

BOROUGH OF FANWOOD TREE REMOVAL APPLICATION/PERMIT

§ 184-106. Preservation and removal of trees

<p>1. Property Owner</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____ Date: _____</p>	<p>2. Applicant: (Accompanied by written consent, if not property owner.)</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____ Date: _____</p>
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3. Address & Description of Property: BLOCK: _____ LOT: _____

4. Purpose of Tree Removal: _____

5. Include twelve (12) copies of the Tree Replacement Plan: Plan Received

6. Attach a list of all trees with a "DPM" greater than six (6) inches by size and species: List Received

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

8. Proposed time of completion: (No permit shall be valid for a period of more than three(3) years from the date of issuance.)

Date: _____ Months: _____

9. Application and Inspection fees paid: Amount _____ Received

Waived: To be paid as part of site plan and/or subdivision application --

Applicant Signature: _____

NOTE: The holder of a tree removal permit shall notify the Borough Engineer, in writing, at least three(3) business days in advance as to when tree removal activity will commence.

<p>Fanwood Borough Official: _____</p> <p style="text-align: center; font-size: small;">(name) (title)</p> <p style="margin-top: 20px;">Date of Issuance: _____</p>
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B. Such causes tend to decrease property values, render land unfit and unsuitable for its most appropriate use and adversely affects the health, safety and general welfare of the inhabitants of the Borough.

C. The Mayor and Borough Council desire to regulate and control indiscriminate and excessive cutting of trees within the Borough, preserve the maximum possible number of trees in the course of development of a site, protect larger, older specimens of trees and provide a plan for replacement of trees.

(1) Cutting or removal restricted. With the exception of the exemptions set forth in this section, no person shall cut or remove, or cause to be cut or removed, any tree with a DPM of six inches or greater upon any lands within the Borough unless the cutting or removal is accomplished in accordance with the provisions of this section.

(2) Permit required.

(a) With the exception of the exemptions set forth in this section, no tree with a DPM of six inches or greater shall be cut or otherwise removed from any lands in the Borough without a tree removal permit and a tree replacement plan. Every application to the Board for approval of a major subdivision or any site plan requiring tree removal or planting, unless otherwise exempt pursuant to this section, shall include an application for a tree removal permit.

(b) A complete application for a tree removal permit shall consist of the following:

[1] One copy of the completed application form.

[2] Twelve copies of the replacement plan.

(c) The fees as set forth in this section.

D. Application form. The application form shall be available from the Borough Engineer and shall include the following information:

(1) The name and address of the owner of the premises.

(2) The name and address of the applicant for the permit, if other than the owner, accompanied by the owner's written consent.

(3) A description of the premises where removal is to take place, including lot and block numbers and street address, if assigned.

(4) A list of all trees on the premises with a DPM equal to or greater than six inches and less than 16 inches by size and species and all trees with a DPM of 16 inches or greater by size, species and location.

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

A. Purpose and Intent. The Mayor and Borough Council find:

(1) Indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees upon lots and tracts of land within the Borough causes:

(2) Increased drainage control costs;

(3) Increased soil erosion;

(4) Decreased fertility of the soil;

(5) Increased buildup of atmospheric carbon; and

(6) Increased dust.

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E. Replacement plan.

(1) Where the application is in conjunction with an application for major subdivision or site plan approval, the replacement plan shall include the following:

- (a) A site plan, on the scale otherwise set forth in this chapter or of one inch equals 50 feet or less, showing the location of existing wooded areas and clearly marked boundaries of the plots used to determine the average wooded acre for the site. For each plot there shall be a list identifying the number and species of trees inventoried. The site plan shall include the lot and block numbers, the street address, if assigned, and a certification of compliance with the requirements of this section.
- (b) The location of streams and watercourses.
- (c) The locations of slopes of greater than 10% where any tree removal is proposed.
- (d) The location(s) on the tract where tree removal is to take place.
- (e) The total acreage of the tract.
- (f) The total number of wooded acres permitted for development within the tract.
- (g) The total number, by species, of existing trees with a DPM of six inches or greater on the tract. For tracts greater than two acres in size, the applicant may estimate the total number of trees by multiplying the total number of wooded acres permitted for development by the number of trees on an average wooded acre for the site.
- (h) The total number, by species, of trees with a DPM of six inches or greater which are to be removed. For tracts greater than two acres in size, the applicant may make an estimate of the total quantity of trees to be removed, by species, based upon the average wooded acre for the site.
- (i) Notwithstanding permitted estimates of the quantity of trees to be removed, all trees with a DPM of 16 inches or greater shall be specifically identified by location, species and common name. All efforts shall be made to preserve such trees, including, if necessary, relocation of infrastructure, roadways and buildings. Removal of any tree within this category shall require specific approval and any such trees approved for removal shall be listed individually on the tree removal permit.
- (j) A specific plan for replacement of removed trees in accordance with this section.
- (k) A Borough-approved method of disposal of removed trees, topplings and slash. No burning or burying of trees or parts of trees is permitted. All disposal methods must comply with the requirements of the Borough Code.

