

## **BOROUGH OF SOUTH PLAINFIELD TREE PROTECTION REGULATIONS**

Tree protection in the Borough is governed by two ordinances. Chapter 185 of the Borough Code prohibits tree removal without a permit. The Development Review Ordinance specifies how tree removal and replacement is to be handled when vacant land is subdivided for residential development. These standards also apply to developed and undeveloped commercial properties.

Residential lots with existing dwellings are exempt – a homeowner does not need to apply for a permit to remove trees from his own property. However, trees growing in the Borough right-of-way along the property frontage are public trees and must not be damaged by the property owner. A homeowner who is concerned about the condition of a tree growing in the right-of-way should contact the Department of Public Works (908-755-2187) to have it evaluated and remedied if necessary.

Chapter 185 specifies the procedure for obtaining a tree removal permit for properties that are not subject to review by the Planning Board or the Board of Adjustment. Anyone applying for a building permit will need a tree removal permit. Any existing commercial property is also subject to these regulations.

Subdivision and Site Plan applications submitted to the Boards must comply with Section 806.7 of the Development Review Ordinance. The application package must include a Tree Removal and Replacement Plan. After the Board approves the application, the Tree Plan is submitted to the Building Department for a tree removal permit as part of the building permit procedures.

Section 806.7 requires an applicant to determine how many trees will be removed. Excessive clearing must be compensated for by replacing trees one-for-one, except that trees greater than 16” dbh must be replaced with one tree for every 3” of the tree’s diameter. For instance, removing a tree that is 18” wide at breast height (dbh) will require six replacement trees. The applicant should try to preserve existing healthy trees, especially these large “specimen” trees, both to reduce the environmental impact of the development and to avoid large tree-planting costs.

The requirement for replacement trees is in addition to basic landscaping and street tree requirements.

### **From Borough Code Chapter 185 TREES:**

185-2. The governing body of the Borough of South Plainfield does find that the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees upon lots and tracts of land within the borough has resulted in creating increased water runoff, soil erosion, stream channel sedimentation and consequent flooding, depression of the water table, noise pollution and dust and decreased soil fertility, air quality, climate moderation, wildlife habitat and property values, with the result that there has been and will continue to be

further deterioration affecting the health, safety and general well-being of the residents of the Borough of South Plainfield.

185-4. No person shall remove or destroy or cause to be removed or destroyed any tree or shrub growing within the Borough of South Plainfield without first having obtained a tree removal and site clearing permit, except as otherwise provided herein.

- 185-5. A. Exempted from this chapter's provisions shall be trees located on a tract of land in all one- and two-family residential zones (R7.5, R-10 and R-15), which tract of land has an existing residential building located thereon. Also exempt are trees growing upon commercial nursery tracts or orchards, utility lines or public lands and dead or diseased trees.
- B. No more than three (3) trees in twelve (12) months shall be removed, cut or destroyed from any vacant residential lot in any one- or two-family residential zone (R-7.5, R-10 or R-15) within the permitted principal building envelope and bed of driveway or one (1) or more trees outside the same without first obtaining a tree removal and site clearing permit.

- 185-6. Application procedures for tree removal and site clearing permits.
- A. For properties where no subdivision of land and/or site plan application is required:
- (1) Vacant residential properties. To obtain a tree removal and site clearing permit, the applicant must furnish a sketch of the property of sufficient accuracy showing the approximate location, trunk DBH and species of trees to be removed with the Administrative Officer, who, upon review and inspection (when necessary), shall have sole authority for permit approval.
- (2) Nonresidential property, vacant or otherwise developed. No trees shall be removed unless and until a tree removal and site clearing permit has been obtained by filing an application in triplicate as described in Subsection A(1) above with the Administrative Officer, who, upon receipt of the same, shall solicit the comments of the Borough Engineer and the Environmental Specialist.
- B. Where subdivision of land and/or site plan approval is required, applicants shall follow procedures prescribed in the Development Review Ordinance Section 806.7(f)(2).

