

## Chapter 258, TREES

[HISTORY: Adopted by the Mayor and Council of the Borough of Laurel Springs as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Brush, grass and weeds -- See Ch. 83.

Flood damage prevention -- See Ch. 141.

Property maintenance -- See Ch. 193.

Soil removal -- See Ch. 220.

Zoning -- See Ch. 270.

ARTICLE I, Removal [Adopted 5-7-2007 by Ord. No. 685-2007]

#### § 258-1. Purpose.

A. The governing body of the Borough of Laurel Springs finds that indiscriminate, uncontrolled, and excessive destruction, removal and cutting of trees on lots and tracts of land within the Borough may cause, among other negative effects:

- (1) Increased drainage control costs.
- (2) Increased soil erosion and sedimentation.
- (3) Decreased fertility of the soil.
- (4) Degradation of water resources.
- (5) Decreased groundwater recharge.
- (6) Increased buildup of atmospheric carbon.
- (7) Establishment of a heat island effect.
- (8) Increased dust and pollution.

B. These impacts could have a detrimental effect on the character of the Borough and adversely affect the health, safety and welfare of the inhabitants of the Borough. The Borough desires to regulate and control indiscriminate and excessive cutting of trees within the Borough. The Borough strives to protect larger, older specimens of trees, to promote the preservation of existing trees and to provide a plan for replacement of trees.

C. It is recognized that there is a strong relationship among the integrity of the Borough's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources; and a correlation between increased air pollution and high-density residential, commercial or industrial uses. Therefore, the Borough finds that the appropriate management of these resources is an important health, safety and general welfare concern.

#### § 258-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**BOROUGH TREE** -- A tree located on land owned by the Borough or which is located on a street, highway, public place, right-of-way, Borough easement, park or parkway or within the sidewalk lines.

**CONSTRUCTION DISTURBANCE LINE** -- That line on the property beyond which the natural grade and existing vegetation will not be disturbed by a construction project. It shall be indicated on a plan by a dashed line and shall include not only area around each structure's foundation but also clearing and grading required for driveway, power, water, sewer, communications, and other installations.

**DIAMETER AT POINT OF MEASUREMENT (DPM)** -- The diameter of a tree measured 4 1/2 feet above the grade on the downhill side for existing trees. Trees utilized in the replacement of existing trees or proposed as part of a landscape plan shall be measured 12 inches above grade for trees over a four-inch diameter, and the measurement shall be six inches above grade for trees up to four-inch diameter. Diameter at point of measurement may appear as the abbreviation "DPM."

**DRIP LINE** -- A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

**HEAT ISLAND EFFECT** -- Refers to urban air and surface temperatures that are higher than nearby rural areas. Heat islands form as cities replace natural land cover with pavement, buildings, and other infrastructure.

**LANDMARK TREE** -- Any tree designated and identified as such by the Borough of Laurel Springs.

**MUNICIPAL TREE PLANTING** -- The location and placement of which as determined by the Borough of Laurel Springs.

**NON-BOROUGH TREE** -- Any tree other than a Borough tree as heretofore defined.

**REPLACEMENT TREE** -- A nursery-grown certified tree, properly balled, and marked with a durable label indicating genus, species and variety, and satisfying the standards for nursery stock and installation thereof set forth by the American Association of Nurserymen and guaranteed for two growing seasons.

**SIGNIFICANT TREE** -- Any tree with DPM of 28 inches or greater, or a circumference of 88 inches or greater, or any tree designated by the Borough of Laurel Springs and such other trees or species of tree that may from time to time be designated as a significant tree.

**TREE** -- Any deciduous or coniferous species which reaches a typical mature height of 12 feet or more and has a typical DPM of six inches (a circumference of 19 inches) or greater, up to 28 inches DPM (a circumference of 88 inches).

**TREE REMOVAL PERMIT** -- Permit issued by the Borough of Laurel Springs to remove or destroy non-Borough tree or trees.

