

BOROUGH OF SADDLE RIVER

ORDINANCE NO. 14-904-C

AN ORDINANCE TO AMEND CHAPTER 202 ENTITLED “TREES” AND CHAPTER 210 ENTITLED “ZONING” IN THE BOROUGH OF SADDLE RIVER

BE IT ORDAINED by the Mayor and Council of the Borough of Saddle River as follows:

1. Chapter 202 is hereby deleted in its entirety.
2. Article I of Chapter 210, entitled “Zoning” is hereby amended by the addition of the following definitions in Section 210-3B:

APPLICANT: Any person, firm, partnership, corporation or public agency requesting a permit to remove any tree located in areas subject to the following article.

CIRCUMFERENCE MEASUREMENT: The circumference of a deciduous tree shall be measured at its widest point. Note that a tree having diameter of eight (8) inches is equivalent to a circumference of twenty five (25) inches for the purposes of measurement.

DEAD OR DISEASED TREE: A tree which has been determined to be dead or to be damaged beyond salvaging or in an advanced state of decline where an insufficient amount of live tissue, green leaves, limbs or branches exist to sustain life.

LIVING TREE: A tree, which is neither dead nor diseased, as defined herein.

NONDISTURBANCE AREA: The area of a lot on which a detached single-family residential dwelling is located, within twenty-five (25) feet of each side lot line and rear lot line.

REMOVE OR REMOVAL OF TREES: Any cutting down, poisoning, adversely pruning, topping, or any other action otherwise diminishing the vigor of or destroying a tree. Removal of a tree does not include injury caused by acts of God or natural occurrences; or the salvaging, repair and necessary pruning of trees so damaged.

SHRUB: A woody plant ordinarily having several stems arising from its base and lacking a single trunk. A shrub is not a tree.

TREE: A perennial plant with an elongated stem or trunk, which may be single- or multi-stemmed, supporting leaves or branches.

3. Article XII shall be re-designated as Article XIII, "Enforcement". Section 210-55, "Enforcing Official: Inspections", shall be renumbered as Section 210-65.
4. Section 210-56, "Permit Required: Fee", shall be renumbered to Section 210-66.
5. Section 210-57, "Filing of Copies; Monthly Report", shall be renumbered as Section 210-67.
6. Section 210-58, "Violations and Penalties", shall be renumbered as Section 210-68.
7. There shall be created an Article XII, "Tree Removal", to read as follows:

ARTICLE XII. Tree Removal

§ 210-55. Purpose and intent.

This article is intended to preserve and protect trees within the Borough by regulating the destruction and/or removal of mature, healthy trees which might negatively impact the overall character of Saddle River and otherwise impair the health, safety and general welfare of Borough residents. Trees provide shade, impede soil erosion, aid water absorption and retention, inhibit excess runoff and flooding, enhance air quality, offer a natural barrier to noise, provide a natural habitat for wildlife, provide screening, enhance property values and add to the aesthetic quality of the community.

§ 210-56. Cutting or removal of trees.

No person or corporation shall cut or remove any deciduous tree having a diameter of eight (8) inches (which is equivalent to a circumference of 25 inches) or greater, measured at the widest point of said tree or an evergreen tree which is fifteen (15) feet or taller upon any lands within the Borough of Saddle River unless undertaken in accordance with the regulations and provisions of this article.

§ 210-57. Applicability.

A. A tree removal permit shall not be required for the following:

- (1) Routine maintenance, such as trimming, that will not adversely affect the lifespan of the tree.
- (2) Removal of any tree growing on or over a public right-of-way or public property by an appropriate authority or authorized utility company for maintenance of utility wires or pipe lines.
- (3) Removal of trees undertaken by or on behalf of the Borough of Saddle River.

B. A tree removal permit shall be required for the removal of any deciduous tree with a diameter of eight (8) inches or more, or an evergreen tree of fifteen (15) feet or taller, on

private property which is not exempt per § 210-57A above. The limitations related to the removal of such trees shall be as follows:

