

Chapter 257

TREES

[HISTORY: Adopted by the Township Council of the Township of Mount Holly 7-11-2016 by Ord. No. 2016-21. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 82.

Parks and recreation areas — See Ch. 187.

§ 257-1. Purpose.

- A. Mount Holly Township understands that indiscriminate, uncontrolled and excessive destruction, removal and clear cutting of trees upon lots and tracts of land results in increased drainage control costs, increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon and increased dust and decreased property values, all of which negatively affect the character of Mount Holly Township.
- B. Mount Holly Township realizes that the removal of trees adversely affects the health, safety and general welfare of our residents, desires to regulate and control indiscriminate and excessive cutting of trees by preserving the maximum possible number of trees in the course of development of a site, ensuring that the health of trees preserved on a site is maintained throughout the development process, protecting larger, older specimens of trees and encouraging innovative design and grading to promote the preservation of existing trees.
- C. It is recognized that there is a strong relationship between the integrity of Mount Holly Township and the region's water resources, the development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of land resources. Therefore, the appropriate management of these resources is an important health, safety and general welfare concern.

§ 257-2. Applicability.

- A. Except as provided for specifically in this chapter, it shall be unlawful to cut, substantially altered or otherwise remove any tree from any lands in Mount Holly Township without a tree removal permit. Routine annual pruning to maintain the health of a tree or drastic pruning in response to damage from adverse weather conditions shall not be considered substantially altering the tree.
- B. The tree removal permit application shall be submitted to Mount Holly Township Clerk.
- C. All applications to the Joint Land Use and Planning Board for approval of a major subdivision, minor subdivision or site plan requiring tree removal shall include an application for a tree removal permit. No tree that was planted or preserved as part

of any landscape plan or in accordance with any street tree requirements approved in conjunction with a subdivision or site plan shall be removed, unless specifically excepted pursuant to this chapter.

§ 257-3. Definitions.

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

CALIPER — Customary measure of tree size for trees to be newly planted. The measurement is taken six inches above 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 a portion of a lot.

DIAMETER AT BREAST HEIGHT (DBH) — Diameter of a tree measured 4 1/2 feet (known as the forestry method) above the ground level on the downhill side for existing trees.

DRIP LINE — A limiting line established by a series of perpendicular drop points marking the maximum radius of the crown of an existing tree, but not less than six feet from the trunk, whichever is greater; and within which no construction or disturbance shall occur.

REPLACEMENT TREE — A nursery-grown, certified tree, properly balled with dirt, 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 Nurseryman.

SELECTIVE CUTTING — The removal of larger trees on an individual basis while leaving trees of lesser size.

SHADE TREE COMMITTEE (STC) — The public body charged with managing the natural resources of the Township of Mount Holly to include trees. The STC or its designee shall review, grant or deny all tree removal permits.

SILVICULTURE — The management of any wooded tract of land to insure its continued survival and welfare, whether for commercial or noncommercial purposes, pursuant to a plan approved by the New Jersey Bureau of Forestry.

THINNING — The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of remaining trees on the lot.

TREE — Any self-supporting woody plant which reaches a typical mature height of 12 feet or more at maturity and has a typical DBH of four inches or greater.

TREE CANOPY — The top layer or crown of a mature tree.

TREE EXPERT — The designee of the Shade Tree Committee with an expertise in trees.

WOODED ACRES PERMITTED FOR DEVELOPMENT — The wooded lands within a lot or tract which are not specifically excluded from development by any federal, state, county or municipal law or ordinance, deed restriction or covenant running with the lands. For purposes of this chapter, those lands specifically eliminated from consideration as wooded acres permitted for development include, but are not limited to, wetlands as defined by N.J.S.A. 13:9B-1 et seq.

§ 257-4. Permits for residential, commercial, industrial and business-zoned lots.

