

Chapter 403

TREES

GENERAL REFERENCES

Property maintenance — See Ch. 313.

Streets and sidewalks — See Ch. 372.

§ 403-1. Definitions; applicability.

- A. As used in this chapter, the following terms shall have the meanings indicated:

DISEASED TREE — A tree that is irretrievably diseased or infested with infections such that no available treatment can cure the disease or infestation.

TREE — Any woody living perennial plant having a diameter of four inches or greater measured at a point four feet above the ground.

- B. The clearing of diseased trees, vegetation, or natural growth which is not defined as a "tree" within this section shall not be prohibited.

§ 403-2. Permit requirement.

It shall be unlawful for any person to remove or destroy or cause to be removed or destroyed any area of trees in excess of 225 square feet from any lands within the Township without having first obtained a tree removal permit from the Township as provided in this chapter.

§ 403-3. Procedure for tree removal permit.

- A. An applicant for a tree removal permit shall submit a plot plan filed with the Township Zoning Officer. This plot plan shall identify the subject lot and adjacent lots, limits of clearing, proposed construction (if any), existing use of adjacent lots, and the following areas in square feet or acres as deemed appropriate:

- (1) Area of subject lot.
- (2) Area of subject lot to be cleared.
- (3) Area of subject lot to remain in its natural state.

- B. The Zoning Officer shall review the intent and purpose of each tree removal application to confirm the necessity for tree removal and conformance with requirements indicated herein. The plot plan so filed shall be reviewed by the Zoning Officer for an approval of tree removal or destruction within 20 days of the filing of the plot plan. When deemed appropriate by the Zoning Officer, the Township Engineer shall assist the Zoning Officer in reviewing tree removal applications. A

tree removal permit shall not be issued until the Zoning Officer has approved, in writing, the plot plan for tree removal.

§ 403-4. Approval and appeal.

Failure of the Zoning Officer to issue an approval or denial of the filed plot plan within 20 days of the filing shall be deemed an approval. A denial of the issuance of the permit by the Zoning Officer may be appealed to the Board of Adjustment pursuant to N.J.S.A. 40:55D-70(a), by filing such an appeal, in writing, with the Zoning Officer within 10 days of the denial by the Township Zoning Officer.

§ 403-5. Standards.

- A. Prior to the issuance or denial of any permit under this chapter, the Zoning Officer shall make a physical inspection of the property that is the subject of the permit. The Zoning Officer shall follow the purpose of this chapter, which is to preserve trees wherever this can be accomplished. The Zoning Officer shall assess the area where a tree is designated for removal to determine if such a tree to be removed will be occupied by a building or structure, driveway or recreation area, roadway, drainage right-of-way or sewer line. Tree removal limits shall not adversely impact the overall quality and aesthetics of a neighborhood, cause soil erosion or interfere with existing drainage patterns. All areas cleared shall be stabilized in accordance with the most recent edition of the Standards for Soil Erosion and Sediment Control in New Jersey. In no case shall a tree removal permit reduce the density of existing trees to less than 10 trees per acre, unless a lesser density is approved pursuant to a site plan application or development permit. If deemed appropriate by the Zoning Officer, the Township Engineer may assist the Zoning Officer with review of tree removal permits.
- B. If compliance with the requirements indicated herein would prevent construction, the applicant for a tree removal permit may propose reforestation and/or plantings to comply with the intent of this chapter. For developments requiring the approval of a preliminary engineering plan, an approval granted in this matter will be conditioned upon satisfactory completion of the reforestation/plantings prior to issuance of a certificate of occupancy. The Zoning Officer shall provide the Township Engineer a copy of all approvals which are conditioned upon reforestation/plantings and requiring a preliminary engineering approval. Approval of the reforestation/plantings would be performed by the Township Engineer at the time of inspection for a certificate of occupancy.

§ 403-6. Application and issuance for a permit. [Amended 7-9-2007 by Ord. No. 07-030]

The application for the removal or destruction of trees under this ordinance shall be made to the Manchester Township Zoning Officer. Upon written approval by the Township Zoning Officer, or in the case of an appeal to the Board of Adjustment, the Zoning Officer shall issue the permit. The fee for such permit shall be \$75.

§ 403-7. Exemptions.

This chapter shall not apply to commercial nurseries, right-of-way pruning by utility companies, trees to be removed by the Township on public rights-of-way, public park lands owned by the Township, trees that are removed as part of a municipal project, emergency removals necessary for the health and safety of the public, fire breaks subject to the Pinelands Commission regulations, diseased/dead trees, and trees located within 10 feet of an existing structure and vegetation or natural growth not satisfying the definition of a tree pursuant to this chapter.

§ 403-8. Planning Board and Zoning Board of Adjustment approvals.

Application for a tree removal permit for a property/properties associated with a Planning Board of Zoning Board of Adjustment approval shall be filed and administered as follows:

- A. Any property/properties that received major site plan or major subdivision approval that has approved signed maps along with an executed developer's agreement and performance guarantees are exempt from § 403-5, Standards, of this chapter, and shall be held to the clearing requirements of the approving Board as outlined in the approving resolution and signed construction plans.
- B. All other applications that receive approval from the Township Planning Board or Zoning Board of Adjustment shall file an application for a tree removal permit as described elsewhere in this chapter. A copy of the plans approved by the Board should accompany all applications of this type. These applications shall be reviewed and approved or denied as indicated elsewhere in this chapter.

§ 403-9. Enforcement.

- A. This chapter shall be enforced primarily by the Zoning Officer except as described in Subsection B of this section. When deemed appropriate by the Zoning Officer, the Township Engineer shall assist the Zoning Officer in enforcement of this chapter.
- B. The Township Engineer shall enforce any tree removal permit issued in accordance with § 403-8A and B of this chapter.

§ 403-10. Violations and penalties.

Anyone violating any provision of this chapter shall be subject to a fine of \$100 for every 25 square feet of cleared land. In the event that the tree caliper cannot be determined at four feet above the ground, the caliper shall be measured at the highest point that remains of each tree cleared. In addition, the lot owner shall be responsible for site stabilization, erosion and sediment control, along with revegetation or reforestation, as deemed appropriate by the Zoning Officer and Township Engineer. In the event clearing limits exceed 500 square feet beyond the approved clearing limits or adjacent lands not owned by the applicant have been cleared, a reforestation plan shall be required. This plan shall be prepared by an appropriate professional and approved by the Township Engineer. Failure to remedy within 30 days of the notice of violation shall permit the Township to perform the work as recommended by the Township Engineer, and assess the entire cost of remediation, including professional fees, as a municipal lien on the property.