- (1) Removal of any trees in the non-disturbance area shall be subject to the provisions of Section 210-11.1 of this chapter.
- (2) Except as limited by the provisions of Section 210-11.1 relating to non-disturbance areas, there shall be no limitation as to the removal of any trees which are located within forty (40) feet of the principal residential building on the property.
- (3) Any tree whose conditions makes it a threat to health and safety may be removed. Where such a threat to health and safety is imminent, the tree may be removed immediately, but the owner of the property on which the tree was removed shall be required to file a tree removal permit within fifteen (15) days of such removal for the purposes of record keeping.
- (4) Removal of trees in connection with an application for site plan approval for a new home or accessory structure, or an expansion or addition to an existing home or accessory structure, or an approval of a soil relocation plan wherein in excess of five hundred (500) cubic yards of soil is being moved, shall be considered within the context of the overall site plan or soil relocation application, and shall not be subject to the limitations of tree removal set forth in Section 210-57 B(5) below.
- (5) The number of trees that may be removed from private property within a twelve month period shall be as follows: up to five (5) deciduous trees having a diameter of eight (8) inches (which is equivalent to a circumference measurement of twenty-five (25) inches) or more, and/or evergreen trees having a height of fifteen (15) feet or more on parcels of land which are two (2) acres or more in size, or three (3) such trees on parcels of land which are less than two (2) acres in size. Any dead or diseased tree to be removed, and any living trees on private property which are removed in accordance with § 210-57 B (2) and (4) shall be exempt from the limitation of the number permitted to be removed within a twelve (12) month period.

C. An applicant who wishes to remove a number of trees within a twelve (12) month period in excess of the number permitted in § 210-57 B(5) above, shall be required to seek a “c” variance from the Zoning Board of Adjustment, as set forth in Section 210-60 below.

§ 210-58. Filing of a tree removal permit.

A. An application for a tree removal permit shall be submitted to the Borough Construction Official, along with the required fee and certification of the homeowner.

B. The application shall include:

- (1) The name and address of the owner of the site.
- (2) If the applicant is not the owner, the name and address of the applicant, and the written consent of the owner.
- (3) If the person undertaking such removal is not the owner, the name and address of the person who will undertake the work of removal, and their qualifications or license to perform such work.

- (4) On a property survey or an as-built site or plot plan, the species (if known), location and condition (living, dead or diseased) of trees to be removed, whether such a tree is a deciduous or an evergreen tree, and whether such a tree represents a threat to health and safety as specified in 210-57B(3) above; and the distance from the principal residential building if such trees are to be excluded from the count as specified in Section 210-57B (2).
 - (5) For the purposes of inspection, the applicant shall mark the trees to be removed from the site with colored tape or ribbon that is visible, weatherproof and reasonably tamper proof. No trees shall be sprayed with paint, chemicals or otherwise marked, damaged or defaced.
- C. If an application is incomplete, the Construction Official shall notify the applicant within ten (10) days of filing an application. The Construction Official shall approve or deny an application for tree removal permit within fifteen (15) days of filing a complete application.
- D. A fee of ten dollars (\$10) per tree to be removed, with a maximum fee of five hundred dollars (\$500) shall accompany such an application.
- E. Only in the case of an application for a tree removal permit in connection with activities specific in Section 210-57B (4), a cash or surety bond in the sum of \$5,000 for each acre with a maximum of \$10,000 shall be submitted along with the application for the permit, which bond shall assure compliance with the preservation of those trees not to be removed, and which bond shall be returned less any costs expended by the Borough to replace trees improperly removed or destroyed in violation of the permit.
- F. The application shall also be accompanied by a certification, signed and dated by the homeowner, indicating that the information within the tree removal permit application is true and accurate.

§ 210.59. Review of site.

- A. The Borough Construction Official may make an on-site investigation of the property and all trees to be removed are to be clearly identified by tagging as set forth in § 210-58B (5).
- B. A tree removal permit must be adequately displayed so that it is visible from the nearest public street until such time as the authorized removal has ended and a final inspection has been conducted.
- C. The Borough Construction Official shall have the discretion to permit the removal of those trees on private property which they deem to pose a threat to health and safety, irrespective of location, diameter, height or number within a twelve (12) month period; however as indicated in Section 210-57B (3), a tree removal permit shall be applied for and granted prior to removal, except if such threat to health and safety is imminent.
- D. Where an applicant has proposed to remove a tree or trees whose condition is claimed to be dead or diseased and thereby excluded from the count as specified in Section 210-57B (5), the Borough Construction Official may require that a Certified Tree Expert, Arborist, or Landscape Architect provide a certification that the tree or trees in question are dead or diseased, as defined herein.

§ 210.60. Appeal of a tree removal permit denial, “c” variance for tree removal.

A. Any person aggrieved by the decision of the Construction Official pursuant to an application for a tree permit shall have the right to appeal such decision to the Zoning Board of Adjustment pursuant to NJSA 40:55D-70(a).

B. Also, applicants whose activity is not subject to Planning Board review for a site plan approval for a site plan approval for a new home or accessory structure, or expansion or addition to an existing home or accessory structure, or approval of a soil relocation plan wherein in excess of five hundred (500) cubic yards of soil is relocated, and who wishes to remove a number to trees in excess of that which is permitted by Section 210-57B (5), may seek a “c” variance from the Zoning Board of Adjustment pursuant to NJSA 40:55D-70(c), to do so.

§ 210.61. Replacement; treatment of removed or damaged tree.