- A. Upon completion of the STC or tree expert's inspection report and review of any requested recommendations, the STC or its designee shall recommend approval of a permit if:
- (1) The area proposed for tree removal is to be occupied by:
 - (a) A building or other structure;
 - (b) A street or roadway;
 - (c) A driveway;
 - (d) A parking area;
 - (e) A patio;
 - (f) A swimming pool;
 - (g) A recreation area;
 - (h) A power, drainage, sewerage or any other utility line, easement, or right-of-way; or
 - (i) Where the area of tree removal is 20 feet or less from either side of or around the perimeter of any of the foregoing, whichever is applicable.
 - (2) In areas proposed for tree removal which are not to be occupied by any of the uses or facilities set forth in this section:
 - (a) The tree is dead, diseased, injured, in danger of falling, is too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision or clearance or conflicts with other ordinances or regulations;
 - (b) That the continued presence of such tree or trees is likely to cause danger to persons or property upon the property for which removal is sought, or upon adjoining or nearby property to include damage to structural components of buildings and foundations;
 - (c) That the area where such tree or trees are located has a cut, depression or fill of land, or the topography of the land is of such a character as to be injurious or dangerous to such tree or trees, or to tree or trees located nearby;
 - (d) That the removal of trees is for the purpose of conducting forestry activities, which activities include, but are not limited to, the harvesting of trees in accordance with a forest management plan and the thinning out of a heavily wooded area, with some trees to be removed, and other trees to remain;
 - (e) Upon an express finding by the appropriate decisional authority that the proposed tree removal will not result in or cause, increase or aggravate any or all of the following conditions:

- [1] Impaired growth or development of remaining trees or shrubs on the property of the applicant or upon adjacent property,
 - [2] Soil erosion;
 - [3] Sedimentation and dust;
 - [4] Drainage or sewerage problems;
 - [5] Dangerous or hazardous conditions; or
 - [6] Depression in the land value of the subject property and properties in the neighboring area.
- (3) Additional factors considered:
- (a) The trees removed shall not constitute more than 1/2 acre or shall be no more than 50% of the lot size, whichever is less.
 - (b) Existing vegetation shall be preserved to the greatest extent feasible.
 - (c) Where the location of an existing tree provides no other alternative but to place a structure outside the permitted building setbacks.
 - (d) Where the location of an existing tree negatively impacts on an existing septic field.
 - (e) Where no other alternative exists for the placement of a building, building addition, structure, septic field, driveway, deck, patio or lawn area for the recreational use by the inhabitants of the building or dwelling, or any other authorized improvements, but in the vicinity of an existing tree.
 - (f) Where the location or growth of a tree inhibits the enjoyment of any outdoor pool, patio or deck.
 - (g) Where the location, angle or growth of an existing tree makes it a hazard to structures or human life.
- B. The Shade Tree Committee or its designee shall have the power to affix reasonable conditions to the granting of the permit for the removal of trees.

§ 257-5. Exceptions.

The provisions of this chapter shall not apply to the following:

- A. Any tree with a diameter at breast height (DBH) of less than six inches.
- B. Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantations or tree orchards.
- C. Trees on residential lots so long as no more than two trees of any size are removed in any twelve-month period.
- D. Trees on residential lots with a DBH of less than 12 inches.

- E. Any tree which is part of a cemetery as defined by the New Jersey Cemetery Act, N.J.S.A. 45:27-1 et seq., or its successor acts.
- F. Trees directed to be removed by municipal, county, state or federal authority pursuant to law, or any tree growing on or over a public right-of-way that is deemed to be a hazard by the Township Department of Public Works, subject to notification of the Shade Tree Committee or designee. **[Amended 7-13-2020 by Ord. No. 2020-11]**
- G. Any tree growing on or over a public right-of-way or public land that is not otherwise deemed to be a hazard subject to approval by the Shade Tree Committee or designee. Tree removal on public land will be subject to tree replacement requirements as specified in this chapter upon request by Shade Tree Committee or designee. **[Amended 7-13-2020 by Ord. No. 2020-11]**
- H. Pruning or removal of trees within the right-of-way by utility companies for maintenance of utility wires or pipelines and the pruning of trees within sight easements. Removals by utility companies are subject to approval by the Shade Tree Committee or designee and upon request of Shade Tree Committee are required to compensate the Township as per-tree replacement provisions as specified in this chapter.
- I. Those projects which have received major subdivision or site plan approval prior to the effective date of this chapter and amended major subdivision and site plans.
- J. Any public employee acting at the request of an abutting homeowner or municipal directive to cut or remove a tree within the public right-of-way that is creating a hazardous condition. **[Added 7-13-2020 by Ord. No. 2020-11]**

§ 257-6. Permit process for residential, commercial, industrial and business-zoned lots.

