead or diseased tree or any tree that endangers life or property.  
(Ord. 12-14-82 § 83A-4)

**18-1.7 Permits; Fees, Costs.**

- a. No permits are required in connection with obtaining an approved plan.
- b. All applications for an approved plan shall pay each of the following applicable fees to the Township Clerk:
  - 1. New construction and site plan approval; a filing fee of five (\$5.00) dollars; and if applicable
  - 2. Mayor and minor subdivision, use variance filing fee: one (\$1.00) dollar per lot with a minimum fee of five (\$5.00) dollars; and, if applicable
  - 3. Industrial and commercial properties filing fee:
    - (a) For the first twenty thousand (20,000) square feet of lot or fraction thereof; five (\$5.00) dollars.
    - (b) For each ten thousand (10,000) square feet thereafter or fraction thereof; two (\$2.00) dollars with a maximum fee of twenty-five (\$25.00) dollars.
  - 4. Inspections by the enforcing officer or agency with respect to approval or enforcement of tree removal plans; ten (\$10.00) dollars per acre or portion thereof but no greater than three hundred (\$300.00) dollars.
- c. The owner or application shall reimburse the Township for all costs of expert advice and technical assistance obtained in connection with an application for an approved plan or enforcement thereof.  
(Ord. 12-14-82 § 83A-7; Ord. 3-1-83)

**18-1.8 Criteria for Plan and Approval and Compliance.**

- a. Trees on a proposed building site or within thirty (30') feet around a building site may be removed but not to exceed sideline and setback requirements.

- b. Trees may be removed where the proposed paved portion of a parking area is planned. In off-street parking areas, other than for a single residential dwelling, islands of trees must be left in the manner required by the Planning Board, Board of Adjustment or by governmental regulation. No paving of any impervious nature shall be placed around the base of the trunk of the tree within ten (10') feet, and the grade shall be such that drainage of rainwater will keep the root area watered without pooling or exceeding the requirements of the species. Excess water shall be admitted to dry wells or storm sewers on the parking lot or drained by acceptable means.
- c. Trees may be removed in private rights-of-way and driveways within ten (10') feet of each side of the planned paved area. Alignment of the driveways should be planned to save as many trees as possible.
- d. If no area other than a wooded area or area with trees can be found to accommodate the sewerage system, disposal field or well meeting the approval of the Health Department, necessary tree removal shall be permitted.
- e. Where more than three (3") inches of fill is required around trees, the trees must be protected by an air well six (6') feet in diameter or as needed around the trunk to prevent the intrusion of soil. Tile pipe must radiate like spokes from the well to provide oxygen to the roots. The top of the well must extend six (6") inches above the graded level. If the tree is a species that will eventually die due to root disturbance or change in drainage or the owner prefers to remove the tree, it may be removed and replaced with another tree from the preferred trees in another or the same area after the fill has stabilized.
- f. Any grading must protect standing trees from machine operation, soil storage or material storage by a distance equal to or greater than the drip line of the tree. Any tree damaged must be replaced.
- g. Any tree used in a required planting or to replace a damaged tree must be at least two and one-half (2 ½") inches in diameter measured three (3') feet from the ground (diameter breast height), and must be nursery stock, balled and burlaped.
- h. A buffer zone of trees and shrubs shall be established according to the requirements of the Planning Board, Board of Adjustment or by governmental regulation.
- i. Cluster development, commercial development and industrial development shall consider the use of treeless areas, if possible, for

building sites. If it is necessary to develop wooded areas or remove trees for proposed building sites in the case of such developments, the Planning Board may require tree planting in treeless areas, if feasible.

- j. Trees in the area between the street line and the setback line of the buildings shall be preserved to the greatest extent possible.
- k. Tree removal from any slope or environmentally sensitive area is prohibited if it will contribute, in the opinion of the Planning Board or the Township Engineer, to extra run-off or surface water onto adjoining property and erosion and siting, unless other means approved the Morris County Soil Conservation District are provided to prevent run-off and erosion.
- l. No tree removal is permitted that will expose vacant land, backs of existing billboards, utility substances, transmission towers, warehouses, junkyards, landfill operations and other similar structures or operations except where trees are dead or diseased and/or endanger life or property. However, vacant land may be exposed if it is necessary to remove trees for building sites or sewerage sites and more aesthetic values are established.
- m. No healthy tree that is special by virtue of history, unusual size or age or of a rare species shall be removed except as may be required for the protection of health, safety or public welfare.
- n. No trees on public rights-of-way, parks or public areas are to be removed by private individuals or utilities except as approved by the Shade Tree commission and/or Planning Board. The removal of trees shall not be permitted from the master plan road right-of-way unless trees are dead or diseased or endanger life or property or a letter or approval is obtained from the Township Council or Township Engineer.
- o. Trees may be removed to clean for soil removal or backfill, provided that the same amount of wooded area or the same number of trees are replaced according to an approved plan. If the finished operation is planned to be used for other development, the replacement of trees shall be a part of the subdivision plan or site plan submitted for approval by the Planning Board.
- p. Unless proven necessary, staging areas shall not be closer than one hundred fifty (150') feet to any public road center. *Necessary* shall mean that no other area is available due to topography, soil conditions or unfavorable effect on the woodlot is certified by the consulting forester. Loading of trucks is permitted at the roadside

and a loading area must be constructed off the roadway where possible. After the cutting operation is complete, any road modifications and changes in the right-of-way must be restored.

(Ord. 12-14-82 § 83A-6)

**18-1.9 Enforcing Officer.**

- a. The Construction Code Official shall be the enforcing agency for all approved plans.
- b. The Construction Code Official or the Code Enforcement Officer may, on his own initiative or on complaint of any individual, take action to assure compliance with this chapter.
- c. The Construction Code Official authority or the Code Enforcement Officer has to act as herein provided and may request expert assistance.

(Ord. 12-14-82 § 83A-8)

**18-1.10 Appeals.**

Any person aggrieved by the decision of any officer, board or body may, pursuant to the provisions of this section, within ten (10) days of receipt of such decision appeal to the Township Council. Such appeal shall be taken by filing a written notice of appeal with the Township Clerk, which notice of appeal shall set forth with particularity the action appealed from. The Township Council shall set a time for the hearing of the appeal and, after a hearing has been held, may reverse, modify or affirm the decision appealed from.

(Ord. 12-14-82 § 83A-9)