(2) All specific plans for replacement of removed trees shall be based upon the following formulas:

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(a) For trees with a DPM equal to or greater than six inches and less than 16, replacement shall be based upon the percentage of the trees removed as set forth in Table A below:

Table A

Replacement of trees equal to or greater than six inches and less than 16 inches DPM:

Percentage of Trees Percentage of Removed From Wooded Trees to be Replaced (using trees with a minimum DPM of 2 1/2 inches) Permitted for Development	Removed From Wooded Acres
80 to 100	80
60 to 79	60
40 to 59	40
20 to 39	20
Less than 20	10

(b) Any trees with a DPM equal to or greater than six inches and less than 16 inches left standing in areas designated for removal or trees planted in compliance with other requirements of this Code shall be credited against the total replacement count on a one-for-one basis. For trees with a DPM of 16 inches or greater, replacement shall be in accordance with Table B below. The species or type of replacement trees shall be selected from a list to be provided by the Shade Tree Commission or shall be the same as the species removed from the tract under consideration.

(c) For trees with a DPM equal to or greater than 16 inches, the removed tree shall be replaced according to Table B below:

Table B

Replacement of trees equal to or greater than 16 inches DPM:

Existing Tree to be Removed (inches)	Number of Replacement Trees (minimum DPM of 2 1/2 inches)
Less than 18	3
Less than 21	4
Less than 24	5
Less than 27	6
Less than 29	7
Less than 31	8
Less than 33	9
Less than 35	10
Less than 37	11
Less than 39	12

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Table B

Existing Tree to be Removed (Inches)	Number of Replacement Trees (Minimum DPM of 2 1/2 inches)
Less than 40	13
Less than 41	14
41 and greater	15

[1] The species or type of replacement trees shall be selected from a list maintained by the Shade Tree Commission or shall be the same as the species removed from the tract under consideration.

(3) In lieu of planting of the replacement trees on site, the applicant may request or may be required to contribute an amount equal to twice the current value of each unplanted tree to a fund established by the Borough for environmental programs such as tree planting, tree maintenance, tree preservation, park development or landscaping and other comparable projects as recommended by the Environmental Commission. The applicant may apply this option to up to 50% of the required number of replacement trees; all requests to make contributions in lieu of planting replacement trees in excess of 50% of the required number of replacement trees must be approved by the Board.

(4) Where an applicant claims that the cost of the required number of replacement trees, as determined by the formula in this section, would impose a development cost that exceeds 5% of the total bonded improvement cost on development of the site, the Board may, in its discretion, reduce the required number of replacement trees. In support of such a claim, the applicant shall submit written cost estimates from three sources for Board review. Replacement trees required in accordance with this section are specifically excluded from such estimates. Each estimate shall include the species, size, number and price of the replacement trees. No reduction in the required number of replacement trees shall exceed 1/2 of the original number of replacement trees required by the formula in this section. No reductions will be granted as to the number of replacement trees required by Table B.

(5) Where development is to take place in stages, phases, sections or other similarly delayed manner, the applicant shall:

(a) Submit all information required by this section for the tract to be developed at the time of initial application for major subdivision or site plan approval, together with the application fee based upon the section of the tract to be developed. Permits shall be issued on a section-by-section basis.

(b) Before removal of any trees in a specific stage, phase or section, submit the inventory and replacement plan for that section to the Borough Engineer with a request that a removal permit be issued. If three years or more have passed since the date the initial application for the entire tract was submitted, the permit request shall be accompanied by an updated inventory and replacement plan for the specific stage, phase or section to be developed. If,

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F. Conveyance of premises.

upon review of the inventory and replacement plan and taking into consideration the amount of time which has passed since the initial application was submitted, the Borough Engineer determines that no substantial changes have occurred, a permit may be issued for the specific stage, phase or section to be developed. If the Borough Engineer determines that substantial changes have occurred due to changes in the inventory caused by the passage of time and/or development modifications made by the applicant, he or she may decline to issue a removal permit and require the applicant to submit the substantial changes to the Board for review and approval pursuant to this section.