A. Any deciduous tree destroyed or removed in violation of this chapter shall be replaced by a deciduous tree of the type which is referred to in the U.S. Soils Conservation Service as being compatible with the soil type and shall have a minimum height, excluding root bulk at the time of planting of ten (10) feet. Any evergreen tree which is destroyed or removed in violation of this chapter shall be replaced by an evergreen tree of the type which is referred to in the U.S. Soils Conservation Service as being compatible with the soil type and shall have a minimum height excluding root bulk at the time of planting of eight (8) feet.

B. The Borough Construction Official may order the replacement of any tree removed or stop any other activity which is carried on in violation of this chapter. The order shall be issued in writing and a copy served upon any person engaged in the tree work upon the subject lot. If no such person is present upon the lot, then the order shall be served upon the applicant, but if no permit has been issued to such lot, then the order shall be served upon the owner of the lot.

C. If in the opinion of the Borough Construction Official sufficient space is not available on the lot on which the development is proposed, he or she may require the applicant to plant the replacement trees on other lands owned by the applicant within the Borough or Borough park lands, within public street rights-of-way, or any combination thereof.

§ 210.62. Violations and penalties; revocation of tree removal permits on private property.

A. As set forth in § 210-61, the Construction Official may order the replacement of any tree removed or stop any other activity which is carried on in violation of this chapter. Thereafter, except for such work as is necessary to remedy the violation, any further work shall comply with the terms and conditions of any permit and the provisions of this chapter.

B. Any person violating a provision of this chapter shall be subject to a minimum fine of five hundred dollars (\$500) and a maximum fine of one thousand, two hundred and fifty dollars (\$1,250) and/or community service up to an amount of thirty (30) days at the discretion of the Municipal Court Judge. Each tree which has been cut or removed in violation of the provisions of this Chapter shall constitute a separate offense. Thus, for example, the minimum fine for the unauthorized removal of four (4) trees shall be two thousand dollars (\$2,000) and the maximum fine shall be five thousand dollars (\$5,000).

C. The Borough shall not issue a building permit, temporary certificate of occupancy or certificate of occupancy or certificate of continuing occupancy upon resale for any property

for which a violation of this chapter has been served until said violation is dismissed or resolved to the satisfaction of the approving authority or court, as is appropriate.

§ 210.63. Protection of Borough-owned trees.

A. No Borough-owned tree shall be removed or altered except by the Department of Public Works or by a tree removal contractor so authorized by contract with the Borough except in compliance with the provisions herein.

B. The Borough shall make every effort to act expeditiously in the removal or pruning of a Borough-owned tree that is dead, diseased, injured, in danger of falling, dangerously close to existing structures, causing disruption of public utility service, causing drainage or passage problems upon rights-of-way, or posing a threat to pedestrian or vehicular safety, or otherwise poses a threat to the public health, safety and welfare of the residents of the Borough.

C. It shall be unlawful to commit any of the following acts with respect to Borough-owned trees without the prior written permission of the Construction Official:

(1) Cut, prune, break, injure, alter or remove any Borough tree in any way; or cut, unduly disturb, re-grade or interfere in any way with any root of a Borough tree.

(2) Spray any Borough tree with a chemical.

(3) Fasten any rope, wire, sign or other device to a Borough tree or to any guard about such a tree, or install any nails, screws, spikes, hooks or fasteners of any type whether into or on or around any Borough tree or part thereof.

(4) Install, remove or injure any guard or device placed to protect any Borough tree.

(5) Close or obstruct the area encompassing the dripline so as to restrict the access or air, water and fertilizer to the roots of such tree.

(6) String any wires or lines from one Borough tree to another or to any other point.

(7) The Construction Official shall grant written permission if the activity for which such permission is requested is, in his/her opinion, in the public interest and not likely to materially injure any Borough tree.

§ 210.64. Maintenance of Borough-owned trees and shrubs.

A. All Borough trees and shrubs located on property owned by the Borough shall be maintained solely by the Department of Public Works.

B. All Borough trees and shrubs not located on property owned by the Borough, but on properties owned by the Board of Education or by some other public Borough body, may be maintained by the Department of Public Works as is required for the general public welfare.

C. The Certified Public Works Manager shall be empowered to authorize garden clubs, individuals or civic associations to adopt certain Borough trees and shrubs and flower beds for care and maintenance, when he or she deems it in the public interest to do so.

Except as provided for herein, all other provisions of the Ordinance shall remain in full force and effect.

If any section, subsection, part, clause or phrase of this Ordinance shall be declared invalid by

judgment of any court of competent jurisdiction, such section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance.

This Ordinance shall take effect immediately upon final passage and publication as required by law.

Approved:

Samuel S. Raia, Mayor

Attest:

Marie Elena Macari, Borough Clerk