

21-11

AN ORDINANCE REPLACING CHAPTER 126 (LAND USE), PART 11 (SPECIAL ENVIRONMENTAL REQUIREMENTS), ARTICLE XXXVIA ENTITLED “REMOVAL AND PRESERVATION OF TREES,” SECTIONS 126-278.1 THROUGH 126-278.12 OF THE MUNICIPAL CODE OF THE TOWNSHIP OF BRIDGEWATER FOR THE PURPOSE OF EXPANDING THE DEFINITION SECTION, DELINEATING ADDITIONAL EXCEPTIONS, SETTING FORTH THE PROCEDURE FOR OBTAINING A PERMIT, DELINEATING THE CRITERIA FOR TREE REMOVAL AND SETTING FORTH THE TREE REMOVAL APPLICATION FESS IN CONNECTION THEREWITH

**Township of Bridgewater, NJ / Part II, General Legislation / Land Use / Special Environmental Requirements
Article XXXVIA Removal and Preservation of Trees**

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§ 126-278.1 Purpose.

The purpose of this article is to control and regulate indiscriminate and excessive removal, cutting and destruction of trees, in order to regulate and prevent conditions which cause increased stormwater runoff, soil erosion and sedimentation of watercourses, reflected heat, air or noise pollution, inhibit aquifer recharge, and cause decreased soil fertility, and impairs the stability and value of real estate, all of which conditions will in the future be detrimental to public health, safety and general welfare of the public, and will preserve an important attribute of the Township, by encouraging owners of existing developed lands and developers of lands to save or replace as many native mature trees as possible when making improvements to real property.

§ 126-278.2 Definitions.

CALIPER

The measurement of the diameter of a tree at 12 inches above the ground. This measurement is used to determine the tree size for planting.

CERTIFIED ARBORIST

A person certified by International Society of Arboriculture, ISA, which is a state-wide professional organization supporting the professional practice of arboriculture.

CONSERVATION EASEMENT

A portion of land dedicated for designated conservation purposes and designated as such on any recorded deed, plot plan and/or as otherwise identified and delineated in any site plan.

CONIFEROUS

A tree producing cones and having leaves that do not fall off in the winter.

CROWN

The upper mass or head of a tree created by its branches and leaves.

DBH (DIAMETER AT BREAST HEIGHT)

The diameter of the stem of a tree measured 4.5 feet above the surface of the ground.

DESTROY

To kill or damage irreparably, which shall be deemed to include, but not be limited to, damage inflicted to the root system by machinery, storage of materials and soil compaction, change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; pruning which is so excessive that it threatens the health of the tree or thinning leading to the

failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the tree; or application of any substance toxic to the tree.

DRIPLINE

The dripline is the area directly located under the outer circumference of the tree branches.

EXISTING INDIVIDUAL LOT

All lots identified and recorded on the Township Tax Map as of the date of adoption of this article with an existing principal structure (built under conforming codes and with Township issued permits). This includes vacant lots.

HISTORIC TREE

A tree may be associated with a notable local or regional historical event, person, structure or landscape. Historic tree status is granted by the Council. Trees that are of unique historical value, as determined by the New Jersey Department of Environmental Protection, and therefore constitutes an important community resource.

LANDMARK TREE

Trees that are of unique ecological value, as determined by the Planning Board or Council, and therefore constitutes an important community resource.

LANDSCAPE EASEMENT

A portion of land dedicated for landscaping and, more specifically, the installation or planting of landscape materials, including but not limited to trees, shrubs, ground covers, turf and/or other planting materials. A landscape easement may be required as a landscape barrier or buffer between properties of different uses or between residential neighborhoods and arterial streets and/or area of nonresidential nature. Additionally, a landscape easement must be identified and delineated in a deed.

PERSON

Persons, corporations and similar entities.

REPLANTED TREE

Any deciduous or evergreen plant of the caliper required in this article, planted for the purpose of replacing tree or trees cut down, removed relocated or destroyed.

SPECIMEN TREE

Any of the following:

A. Specimen tree provides ecological value, and input from trained biologists and ecologists may be necessary to document the particular ecological values that determine a specimen trees. A tree with a DBH equal to or greater than 75% of that of the largest tree in New Jersey of the same species as listed by the New Jersey Department of Environmental Protection.

B. A tree greater than 36 inches DBH.

C. A coniferous tree greater than 100 feet in height.

D. A tree of any size listed as a rare, threatened or endangered species as codified by the New Jersey Department of Environmental Protection.

E. A dogwood (*Cornus florida*) greater than four inches DBH.

F. A tree 100 or more years of age as determined by an arborist.

TOWNSHIP CODE ENFORCEMENT OFFICER

The Zoning Officer of the Township of Bridgewater or his/her duly authorized representative or such person as may be designated by the Township Administrator.

TOWNSHIP ENGINEER

The Township Engineer of Bridgewater Township or his/her duly authorized representative.

TREE

Any live woody plant having a diameter or width equal to or greater than eight (8) inches DBH (diameter at breast height).

