

SANDYSTON TOWNSHIP
ORDINANCE 2008-11

TREE PROTECTION AND REMOVAL

Purpose. The following provisions are intended to control and regulate the indiscriminate or excessive removal, large-scale clear cutting and destruction of trees and to control, regulate and prevent conditions which cause an increase in stormwater run-off, decrease aquifer recharge, impair the ambiance or physical appearance of an individual property, neighborhood or unreasonably and/or unnecessarily diminish the natural vegetative screening or natural landscape viewscapes. These provisions are not intended to regulate tree cutting on lands with a State approved forestry plan or tree cutting associated with a farm qualified parcel where the tree removal is necessary for farming operations. Additionally, these provisions are not intended to restrict an individual property owner from selectively removing trees that damaged, diseased or otherwise hazardous to life and property.

Definitions.

Board. The Planning Board and Zoning Board of Adjustment.

Person. Any person or entity whose existence is recognized by law, including, but not limited to, any individual, partnership, corporation (for profit, nonprofit or municipal and its agencies), municipal employee, government employee, firm, association or any combination of the foregoing.

Caliper. Standard measure of tree size for trees to be newly planted. The measurement is taken six inches about the ground for trees four inches in diameter or less and 12 inches above the ground for trees over four inches in diameter.

Clear Cutting. The removal of all standing trees on a lot or portion of a lot.

Diameter at Breast Height. Diameter of a tree measured four and one-half feet (forestry method) above the ground level on the downhill side for existing trees. Diameter at breast height may appear as the abbreviation "DBH" 4 1/2.

Drip Line. A limiting line established by a series of perpendicular drip points marking the maximum radius of the crown of an existing tree, but not less than 6 feet from the trunk, whichever is greater; and within which no construction or disturbances shall occur.

Replacement Tree. A nursery-grown certified tree, properly balled, marked with a durable label indicating genus, species and variety, and satisfying the standards established for nursery stock and installation thereof set forth by the American Association of Nurserymen.

Tree. Any self-supporting woody plant which reaches a typical mature height of 12 feet or more and has a typical CBH of 4 inches or greater.

Tree Canopy. The top layer or crown of mature trees.

Exemptions. Exempt from this section are subdivisions, site plans, amended subdivisions and amended site plans that have been approved prior to the effective date of this section. Parcels which have obtained a State approved forestry plan to operate a forestry management program on their lot or tract are exempt. Selective removal of damaged, dead or diseased trees that pose a threat to life or property are exempt from these provisions. Removal of trees associated with farming operations and/or construction of farm buildings on a farm qualified parcel are exempt from these provisions. Removal of trees for a permitted use not requiring Planning-Zoning Board approval, i.e. construction of one single family residence. However, should any of the exemptions above, then become the subject of a Planning-Zoning Board application within two years of said removal of trees, the Applicant shall propose tree replacement according to the tree replacement schedule.

Tree Removal Requirements for Major and Minor Subdivisions and Site Plans. Each application to the Planning Board - Zoning Board of Adjustment for approval of a major or minor subdivision or a site plan that proposes or requires the removal of trees, to ensure compliance with this section, shall include a tree removal proposal. The proposal shall include the following information:

- a. A list of trees to be removed with a DBH equal to or greater than 6 inches identified by size and species, including total number of each species to be removed;
- b. Purpose of tree removal (new construction, street or roadway, driveway, utility easement, recreation areas, parking lot, etc.);

- c. Proof that there are no delinquent property taxes or assessments due on the property for which the application is submitted; and
- d. Such other information as may be deemed necessary in order to effectively review the proposal.

Landscape Plan. The following information shall be provided on a landscape plan prepared by an architect, professional engineer or planner and submitted with the proposal for tree removal. For major subdivisions and site plans, the preparation of landscaping plans shall be prepared by a certified landscape architect (CLA). The landscape plan must be submitted and approved prior to tree removal.

a. Base Information:

1. Location of existing tree stands or groups of trees within the property boundaries.
2. Location of individual trees with a DBH equal to or greater than 6 inches identified by size and species within the area of development and/or limits of disturbance.
3. Location of individual existing trees and their driplines noted for preservation within the area of development and/or limits of disturbance identified by size and species. Where clusters of trees exist on the site or are contiguous with adjacent sites, fragmentation of the cluster shall be avoided where practical.
4. Location of all required replacement trees.
5. Clear labeling of the area(s) intended for tree or vegetation removal.
6. Tree protection material details and limit of disturbance line.
7. Location of existing and proposed buildings or structures.
8. All bodies of water and wetlands, including water retention and detention areas.
9. Location of all existing driveways and parking areas.

b. Design Requirements:

1. Only those trees necessary to permit the construction of buildings, structures, street, driveways, infrastructure and other authorized improvements shall be removed. Existing vegetation shall be preserved to the greatest extent feasible.
2. No more than 60% of the existing tree canopy within the property boundaries shall be removed. The location of the remaining 40% of the tree canopy shall be preserved and shall be noted on the landscape plan. Steep slope limits of disturbance shall supersede this subsection when appropriate.
3. No more than 10% of existing trees with a DBH equal to or greater than 10 inches within the area of development or limits of disturbance shall be removed unless the applicant shall replant trees removed in accordance with the Tree Replacement Schedule.
4. Landscape standards may be waived by the approving authority when trees and/or shrub masses are preserved and/or relocated on site that effectively substitute for the landscape requirements contained in this section.
5. 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. All trees, vegetation and plantings proposed and/or required to be preserved or established shall be protected by means of a conservation easement which shall name the Township of Sandyston, in the County of Sussex, as a third-party beneficiary thereof, having the right, but not the obligation, to enforce the same by any legal or equitable means with the cost of such enforcement action, including reasonable attorney's fees, being awarded to the prevailing party.

