

Chapter 313

TREES

GENERAL REFERENCES

Site plan review — See Ch. 285.

Obnoxious vegetation — See Ch. 319.

Subdivision of land — See Ch. 297.

Zoning — See Ch. 335.

ARTICLE I

Preservation of Specimen Trees**[Adopted 4-28-1988 as Ord. No. 22-88 (Ch. 91 of the 1974 Code)]****§ 313-1. Definitions.**

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

SPECIMEN TREES — The largest known individual trees of each species in the State of New Jersey. The New Jersey Department of Environmental Protection, Bureau of Forestry, maintains a list of such trees, which is incorporated herein by reference.

§ 313-2. Legislative policy.

Specimen trees are an irreplaceable scientific and scenic resource. Often these trees have also been associated with historical events. As such, it is the declared legislative policy of Lacey Township to preserve and protect specimen trees.

§ 313-3. Interference by development prohibited.

All development is prohibited that would significantly reduce the amount of light reaching the crown of a specimen tree, alter the drainage patterns within the site where the specimen tree is located, adversely affect the quality of water reaching the site where the specimen tree is located, cause erosion or the depositing of material in or directly adjacent to the specimen tree or otherwise injure the specimen tree. The site of the specimen tree extends to the outer limit of the buffer area to avoid adverse impact or fifty (50) feet from the tree, whichever is greater.

§ 313-4. Enforcement.

The Zoning Officer of the Township of Lacey or his designee shall be the enforcement officer charged with the administration and enforcement of this Article.

§ 313-5. Violations and penalties.¹

Any person violating any of the provisions of this Article shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.), by imprisonment for a period not exceeding ninety (90) days and/or by a period of community service not exceeding ninety (90) days, in the discretion of the court.

1. Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.

ARTICLE II

Protection and Removal**[Adopted 7-14-1988 as Ord. No. 34-88 (Ch. 98 of the 1974 Code)]****§ 313-6. Short title.**

The short title of this Article shall be the "Tree Ordinance," and this Article shall hereafter be cited or referred to for purposes of amendment or otherwise by said title.

§ 313-7. Findings.

The Township of Lacey finds that the development of unimproved or vacant land for the purpose of commercial and residential development has resulted in indiscriminate and excess cutting of trees upon tracts of land and has resulted in creating increased surface water runoff and soil erosion thereby increasing municipal costs to control drainage within the township. It further finds that such excessive removal and destruction of trees impairs the proper occupancy of existing residential areas and impairs the stability and value of improved and unimproved real property in such areas with the attendant deterioration of conditions affecting the health, safety and general welfare of the inhabitants of the township, and further finds that regulations for the indiscriminate removal of trees is within the police power of the township.

§ 313-8. Definitions.

For the purpose of this Article, the following words shall have the meanings indicated:

BUFFER AREA — The distance from the side and rear property lines beginning at the front setback line of the lot and running to the rear line in the case of the side lines and for the entire width of the rear line. For specific buffers, refer to Chapter 335, Zoning.

BUILDING PLOT — A parcel of land upon which a building has been or may be erected in accordance with Chapter 335, Zoning.

NURSERY, GARDEN CENTER, ORCHARD or TREE FARM — Only such land within the municipality used for horticultural purposes under controlled agricultural conditions.

PERMITS — A license issued by the Zoning Officer to remove or destroy trees from any unimproved or vacant land as defined in this section.

SHRUB — A woody plant that is never tree-like in habit and produces branches or shoots from or near the base, such as kalmia, rhododendron, azalea, ilex, viburnum and similar species.

TREE — Any living deciduous tree having a trunk of a diameter greater than three (3) inches DBH (diameter breast high), any living coniferous tree having a trunk of a diameter greater than four (4) inches DBH or any living dogwood (cornus florida) or American holly (ilex opaca) having a diameter of one (1) inch or greater DBH.

§ 313-9. Applicability.

The provisions of this Article shall apply to all unimproved or vacant lands within the township. Where a structure is located on a lot, the owner of the property may not claim exemption from this Article for more than the minimum land required by Chapter 335, Zoning, for the particular structure in question.

§ 313-10. Permit required; application.

