

BOROUGH OF SAYREVILLE
ORDINANCE NO. 242-92

(ADOPTED ON 2ND AND FINAL READING: MAY 6, 1992)

AN ORDINANCE REGULATING THE CLEARING OF LAND AND REMOVAL AND DESTRUCTION OF TREES AND VEGETATION IN THE BOROUGH OF SAYREVILLE, COUNTY OF MIDDLESEX, PROVIDING FOR THE ISSUANCE OF PERMITS AND VIOLATIONS IN CONNECTION THEREWITH, AND CREATING A BOROUGH ADMINISTERED TREE BANK.

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Sayreville, in the County of Middlesex, State of New Jersey, as follows:

SECTION 1. PURPOSE.

It is recognized that there has been an excessive and needless cutting and destruction of trees on tracts of land, in the Borough of Sayreville, which is wasteful of the natural resources of the Borough. It is further recognized that trees are not only visually pleasant, but serve as a haven for animals, stabilize the land, reduce soil erosion, screen off noise, and moderate the effects of the sun, cold, and wind. Accordingly, the conservation of these natural resources and the prevention of erosion and pollution is in the public interest and for the public good and welfare. It is also determined that the uncontrolled destruction and removal of the trees growing upon the lands within the Borough has resulted in increased surface damage and soil erosion, decreased fertility of the soil, rendered certain lands unsuitable for their most appropriate use, and caused a deterioration in the value of certain improved and unimproved land.

SECTION 2. SHORT TITLE.

This Ordinance shall be known and cited as "The Tree Conservation and Reforestation Ordinance of the Borough of Sayreville."

SECTION 3. DEFINITIONS.

A. Tree

1. The term "Tree" shall include: a) Any living deciduous tree, having a trunk of a diameter greater than 4 inches D.B.H. (diameter breast high); b) any living coniferous tree having a trunk greater than 4 inches D.B.H.; c) any living dogwood, (*Cornus florida*) or American Holly (*Ilex opaca*) tree having a diameter of 1 inch or greater D.B.H.; or d) Native laurel (*Kalmia latifolia*) having a root crown of 3 inches or greater measured at the soil surface level.

2. The following are exceptions to the above:

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- a. Any tree growing on property actually being used as a tree nursery, garden center, orchard, or similar purpose;
 - b. Any tree growing in a public right-of-way as shown on a approved final subdivision map;
 - c. Any tree cut or removed in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry and filed with the Borough of Sayreville's Environmental Commission.
- B. Tree Removal Permit.** A permit issued under the provisions of this ordinance by the Zoning Officer for the removal of a tree or trees. This permit shall be valid for a period of one (1) year from the date of issuance by the Zoning Officer.
- C. Public Right of Way.** Any street or road shown upon municipal tax maps, official map, filed maps, or filed plan of the Middlesex County Clerk's Office, or the Borough of Sayreville tax records.
- D. Applicant.** Any person, partnership, corporation, public agency, or other entity requesting permission to engage in tree removal activity.
- E. Diameter at Breast Height (D.B.H.).** The diameter of a tree measured at a point on the tree four and one-half (4 1/2) feet from existing ground level.
- F. Commission.** The Shade Tree Commission of the Borough of Sayreville.
- G. Planning Board.** The Planning Board of the Borough of Sayreville.
- H. Board of Adjustment.** The Board of Adjustment / Zoning Board of the Borough of Sayreville.
- I. Tree Preservation Plan.** The map and written information required by Section 6 of this ordinance.

SECTION 4. DESTRUCTION OF TREES.

- A.** No person shall cut, remove or destroy, or cause to destroy, any tree growing in the Borough of Sayreville without having first obtained a permit as provided in this ordinance.

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B. The establishment of this ordinance is intended to supplement the Borough's existing Shade Tree Ordinances in that it shall extend onto privately owned property rather than just rights-of-way and park land owned by the Borough of Sayreville. Permits for the removal of trees within the Borough's rights-of-way shall still be subject to the requirements of the applicable shade tree ordinances.

C. Upon certification by the New Jersey Department of Agriculture or similar public agency that one or more trees located upon public or private lands in the Borough of Sayreville are diseased or harboring destructive insects and should be destroyed because of danger of further infection or infestation of additional trees upon same or adjoining lands, the Mayor and Borough Council or the appropriate governing entity may, with or without the consent of the owner of the lands involved, order the destruction and/or removal of said tree(s), provided the lands involved are restored to their original condition less the affected trees.

SECTION 5. EXCEPTIONS.

