

CHAPTER 371 TREE REMOVAL

[HISTORY: Adopted by the Township Council of the Township of West Milford as Sec. 5-10 of the 1976 Revised General Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 500.

§ 371-1 Findings; purpose.

The Township Council does herein decide and find that the uncontrolled destruction, removal and cutting of trees upon lots and tracts within the Township has resulted in creating increased municipal costs for drainage control and has further caused increased soil erosion and stream pollution, decreased the fertility of soil, increased dust which has further deteriorated property values and has further rendered land unfit and unsuitable for its most appropriate uses and has caused deterioration in the value of improved and unimproved real estate within the Township with a resulting adverse effect upon the health, safety and general well-being of the inhabitants. The aforesaid findings have caused the passage of this chapter to regulate and control the indiscriminate and excessive cutting of trees in the Township.

§ 371-2 Regulation of tree removal; compliance required.

It has been determined, therefore, that no person shall cut or remove any tree upon any lands within the Township, unless such action accomplishes a useful purpose and is done in accordance with the regulations and provisions of this chapter.

§ 371-3 Definitions.

All definitions herein contained shall be considered in conformance with those set forth in the Zoning Ordinance of the Township of West Milford, N.J., 1969, and as amended, and as in Chapter 500 of the Code of the Township of West Milford, with the following additions:

TOWNSHIP FORESTER

The duly appointed officer of the Township given the authority to enforce the provisions of this chapter.

TREE

Any living deciduous tree having a trunk of a diameter greater than four inches, measured at a point 4 1/2 feet above the ground, or any living coniferous tree having a trunk of a diameter greater than four inches, measured at a point 4 1/2 feet above the ground, or a height greater than six feet. Nothing in this chapter is intended to conflict with or supersede the provisions of the Soil Erosion and Sediment Control Act of the State of New Jersey, Chapter 251 of the Public Laws of New Jersey.

Editor's Note: See N.J.S.A. 4:24-39 et seq.

§ 371-4 Permit required.**A.**

Application. Any person desiring to destroy, cut or remove any such tree which is not excepted under terms of subsection 5-10.3 shall apply to the Township forester for a permit to remove such tree.

B.

Information.

(1)

The applicant shall identify by block and lot the land upon which the tree is located and shall disclose the name and address of the owner, tenant or duly authorized agent of such owner or tenant, and the applicant shall also identify the species and generally designate the location of the tree sought to be cut, removed or destroyed.

(2)

A tree removal permit, if required, shall be obtained prior to the approval of all minor and major subdivisions, site

plans, building applications and certificates of occupancy on a map which shall include the following:

(a)

Area of tract or parcel of land.

(b)

General location of wooded areas and trees to be removed.

(c)

Exact location of rare or historic trees as required by the Township forester.

(d)

General topographic conditions of site as derived from USGS map of the West Milford area.

§ 371-5 Fees.

[Amended 4-16-1986 by Ord. No. 1986-6; 6-6-1990 by Ord. No. 1990-19

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

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Upon application for a permit, the applicant shall pay to the Township the fees set forth in Chapter 135, Fees and Costs.

§ 371-6 Criteria for determination of permitted tree removal.

As a basis for determining permitted tree removal, the duly appointed officer shall give due consideration to the following:

A.

For purposes other than commercial lumbering. The lands covered by each application shall be inspected by the Township Forester who shall issue a permit upon a finding that the destruction or removal to be permitted would not impair the growth and development of the remaining trees on the applicant's property or adjacent properties, would not cause soil erosion, would not impair existing drainage patterns, would not lessen property values in the neighborhood and would not impair substantially the aesthetic values of the area. The Township Forester shall have the authority to affix reasonable conditions to the approval of a permit required by this chapter.

B.

For the purposes of commercial lumbering in accordance with the following restrictions:

(1)

The lumbering company or individual owner of the property in question shall file with the duly appointed officer a forest management plan approved by the New Jersey Department of Environmental Protection, Bureau of Forestry, or other professional forester. Such plan shall be subject to the approval of or disapproval of the Township Forester. Any deviation taken from this plan shall be considered a violation of this chapter.

(2)

In no case shall more than 30% of the total number of trees be removed from the entire tract.

§ 371-7 Issuance of permit.

If the applicant as defined in § 371-4 discloses that no more than five trees in excess of the size referred to aforesaid in this chapter are to be removed, cut or destroyed, or have been cut, removed or destroyed from the lot or tract of land identified in the application, then the Township Forester may waive any or all of the items listed in § 371-4 and may issue a permit for the removal of such trees.

§ 371-8 Exceptions.

Excepted from this chapter shall be:

A.

Any tree located on a tract or parcel of land 1 1/2 acres or less in size on which a residential dwelling is located.

B.

Any tree growing on property actually being used as a nursery, garden center, Christmas tree plantation or orchard.

C.

Any tree growing on land actually being used for a sanitary landfill operation or for surface mining, or on land approved for such use by the Township or applicable agencies.

D.

Any tree growing in a public right-of-way, private right-of-way, drainage or utility easement, as designated on the West Milford Township Tax Map.

E.

Any tree located on a tract or parcel of land in excess of 1 1/2 acres, to be cut for personal use as firewood by the owner of such property. Not more than five trees per acre shall be cut in any one year, and in no case shall more than 30% of the total number of trees located on such property be removed.

F.

Any tree dead or diseased as a result of natural causes, or other tree that is likely to endanger life or property.

G.

Any tree cut or removed in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, or other professional forester, and filed with and approved by the Township Forester duly appointed by the Township.

H.

Any tree located on or within 20 feet of a proposed residential structure, its well, septic system or other accessory structures.

I.

Any tree located within 10 feet of the planned paved areas of a residential driveway, provided that the alignment of the driveway is planned to save as many trees as possible.

J.

Any tree located near utility lines or substations, provided that the reason for the tree removal is related to public safety purposes.

§ 371-9 Unique and irreplaceable trees.

No person shall cut, remove or destroy upon any lands within the Township any tree considered to be unique and irreplaceable by reason of age, historical associations, or botanical rarity as determined by the Township Forester.

§ 371-10 Right of appeal.

[Amended 9-1-2004 by Ord. No. 2004-6]

The applicant shall have the right to appeal the decision of the Township Forester to the Township Administrator within 10 days of receipt of such decision. The appeal shall be by written notice to appeal. The Township Administrator shall proceed to hear such appeal upon notice to the applicant within 30 days after the filing of such notice of appeal. The Township Administrator may, in his discretion and upon complete review of the application, and after hearing the testimony of the Township Forester and the applicant, reverse, modify or affirm the aforesaid decision.

§ 371-11 Interpretation.

All trees protected by this chapter shall be protected against construction damage, soil deposits or other activities to the satisfaction of the Township Forester.

§ 371-12 Violations and penalties.

Any person violating any provisions of this chapter shall be, upon conviction, subject to the penalty as provided in Chapter 1, Article III, General Penalty, of the Township Code.

§ 135-38 Tree removal.

In accordance with Chapter 371, Tree Removal, upon application for a permit, the applicant shall pay to the Township the following fees:

A.

For any application consisting of five acres or less: \$25.

B.

For each additional acre: \$5.

C.

There is no maximum permit fee.

§ 256-3 Trees, shrubbery and other physical features.

A.

No person in an open space and recreation area shall damage, deface, cut, carve, transplant, remove any tree or plant or injure the bark, or pick the flowers, fruits, berries or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant.

B.

No person in an open space and recreation area shall dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.

C.

No person shall excavate or remove any rock, soil, stone or sand from an open space and recreation area.