

EXPLANATION: This Ordinance establishes regulations for tree removal and replacement within the Borough of Far Hills, along with permitting and plan review requirements for same.

**BOROUGH OF FAR HILLS
ORDINANCE NO. 2021-13**

AN ORDINANCE ESTABLISHING TREE REMOVAL AND REPLACEMENT REGULATIONS WITHIN THE BOROUGH OF FAR HILLS.

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Far Hills, in the County of Somerset and State of New Jersey as follows:

Section 1. The following requirements and regulations shall be established in the Borough of Far Hills:

TREE REMOVAL/REPLACEMENT

Article I Purpose.

The purpose of this ordinance is to protect the scenic and environmental resources of the Borough of Far Hills. This ordinance shall regulate and provide guidance to prevent the indiscriminate and excessive removal, cutting and destruction of trees in order to control, regulate and prevent conditions which cause increased surface drainage, sedimentation and soil erosion, cause decreased soil fertility and impair the stability and value of real estate, all of which conditions are detrimental to public safety, health and welfare. In order to achieve these objectives, permit applications will be reviewed to ensure that clear cutting is minimized, indiscriminate tree removal is regulated and designed into all projects.

Article II Definitions.

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

AGRICULTURAL USE

Shall mean land which is devoted to the production of plants and animals for sale, including but not limited to: forages and sod crops; grain and feed crops; truck crops; dairy animals and dairy products; poultry and poultry products; livestock; equestrian training facilities; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, and is not appurtenant woodland, shall not be deemed to be an agriculture use unless the land owner fulfills the additional conditions set forth in N.J.S.A. 54:4-23.3.

APPLICANT

Shall mean the property owner.

APPROVED PLAN

Shall mean a tree removal/replacement plan or forestry management plan which has been approved by the Borough Planning Board, zoning officer, engineer or other Borough agency as provided for in this ordinance.

CRITICAL FOOTPRINT AREA

Shall mean an area of any principal or accessory building that includes the portions of a private residential lot reserved for the actual building footprint, septic field plus an additional thirty (30') feet beyond the perimeter of the building footprint and septic field and driveway plus ten (10') feet on either side of the driveway, unless such additional area (other than in connection with a driveway) is within a setback or yard required by the zoning regulations of the Borough.

DEVELOPER

Shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DRIPLINE

Shall mean a line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

FORESTRY MANAGEMENT PLAN

Shall mean a plan of forest management prepared by a certified or accredited forestry consultant which complies with the requirements of N.J.S.A. 54:4-23.

PROTECTIVE BARRIER

Shall mean a barrier constructed to protect the root system or trunk of a tree from damage during construction from equipment, soil or material deposits. Such a barrier may consist of a snow fence, sawhorses, or other such similar structures approved by the Borough Engineer and at a minimum sufficient to protect the root system and/or trunk of a tree from damage.

TREE

Shall mean generally any woody perennial plant having a diameter greater than six (6") inches (the Dogwood, Ironwood and American Horn Beam trees having a diameter greater than 2 1/2 inches) all measured at a point 4 1/2 feet above the ground.

TREE FARM

Shall mean a tract of woodland five acres or more dedicated by its owner to the farming and harvesting of forest crops and certified by the American Tree Farm System through the New Jersey Tree Farm Committee.

TREE REMOVAL

Shall mean the removal or destruction of any tree with a diameter of six (6") inches or greater measured four and one-half (4-1/2') feet above the ground.

TREE REMOVAL/REPLACEMENT PLAN

Shall mean a plan of tree removal and/or planting prepared by an accredited or certified forestry consultant, a landscape architect or similarly qualified person. On property of less than five acres, this plan may be prepared by the property owner if the property is not the subject matter of a development application.

TREE REPLACEMENT

Shall be in accordance with and as required herein.

TREE WELL

Shall mean that where fill is required around trees, the tree must be protected by an air well around the trunk, six feet in diameter pursuant to formula provided by the New Jersey School of Nurserymen which will prevent the intrusion of soil. The top of the well must extend six inches above the graded level.

Article III Applicability.

A permit shall be required when the project involves one or more of the follows:

- A. The removal or cutting of any tree, regardless of size, within any Borough right-of-way or on any Borough-owned property, except when performed by or on behalf of the Borough.
- B. The removal or cutting of any tree having a diameter of six (6") inches or more measured at a height of four and one-half (4-1/2') feet above the ground in any commercial zones, multifamily residential zones, mixed use zones or planned developments, or within ten (10') feet of a property line in any single family residential zone where a neighboring dwelling is located within one hundred fifty (150') feet.
- C. The removal or cutting of trees of the aforesaid dimensions in any single family residential district, where the number of trees to be cut in a year on the subject lot is greater than ten (10%) percent of the trees on the property or if the number of trees to be cut exceeds ten (10).
- D. Tree removal within habitat areas designated in the Borough Master Plan or on slopes of twenty five (25%) percent or more.