A. The provisions of this ordinance shall apply to all undeveloped property within the Borough; all developed tracts of land greater than one (1) acre, and also to all parcels of land that have received or are required to receive minor or major subdivision or site plan approval from either the Borough Planning Board or Zoning Board unless otherwise exempt as detailed below:

1. Any existing residentially developed lot less than one (1) acre in size shall be exempt from the requirements of this ordinance.
2. Any undeveloped tract of land within any zoning district, from which five (5) or less trees are to be removed shall be exempt from the requirements of this ordinance.
3. Any tract of land or individual residential lot contained within a minor or major subdivision or site plan that has received final approval from the Planning Board of Zoning Board prior to the passage of this ordinance,
4. Although exempt from the approval and permit requirements of this Ordinance, it is required that projects being performed by the Borough of Sayreville, its agents, or its contractors comply with the general intent of the Ordinance and provide replacement plantings and supplemental landscaping for any projects that require, the cutting and removal of existing trees.
5. Any tree removal within the right-of-way of a public street which would be governed by other ordinances set forth by the Shade Tree Commission.

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SECTION 6. PROCEDURE FOR OBTAINING A TREE REMOVAL PERMIT.

A. Except as set forth in Section 4 of this ordinance, or exempt in Section 5 of the Ordinance, no tree shall be cut or otherwise removed without first obtaining a Tree Removal Permit.

B. For the development of property as either a minor or major subdivision or Site plan, the approval of the Planning Board or Board of Adjustment will be required. The applicant shall submit to said Planning Board or Board of Adjustment simultaneously with the application for approval of such development, fifteen (15) copies of a "Tree Preservation Plan" and map prepared by a Landscape Architect or Professional Engineer licensed in the State of New Jersey which plan shall include the following information:

- 1. The boundary lines and acreage of the site and the lot and block number(s) as designated on the Borough's Tax Map;**
- 2. The location of the position of all trees, as previously defined, including trees within 50 feet of the limit of disturbance of any proposed streets, underground or above ground utility lines, and structures;**
- 3. The identity of the species and the quantity of each species of trees which are to be removed or disturbed;**
- 4. A list of the specific proposals for replanting, if applicable;**
- 5. The location of all streams and water courses on the site; and**
- 6. The location of slopes with a grade steeper than ten (10%) percent from which trees are to be removed.**

C. Upon receipt of a completed plan and map for a Tree Preservation Plan, the Planning Board or Board of Adjustment shall forward a copy of all pertinent information to the Shade Tree Commission for their review and recommendations. The Commission shall respond to the appropriate Board with its recommendation within 30 days of the receipt of the information for review.

D. In approving the application for either the minor or major subdivision or site plan, the Planning Board or Board of Adjustment shall incorporate any comments of the Shade Tree Commission into their Resolution of Approval relative to the Tree Preservation Plan.

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E. Upon approval of a Tree Preservation Plan in conjunction with either a minor or major subdivision or site plan by the Borough Planning or Board of Adjustment, an application for a

Tree Removal Permit can be made to the Borough Zoning Officer in accordance with the below listed procedure:

1. Application For A Tree Removal - Permit for Site Clearing Purposes Associated With An Approved Development Application.

Prior to any site clearing or land disturbance in connection with a minor or major subdivision or site plan, five (5) copies of an application for a tree removal permit shall be filed with the Borough Zoning Officer along with five (5) copies of a plan of the area to be cleared, The plan shall locate all trees as previously defined in relation to all present or proposed public or private rights-of-way for streets and/or Liability and further designating which trees are to be removed. The Zoning Officer shall review the submitted plan to verify compliance with the overall Tree Preservation Plan previously approved by the Planning Board or Board of Adjustment. The only trees permitted to be removed shall be those located within such public or private rights-of-way or those caused to be removed by reason of necessary grading where tree walls or mounding around trees would not be feasible. If it is determined that the submitted clearing plan is in compliance with the previously approved Tree Preservation Plan, then a Tree Removal Permit can be issued by the Zoning Officer.

2. Application For A Tree Removal Permit for Building Purposes.

Prior to any site clearing or land disturbance for the purpose of residential or commercial building construction in connection with a minor or major subdivision or site plan, five (5) copies of an application and and five (5) copies of a plot plan of the area to be cleared shall be filed with the Borough Zoning Officer. The plan shall locate all trees and shrubs as previously defined in relation to the proposed building construction and further designate which trees are to be removed. The Zoning Officer shall review the submitted plan to verify compliance with the overall Tree Preservation Plan previously approved by the Planning Board or Board of Adjustment. The only trees permitted to be removed shall be those located within the footprint of the proposed building or those caused to be removed by reason of necessary grading or utility line installation where tree wells or mounding around trees would not be feasible. If it is determined that the submitted plot plan is in conformance with the previously approved Tree Preservation Plan, then a Tree Removal Permit can be issued by the Zoning Officer.

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F. For the removal of more than five (5) trees from an undeveloped piece of property within any zoning district or from a developed tract of land greater than one (1) acre an application for a "Tree Removal Permit" shall be made directly to the Zoning Officer. The applicant shall provide the Zoning Officer with five (5) copies of following information for his review:

1. A statement as to the purpose of the proposed tree removal.
2. A description of the tract upon which the tree removal is to take place, including the lot and block number(s), street address, and acreage of the parcel(s).
3. A plot plan showing the location of the trees to be removed.
4. The location, if any, of any replacement tree plantings.

