

## Chapter 236. Land Use and Development

### Article VIII. Tree Removal

#### § 236-89. Indiscriminate cutting of trees prohibited.

No person shall cut or remove any tree upon any land within the Town unless such removal accomplishes a useful purpose and is done in accordance with the terms of this chapter.

#### § 236-90. Definitions.

For the purposes of this Article, the following terms and words are herein defined as follows:

**APPROVED PLAN**

A plan of tree removal and/or planting approved by the Planning Board, the Town Engineer or other Town agency, as provided for in this chapter.

**PREFERRED TREE LIST**

A list of trees recommended by tree specialists as best adapted to the climate, soil and topography of the Town of Dover and adopted by resolution of the Town of Dover Shade Tree Commission. This list shall be kept on file for the use and guidance of persons presenting plans for tree planting and is attached hereto as Schedule A.<sup>[1]</sup>

**TREE**

Any woody perennial plant having a diameter greater than four inches, measured at a point four and one-half (4 1/2) feet above the ground.

**WOODED AREA**

Any area larger than 5,000 square feet supporting sufficient trees to cause 75% of the ground to be directly under canopies of trees.

[1] *Editor's Note: See § 236-96, Schedule A: Preferred Tree List.*

#### § 236-91. Tree removal plan required in certain circumstances.

- A. A tree removal and planting plan shall be filed with the Planning Board with every application for a major subdivision or application for resubdivision, site plan review or prior to any other type of development requiring tree removal or planting, except as otherwise provided in § 236-92 of this chapter. If no tree removal or planting is anticipated, such information must be specifically stated in the application.
- B. Where a lot or tract is proposed to be developed for use as a single-family residence and the owner has not received an approved plan or the approved plan has been revised, a plan must be submitted to and approved by the Town Engineer.
- C. A plan for tree removal and replanting must be approved as part of every soil removal and landfill operation application.

- D. No building permit shall be issued for the construction of any residential, commercial, industrial, recreational or community buildings or accessory buildings, unless and until the developer, builder or owner files with the Town Engineer a tree removal and/or planting plan and obtains approval thereof or submits a plan previously approved by the Planning Board.
- E. If building permits are sought on land which has been cleared for agricultural purposes after November 1, 1980, a planting plan must be submitted to and approved by the Planning Board.
- F. No occupancy permit shall be issued unless tree removal has been in accordance with the approved plan and all trees required to be planted have in fact been planted in accordance with the approved plan or bond guaranteeing such planting has been posted with the Town Clerk. The bond shall be calculated at the principal sum of \$600 per tree involved.

## § 236-92. Permitted tree removal.

Under this Article, the following trees may be removed without the filing of and the obtaining of an approved plan:

- A. Any tree located on a tract of land having a minimum lot size of 60,000 square feet or more in size on which a single-family dwelling has been erected and for which a valid occupancy permit has been issued, provided that the tree removal is authorized in writing by the owner of such property.
- B. Any tree as part of a nursery, garden, orchard or Christmas tree farm, provided that the subject area is being actively used commercially and is not a component part of a subdivision or development for building purposes.
- C. Trees managed by the Town of Dover Shade Tree Commission.
- D. Any live tree cut for firewood or lumber for personal use by the owner or his tenant occupying the premises.
- E. Any dead or diseased tree or any tree that endangers life or property.
- F. Trees cut according to a plan developed by State or Federal Forestry Departments, designed for weeding, thinning, planting or other tree culture or betterment of wooded areas, provided that a letter so stating is filed with the Town Engineer and is signed by the forestry specialist developing the plan.
- G. Trees removed in the development of ponds or lakes when supervised by the Soil Conservation Service and/or the Federal or State Forestry Service, provided that a letter so stating is filed with the Town Engineer, signed by the appropriate supervising agency.
- H. Trees removed for farmland or horticultural development, provided that a letter is filed with the Town Engineer stating that the land involved is suited for the aforementioned use and is signed by the Morris County Agriculture Agent.

## § 236-93. Details of tree removal and planting plan.

Every plan submitted for tree removal approval shall be in the form of a map and exhibits showing:

- A. The tax map lot and block number.
- B. The area of the tract.
- C. The location of trees or wooded areas.
- D. The number of trees or percentage of wooded area.

- E. Species involved.
- F. General slope/topography taken from the Dover Slope Map.
- G. The location of streams and wetlands.
- H. A map of locations and surrounding properties showing wooded areas.
- I. A list of trees to be planted, which shall be of a species shown on the Preferred Tree List.<sup>[1]</sup>  
 [1] *Editor's Note: See § 236-96, Schedule A: Preferred Tree List.*
- J. A tree removal plan and tree planting plan in relation to principal and accessory buildings, roads and driveways, parking lots, garden areas, etc., showing also the relation to survey stakes.
- K. The location of buildings.
- L. The location of roads, driveways, parking lots, recreation areas and garden areas.
- M. A grading plan.