- A. Applicability:
 - (1) Residential-zoned lots requesting the removal of more than two trees greater than 12 inches DBH in a twelve-month period shall submit an application for a tree removal permit to the Clerk of the Township of Mount Holly.
 - (2) Commercial, industrial and business-zoned lots requesting the removal of a healthy tree greater than 12 inches DBH or more than two trees between six and 12 inches DBH in a two-year period shall submit an application for a tree removal permit to the Clerk of the Township of Mount Holly.
 - (3) If, in the opinion of the Township Clerk or the Shade Tree Committee or its designee, the request for tree removal requires the review by the Joint Land Use and Planning Board or would benefit the Township by such a review, the application shall be forwarded to the Joint Land Use and Planning Board within five business days.
- B. Application form. The application form shall be available from the Township Clerk and shall include substantially the following information:
 - (1) Name and address (street and lot and block) of the owner of the premises and

status of legal entity (individual, partnership, corporation of this or any other state, etc.);

- (2) Description of the premises where removal is to take place, including lot and block numbers, and street address as would be commonly known or is stated on a formal deed recorded with the County of Burlington;
- (3) A list of all trees desired to be removed; including:
 - (a) For commercial, industrial and business-zoned lots, all trees to be removed in excess of 12 inches DBH and/or all trees to be removed in excess of six inches DBH and which exceed the two trees over two years limited as provided for in this chapter; and
 - (b) For residential-zoned lots, any tree in excess of more than two trees greater than 12 inches DBH in a twelve-month period; and
 - (c) Identification of each by size and species, including total number of each species to be removed.
- (4) Purpose for tree removal (construction, building addition, street or roadway, driveway, utility easement, recreation area, patio, parking lot, etc.);
- (5) Such other information as may be deemed necessary by the Township Clerk, Shade Tree Committee or its designee or tree expert or information believed to be necessary by the applicant in order to effectively process the application.
- (6) A sketch shall be provided showing the location of the tree(s) to be removed with a DBH of 12 inches or greater.

C. Issuance.

- (1) The Township Clerk shall forward the tree removal permit to the Shade Tree Commission or its designee or the tree expert within five business days of receipt.
- (2) Time limits for approval:
 - (a) Where the permit application is submitted as a part of an application for major subdivision, minor subdivision or site plan approval, the time for approval shall be governed by the timing requirements applicable to major subdivision, minor subdivision or site plans.
 - (b) Where the application is made in connection with a residential, commercial, business or industrial lot that is not part of a major or minor subdivision or site plan, the Shade Tree Committee or designee shall act on the application within 30 days of its receipt by the Township Clerk or within such additional time as noticed to the applicant prior to expiration of 30 days after receipt of the application.
 - (c) Failure to act within 30 days, or any extension thereof, shall be deemed to be an approval of the application, and thereafter a tree removal permit shall be issued.

[1] But approval by default with regard to major subdivision, minor subdivision and site plan applications shall not be deemed to be a waiver of a tree removal permit.

- (3) Review by Planning Board. If, in the opinion of the Township Clerk or designee, the request for tree removal does not satisfy the above criteria, then the application may be forwarded to the Planning Board for action.
- (4) Notice of right to appeal. Where the permit application is denied in whole or in part, the Shade Tree Committee or designee shall provide notice to the applicant of their right to appeal the decision according to the process set forth in § 257-14. **[Added 7-13-2020 by Ord. No. 2020-11]**

§ 257-7. Permit process for major and minor subdivisions.

- A. Each application to the Joint Land Use and Planning Board of Mount Holly Township for approval of a major or minor subdivision or a site plan that requires the removal of trees shall include an application for a tree removal permit.
- B. Application form. The application form may be obtained from the Township Clerk and shall include the following information:
 - (1) Name and address (street, lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation of this or any other state, etc.);
 - (2) Description of the premises where removal is to take place, including lot and block numbers, street address as assigned;
 - (3) A list of all trees to be removed with a DBH equal to or greater than six inches identified by size and species, including total number of each species to be removed;
 - (4) Purpose for tree removal (new construction, street or roadway, driveway, utility easement, recreation areas, parking lot, etc);
 - (5) Proof that there are no delinquent property taxes or assessments due on the property for which the application is submitted; and
 - (6) Such other information as may be deemed necessary by the Township Clerk, Shade Tree Committee or its designee or tree expert or information believed to be necessary by the applicant in order to effectively process the application.
- C. The application shall include a "landscape plan" prepared by a registered landscape architect or registered professional engineer. The landscape plan must be submitted prior to tree removal permit approval. Said landscape plan shall include:
 - (1) Location of existing tree canopy within the property boundaries.
 - (2) Location of individual trees with a DBH equal to or greater than six inches identified by size and species within the area of development/limit of disturbance.
 - (3) Location of individual trees with a DBH equal to or greater than six inches

identified by size and species beyond the area of development/limit of disturbance.

- (4) Location of individual existing trees and their drip lines noted for preservation within the area of development/limit 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 possible.
- (5) Location of all replacement trees.
- (6) Clear labeling of the area(s) intended for tree/vegetation removal.
- (7) Tree protection material details and limit of disturbance line.
- (8) Location of existing and proposed buildings/structures.
- (9) All bodies of water and wetlands, including water retention and detention areas.
- (10) Location of all existing driveways and parking areas.