#### § 258-3. Cutting or removal restrictions.

Subject to the exemptions set forth herein, no person shall cut or remove, or cause to be cut or removed, any tree (as defined in § 258-2 hereof) upon any lands within the Borough, unless the cutting or removal is accomplished in accordance with the provisions of this article.

#### § 258-4. Tree removal permits.

A. Permit required. A tree removal permit is required for any of the following:

- (1) Any cutting, removal or destruction of four or more trees on any lot within any twelve-month period which are not dead, dying, hazardous, storm damaged and/or infested and have a life expectancy of 10 or more years; or

- (2) Any cutting, removal or destruction of any significant tree; or
- (3) The removal of 50% or more of standing non-Borough trees on a lot within a five-year period. The standing non-Borough trees shall be the trees standing at the beginning of the five-year period preceding the date of filing of the permit application.
- (4) Prior to tree cutting and clearing in conjunction with any site plan or subdivision approval by the Planning Board or Zoning Board of Adjustment. Applications to the Planning Board and the Zoning Board of Adjustment shall demonstrate compliance with this article and all applications shall be accompanied by a tree removal permit plan, which shall be a completeness item on the checklists for minor and major subdivision and site plans.
- (5) When any individual lot grading plan is submitted to the Construction Department for review, the Construction Official shall determine whether a tree removal permit is required.
- B. The Borough shall deny the permit if the application does not comply with this article.
- C. Permits application. Applications for a permit shall be made to the Borough on forms provided for this purpose and shall contain the following information:
- (1) The name and address of the owner of the property from which the trees are to be removed.
- (2) The name and address of the applicant.
- (3) A plan of the property that shall contain the following information:
- (a) An indication of all trees to be removed, specifically by an assigned number, the species and DPM of each tree six inches (a circumference of 19 inches) or over.
- (b) An indication of all trees to remain and proposed replacement trees, if any, including their size and species specifically by an assigned number.
- (c) In lieu of Subsection C(3)(a) or (b), for any clearing greater than three acres, or where determined to be appropriate by the Borough for any clearing of less than three acres where the property is heavily wooded, a representative 5% sampling of the wooded areas proposed to be cleared shall be inventoried. The representative 5% shall be determined by agreement between the Borough and the applicant, provided that all significant trees shall be indicated on the plan. Tree or trees to be removed shall be indicated on site with an orange flagging tape.
- (d) Any other information which may reasonably be required to enable the application to be properly evaluated, including but not limited to a description of the purpose for which this application is to be made; e.g. scenic improvements, hardship, danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities, drainage of surface water, or other pertinent information.
- D. Additional requirements for construction projects.
- (1) Where the removal of a non-Borough tree is for the construction of any building, driveway, recreation area or any structure for which a building permit is required, no building permit shall be issued until the applicant has obtained a tree permit required under this article.
- (2) The plan of the property submitted with the permit application shall indicate the construction disturbance line.
- (3) The plan shall indicate any or all trenches for underground public utilities.
- (4) All applications to the Planning Board or Zoning Board of Adjustment for development under the Laurel Springs Development Ordinance shall contain a tree removal permit plan which shall be reviewed by the Borough upon filing of the tree removal permit application with the filing fee required pursuant to § 258-41 hereof. The Borough shall review said plan and the development plans and provide a report to the Planning Board or Zoning Board of Adjustment, as the case may be, as to whether a tree removal permit will be granted by the Borough in connection with the application.
- E. Other permit considerations.
- (1) All reasonable efforts shall be made to preserve significant trees including, but not limited to, relocation of planned and/or proposed infrastructure, driveways, and buildings. Removal of significant trees shall require the approval of Mayor and Council of the Borough of Laurel Springs.
- (2) The Borough may require a tree to be removed if the safety or health of the tree is so compromised that its survival is unlikely.
- (3) The Borough shall deny any permit inconsistent with this article.
- F. Exemptions.
- (1) A permit is not required for the removal of trees under six inches DPM (a circumference of 19 inches).
- (2) A permit is not required to remove trees from a property if the total number of removed non-Borough trees measuring six inches to less than 28 inches DPM (a circumference of 88 inches) on that property number three or less.
- (3) A permit is not required for removal of any Borough tree directed to be removed by the Borough of Laurel Springs.
- (4) A permit is not required for any tree or trees determined to be dead, dying, hazardous, storm damaged and/or infested.
- (5) A permit is not required for any tree or trees directed to be removed by the State of New Jersey.
- G. Standards. Upon receipt of a permit application for cutting or removal of trees, the Borough shall inspect the site on which are located the tree or trees sought to be cut or removed or otherwise protected within the intent of this article and the drainage and other physical conditions existing on the subject property and adjoining properties. The Borough shall consider the following factors, among others, in deciding whether to issue such permit:
- (1) Whether the proposed cutting or removal would impair the growth and development of the remaining trees on the applicant's property or adjacent property.
- (2) Whether the proposed cutting or removal would change existing drainage patterns, and/or allow soil erosion or increase dust.
- (3) Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots.
- (4) Whether the proposed removal would constitute a horticulturally advantageous thinning of an existing overgrown area.

