

Tree Ordinance

Intent

It is the intent of this chapter to promote the general welfare of the residents of the Borough of Dunellen by providing for the protection, regulation, selection, planting and cutting of trees in such a way as to protect and preserve the environment and the quality of life of the residents of the borough.

Legislative findings.

The governing body of the Borough of Dunellen does find that the indiscriminate, uncontrolled, and excessive destruction, removal and cutting of trees upon lots and tracts of land within the borough has resulted in creating increased water runoff, soil erosion, stream channel sedimentation and consequent flooding, depression of water table, noise pollution and dust and decreased soil fertility, air quality, climate moderation, wildlife habitat and property values, with the result that there has been and will continue to be further deterioration affecting the health, safety and general well-being of the residents of the Borough of Dunellen.

Definitions.

As used in this chapter, the following terms will have the meanings indicated:

DIAMETER AT BREAST HEIGHT (DBH)- The diameter of a tree measured at a point on the tree four and one-half (4 ½) feet from ground level.

PERSON- Any individual, firm, partnership, association or corporation.

PLANT CONSTRUCTION - As applied to public utility companies, means poles, wires, cables, surface conduits, pipes, manholes and appurtenant facilities of such companies installed in a street.

PUBLIC RIGHT-OF-WAY – Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway or which is shown upon a plat heretofore approved pursuant to law or which is approved by official action as provided by the municipal land use law or which is shown on a plat duly filed and recorded in the office of the county Recording Officer prior to the appointment of a planning board and the grant to such board of the power to review plats and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

PUBLIC UTILITY COMPANY – A public utility as defined in the Revised Statutes of the State of New Jersey (N.J.S.A. 48:2-13).

SHRUB – Native or volunteered woody plant with multiple stems having a root crown (the diameter of the trunk just prior to its spreading into roots) of three (3) inches or greater at the soil or surface level.

SITE – Any lot, tract, parcel or parcels of land within the borough.

TREE – Any deciduous or coniferous species which reaches a typical mature height of ten (10) feet and a typical mature DBH of four (4) inches or greater. Any species not qualifying as a “tree” under this definition shall be considered a stem and shall not fall within the purview of this chapter.

TREE REMOVAL AND SITE CLEARING PERMIT – A certificate issued by the Shade Tree Commission of the Borough of Dunellen to authorize the removal or destruction of trees and shrubs defined in this chapter.

UNDISTURBED AREA – An area in which trees, shrubs and undercover will not be disturbed by filling, cutting or by any other means.

Permit required to plant trees in public right-of ways.

No shade or ornamental tree or shrub shall be planted in any of the public right-of-ways until such tree or shrub shall have been approved and the place where it is to be planted shall have been reviewed by the Dunellen Shade Tree Commission and a permit granted.

Permit required to remove trees.

No person shall remove or destroy or cause to be removed or destroyed any tree or shrub growing within the Borough of Dunellen without first having obtained a tree removal and site clearing permit, except as otherwise provided herein.

Limitations and exemption.

- A. Exempted from this chapter’s provisions shall be trees located on a tract of land in all one and two-family residential zones RA/RB, which tract of land has an existing residential building located thereon. Also exempt are trees growing upon commercial nursery tracts or orchards.
- B. No more than three (3) trees in twelve (12) months shall be removed, cut or destroyed from any vacant residential lot in any one or two-family residential zones RA/RB, within the principle building envelope and bed of driveway or one (1) or more trees outside the same without first obtaining a tree removal and site clearing permit

Application procedures for tree removal and site clearing permits.

- A. For properties where no subdivision of land and/or site plan application is required:
- (1) Vacant residential properties. To obtain a tree removal and site clearing permit, the applicant must furnish to the Dunellen Shade Tree Commission a sketch of the property of sufficient accuracy showing the approximate location, trunk DBH and species of trees to be removed. Upon review and inspection (if necessary), the Dunellen Shade Tree Commission shall have sole authority for permit approval.
 - (2) Non residential property, vacant or otherwise developed. No trees shall be removed unless and until a tree removal and site clearing permit has been obtained by filing an application as described in subsection A(1) above, with the Dunellen Shade Tree Commission.
- B. Where subdivision of land and/or site plan approval is required, applicants shall follow procedures prescribed in the Land Development Ordinance, Section 115A-23c.

Fees.

Fees payable for the filing of an application for a tree removal and site-clearing permit shall be as follows;

- A. For existing residential property not involving subdivision and/or site plan: the sum of twenty-five dollars (\$25.00).
- B. For all other applications: Seventy-five dollars (\$75.00) per acre or portion thereof, as specified in the Land Development Ordinance.

Standards for issuance of permit.

No tree removal and site clearing permit shall be issued unless and until the land and subject trees described in the permit application have been reviewed by the Dunellen Shade Tree Commission and the commission concurs that tree removal from the site in accordance with the plan shall not impair the growth and development of the remaining trees on the site or adjacent/contiguous properties; shall not cause soil erosion or increased dust; shall not impair existing drainage patterns; shall not substantially impair the aesthetic values of the area; and shall not be in conflict with the recommendations and findings of the Dunellen Shade Tree Commission.

Inspection and compliance.

No certificate of occupancy or building permit shall be issued unless and until there has been an inspection by the Borough of Dunellen Engineer showing that the property and tree removal is in compliance with the tree removal and site clearing permit.

Required Permits (Non-utility operations).

No person shall do any of the following acts to any tree or shrub on a public right-of way without the prior approval and permit issued from the Dunellen Shade Tree Commission, who will solicit comment from the Borough of Dunellen Construction office when appropriate:

- A. Cut, disturb or interfere in any way with any root.
- B. Spray with any chemical.
- C. Remove or damage any guard or device placed to protect any tree or shrub.
- D. Conduct razing, removal or renovation of any structure if deemed by the Dunellen Shade Tree Commission to be damaging to neighboring street trees.
- E. Place or distribute chemicals including but not limited to salt, which chemical or combination of chemicals is deleterious to tree health.
- F. Remove soil, either for trenching or otherwise.

Required permits (utility operations); exemptions.

- A. The Dunellen Shade Tree Commission may grant to public utility companies a blanket permit for tree pruning for line clearance and for the installation and the maintenance of subsurface and aboveground plant construction if there is interference with or endangerment to trees.
- B. Public utilities may, during periods of emergency, without specific prior permit install temporary attachments to trees and make emergency subsurface repairs.
- C. Each utility company shall exercise reasonable diligence in the maintenance of its plant construction so as to avoid damage to trees.

Violations and penalties.

Any person found guilty of violating any of the provisions of this chapter shall be subject to a fine not to exceed one thousand dollars (\$1,0000.) or imprisonment for a term of up to ninety (90) days, or both, for each violation. Each day that such violation continues shall be considered a separate violation.

Restitution.

Any replanting which may be required must be in accordance with the direction of the Dunellen Shade Tree Commission.

Severability.

If any section, sub section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions here of.