

Topic:	Tree Preservation & Protection; Timber Harvesting; Local Environmental Law Regulations
Resource Type:	Regulations
State:	New Jersey
Jurisdiction Type:	Municipal
Municipality:	Township of Bernards
Year (adopted, written, etc.):	2001
Community Type – applicable to:	Suburban; Rural
Title:	Township of Bernards Tree Removal & Protection Ordinance
Document Last Updated in Database:	May 8, 2017

Abstract

This tree preservation ordinance contains requirements for the number of trees that must replace a tree removed by developers, based on the size of the removed tree. Because it is not always physically possible to fit the required number of trees onto a parcel, a controversial amendment was added that requires a developer to pay \$300 per required tree that cannot be planted. The money is donated to the Shade Tree Commission so that trees can be planted in other parts of town.

Resource

REVISED GENERAL ORDINANCES AND REVISED LAND USE ORDINANCES, v14 (Land Use, v13) Updated 12-31-2002
Chapter XXI, LAND DEVELOPMENT
ARTICLE VI, Design Standards
SECTION 21-45 Tree Removal and Protection

§ 21-45.1. Removal of Trees.

- a. No tree with a diameter in excess of four inches DBH shall be removed if located a distance greater than 25 feet from any construction unless approved by the Board.
- b. All areas of tree removal shall be indicated on the development plan.
- c. All provisions of any other applicable ordinance of the township regulating the removal of trees shall be complied with.
- d. (Ord. #1429, 5-29-2001, amended) When regulated trees or areas of trees are removed without proper approvals from the Board, the affected areas shall be replaced to the

satisfaction of the Zoning Enforcement Officer in accordance with Section 16-3.5, and the following table:

Replacement of Trees

Existing Trees Removed (Diameter of Tree inches)	Number of Replacement Trees
0 to 6	1
6.01 to 12	2
12.01 to 18	3
18.01 to 24	4
24.01 to 30	5
30.01 to 36	6
36.01 to 40	9
40.01 or greater	10

All replacement trees shall be of nursery grade quality, balled and burlapped and not less than 2 1/2 to three inches caliper. Replacement trees shall be consistent with the type and species removed from the site and shall be planted in accordance with accepted nursery practice.

e. Any tree along the side of any road which was planted specifically for street shade tree purposes shall not be removed without the approval of the Shade Tree Commission.

(Ord. #585, § 616A; Ord. #1357, 6-29-1999, amended)

§ 21-45.2. Tree Protection.

a. The first priority is to protect all trees on the site whenever possible. The trees to be saved should be protected with fences, signs or other suitable devices to protect the root zones as well as the tree trunks and branches.

b. Prior to any tree removal, all trees must be flagged and clearing areas identified for field inspection by the Township Engineer or other approved representative of the township.

c. Tree Protection During Construction.

1. Tree protection measures and the limit of disturbance line shown on the landscape plan shall be provided in the field with snow fencing or other durable material and verified by the Township Engineer or other designated official prior to soil disturbance.

2. Protective barriers shall not be supported by the plants they are protecting but shall be self-supporting. Barriers shall be minimum for four feet high and last until construction is complete.

3. Chain link fence may be required for tree protection if warranted by site conditions or variety of the plant.

4. Snow fencing used for tree protection shall be firmly secured along the drip line, but no less than six feet from the trunk.

5. The grade of the land located within the drip line shall not be raised or lowered more than six inches unless compensated by welling or retaining wall methods. In no event shall welling or retaining wall methods be less than six feet from the trunk of a tree.

6. No soil stockpiling or storage of building materials, construction equipment or vehicles shall be permitted within the drip line or within six feet of any remaining trees, whichever is greater.

7. Any clearing as shown on the approved plan within the drip line or within six feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.

8. When it is necessary for curbing or utility line installation within the drip line or within six feet of a remaining tree, damage to roots shall be kept to the minimum necessary for proper installation of the line.

(Ord. #585, § 616B; Ord. #1357, 6-29-1999, amended)

§ 21-45.3. Tree Removal Requirements for Subdivisions and Site Plans.