185-7. Fees payable for the filing of an application for a tree removal and site clearing permit shall be as follows:

- A. For existing residential property not involving subdivision and/or site plan: the sum of twenty-five dollars (\$25.).

- B. For all other applications: seventy-five (\$75.) per acre or portion thereof, as specified in the Development Review Ordinance Section 1000.

185-9 No certificate of occupancy or building permit shall be issued unless and until there has been an inspection by the Environmental Specialist or his designee showing that the property and tree removal is in compliance with the tree removal and site clearing permit.

185-10. Any person found guilty of violating any of the provisions of this chapter shall be subject to a fine not to exceed one thousand dollars (\$1000.) or imprisonment for a term of up to ninety (90) days, or both, for each violation. Each day that such violation continues shall be considered a separate violation.

185-11. Restitution

Any person found guilty of violating any of the provisions of this chapter, in addition to the penalties set forth, may be required, prior to the issuance of a certificate of occupancy, to replant trees and shrubs of equivalent basal area and species to any area of the property damaged by the violations of this chapter.

## **From the DEVELOPMENT REVIEW ORDINANCE**

### 806.7 Required Improvements

E. Shade Trees. At least two shade trees shall be planted on each lot a minimum of 15 feet inside the curb line and a minimum of 40 feet between trees. The minimum caliper of the tree shall be 2 inches. The minimum height shall be 12 feet.

Trees to be planted shall be selected from those recommended in the publication Trees for New Jersey Streets published by the New Jersey Federation of Shade Tree Commissions. In large subdivisions (20 or more homes) more than one variety of trees shall be planted to provide visual interest and to prevent total damage from disease or insects. The following trees shall not be planted as shade trees: birch, catalpa, wild cherry, black locust, silver maples, poplar, sassafras, sumac, willow and all fruit trees and evergreen trees. In approving the locations and type of shade trees the Municipal Agency shall consider safety of vehicular and pedestrian traffic, including visibility and sign distance, breakage of limbs of brittle trees, interference with utility lines and poles, and consistency with the general character of the area.

Besides the shade tree requirements outlined above, additional trees shall be planted throughout the subdivision in accordance with a planting plan approved by the Municipal Agency at the time of approval of the preliminary plat. The number of trees planted shall be not less than 10 per acre, calculated on the basis of the entire subdivision tract. The variety of plantings may vary from those listed under shade

tree requirements and may include flowering types and evergreens, not exceeding thirty (30) percent of the total plantings.

#### F. Topsoil Preservation, Landscaping

2. Tree Removal. No tree shall be removed from the site unless and until a Tree Removal and Site Clearing Permit shall first have been obtained in the following manner:

- a. Application to be filed in triplicate with the Administrative Officer and payment of application fee in an amount of Seventy-Five (\$75) Dollars per acre of portion thereof. A performance guarantee shall be submitted upon approval of an application, in an amount estimated by the Borough Engineer to cover the cost of the replacement plan (as described in Section 806.7 (f) (e). Following the completion of the planting of trees in accordance with the approved replacement plan and as a condition of the release of the performance guarantee, the permit holder shall post a maintenance guarantee with the Borough Clerk for maintenance of the replacement trees. The maintenance guarantee, which may be a surety bond, shall not exceed fifteen (15%) percent of the costs of the replacement plan and shall be posted for a period not to exceed two (2) years after acceptance of the completed replacement plan. Under the maintenance guarantee, an eighty-five (85%) percent survival rate for the two year guarantee period shall be considered satisfactory.
- b. The site plan submitted by the applicant shall show (i) existing vegetation, (ii) actual location of all trees and shrubs to be removed as defined in **Ordinance 1259 Section 3** except in areas delineated in wetlands and associated transition zones as per a NJDEPE LOI, (iii) limit of disturbance, (iv) a schedule indicating size and species of trees to be removed, (v) topography, and (vi) physical features (i.e. streams, slopes, etc.)
- c. In addition to the copies of the site plan sent to the Planning Board or Board of Adjustment for review, the Administrative Officer shall forward one copy each of the application to the Borough Engineer, the Environmental Commission and the Borough's Environmental Specialist. The Environmental Commission and the Environmental Specialist shall, within fourteen (14) days of receipt of the application, advise both the Planning Board or Board of Adjustment and the Administrative Officer of their findings, concerns and recommendations. The permit shall be issued by the Administrative Officer upon approval by the Planning Board or Board of Adjustment as part of the final approval.
- d. Standards to be applied in granting tree removal and site clearing permit shall be concurrence in the findings of the Administrative Officer, Environmental Commission, Borough Engineer and