D. Design requirements.

- (1) Only those trees necessary to permit the construction of buildings, structures, streets, 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 to be preserved shall be noted on the landscape plan. Steep slope limits of disturbance shall supersede this section when appropriate.
- (3) No more than 10% of existing trees with a DBH equal to or greater than 12 inches within the area of development/limit of disturbance shall be removed unless the applicant shall replant trees removed in accordance with § 257-8.
- (4) The Shade Tree Committee or its designee shall be requested for recommended areas of tree preservation.
- (5) Landscape standards may be waived by the Joint Land Use and Planning Board when trees and/or shrub masses are preserved and/or relocated on-site that duplicate or essentially duplicate the landscape requirements contained in this section.
- (6) The Joint Land Use and Planning Board shall have the option of requiring a conservation easement to protect any or all trees or tree canopy areas to remain on site.
- (7) Tree protection measures and the limit of disturbance line shown on the landscape plan shall be provided in the field with snow fencing or other durable material and verified by the Shade Tree Committee or their designee prior to soil disturbance.
- (8) Protective barriers shall not be supported by the plants they are protecting, but

shall be self-supporting. Barriers shall be a minimum of four feet high and shall last until construction is complete.

- (9) Chain link fence may be required for tree protection, as determined by the Shade Tree Committee or its designee, if warranted by site conditions and relative rarity of the plans.
 - (10) Snow fencing used for tree protection shall be firmly secured along the drip line, but shall be no less than six feet from the trunk.
 - (11) The grade of the land located within the drip line shall not be raised or lowered more than six inches unless compensated by welling or retaining wall methods; and in no event shall welling or retaining wall methods be less than six feet from the trunk of a tree.
 - (12) No soil stockpiling, storage of building materials, construction equipment or vehicles shall be permitted within the drip line or within six feet of any remaining trees, whichever is greater.
 - (13) Any clearing within the drip line, or within six feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.
 - (14) Where a tree that has been noted for preservation is severely damaged and unable to survive, tree replacement shall occur as provided in this chapter.
- E. Issuance. Where the permit application is submitted as a part of an application for major subdivision, minor subdivision or site plan approval, the time for approval shall be governed by the timing requirements applicable to major subdivision, minor subdivision or site plans. Approval by default with regard to major subdivision, minor subdivision and site plan applications shall not be deemed to be a waiver of a tree removal permit.
- F. Duration of permits. Permits granted for the removal of trees under the terms and conditions of this chapter shall run with the land and shall remain in force and effect for the following periods of time, and not thereafter. Once the permit has expired, a new application must be submitted for review and a new permit issued.
- (1) If granted for a lot or parcel of land for which no building permit is required: one year from the date of issuance.
 - (2) If granted for a lot or parcel of land for which a building permit is required, but for which no site plan approval is required by the Planning Board: until expiration of the building permit granted with such tree removal permit.
 - (3) If granted for a lot or parcel of land for which site plan approval from the Planning Board is required as a condition precedent to obtaining a building permit: until expiration of the site plan approval, or expiration of the building permit issued after such site plan approval.
 - (4) If granted for a lot or parcel of land for which minor subdivision is sought: one year from the date of granting such minor subdivision.
 - (5) If granted for a lot or parcel or land for which preliminary approval of a major

subdivision is sought: until expiration of such approval.

§ 257-8. Tree replacement and reforestation.

- A. The replacement of trees (except those removed on residential lots, public land or by public utilities) shall occur as prescribed in the Table 1. Trees removed on residential lots, public land or by utility companies will follow the schedule in Table 2.

Table 1 - Tree Replacement Schedule

Tree to be removed (inches DBH)	Number of Replacements	Size (inches caliper)	Alternative Compensation to Tree Escrow Fund
6 to 12	1 tree	2 to 2.5	\$200
12 to 18	2 trees	2.5 to 3	\$440
18 to 24	3 trees	3	\$720
24 to 36	4 trees	3 to 4	\$1,100
>36	8 trees	3 to 4	\$2,200

Table 2: Requested Tree Replacement Schedule for Trees Removed from Residential Lots, Public Areas and Right-of-Way by Utilities or Public Entities

Tree(s) to be removed	Number of Replacements	Size (inches caliper)	Alternative \$ Compensation to Tree Escrow fund
2, 6 to 12 inches DBH	1 tree	2 to 2.5	\$100
1, 12 to 16 inches DBH	1 tree	2.5 to 3	\$200
1, 16 to 24 inches DBH	2 trees	3	\$400
1, 24 to 36 inches DBH	3 trees	3 to 4	\$600
1, >36 inches DBH	4 trees	3 to 4	\$800

- B. Replacement tree(s) shall be of nursery-grade quality, balled and burlapped and located on site. Where replacement trees are required but not suitable for the particular site prescribed due to the size of the site, Mount Holly Township shall deposit the monetary equivalent of each tree into a tree escrow account. Trees deposited into the community tree escrow shall be utilized for planting on public lands or for street trees.
- C. The type of replacement tree(s) shall be the same as the species removed from the site or other acceptable species according to the Township tree planting list.

