

<b>Topic:</b>	Tree Preservation & Protection; Landscaping
<b>Resource Type:</b>	Regulations
<b>State:</b>	New York
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Village of Croton-on-Hudson
<b>Year (adopted, written, etc.):</b>	1984-1992
<b>Community Type – applicable to:</b>	Suburban; Rural
<b>Title:</b>	Village of Croton-on-Hudson Trees Ordinance
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### ***Abstract***

The Village of Croton-on-Hudson Tree Ordinance provides requirements for minimum distances between trees and (1) other trees, (2) curbs and sidewalks, (3) street corners and hydrants, and (4) utilities. Topping of trees and removal of healthy trees is prohibited. A tree removal permit will be required before removing: (1) any tree eight inches or more (diameter at breast height or DBH) on any parcel of land capable of being subdivided under the zoning provisions applicable to the district in which the parcel is situated or on any parcel of land without a residential structure or on any property which would require site plan approval to be developed, (2) any tree growing on slopes of over 25%, (3) any threatened or endangered species of tree, (4) any tree designated by the Board of Trustees, and (5) landmark trees.

### ***Resource***

Village of Croton-on-Hudson NY Trees  
Code of the Village of Croton-on-Hudson NY  
Chapter 208: Trees

### **ARTICLE I Street Trees [Adopted 7-23-1984 by L.L. No. 4-1984]**

#### **§ 208-1. Definitions.**

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

**STREET TREES** — Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues and rights-of-way within the village.

#### **§ 208-2. Designation of official custodian.**

The General Foreman of the Department of Public Works, hereinafter referred to as the "Department," shall serve as the official custodian of all street trees and develop, in consultation with the Conservation Advisory Council, an annual street tree program.

**§ 208-3. Duties and responsibilities of Department of Public Works.**

The duties and responsibilities of the Department shall be to:

- A. Study the problems and determine the needs of the Village of Croton-on-Hudson in connection with its tree planting program.
- B. Determine the type and kind of trees to be planted upon village streets or parts of village streets or as designated.
- C. Work in conjunction with the Conservation Advisory Council in the dissemination of news and information regarding selection, planting and maintenance of trees within village limits.

**§ 208-4. Spacing of trees planted.**

The spacing of street trees will be in accordance with the species size classes, and no trees should be planted closer than the following: small trees, 30 feet; medium trees, 40 feet, and large trees, 50 feet, except in special plantings designed or approved by the Department in consultation with the Conservation Advisory Council.

**§ 208-5. Distance from curbs and sidewalks.**

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the species size, with final determination made by the Department.

**§ 208-6. Distance from street corners and hydrants.**

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of the nearest intersection curbs or curblines. No street tree shall be planted closer than 10 feet to any fireplug.

**§ 208-7. Distance from utilities.**

No street trees other than those species approved by the General Foreman, in consultation with the Conservation Advisory Council, may be planted over or within three lateral feet (small or medium) or five lateral feet (large) of any underground waterline, sewer line, transmission line or other utility.

**§ 208-8. Rights of village.**

A. The village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Department may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which, by reason by its nature, is injurious to sewers' electric power lines, gas lines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest.

B. This section does not prohibit the planting of street trees by adjacent property owners, provided that departmental review has been made and approval granted.

#### **§ 208-9. Topping of trees prohibited.**

It shall be unlawful as a normal practice for any person, firm or village department to top any street tree or other trees on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storm or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Article at the determination of the Department.

#### **§ 208-10. Responsibilities of property owners.**

Every owner of any tree on private property overhanging any street right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Department shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

#### **§ 208-11. Removal of dead or diseased trees.**

The Department shall have the right to cause the removal of any dead or diseased trees on private property within the village when such trees constitute a hazard to life and property or harbor insects or diseases which constitute a potential threat to other trees within the village. The Department shall notify, in writing, the owners of such trees. Removal shall be done by said owners, at their own expense, within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Department shall have the authority to remove such trees and charge the cost of removal on the property tax notice.

#### **§ 208-12. Removal of stumps.**

All stumps of trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

**§ 208-13. Removal of healthy trees prohibited.**

In order to protect the village's investment in time and resources in the Street Tree Program, it shall be unlawful to remove any healthy street tree without prior approval of the Department.

**§ 208-14. Consent required for deviations.**

Any deviation from this Article shall be unlawful without the express written consent of the General Foreman of the Department of Public Works.