TREE REMOVAL

Any intentional action that results in the death or significant degradation of the health or vigor of a living tree, including but not limited to the following:

A. Cutting the main stem of the tree.

B. Girdling the main stem of the tree.

C. Excessive pruning.

D. Placement of greater than six inches of fill within the dripline.

E. Excavation within the dripline.

F. Tilling of soil within the dripline.

G. Compaction of soil within the dripline.

H. Placement of or application of any material, chemicals or other substance, whether on the ground or upon the tree or its root system, which will impede the free access of air and water to a tree's living components.

I. Application of any substance to any part of a tree, including roots, with the intention to injure, kill, destroy, or inhibit vitality of a tree.

TREE REMOVAL APPLICATION

The application form, as approved by the Township Council, to be submitted by an applicant in connection with any proposed tree removal activity as described in this article.

TREE REMOVAL APPLICATION FEE

The fee, as approved by the Township Council, to be collected with each tree removal application submitted to the Township of Bridgewater. All applications shall be accompanied by a tracking fee, and, if the proposed work is not exempt pursuant to §126-278.4A, will also require a review fee. See § **94-2L**, Tree permits.

TREE REMOVAL INSPECTION FEE

The fee, as approved by the Township Council, to be collected as required for site inspections to determine conditions in accordance with the tree removal application submitted to the Township of Bridgewater. See § **94-2L**, Tree permits.

TREE REMOVAL PERMIT

Written authorization issued by the Bridgewater Township Engineer or such other lawful Township agent authorizing the removal of a designated tree or trees identified in the applicant's tree removal permit application.

WOODLAND

Areas, groves or stands of mature (greater than eight (8) inch DBH) or largely mature (greater than eight (8) inch DBH) trees are the dominant plant form. The individual tree canopies generally overlap and interlink, often forming a more or less continuous canopy which shades the ground to varying degrees.

ZONE

The Township of Bridgewater is divided into zones, differentiated according to use, area and bulk requirements. The location and boundaries of said zones or districts are hereby established on the Zoning Map of the Township of Bridgewater, in the County of Somerset, as confirmed by ordinance of the Township Council.

§ 126-278.3 Cutting down or removal restricted.

With the exception of the exemptions set forth in § 126-278.4 of this article, no individual, corporation, association or other entity shall do or cause to be done by its servants, agents or others, either purposely, carelessly or negligently, any of the following acts:

A. Excessively trim that alters the natural shape of the tree, cut down, destroy or injure any tree so as to threaten the health of the tree.

B. Place or maintain upon the ground any substance which will impede free access of air and water to the tree's living components.

C. Apply any substance to any part of a tree, including roots or dripline, with the intention to injure, destroy or inhibit the vitality of the tree.

D. Tree Removal for Solar Panel Installation. This ordinance also applies to tree removal for installation of solar panels.

§ 126-278.4 Exemptions.

The following shall be exempt from the requirements of this article and do not require a permit:

A. Any property owner may remove a designated number of trees from a residential lot based on the following table within any one calendar year. All other zones are required to file for a permit for any tree removal.

| Zone | Number of Trees |
|-----------------|---|
| R-40, R-50 Zone | 3 trees equal to or greater than 8 inches DBH |
| R-20 Zone | 2 trees equal to or greater than 8 inches DBH |
| R-10 Zone | 1 tree equal to or greater than 8 inches DBH |

For trees that are permitted to be removed pursuant to Section A above, an applicant shall still provide a Permit Application for Tree Removal to the Township (along with Permit Tracking Fee) to allow for the tracking of tree removal performed on a property within each calendar year.

B. Commercial nurseries. This exemption does not include tree removal within woodlands in connection with the establishment of new nurseries or new orchards.

C. Trees that are deemed to be removed by the Township Engineer that are on or over a public right-of-way.

D. Public parklands owned by the Township of Bridgewater.

E. Trees that are removed as part of a project subject to a Planning Board/Board of Adjustment site plan, subdivision or variance approval.

F. Trees that are deemed to be removed as part of a Township project.

G. Trees which, in the opinion of the Township Engineer constitute a threat to the health, safety or welfare of the general public.

H. Companies regulated by the New Jersey Board of Public Utilities.

I. Properties devoted to the practice of silviculture for which farmland assessment has been approved.

J. Tree or trees are diseased or so situated as to be substantially lacking vigor or in decline. A report is required by a certified independent arborist or licensed tree removal company or owner providing evidence certifying the condition of the tree or trees. This evidence is to be provided to the Township Engineer before removal.

K. Trees that are less than eight inches DBH and are not classified as a specimen or landmark tree.

L. Trimming that does not alter the natural shape of the tree, and trimming or maintenance of trees in a manner which is not harmful to the health of the tree.

§ 126-278.5 Permit required.

A permit is required for the removal of trees within the municipality unless exempted by § 126-278.4. Note that for projects proposing to remove trees pursuant to Section 276-278.4A, an application (along with tracking fee) is still required to be submitted to the Township for review. If the application does not meet the requirements of Section 126-278.4A, then a review fee shall also accompany the application.