(1) Where preliminary or final major subdivision or site plan approval has been granted and all or a portion of the approved tract is subsequently conveyed prior to or during actual development of the conveyed premises, the purchaser shall, within 30 days of closing of title:

(a) Submit evidence to the Board originally approving the application that the purchaser will in all respects adhere to the approved replacement plan as it applies to the conveyed premises; or

(b) Submit a revised replacement plan meeting all of the requirements of this section for Board action.

(2) If the conveyed premises is to be developed in stages, phases or sections and the purchaser is adhering to the original replacement plan, the time periods shall be calculated from the original date of approval of the replacement plan and not from the date that title passed. If the conveyed premises is to be developed in stages, phases or sections and a revised replacement plan is submitted and approved, the time periods shall be calculated from the date of approval of the revised plan.

(3) Where the application is not in conjunction with major subdivision or site plan approval, the replacement plan shall include the following:

(a) A statement as to the purpose, including thinning and aesthetic improvement cuts, of the proposed tree removal.

(b) A description of the tract upon which tree removal is to take place, including lot and block numbers, street address, if assigned, and total acreage of the tract.

(c) The location of streams and watercourses.

(d) The location of slopes of greater than 10% where any tree removal is proposed.

(e) An inventory of the trees to be removed, to include by count the species, DPM and location of each tree proposed for removal.

(f) A replacement plan in accordance with the following table:

Table C

Number of Trees Removed (DPM of 6 inches or greater and less than 16 inches)	Number of Replacement Trees (minimum DPM of 2 1/2 inches) (percent)
0 to 4	0%
5 to 10	20%
More than 10	40%

- (g) Any trees measuring 16 inches or greater DPM shall be replaced on a one-for-one basis using a tree with a minimum DPM of 2 1/2 inches.
 - (h) The species or type of replacement trees shall be selected from a list maintained by the Shade Tree Commission or shall be the same as the species removed from the tract under consideration.
 - (i) A Borough-approved method of disposal of removed trees, topplings and slash. No burning or burying of trees or parts of trees is permitted. All disposal methods must comply with the requirements of the Borough Code.
- G. Regulations pertaining to delineation of clearing limits.

- (1) The clearing limits shown on the replacement plan shall be fully established prior to the cutting of permitted wooded acreage and shall be defined by snow fencing firmly secured along the dripline but not less than six feet from the trunk of the remaining trees. In a like manner, specimen trees and isolated groupings of trees which are to remain on the site shall be clearly protected by snow fencing or an equally visible and protective device installed along the dripline of the tree(s) but not less than six feet from the tree trunk(s).
- (2) The grade of the land located along the dripline shall not be raised or lowered more than six inches, unless compensated by welling or retaining wall methods, and in no event shall the welling or retaining wall methods be less than six feet from the trunk of the tree.
- (3) No soil stockpiling, storage of building materials or equipment operation shall be permitted within the dripline or within six feet of any remaining trees, whichever is greater.
- (4) Any clearing within the dripline or within six feet of the trunk of a remaining tree must be done by hand or with hand-operated equipment.
- (5) Where clearing and/or construction on the site results in accidental removal or severe damage which will eventually result in death and removal of any tree delineated in the replacement plan as remaining on the site, such removed or damaged tree shall be replaced on a one-for-one basis (using trees with a minimum DPM of 2 1/2 inches) for accidentally removed or damaged trees which have a DPM from six inches to less than 16 inches. The species or type of replacement

trees shall be selected from a list maintained by the Shade Tree Commission or shall be the same as the species removed from the tract under consideration.

H. Regulations pertaining to clear-cutting. No clear-cutting is permitted except in conjunction with subdivision or site plan approval in accordance with the provisions of this chapter.

- I. Permit approval.
 - (1) Time for approval.