Article IV Exemptions.

Notwithstanding the above, the following are exempt from the permit requirements of this section:

- A. Removal of tree farm and nursery stock;
- B. Tree harvesting plans that are part of a woodland management plan prepared by a qualified forester and filed with the tax assessor's office;
- C. Removal of dead or diseased trees;

- D. Removal of nuisance tree species such as Ailanthus or Eastern Red Cedar or others as may be established in a list prepared by the Borough unless they are within one hundred (100') feet of a public or private street;
- E. Tree removal permits shall not be required in connection with septic system alterations for failing systems;
- F. Tree removal within a critical footprint area;
- G. Any tree that creates an imminent hazard or danger to person(s) or property(ies), which is a result of a weather event, accident or other disaster; and
- H. Removal of trees by or on behalf of the Borough of Far Hills.

Article V Submission Requirements.

The following information/documentation shall be submitted in support of all permit applications pursuant to this Ordinance, which shall be submitted to and reviewed by the Borough Zoning Officer, with consultation with the Borough Engineer, if deemed necessary:

- A. A completed permit application form describing the project.
- B. The estimated start date and estimated duration of the project.
- C. A map/survey of the area to be disturbed, in an acceptable scale, prepared by an appropriate professional. The map should include the area of disturbance as well as an area of one hundred (100') feet beyond the disturbance limits.
- D. A map/survey indicating the location of all trees to be removed. The size and species of these trees shall also be indicated.
- E. A copy of any Resolution of Approval issued by either the Borough Planning Board or Board of Health for the subject property.
- F. Any additional data that may be required by the Borough Engineer or other appropriate Borough official in reviewing the application.

The Zoning Officer, Borough Engineer or other appropriate Borough official may waive the requirement for the submission of any of the above based on an adequate demonstration by the applicant that the information is not required for the review of the application.

Article VI Standards.

All permit applications shall comply with the following standards:

- A. Tree removal shall be planned in a manner that preserves, to the greatest extent possible, the scenic views along roadways, long views and ridge lines. The removal of trees and vegetation

that would comprise sensitive or unique habitats shall be prohibited. Tree removal along NJDEP regulated areas shall not be permitted except in conjunction with a permit approved by the NJDEP for wetlands/transition area disturbance and/or flood hazard area permits.

- B. All applications for tree removal shall include a plan to mitigate the tree removal if the area to be impacted involves the clear cutting of an area in excess of five-tenths (.5) acre. This mitigation shall include replacement plantings in accordance with the table below:

Diameter of Trees Removed (Measured 4-1/2 feet off ground)	# of 2-1/2 inch replacement trees or equivalent basal area (Measured 4-1/2 feet off ground)
6-15"	2
16-24"	4
25-36"	6
37" and over	8

If the tree replacement cannot reasonably be placed on the property, a portion of the replanting may be waived by the Borough Engineer.

- C. Replacement trees shall be hardwoods with a caliper of two and one-half to three and one-half (2-1/2"-3-1/2") inches as measured at a point four and one-half (4-1/2') feet above the ground or coniferous trees with a planting height of six to eight (6' to 8') feet. The species shall be of a type native to the region.
- D. The burying of stumps or debris on site is prohibited.
- E. Clear cutting for any purpose exceeding two and one-half (2.5) acres shall be reviewed by the Borough Planning Board, in consultation with the Borough Engineer.
- F. Clearing of trees to obtain a view shall be conducted in a manner that provides for concealing and buffering of any structures.
- G. Except for driveway openings, no permit shall be issued for tree cutting and removals which:
1. Are within twenty-five (25') feet of a stream bank or 100 year floodplain;
 2. Remove shade from water courses;
 3. Are within seventy-five (75') feet of a stream bank or 100 year floodplain, except as part of a staged BMP (Best Management Practices (BMPs) harvesting/ reforestation plan); or
 4. Are within seventy-five (75') feet of a designated scenic road, except where the scenic character will be enhanced in a demonstrable way.
- H. Except where it can be demonstrated that no significant habitat destruction or significant species displacement will occur, no permit shall be issued for removals in any locally recognized critical habitat identified in the Master Plan.
- I. Any trees that have not survived two years from planting shall be replaced.

Article VII Reconsideration of Permit.

In the event that an application is denied by the Zoning Officer, in consultation with the Borough Engineer and/or other appropriate Borough official, the Applicant may seek reconsideration of the permit or a portion thereof from the Borough Planning Board. The Planning Board reconsidering the permit shall apply the standard for exceptions set forth in N.J.S.A. 40:55D-51, as may be amended.