§ 126-278.6 Permit application process.

A. A tree removal permit shall be submitted to the Township Engineer, along with a permit tracking fee (all applications). If the application does not meet the requirements of §126-278.4A, then a review fee shall also accompany the application.

B. Permit application contents.

- (1)** The name and address of the owner of the land.
- (2)** The description of the lands in question, including the lot and block numbers of the land as shown on the current Tax Map of the Township of Bridgewater.
- (3)** The purpose or reason for removing the tree(s).
- (4)** The quantity, diameter and species of tree(s) to be removed.
- (5)** The proposed dates for commencement and completion of the project.
- (6)** Name and address of the person supervising and/or controlling the proposed removal of tree(s).
- (7)** A statement granting permission to Township officials or employees to enter the property and make surveys and inspections as the work progresses.
- (8)** Identification on a sketch of each tree to be removed indicating size and location.
- (9)** The following shall be provided if requested by the Township Engineer after the initial application:
 - (a)** A survey detailing the location of existing trees, streams, wetlands, roads, driveways, parking lots, staging areas, recreation areas, garden areas, buildings and topography of the property, and/or such other information as required by the Township Engineer;
 - (b)** Grading plan.
 - (c)** The Township Engineer shall review the application to determine whether such project complies with this article and shall determine the need for an independent arborist or tree expert to inspect the application. If this inspection is required, the applicant can independently provide the required arborist/tree expert documentation Upon receipt of the report, the Township Engineer shall provide written notice to the applicant indicating one of the following determinations:
 - (1)** The permit is granted;
 - (2)** The permit is granted subject to prescribed conditions attached to such notice; or
 - (3)** The permit is denied, in which event the written notice shall state the reasons for such denial.

D. The Township Engineer shall make the foregoing determination and prepare and furnish the foregoing notices within 20 calendar days following the completion date of said application.

§ 126-278.7 Standards for permit review.

The Township Engineer may utilize the following factors, said factors are not an exclusive list, in deciding whether to grant or deny the permit:

A. The removal of trees in buffer areas shall be discouraged;

B. The removal of trees in old growth areas shall be only in accordance with § 126-278.4 above; and/or

C. The removal of the trees will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees or existing windbreaks.

§ 126-278.8 Enforcement.

The Township Zoning Officer is designated as the enforcing agent for this article, or his/her designee. Upon review of as-built plans or site inspection of any development application or soil movement activity, the Township Engineer shall inform the Zoning Officer of any trees removed in excess of those called for removal in the permit. The Township Zoning Officer has the power to revoke the permit if the applicant provided false or misleading information within the permit application and/or if there is noncompliance with the approved permit.

§ 126-278.9 Fees.

A. The application for a tree removal permit shall be accompanied by the required fee for each permit. Said fee shall cover reasonable administrative costs in reviewing the permits. All applications shall be accompanied by a tracking fee (\$10.00) and if the proposed work is not exempt pursuant to §126-278.4A, will also require a review fee (\$25.00) according to § 94-2L, Tree permits.

B. The inspection fee shall be for the performance of site inspections as required to confirm site conditions are in accordance with the approved approval. The inspection fee (\$75.00) for the tree removal permit is based on the estimated cost to the Township to inspect the proposed project. The required fee shall be listed under the Township's schedule of fees at § 94-2L.

§ 126-278.10 Violations and penalties; restitution.

A. Any individual, corporation, association or other entity violating any provision of this article shall, upon conviction thereof, be punishable by a fine not exceeding

\$1,000 per offense. The cutting, destruction or removal of each tree shall constitute a separate offense and;

B. If trees are excessively trimmed so that it alters the natural shape of the tree, are cut down, destroyed or removed for any reason in conjunction with any land use, development or soil movement activity in excess of the specified number of trees that were approved for removal by the permit, restitution shall be made by the applicant in accordance with the following schedule and replaced if they die within the first two growing seasons. The chart below reflects the tree replacement requirements in excess of the number of trees that could otherwise be removed in a calendar year:

| Diameter of Tree Removed (inches dbh) | Number of 2 1/2-Inch Caliper Trees to be Provided | Or Number of 4-Inch Caliper Trees to be Provided |
|--|--|---|
| 8 to 15 | 4 | 2 |
| 16 to 24 | 6 | 3 |
| 25 to 36 | 8 | 5 |
| 37 and over | 15 | 8 |

C. If there is not enough land to accommodate the replacement trees on site, the Township will provide a location on public property for the planting of said replacement trees or the owner may contribute to the Township Tree Fund if so recommended by the Township Engineer.

§ 126-278.11 Appeals.

Any individual, corporation, association or other entity penalized under this article of the Code shall have a right to appeal the decision. The appeal shall be made to the Bridgewater Township Board of Adjustment within 10 days of receipt of the notice of violation and include all documentation that constitutes the basis of the appeal to the Township clerk.

§ 126-278.12 Tree removal application form.

The tree removal application form is included at the end of this chapter.

Adopted: June 10, 2021

Effective: July 1, 2021