**ARTICLE II Tree Preservation [Adopted 9-21-1987 by L.L. No. 5-1987]**

**§ 208-15. Purpose.**

A. The Board of Trustees finds that it has been established that trees stabilize the soil and control water pollution by preventing soil erosion and flooding, reduce air pollution, provide oxygen, yield advantageous microclimatic effects, temper noise and, further, that unusual, large and old trees have unique aesthetic and historic values. Indiscriminate removal of trees causes deprivation of these benefits and disrupts the village's ecological systems. It is, therefore, the purpose of this Article to prevent the indiscriminate or unnecessary destruction of trees within the Village of Croton-on-Hudson.

B. The village, furthermore, takes note of the findings of the New York State Environmental Quality Review Act, among them being the obligation of the village to serve as a steward of air, water, land and living resources and the obligation to protect the environment for the use of this and further generations. It is the intent of the village to recognize these responsibilities in part by providing these procedures as well as to preserve the health and welfare and rural character of the community which is reflected in the woodlands of the Village of Croton-on-Hudson.

**§ 208-16. Definitions.**

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

DIAMETER AT BREAST HEIGHT (DBH) — The diameter of a tree measured at a point three feet above the ground.

LANDMARK TREES — Tree or trees as defined on a list of trees promulgated and established by the Board of Trustees of the Village of Croton-on-Hudson which list is on file in the office of the Village Manager.

TREE — A living woody plant with an erect perennial trunk eight inches or more DBH with a definitely formed crown of foliage and a total height of at least 13 feet from the ground.

**§ 208-17. Administration and enforcement.**

A. The Board of Trustees hereby designates the Village Engineer to administer and Code Enforcement Officer and Police Chief as agents to enforce this Article and the General Foreman of the Department of Public Works as the official to choose replacement trees, as indicated in § 208-23.

B. The Village Engineer and Code Enforcement Officer or Planning Board, as the case may be, shall perform the following duties:

(1) Receive and keep accurate records of tree removal permit applications.

(2) Inspect the trees described in each application.

(3) Determine the disposition of the application based on the standards for granting permits described in § 208-18C below.

(4) Carry out such other duties as may be assigned from time to time by the Board of Trustees.

**§ 208-18. Tree removal permit required.**

A. General regulations. A tree removal permit will be required before removing:

(1) Any tree eight inches or more DBH on any parcel of land capable of being subdivided under the zoning provisions applicable to the district in which the parcel is situated or on any parcel of land without a residential structure or on any property which would require site plan approval to be developed.

(2) Any tree growing on slopes of over 25%.

(3) Any threatened or endangered species of tree as defined by the New York State Department of Environmental Conservation.

(4) Any tree of a species determined by the Board of Trustees by resolution to require a permit before removing.

(5) Landmark trees as herein defined, regardless of size.

B. Exceptions. Trees may be removed by the appropriate agency or authority as may be necessary to maintain village, county, state or utility right-of-way or as a control measure to fight forest or other fires.

C. Standards for the granting of permits. The criteria to be used by the enforcing officials in granting a tree removal permit shall include but not be limited to the following:

- (1) The physical condition of the tree.
- (2) The proximity of trees to existing or proposed improvements if located:
  - (a) Within three feet of a sidewalk or driveway.
  - (b) Within 10 feet of a cesspool, dry well, leeching pit, septic tank or field or other subsurface improvement.
  - (c) Within five feet of a roadway.
- (3) The effect of the removal on the ecological systems, including the erosion potential of the property.
- (4) The effect on the area of removal as determined by accepted tree management practices.
- (5) The effect of the removal on the property values and aesthetics of the neighborhood.
- (6) The effect of the removal on the solar access of existing or proposed structures on the property.

D. Planning Board action which is deemed approval of tree removal.

- (1) Where tree removal is proposed in connection with any site plan or subdivision plat submitted or to be submitted to the Planning Board for approval, trees shall be removed from the affected property only in conjunction with an approved final subdivision plat or final site plan. The Planning Board shall apply the same criteria and procedures set forth herein for tree permits granted by the Village Engineer or Code Enforcement Officer.
- (2) Subdivision construction plans or site plans approved by the Planning Board showing trees to be removed and trees to be preserved shall be deemed a tree removal permit for the removal of trees so designated.
- (3) The Planning Board, in connection with any site plan or subdivision application, may require the replacement of trees removed from the affected property prior to site plan or subdivision application. The Planning Board may require that structures shown on the plans be moved or relocated in order to preserve trees considered by the Board to have particular value. The Planning Board may refer such subdivision construction plans or site plans to the Village Engineer for his or her recommendation. The Planning Board may designate certain trees to be preserved and specify means for their preservation.