- (5) Whether the area where such tree or trees are located will be occupied by a building or structure, a driveway or recreation area, a roadway, a drainage right-of-way, or a sewer line, or whether such area is within 12 feet of any of the foregoing.
  - (6) Whether existing conditions or proposed changes in the topography of the area where such tree or trees are located have depressed land configuration or fill of land which shall be deemed injurious to the trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement.
  - (7) Whether the presence of the tree or trees is likely to cause hardship or will endanger the public or an adjoining property owner by reason of its being diseased or dead or for some other adequate reason within the intent of this article.
  - (8) Whether the proposed removal is damaging a structure.
  - (9) Whether the root system has become invasive to the extent that no other solution remains.
  - (10) Whether it is a significant tree or a landmark tree as defined in § 258-2 hereof.
  - (11) Where the location of the tree interferes with the enjoyment of an outdoor pool.
- H. Conflicts with other laws. Notwithstanding anything in this article to the contrary, no tree removal shall be permitted where prohibited by any other municipal, state or federal statute, ordinance or regulation.

I. Fees.

- (1) With the application for a tree removal permit, the applicant shall pay the Borough a fee according to a schedule set annually by resolution of the governing body. The initial application fee, to remain in effect until changed by the governing body resolution, is \$25.
- (2) The Borough shall have the authority to waive the permit application fee if the tree or trees to be removed are determined to be dead, dying, hazardous, storm damaged, infested and/or directed to be removed by the State of New Jersey.

J. Scheduling requirements.

- (1) The Borough shall respond to the applicant within 15 business days of the permit application being filed.
- (2) The applicant must notify the Borough when the following events have taken place:
  - (a) Trees to be removed have been flagged.
  - (b) All tree removals are completed.
  - (c) For construction projects:
    - [1] If existing trees are within the construction zone, after required tree protection measures have been installed.
    - [2] If demolition, after demolition, prior to start of construction.
    - [3] If excavation of building structures, after excavation, prior to construction.
    - [4] If trenching is required, after markout of all trenches.
    - [5] Final grade is established.

K. Permit time limit. All tree removal permits shall be limited to one year from the date of issuance. If the approved tree removal has not occurred within one year, a new permit must be applied for and is subject to the payment of new fees. If, however, the applicant diligently pursues other governmental approval, or if approved development is ongoing, the permit may be reviewed for up to one year.

§ 258-5. Tree protection during construction.

All trees to be preserved are to be protected during construction using the following criteria:

- A. The limit of protection shall be the drip line unless otherwise approved by the Borough.
- B. Tree protection barriers shall be installed by the applicant and approved by the Borough before a permit is issued and shall remain and be maintained until all construction and grading are completed and final inspection has taken place.
- C. The protective barriers shall be independently supported fencing firmly secured and not supported by any trees and shall be a minimum of three feet high.
- D. In the tree protection areas, it shall be prohibited to:
  - (1) Store any building material.
  - (2) Store any fill of soil.
  - (3) Store or park any equipment.
  - (4) Use as a work area.
  - (5) Attach any signs, wires, or other attachments to any tree.
  - (6) Exception: Tree removal equipment is permitted, but only during operations for tree removal.