c. Site Protection:

1. Tree protection measures and the limits of disturbance line shown on the landscape plan shall be provided in the field with snow or silt fencing or other durable material and verified by the Township Engineer or other designated official prior to soil disturbances.
2. Protective barriers shall not be supported by the plants they are protecting, but shall be self-supporting. Barriers shall be a minimum of 2 feet high and shall last until construction is complete.
3. Permanent fencing may be required for tree protection if warranted by site conditions and relative rarity of the plant.
4. Snow or silt fencing used for tree protection shall be firmly secured along the dripline, but shall be not less than 6 feet from the trunk.

5. The grade of the land located within the dripline shall not be raised or lowered more than 6 inches unless compensated by welling or retaining wall methods; and in no event shall welling or retaining walls be less than 6 inches from the trunk of a tree.
6. No soil stockpiling, storage of building materials, construction equipment or vehicles shall be permitted within the dripline or within 6 feet of any remaining trees, whichever is greater.
7. Any clearing within the dripline, or within 6 feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.
8. Where a tree that has been noted for preservation is severely damaged or diseased and is unable to survive, tree replacement shall occur as provided in the Tree Replacement Schedule.

Tree Replacement and Reforestation. The replacement of trees shall occur as prescribed in the following schedule:

Tree Replacement Schedule

| Caliper of Existing Tree Removed | Number of Replacement Trees (3-Inch Caliper) |
|----------------------------------|--|
| Less than 6 inches | 1 |
| Between 6 and 12 inches | 3 |
| Between 12 and 18 inches | 4 |
| Between 18 and 24 inches | 5 |
| Between 24 and 30 inches | 7 |
| Between 30 and 36 inches | 10 |
| 36 inches or greater | The equivalent of 3-inch caliper trees or greater needed to equal the DBH of the removed tree. |

- a. Replacement tree(s) shall be or nursery stock, balled and burlapped. Where, because of unusual conditions

relating to the site in question, it is impractical to fully comply with the tree replacement schedule set forth hereinabove, the approving authority shall have the option of approving an alternative tree replacement schedule for other areas of the site or for other sites.

- b. Replacement trees shall be selected from the following species or closely related equivalents:

| Large Trees | |
|--|--|
| Acer rubrum - Red Maple | White Ash |
| Acer saccharum - Sugar Maple | Patanus occidentalis - American Sycamore |
| Carya ovata - Shagbark Hickory | Pinus strobus - Eastern White Pine |
| Tulip Poplar | White Oak |
| Fagus grandifolia - American Beech | Quercus rubra - Northern Red Oak |
| Small Trees | |
| Amelanchier canadensis - Canadian Serviceberry | Cornus florida - Flowering Dogwood |
| Carpinus caroliniana - American Hornbeam | Prunus virginiana - Chokecherry |

- c. The planting of replacement tree(s) shall be done by or supervised by a person with horticultural training in tree care and planting methods.
- d. Newly planted replacement trees shall be monitored for a period of one year to ensure the health of the trees. Any tree planted which does not survive for a period of one year from the date of planting shall be replaced with a tree of the same or similar species.

Inspection.

- a. Prior to taking final action upon any application for tree removal, an inspection of the site may be made as appropriate by the Township Engineer to assist the approving authority in administering the application.
- b. All individual trees proposed for removal and all groups or stands of trees proposed for removal shall be marked to facilitate inspection by the approving authority or its representative.
- c. The Township Engineer shall periodically inspect the site throughout the duration of construction in order to ensure compliance with this section. Such inspection shall be made of the site referred to in the application, and of contiguous, as well as of lands in the vicinity of the application, for the purpose of determining drainage conditions and physical conditions existing thereon.

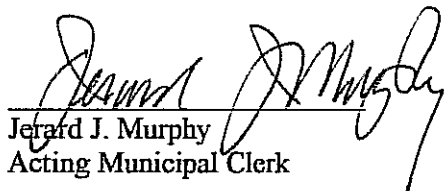
Notice of Commencement of Tree Removal.

- a. The Township Engineer shall be notified in writing at least seven business days prior to the tree removal activity.
- b. The notice shall include information as to the manner of disposal of the removed trees.
- c. Dead or diseased trees shall not be turned into mulch and applied to the site, but shall be disposed of in a manner so as to not disease other trees on site.

Bond. The Township Attorney and Township Engineer shall be consulted as to the establishment of a bond for the vegetation for the one-year period. This shall be done as a separate bond that is released upon the Planner's or Engineer's inspection and verification as to the health of the plants. The engineer shall also identify any need for addition funds for inspection fees based on this section.

NOTICE

TAKE NOTICE that the foregoing Ordinance was introduced and passed on the first reading at a meeting of the Sandyston Township Committee held on June 10, 2008. The same had the benefit of second reading and public hearing at which time all interested persons present were given the opportunity to be heard at a regularly scheduled meeting of the Sandyston Township Committee held on July 8, 2008 at 9:00 a.m. at the Sandyston Township Municipal Building, 133 Route 645, Sandyston Township at which time said Ordinances were passed and adopted according to law.


Gerard J. Murphy
Acting Municipal Clerk


William Leppert, Mayor