**§ 208-19. Permit application.**

The applicant shall file three copies of the tree removal permit application with the Building Department.

A. The application shall include the following information:

(1) The name and address of the applicant.

(2) The address and Village Tax Map designation of the property on which the tree(s) is/are located.

(3) The total land area involved in cutting operations.

(4) The number of trees to be removed.

(5) The purpose of the tree removal.

(6) A survey of that section to be disturbed, showing location of all trees, indicating those trees to be removed and those trees to be preserved, their species and their diameter. In the case of site plans and subdivision plats, the tree survey shall be submitted to the Planning Board as a part of the site plan or subdivision plats.

B. Where no subdivision or site plan is involved, the survey requirement may be eliminated, and a simple sketch drawn by the applicant may be substituted for Subsection A(6) above.

C. In cases where the Planning Board has received or will receive a site plan or subdivision application involving the disturbance of 100 or more acres and where an acceptable erosion and sedimentation control plan has been or will be prepared for such project and where an environmental impact statement has been or will be prepared for such project, a sampling technique may be used to estimate the number, species and diameter of trees on the site and the number of trees proposed to be removed. The specifics of the sampling technique shall be subject to the approval of the Planning Board. Notwithstanding the above, all trees 22 inches in diameter at breast height and greater in any areas proposed to be disturbed shall be individually identified and marked in accordance with § 208-19A and 208-20C, respectively, of this Article. **[Added 12-21-1992 by L.L. No. 14-1992]**

#### **§ 208-20. Conditions for granting permit.**

The Village Engineer or Planning Board shall, as a condition of granting a permit:

A. Require the reasonable relocation of proposed foundation walls, driveways, surface and subsurface improvements or drainage systems to preserve specific trees.

B. Regulate the days and hours of operations.

C. Require that each tree to be cut or removed be marked at one point low enough on the trunk to be visible after removal of the tree so as to permit subsequent inspection. Notwithstanding the above, where the use of a sampling technique has been approved, trees less than 22 inches in diameter at breast height need not be marked. **[Amended 12-21-1992 by L.L. No. 14-1992]**

D. Require such safeguards as appropriate to minimize the environmental impact of such removal operations.

#### **§ 208-21. Bond.**

A. Before issuing any permit under this Article, the Village Engineer or Planning Board may require the applicant to file with the village a suitable surety bond, payable to the village, in an amount fixed by the Village Engineer or Planning Board and in a form approved by said Engineer or Board with a surety company as surety and conditioned upon the faithful performance of the requirements of this Article, the observance of all municipal laws and compliance with conditions imposed in connection with the granting of the permit, to indemnify the village for completing the work in accordance with this Article.

B. Release of bond.

(1) Any surety bond filed in accordance with the foregoing shall be released when there shall have been filed with the Village Engineer to the effect that, in all respects, the work proposed under the approved plan has been satisfactorily completed in full compliance with all provisions of this Article.

(2) If no such certificate shall have been filed within 60 days after completion of the operation or the end of the period due to noncompliance with an approved plan or noncompliance with any section of this Article, the bond shall be forfeited and the village shall be entitled to the full amount of said bond for the purpose of complying with the provisions of this Article.

#### **§ 208-22. Permit fee.**

A tree removal permit application shall be accompanied by a fee in an amount set by resolution of the Board of Trustees except that when the applicant is the Village of Croton-on-Hudson, no fee shall be charged.

#### **§ 208-23. Penalties for offenses.**

Any person, firm or corporation violating any of the provisions of this Article shall be guilty of an offense, which shall be punishable by a fine per tree as provided in § 1-12 of Chapter 1, General Provisions. The court may order or direct a violator to replace any or all trees removed illegally, of a size and type selected by the General Foreman of Department of



Public Works. Further, the court may order the planting of said replacement trees within a specified period of time. Violators may be subject to any or all of the aforesaid penalties. All replacement trees must be at least three inches DBH. Where such direction is made, no building permit, certificate of occupancy or certificate of compliance shall be issued until such replacement has been completed.

**§ 208-24. Appeals.**

Any applicant aggrieved or affected by the determination of the Village Engineer shall have the right, within 10 days from the date of action by the Village Engineer, to appeal to the Zoning Board of Appeals and shall state reason for the appeal. The Zoning Board of Appeals shall render a decision on the appeal within 60 days of the filing of the appeal.