- A. Permit required. No person, including the property owner, shall remove or destroy or cause to be removed or destroyed, by any person, any tree on any unimproved or vacant tract of land within the township unless a permit is obtained for such removal.
- B. Application fee. The permit shall be obtained from the zoning office upon an application being made therefor and a fee of twenty-five dollars (\$25.) with each application.
- C. Application information where no building permit is requested. An application for a permit for removal or destruction of any tree or trees where no building permit is requested shall contain the name of the applicant, the name of the owner if different from the applicant, the location of the trees on a sketch of property and the reason for removal or destruction and a certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 if the application is for a permit in the Pinelands Area in the township. **[Amended 2-14-1991 by Ord. No. 5-91]**
- D. Application information where building permit is sought. For an application for a permit for removal or destruction where a building permit for construction is being sought, the property owner shall file with the site plan a plan showing which trees on the property are to be removed, together with the species and condition of such trees shown on the plan by the architect or engineer, under the seal of such architect or engineer, and shall also provide the same information for the trees which are to remain on the land. The property owner shall also provide a certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 if the application is for a permit in the Pinelands Area of the township. **[Amended 2-14-1991 by Ord. No. 5-91]**
- E. Issuance of permits. The Zoning Officer, after consultation with the Township Engineer, shall determine which trees may be removed and the permit for such removal shall be issued by the Zoning Officer.
- F. Referral to other agencies. The Township Engineer or Zoning Officer shall refer the application to the Environmental Advisory Commission for its review and comment when the application concerns property which is zoned commercial or when the applicant seeks to remove the majority of trees from a property in excess of one (1) acre.
- G. Minimum land requirements. An owner of a structure on a plot of land may not claim exemption from this Article for more than the minimum land required by Chapter 335, Zoning, for the particular structure in question.
- H. Appeal. In the event of denial of any permit, the applicant seeking appeal from the decision of the Township Zoning Officer may appeal to the Zoning Board of Adjustment.
- I. Notification to the Pinelands Commission of all permits in the Pinelands Area of the township shall be provided in accordance with Chapter 335, Zoning, of this Code. **[Added 2-14-1991 by Ord. No. 5-91]**

§ 313-11. Standards for removal.

- A. Any area to be occupied by a building, driveway, drainage field, septic tank, recreation area (tennis courts, swimming pools or similar facilities) may have the trees removed but for a

distance of not more than fifteen (15) feet around the perimeter of such facilities, provided that the same does not violate any buffer requirements within the zone.

- B. The Township Zoning Officer and/or Township Engineer shall view the land where the tree or trees are to be removed, as well as drainage, grade and other physical conditions existing on subject or adjoining property, and will consider the report from the Environmental Advisory Commission in determining whether to issue the permit.
- C. The permit shall be granted if there is a finding that the removal and destruction will not impair the growth and development of remaining trees on the property of the applicant or adjacent properties and would not cause erosion of soil, impair existing drainage, lessen property values in the neighborhood or impair the aesthetic values of the area.
- D. The spirit of the provisions of this Article shall be to grant permits in buffer areas only for compelling reasons as it is essential to maintain aesthetic values and preserve privacy and drainage control.
- E. In the Pinelands Area of the township, the standards of Chapter 335, Zoning, of this Code must also be met. **[Added 2-14-1991 by Ord. No. 5-91]**

§ 313-12. Tree protection.

- A. No structure, equipment or movable machinery shall be permitted to operate within the dripline of any tree which is to be saved in order not to disturb the soil and thereby injure the tree, except when the dripline of the tree is within the fifteen-foot area set forth in § 313-11A.
- B. Exempt lands. The following lands shall be exempt from the provisions of this Article: nurseries, garden centers, orchards, tree farms or township, county and state land.
- C. If the removal of or destruction of trees will impede or hamper the growth and vigor of the remaining trees, removal will not be permissible unless a stump grinder is utilized.
- D. No soil material, equipment, temporary buildings and work areas, fuels, paints and other construction items shall be placed within the dripline of the tree.
- E. Trees to be saved shall be fenced in or heavily marked with ribbon so none are mistakenly bulldozed down or injured.
- F. If it is necessary for equipment to move through the dripline of a tree, a protective fence must be placed at least five (5) feet from the tree trunk and the remaining area covered with a wood chip mulch four (4) to six (6) inches deep. Interlocking metal sections are to be placed on top of the mulch for driveways.
- G. If branches must be pruned to make room for construction, standard pruning techniques should be followed as set forth by the International Society of Arboriculture and be subject to inspection by the Township Zoning Officer or Engineer.
- H. Any tree of historical significance or otherwise significant by reason of its rarity or environmental significance shall be given special consideration and shall not be cut or destroyed unless there is no possible alternative.

§ 313-13. Removal of diseased trees; expert fees.

- A. No fee shall be charged for a permit authorizing the removal of diseased or damaged trees or in applications where application is made for a building permit.
- B. In cases where the services of a tree expert are required, the cost thereof shall be borne by the applicant.

§ 313-14. Violations and penalties.²

Any person, corporation, firm, partnership or other entity violating or causing to be violated any of the provisions of this Article shall be fined not more than one thousand dollars (\$1,000.), imprisoned in the county jail for not more than ninety (90) days and/or serve a period of community service for not more than ninety (90) days, for each violation of this Article. Each and every day that such violation continues shall be considered a separate violation. Each tree or shrub destroyed or removed in violation of this Article shall be considered a separate violation.

§ 313-15. Enforcement.

The provisions of this Article shall be enforced by the Township Zoning Officer, Code Enforcement Officer, Township Engineer, Township Planner and Township Police Department.

2. Editor's Note: Amended at time of adoption of Code; see Chapter 1, General Provisions, Art. I.