Environmental Specialist that the proposed tree removal shall not impair the growth and development of the remaining trees on the site or adjacent/contiguous properties; shall not cause soil erosion or increased dust; shall not impair existing drainage patterns; shall not substantially impair the aesthetic values of the area; shall not be in conflict with the recommendation and findings of the Environmental Commission. *(The maximum area to be cleared or developed shall not exceed the maximum lot coverage permitted in the zone plus 10%. Clearing shall be located only within the permitted principal building envelope and driveway bed. The remaining area shall be preserved and trees and shrubs rowing in this area shall be protected during development as specified in 806.7 (f) 2 (g) below.* [emphasis added]

- e. If the area to be cleared exceeds the allowed percentage, trees and shrubs (as defined in **Ordinance 1059 Section 3**) removed shall be replaced. Shrubs and trees up to 16" DBH shall be replaced on a one-to-one basis. Replacements shall be species native to the South Plainfield area, and, where practicable, the same as those removed. Replacement shrubs shall be #2 or 12" minimum. Replacement trees shall be 2" – 2 ½" caliper. Removed trees of DBH greater than 16" shall be replaced on a "ratio-to-one" basis. "Ratio-to-one" equals one replacement tree for each 3" caliper of tree removed. Replacement trees shall be shown on the subdivision site plan.
- f. The number of trees to be planted, in addition to street tree requirements and the replacement for excessive clearing as described in (e) above, shall not be less than 15 per acre of gross open lot area less the total percentage of area allowed to be cleared.
- g.
  1. Trees planted as specified in (f) above in residential developments shall be located at the property lines or corners to provide their own individual planting schemes on the open areas of their lots. Proposed planting shall be indicated on the subdivision plans, and should include a mix of deciduous and coniferous native species.
  2. The Planning Board or Board of Adjustment shall require the applicant to submit a construction plan that shows no soil, construction materials or equipment will be placed within the drip line of a tree or shrub that is to remain on site. Where it is necessary, by reason of topography, to grade around such trees, the plan shall include measures such as wells or retaining walls, as appropriate, to protect their root systems.
- h. Where an applicant claims that the cost of the required number of replacement trees, as described in (e) above, would impose a development cost that exceeds five (5%) of the total bonded improvement cost of development of the site, the Board may, in its discretion, reduce the required number of replacement trees. In support of such a claim, the applicant shall submit written cost estimates from three sources for Board review. Replacement trees

required for removing trees greater than 16" DBH are specifically excluded from such estimates. Each estimate shall include the species, size, number and price of the replacement trees. No reduction in the required number of replacement trees shall exceed one-half of the original number of replacement trees required in (e) for trees up to 16" DBH. No reductions will be granted as to the number of replacement trees required to replace trees greater than 16" DBH.

- i. The provisions of this section of this Development Review Ordinance shall not be applicable to subdivisions which are classified and approved as minor subdivision; these minor subdivisions shall be governed by the provision of the Tree Removal Ordinance of the Borough of South Plainfield.
- j. In lieu of planting some of the replacement trees on-site, the applicant may request or may be required to contribute an amount equal to twice the current value of each unplanted tree to a fund established by the Borough for environmental programs such as tree planting, tree maintenance, tree preservation, park development or landscaping and other comparable projects as recommended by the Environmental Commission. The developer may apply this option to up to fifty percent (50%) of the required number of replacement trees. This option does not apply to the required planting of 15 trees per acre of un-cleared lot area specified in (f) above. Contributions to be made in lieu of planting more than fifty percent (50%) of the required number of replacement trees must be approved by the Board.