- (a) Where the permit application is submitted as part of an application for major subdivision or site plan approval, the time for approval shall be governed by the timing requirements applicable to major subdivisions or site plans.
- (b) Where the permit application is not made in connection with a major subdivision or site plan application, the Board shall act on the application within 90 days of its receipt or within such additional time as is consented to by the applicant. Failure of the Board to act within 90 days, or any extension thereof, shall be deemed to be an approval of the application and thereafter the Borough Engineer shall issue a tree removal permit based thereon.
- (c) Approval by default, as provided herein or with regard to major subdivision and site plan applications, shall not be deemed to be a waiver of the applicant's required compliance with the tree replacement formulas, nor shall it be deemed to be approval of a request for reduction in the number of replacement trees. All requests for reduction in the number of replacement trees must be specifically approved by the Board.
- (2) The Board may refer the application to the Environmental Commission for its report and recommendations. The Board may rely on the report and recommendations of the Environmental Commission in reaching its decision to approve the replacement plan, disapprove the replacement plan or subject the replacement plan to such conditions as have been recommended by the Environmental Commission in accordance with the provisions of this section.
- (3) All action taken by the Board pertaining to a replacement plan shall be in the form of a resolution to which the tree removal permit issued by the Borough Engineer shall refer. Any such tree removal permit shall be valid for the time proposed by the applicant to complete the project; provided, however, that no permit shall be valid for a period of more than three years from the date of issuance. The Borough Engineer, upon a showing of good cause by the applicant, may extend a permit for an additional period of one month, provided that the applicant submits an updated replacement plan to show tree removal activities to date. Further, the Borough Engineer may require as a condition of any such extension that the applicant employ current techniques and procedures incorporated into this chapter since the date of original approval.

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(4) No approval shall be granted by the Board if the Board finds that the proposed removal or destruction is contrary to the best interests of the public health, safety or general welfare.

J. Change in replacement plan. Any substantial change in a replacement plan shall necessitate the submission of a revised plan to the Board for review and approval.

K. Permit revocation. The Borough Engineer may revoke a permit where there has been a false or misleading application or for noncompliance with an approved replacement plan.

L. Certificate of prior use. Any person claiming that he or she was conducting tree removal operations which are in substantial conformance with the provisions of this section prior to its effective date may, within 60 days after the final adoption of this section, make application to the Board for a certificate of prior use. The Board shall, within 90 days of the date of receipt of such application, cause the premises to be inspected to determine that any tree removal project is in substantial conformity with the terms of this section. Such determination shall serve as a certificate of prior use relieving the applicant of an obligation to secure a tree removal permit for continued operations of the tree removal project. Failure of the Board to act within the time specified shall be deemed to be an approval of the request for a certificate of prior use. Any person who does not file for such certificate within 60 days of the date of final adoption after final approval of this section shall conclusively be presumed to be bound by the terms of this section.

M. Exemptions. The following shall be exempt from the requirements of this section:

- (1) Commercial nurseries and fruit orchards.
- (2) Christmas tree plantations.
- (3) Properties used for the practice of silviculture where a plan approved by the New Jersey Bureau of Forestry is on file with the Borough Engineer.
- (4) The proposed cutting of trees on tracts of land 1/4 acre or less in area upon which a single-family home has been erected, except lots within proposed major subdivisions.
- (5) Upon homestead lots greater in area than 1/4 acre, the owner may remove trees from up to 1/4 acre for the construction of a residence. In addition, the landowner shall be permitted to remove up to 25% of the trees on any additional acreage by transplanting, selective cutting or thinning. If any cutting, removal or thinning in excess of 25% is planned, the lot shall be subject to a replacement plan in accordance with this section.
- (6) Removal of trees which are dead, dying or diseased, or trees which have suffered severe damage, or any tree or trees whose angle or growth makes them a hazard to structures or human life.
- (7) Any tree growing on or over a public right-of-way, land or property.
- (8) Pruning or removal of trees within the right-of-way by utility companies for maintenance of utility wires or pipelines.

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(9) Those projects which have been submitted for major subdivision or site plan approval prior to the effective date of this section, unless the project is resubmitted with major revisions impacting trees as defined in this section.

N. Notice of commencement of tree removal

- (1) The holder of a tree removal permit shall notify the Borough Engineer, in writing, at least three business days in advance as to when tree removal activity will commence. No activity shall take place on Saturdays, Sundays or legal holidays without express written approval from the Borough Engineer.
- (2) The notice shall also include advice as to the manner of disposal of the removed trees. Where appropriate, the Borough Engineer shall advise the Borough's Recycling Coordinator of the name of the permit holder, the location of the removal site, the date removal is to commence and the manner of disposal to be employed.

O. Violations and penalties. Any person, firm, association, partnership or corporation convicted in the Municipal Court of a violation of this chapter shall be subject to a fine of up to \$1,250 per day or imprisonment for not more than 90 days, or both, at the discretion of the Court. Each day that a violation continues shall be deemed a separate violation for purposes of this section. In addition to the foregoing, the Borough may institute and maintain a civil action in the Superior Court of New Jersey for injunctive relief restraining the continuation of any unlawful tree removal project. [Amended 5-10-2005 by Ord. No. 05-10R; 6-13-2006 by Ord. No. 06-11R]