- D. The planting of all replacement trees shall be done by or supervised by a person with horticultural training in tree care and planting methods.
- E. Newly planted replacement trees shall be monitored for a period of one year to ensure the health of the trees. If the replacement trees die within the one-year period, the developer/applicant shall replace the dead tree.
- F. This table shall only apply to residential lot tree replacements where a permit is required.

§ 257-9. Protection of trees.

Whenever an application for tree removal is granted under the terms and conditions of this chapter, the following protective measures shall be observed:

- A. No material or temporary soil deposits shall be placed within the drip line of any existing tree to be preserved.
- B. Except while engaged in tree removal, no equipment shall be operated within six feet of any tree protected by this chapter nor shall such equipment be operated at any time in such a manner as to break, tear, bruise, decorticate or otherwise injure any living or dormant tree. Except while engaged in tree removal, all requirements of § 257-6 shall be observed.

§ 257-10. Inspection.

- A. Prior to taking final action upon any application for tree removal, an inspection of the site shall be made by the Shade Tree Committee or its designee or the Shade Tree Committee or its designee shall report to the Joint Land Use and Planning Board and the Joint Land Use and Planning Board shall determine whether it or its designee shall provide an additional inspection.
- B. The appropriate authority responsible for the inspection as referenced above shall also periodically inspect the site throughout the duration of construction in order to ensure compliance with this chapter. Such inspection shall be made of the site referred to in the application, and of contiguous and adjoining lands, as well as of lands in the vicinity of the application, for the purpose of determining drainage conditions and physical conditions existing thereon.

§ 257-11. Notice of commencement of tree removal.

- A. The holder of a tree removal permit shall notify the Township Clerk in writing at least four business days in advance of when the tree removal activity will commence.
- B. The notice shall also include information as to the manner of disposal of the removed trees.
- C. In the case of the removal of dead or diseased trees, the 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.

§ 257-12. Fees.

- A. The applicant, at time of filing the application with the Township Clerk, shall pay the application fee of \$10 for each new or existing lot. An inspection fee of \$25 will be applied to all applications requiring an on-site verification.
- B. Tree Escrow Fund: The Tree Escrow Fund shall be established and maintained by the Chief Financial Officer of Mount Holly Township to receive and disburse replacement tree contributions. Appropriations from the Tree Fund shall be authorized by the governing body with consideration of the Shade Tree Committee recommendation in accordance with the municipal tree planting plan.
 - (1) The primary purpose of said fund is to provide for the planting and maintenance of trees and shrubs on public property. The fund will also cover administrative costs to implement the provisions of this chapter, including but not limited to site inspections, processing of permits and supervision of tree replacements. Administrative costs imposed in accordance with this chapter shall not exceed 30% of the fund, as determined on an annual basis.

§ 257-13. Violations and penalties.

- A. When regulated trees are removed without a tree removal permit, the affected areas shall be replanted to the satisfaction of the appropriate municipal authority. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation, may be punished by a fine of up to \$1,000 for each offense. Each illegally removed tree shall be considered a separate violation.
- B. Residential-zoned lots shall not be subject to a fine for a first time violation, but shall be required to retroactively apply for a permit and supply the related replacement tree pursuant to this chapter. First time violations shall be considered the first violation of the owner of the property. Any owner with additional properties in the Township of Mt. Holly shall not be subject to this exception.

§ 257-14. Appeal procedure. [Added 7-13-2020 by Ord. No. 2020-11]

- A. Any person aggrieved by a decision of the Shade Tree Committee, or its designee, shall have the right to appeal such decision to the Township Council. Such appeal shall be submitted in writing to the Township Clerk within 14 days of the decision of the Committee.
- B. The Township Council shall hear the matter, upon notice to the applicant, within 30 days after the filing of the notice of appeal. The Township Council may in its discretion and upon complete review of the application and after hearing the testimony of the Shade Tree Committee's expert, the applicant and such other witnesses as may be appropriate, reverse, modify or affirm the aforesaid decision.