The Zoning Officer shall review the submitted information and determine the effect the proposed tree removal will have on the property. If the proposed tree removal does not violate the below listed criteria, a "Tree Removal Permit" can be issued by the Zoning Officer. If the proposed tree removal does violate any one of the below listed criteria the matter shall be referred to the applicable Board and the procedure as set forth in Section 6B shall be followed.

- a. The tree to be removed is not located within a buffer area as designated in the zoning ordinance for the zoning designation of the property in question.
- b. The tree to be removed is not located within a tree save area or buffer area as contained on a previously approved site plan or subdivision plan for the property in question.
- c. The tree to be removed does not provide screening or buffering for a building or structure located on the property in question or on an adjacent parcel of land.

SECTION 7. STANDARDS.

A. No soil shall be deposited or removed within the drip line or within 8 feet, whichever is greater, of any existing tree trunk. No machinery or materials shall be stored, deposited, or operated within the drip line or within 8 feet, whichever is greater, of any existing tree trunk.

B. Trees may be removed, and permits granted accordingly, under the following circumstances:

1. If the presence of the trees would cause hardship or endanger the public or the adjoining property;

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2. If the trees are in areas to be occupied by the buildings, driveways, or recreation areas, and/or within a distance of 15 feet around the perimeter of the building;
3. If the trees are in areas with cuts or fills or land considered dangerous to the trees and the public;
4. If the trees are transplanted and/or relocated in growing condition to another suitable habitat with a one (1) year guarantee of survival;
5. The trees on the site that are to be removed are replaced on site in accordance with the below listed schedule;
6. In lieu of replanting trees on the construction site, an applicant shall have the option of dedicating either sapling trees (seedling trees are not acceptable) and/or the appropriate monetary contribution, as listed under 'Fees' herein, to the Borough's Tree Bank, which shall be administered by the Shade Tree Commission. Sapling trees shall be required at a rate of four (4) times the required number of replacement trees.

For Removed Trees Between Four and Sixteen Inches

Percentage of trees removed from wooded acres permitted for development	Percentage of removed trees to be replaced (with 2 1/2" trees or greater)
80 to 100	80
60 to 79	60
40 to 59	40
20 to 39	20
Less than 20	10

For Removed Trees of Sixteen Inches or Greater

Existing tree to be removed	Number of replacement trees (min. 2 1/2")
Less than 18 inches	3
Less than 21 inches	4
Less than 24 inches	5
Less than 27 inches	6
Less than 30 inches	7
Less than 33 inches	8
Less than 36 inches	10
Less than 39 inches	12
Less than 41 inches	14
41 inches and greater	15

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C. To compensate for the increased air pollution to be generated from a residential, commercial or industrial site as a result of vehicular uses, the development plan shall include the addition of one (1) tree per every two (2) parking spaces.

D. Due to the fact that published reports have shown that industrial uses account for approximately 15% of the sources and emissions of air pollutants per year, any industrial use shall be required to provide for an additional 15% of replacement trees as determined from the above noted parameters (multiply total by 1.15) to compensate for the increased air pollution caused by an industrial use.

SECTION 8. FEES.

The applicant shall be charged fees for the provisions of this ordinance in accordance with the following schedule:

A. There shall be no fee required for a Tree Removal Permit.

B. If an applicant should decide not to replace trees on his site or to dedicate sapling trees to the Borough Tree Bank as previously set forth, a contribution in the amount of \$100.00 per replacement tree as required by this ordinance shall be provided to the Borough Tree Bank Fund.

C. No fees shall be charged for trees transplanted in live condition to a suitable habitat; provided they survive for a period of one (1) year after time of transplanting.

D. Fees collected under the provisions of this ordinance shall be utilized to plant and/or cultivate trees upon public property within the Borough of Sayreville or for environmental programs such as tree planting, maintenance, and preservation.

SECTION 9. APPEALS.

If any application is denied, the applicant may appeal the decision of the Zoning Officer to the Mayor and Borough Council by filing a written notice of appeal with the Borough Clerk within 10 days after receiving notice of the denial of the application. The Mayor and Borough Council shall hold a public hearing on the matter within 30 days after the notice of appeal has been filed and may modify, affirm, or reverse the appealed decision.

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SECTION 10. PENALTIES.

Each tree cut, damaged, or destroyed in violation of this ordinance shall be deemed to be a separate and distinct violation. Any person violating any of the provisions of this ordinance shall be liable for a penalty of not more than \$500.00 per violation, or imprisonment in the County Jail for not more than 30 days, or both, at the discretion of the court having jurisdiction of this matter.

In addition, the Borough of Sayreville may institute and maintain a civil suit in Chancery for injunctive relief to enforce the provisions of this ordinance. The Borough may also require the replacement of illegally removed trees with trees of similar species or the appropriate contribution for same as set forth in other sections of this ordinance.

SECTION 11. REPEAL OF INCONSISTENT ORDINANCIES.

All ordinances or part of ordinances inconsistent with any of the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 12. EFFECTIVE DATE.

This ordinance shall take place immediately upon publication according to law.