Article VIII Duration of Permit.

Permits shall be valid for a period of six (6) months from the date of issue.

Article IX Inspections.

The Zoning Officer shall be notified in writing at least seventy two (72) hours in advance of the commencement of any tree removal subject to this Ordinance. Inspections will be conducted by the Zoning Officer, Borough Engineer and/or other appropriate Borough official, and billed against the escrow deposit. With the filing of a permit application pursuant to this Ordinance, the Applicant hereby authorizes and consents to the Zoning Officer, Borough Engineer and/or other appropriate Borough official to inspect the subject property.

Article X Fees & Escrow.

All applications shall be accompanied by a nonrefundable application fee in the amount of \$100.00. Upon review of the application, the Zoning Officer, in consultation with the Borough Engineer shall determine the amount of an inspection escrow for the project, if necessary. This escrow deposit shall be made prior to the commencement of any tree removal. Reconsideration of permit by the Planning Board shall require payment of a reconsideration fee of \$100.00 and an escrow charge of \$500.00.

Article XI Planning Board Applications; Tree Removal/Replacement Plan Required.

A tree removal/replacement plan shall be filed with every application before the Planning Board for approval of a subdivision, resubdivision, site plan, planned development, conditional use, zoning variance, except as exempted by Article IV hereof.

Article XII Tree Removal/Replacement Plan Requirements.

Every plan submitted in conjunction with major subdivision and/or site plan application filed with the Planning Board, shall show the following information at a minimum:

- A. Tax map, lot and block number designation, north arrow, street address;
- B. Area of tract;
- C. Approximate location of trees or wooded area (not required to be located by survey);
- D. Approximate number of trees or percent of stocking (tree per acres);
- E. Species substantially involved;
- F. Soil erosion control measures;
- G. Location of streams, wetlands, conservation easements, 100-year flood plains;

- H. Map of locations and surrounding properties showing approximate wooded areas located thereon;
- I. Existing structures and drives;
- J. Existing grades and topography within 100 feet of lot;
- K. A list of trees to be replaced;
- L. Tree removal plan and tree replacement plan in relation to principal and accessory buildings and septic systems, roads and driveways, parking lots, garden areas, etc., (showing also the relations to survey stakes);
- M. Location of buildings;
- N. Location of roads, driveways, parking lots, staging areas, recreation areas and garden areas;
- O. Grading plan;
- P. Schedule of tree removal and replacement;
- Q. Provision for removal of excess stumps and branches from the property and disposal plan for same in accordance with the Somerset County Solid Waste Management Plan.
- R. Provide the name, address and telephone number of the applicant who shall be the owner or duly authorized agent of the owner, where applicable.
- S. Provide the name, address and telephone number of the contractor that will perform the work.

Article XIII Enforcing Officer; Enforcement Provisions.

- A. The Zoning Officer, or the Borough Police Department in the Zoning Officer's absence, shall be the enforcing officer for all permits issued herein and plans approved by the Planning Board. Such enforcement shall include determination of compliance with the terms of the permit, whether any tree removal is conducted without a permit in violation of the terms of Ordinance, along with the issuance of stop work orders if a violation is found.
- B. No certificate of occupancy shall be issued unless all trees required to be replaced have been planted in accordance with the approved tree removal/tree replacement permit or plan, or a bond guaranteeing planting has been posted with the Borough. The bond, as determined by the Zoning Officer, shall be in the minimum principal sum of \$100.00 per tree required to be replaced.

Article XIV Penalties.

The removal of any trees without a permit approved under this Ordinance shall be subject to the general penalties of the Borough of Far Hills, as well as the requirement for the replacement of each tree removed at a ratio of 1.1 new trees per tree removed. Fractional trees shall be rounded up. If the violation is of a continuing nature, each incident or day in which it continues shall constitute an additional, separate and distinct offense.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Far Hills, the provisions hereof shall be determined to govern, and the inconsistencies of the prior ordinance are hereby repealed. All other parts, portions and provisions of the Ordinances of the Borough of Far Hills are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. Within five (5) days after its adoption by the Council, this Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40A:60-5(d). If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 5. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40A:60-5(d); and (3) publication in accordance with the laws of the State of New Jersey.

Introduced: October 12, 2021 – TABLED
Introduced: November 8, 2021
Published: November 11, 2021
Adopted: November 22, 2021
Published: November 27, 2021

ATTEST:


Dorothy S. Hicks, Borough Clerk

BOROUGH OF FAR HILLS

By: 
Paul J. Vallone, M.D., Mayor