Each application to the Planning Board or Zoning Board of Adjustment for approval of a major or minor subdivision or any site plan that requires the removal of trees shall include an application for a tree removal permit. The application and development proposal shall conform to the following provisions:

a. Application Form. The application form shall be available from the Zoning Enforcement Officer and shall include the following information:

1. Name and address of the owner of the premises and status of legal entity (individual, partnership, corporation of this or any other state, etc.).

2. Status of the applicant with respect to land (owner, lessee, tenant, purchaser, under contract, etc.).

3. Name and address of the applicant for the permit if other than the owner, accompanied by the owner's written consent.

4. Description of the premises where removal is to take place, including lot and block numbers and street address.

5. A list of all trees to be removed with a DBH equal to or greater than six inches, identified by size and species, including total number of each species to be removed.

6. Purpose for tree removal (construction, street or roadway, driveway, utility easement, recreation areas, patio, parking lot, etc.).

7. Proof that there are no delinquent property taxes or assessments due on the property for which the application is submitted.

8. Such other information as may be deemed necessary in order to effectively process and decide such application.

9. Trees that had been removed within the past two years.

b. Tree Identification Plan. The following information shall be provided on a tree identification plan prepared in accordance with this chapter:

1. Base Information.

(a) Location of tree canopy within the property boundaries.

(b) Location of individual trees with a DBH equal to or greater than six inches, identified by size and species within the area of development/limit of disturbance.

(c) Location of individual trees with a DBH equal to or greater than six inches, identified by size and species 30 feet beyond a delineated limit of disturbance line.

(d) Location of individual existing trees noted for preservation within the area of development/limit of disturbance identified by size and species.

(e) Clear labeling of the area intended for tree removal.

(f) Tree protection details and limit of disturbance line.

(g) Anticipated areas subject to regrading.

2. Design Requirements.

(a) Only those trees necessary to permit the construction of buildings, structures, streets, driveways, infrastructures and other authorized improvements shall be removed. Existing vegetation shall be preserved to the greatest extent feasible.

(b) No more than 60% of the existing tree canopy within the property boundaries shall be removed. Existing tree canopy comprised of the 40% minimum shall be noted for

preservation. Steep slope limits of disturbance shall supersede this section when approved by the Board.

(c) No more than 10% of existing trees with a DBH equal to or greater than 10 inches within the area of development/limit of disturbance shall be removed unless the applicant shall replace trees removed in accordance with the table in Section 21-45.1.

(d) Landscape standards may be waived by the Board when trees and/or shrub masses are preserved and/or relocated on site that essentially duplicate the landscape requirements contained in this section.

(e) The approving authority shall have the option of requiring a conservation easement to protect any or all trees or tree canopy areas to remain on site.

(Ord. #1429, 5-29-2001, added)

§ 21-45.4. Tree Replacement Alternatives.

a. All required replacement trees shall be planted on the site from which the trees were removed. Relief from any portion or all of the on-site tree replacement requirement may be granted by the Board. Any relief shall be based upon practical physical difficulties and undue hardship related to conditions of the site from which the trees are to be removed. The Board shall solicit the comments and recommendations of the Township Engineer in determining whether the relief requested by the applicant should be granted.

b. In lieu of planting replacement trees, the Board may permit the applicant to make a contribution to be deposited in the Township Tree Fund as established by this chapter. The contribution, in lieu of planting trees, shall be \$300 for each tree and shall be deposited in the Township Tree Fund prior to the Township issuing any building permits for the development. (Ord. #1476, 8-28-2001, added)

§ 21-45.5. Tree Fund.

a. There shall be established by this chapter a Township Tree Fund for the purposes set forth in this chapter.

b. All funds collected from an applicant as a contribution in lieu of replanting trees shall be deposited in a dedicated account clearly designated as the Bernards Township Tree Fund. All funds so deposited shall be used exclusively for the planting of trees. This fund may be used to plant trees on public property and rights-of-way, including but not limited to public parks, public schools and public buildings.

c. The Tree Fund shall be administered by the Shade Tree Commission, whom shall report to the Township Committee on a quarterly basis detailing the use of the fund. (Ord. #1476, 8-28-2001, added)