## § 236-94. General criteria and standards to be used in approving removal and planting plan.

- A. Trees on a proposed building site or within 30 feet around a proposed building may be removed.
- B. Trees may be removed where the proposed paved portion of a parking area is planned. In off-street areas, other than for a single residential dwelling, island of trees must be left in such a manner that there is a tree every 200 feet or less in any direction. No impervious material of any nature shall be placed within 10 feet of the base of the trunk of a tree, and the grade shall be such that drainage of rainwater will keep the root area watered without pooling or exceeding the requirement of the species. Excess water shall be admitted to dry wells or storm sewers on the parking lot or drained by acceptable means.
- C. Trees may be removed on private rights-of-way and driveways within 15 feet of each side of the planned paved area. Alignment of the driveways should be planned to save as many trees as possible.
- D. Trees shall not be removed from an area within 100 feet of the edge of a stream or from within 100 feet of a wetland or marsh, unless the tree removal falls under those trees classified in § 236-92D, F, G and H of this Article. This applies also to areas adjacent to seasonal streams controlled by critical area restrictions of Article IV, Zoning, of this chapter.
- E. Where fill is required around trees, the tree must be protected by an air well six feet in diameter or as needed around the trunk which will prevent the intrusion of soil. The top of the well must extend six inches above the graded level. If the tree is of a species that will eventually die due to root disturbance or change in drainage or the owner prefers to remove the tree, it may be removed and replaced with two other trees from the preferred list in another or the same area after the fill has stabilized.
- F. Any grading plan must protect standing trees from machine operation, soil storage or material storage by distance or proper barrier. Any tree damaged must be replaced by two trees from the preferred list.
- G. Any tree used in a required planting or to replace a damaged tree must be at least 2 1/2 inches in diameter measured 4 1/2 feet from top of root level and should be selected from the preferred list. Other planned plantings require no specifications other than that good silvaculture should be considered and followed.
- H. Buffer zones.

- (1) A buffer zone of trees and shrubs at least 20 feet wide shall encircle three sides of an industrial or commercial site. The Planning Board shall require a larger buffer zone when noise, size or height of buildings or architectural design of the development requires an increase and may require a buffer of trees on all four sides, except on sites of less than two acres in size.
  - (2) Multiple dwelling areas shall be buffered as required by the Planning Board to provide screening from sight and noise as well as providing good aesthetic value.
- I. Trees in the area between the street line and the setback line of the building shall be preserved.
  - J. Tree removal from any slope is prohibited if it will contribute, in the opinion of the Planning Board or the Town Engineer, to extra runoff of surface water onto adjoining property and erosion and silting, unless other means approved by the Town Engineer are provided to prevent runoff and erosion.
  - K. No tree removal is permitted that will expose vacant land, billboards, utility substations, transmission towers, warehouses, junkyards, landfill operations and other similar structures or operations, except where trees are dead or diseased and/or endanger life or property.
  - L. No healthy tree that is special by virtue of history or unusual size or age or rare species shall be removed. The Dover Shade Tree Commission shall determine what is historical or unusual as those terms are used in this chapter.
  - M. No trees on public rights-of-way, parks or public areas shall be removed by private individuals or utilities, except as approved by the Shade Tree Commission or its duly designated agent.

## § 236-95. Permits and costs.

- A. No permits or fees are required in connection with obtaining an approved plan.
- B. The owner or applicant must reimburse the Town for the cost of expert advice and technical assistance obtained in connection with his or her application for an approved plan.

## § 236-96. Schedule A: Preferred Tree List.

The following is a Preferred Tree List for the Town of Dover as prepared by the Dover Shade Tree Commission:

- I. Shade trees and shrubs
  - Crimson Cloud hawthorn (*Crataegus*)
  - Norway maple (*Acer platanoides*)
  - Sugar maple (*Acer saccharum*)
  - Crimson King maple (*Acer platanoides*)
  - October Glory red maple (*Acer rubrum*)
  - Wiers cutleaf maple (*Acer saccharinum laciniatum wieri*)
  - Balkan ash (*Fraxinus holotricha*)
  - Flowering ash (*Fraxinus ornus*)
  - Marshall seedless green ash (*Fraxinus lanceolata*)
  - Bradford callery pear (*Pyrus calleryana*)
  - Canadian hemlock (*Tsuga canadensis*)
  - Red cedar (*Juniperus chinensis pfitzer, sabina*) (*Juniperus japonica*)
  - Yew (*Taxus media andersonis*)
  - Little-leaf linden (*Tilia cordata*)

Japanese zelkova (*Zelkova serrata*)  
Ginkgo (*Ginkgo biloba*, male forms)  
Sweet gum (*Liquidambar styraciflua*)  
Thornless honey locust (*Gleditsia triacanthos inermis*)  
American yellowwood (*Cladrasits lutea*)

II.

Flowering trees and shrubs  
Flowering crabapple (*Malus floribunda*)  
Flowering dogwood (*Cornus florida*)  
Crape myrtle (*Lagerstroemia indica*)  
Saucer magnolia (*Magnolia soulangaena*)  
Weeping higan cherry (*Prunus subhirtella*)  
Japanese flowering cherry (*Prunus serrulata*), variety Sekiyama (Kwanzan)  
Forsythia (*Forsythia*)  
Japanese quince (*Chaenomeles japonica*)  
Bridal wreath (*Spiraea vanhouttei*)  
American redbud (*Cercis canadensis*)  
Weigela (*Weigela florida*)  
Mountain laurel (*Kalmia latifolia*)  
Althaea (*Hibiscus syriacus*)