§ 258-6. Tree replacement fund established.

A tree replacement fund shall be established by the Borough to receive replacement tree contributions. The purpose of said fund is to pay the cost of replacement of trees by the Borough of Laurel Springs. Appropriations from the tree replacement fund shall be authorized by the governing body.

§ 258-7. Replacement trees.

A. If removal of more than 50% of the trees on a lot within a five-year period is permitted; or if any tree is permitted to be removed due solely to construction of any structure on a lot; or if removal of a significant tree is permitted; then, unless exempt, each tree removal shall be replaced based on the following replacement schedule: [Note: Tree replacement dollar amounts will be determined by the Borough of Laurel Springs and confirmed annually.]

Replacement Trees 1

DPM of Trees (inches)	Number of Tree	DPM
Greater than 6 and up to 12	1	3 to 3 1/2

Greater than 12 and up to 18	2	3 to 3 1/2
Greater than 18 and up to 24	4	3 to 3 1/2
Greater than 24	6	3 to 3 1/2

NOTES:

1Or approved equivalent.

B. Replacement trees, or approved equivalent, shall be trees approved by the Borough.

C. All replacement trees shall be planted on site. However, if the site in question cannot physically accommodate the total replacement amount of trees, then the applicant shall contribute an amount equal to the calculated monetary value of unreplaced trees to the tree replacement fund.

§ 258-8. Criteria for tree removal without replacement trees.

Tree removals which meet the following criteria are exempt from tree replacement restrictions or payment into the tree replacement fund:

A. Any tree removed from an area of property to be dedicated as public improvement, e.g., drainage facilities and public roadways shall be exempt from the replacement provisions of this article, except that where private roadways, parking areas or open space are proposed, all trees are subject to replacement in accordance with this article.

B. The Borough shall approve the removal of a tree, except a landmark tree, without requiring replacement trees or payment into the tree replacement fund if the following criteria apply:

(1) The tree is located on a parcel for which preliminary or final subdivision or site plan approval was obtained prior to the adoption of this article and it cannot be relocated on the site because of its age, type or size; or

(2) The tree is dead, diseased, damaged, injured, in danger of failing, interferes with existing utility service, creates an unsafe condition, or its continued presence conflicts with any other ordinances or regulations, or has been directed to be removed by the State of New Jersey.

C. No landmark tree shall be removed without the approval of the Borough of Laurel Springs.

§ 258-9. Enforcement.

The requirements of this article shall be enforced by the Borough, who shall inspect or require adequate inspection of all sites upon which there is an application for tree removal. The Borough shall oversee all applicable tree removal or destruction and soil removal incidental thereto. Upon ascertaining a violation of this article, the Borough shall issue a notice of violation to be heard in the Municipal Court as provided in this article. In addition to other remedies, the Zoning Officer, Construction Official, or other proper municipal official, may institute a stop-work order or pursue any appropriate legal action to prevent a continuing violation of the terms of this article.

§ 258-10. Violations and penalties.

Any person violating or causing to be violated any of the provisions of this article shall be subject to a fine of not less than \$100 and not more than \$2,000 and shall replace each tree destroyed or removed in violation of this Article in accordance with the tree replacement provision of this article. Each tree destroyed or removed in violation of this article shall be considered a separate offense.

§ 258-11. Appeals.

Any application or permit holder or any person otherwise aggrieved under this article may appeal to the governing body by filing written notice with the Borough Clerk within 10 days of said decision. The governing body shall act upon the same no later than 30 days after the notice has been filed, unless the applicant requests, and the governing body consents, to extend the time for such action. If the governing body fails to act within 30 days after the notice has been filed, the decision shall be deemed affirmed.