

55-191. TREES AND SHRUBS. [Added to the Land Use Chapter 5-11-00 by Ord. No. 2000-11 § 5]

DIVISION 1: PINELANDS - WEST OF PARKWAY

- A. Purpose. The purpose of this section is to regulate and control, through the registration program, indiscriminate and excessive cutting of trees and shrubs within the Township of Barnegat.
- B. Definitions. As used in this section, the following words shall have the following meanings:

Building lot shall mean a parcel of land upon which a dwelling house has been or may be erected in accordance with the Zoning Ordinance or may be erected with a variance.

Homestead shall mean the principal owner occupied residence have a maximum of tree (3) acres upon which the property owner resides and is cutting and harvesting trees on the said property solely for his own heating requirements. [Added 6-7-82 by Ord. No. 1982-12]

Management plan shall mean a plan for the management of timbered or forested lands developed by the New Jersey Department of Environmental Protection, or similar State or Federal agency, or Township officials.

Nursery, garden center, orchard or tree farm shall mean only land within the municipality used for horticultural purposes under controlled agricultural conditions.

Permit shall mean a permit issued by the Municipal Clerk of the Township of Barnegat upon registration of a property owner to remove or destroy trees or shrubs as defined in this ordinance.

¹ **Editor's Note:** Ord. No. 2000-11 § 5 repealed Chapter 70 of the Code of Barnegat Township entitled "Trees and Shrubs."

Public right of way shall mean any street or road shown upon a map or plan filed in the Ocean County Clerk's office or on the Official Map of the Township of Barnegat.

Shrub shall mean Native laurel (*kalmia latifolia*), having a root crown of three (3) inches or greater, measured at the soil or surface level.

Tree shall mean any living deciduous tree having a trunk of a diameter greater than five (5) inches DBH (diameter at breast height) (deciduous trees regulated under this ordinance are all types of maple, oak, birch, gum and willow); and any living coniferous tree having a trunk of a diameter greater than five (5) inches DBH; or any living dogwood (*Cornus florida*); or American holly tree having a diameter of two (2) inches or greater DBH.

C. *Permits.*

- (1) Permit required. No person, association, group or corporation is to remove or destroy or cause to be removed or destroyed any tree or shrub growing in the Township without having first obtained a permit as provided in this section. Consideration shall be given when size and species indicates historic and landmark value. Coniferous trees may be removed in areas where deciduous trees predominate, only to the extent necessary to provide existing shade trees room for growth. All permits shall be good for one (1) year from the date of issue. All permit applications shall include the tax, lot and block numbers of all property upon which trees or shrubs are to be removed..
- (2) Application for permit with building permit. Upon application for a building permit for any construction which would cause the removal or destruction in whole or in part of any tree or shrub as defined in the ordinance, the application shall be

accompanied by a plot plan which shall indicate the location of all trees and shrubs on the lot or lots for which such permit is sought. The plot plan shall designate which trees, if any, are to be removed or destroyed. Copies of such plot plan shall be filed by the applicant with the Construction Official, the Municipal Clerk, Township Engineer and Code Enforcement Officer. The Construction Official and the Township Engineer shall review same and notify the Code Enforcement Officer of their recommendation. Such recommendation shall not be binding upon the Code Enforcement Officer. The recommendation shall be forwarded to the Code Enforcement Officer within fifteen (15) days of the receipt of the application by the Construction official, Township Engineer and Municipal Clerk, failing in which the Municipal Clerk may grant or deny a permit without further delay. Upon such approval, the Construction Official shall issue a building permit as required by law. [Amended 6-7-82 by Ord. No. 1982-12]

- (3) Application for permit without building permit. Applications for a permit for the removal or destruction of trees or shrubs as defined in this ordinance, where a building permit is not immediately involved, shall be made directly to the Municipal Clerk and shall contain the name of the applicant, location of the property and, in addition thereto, the purposes for which the application is being made. The following shall be considered legitimate purposes for the removal of a tree or shrub as defined: harvesting timber, fire protection, industrial use, private parks, scenic improvement, hardship or danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities or drainage of surface water. The foregoing shall be carried out in accordance

with an approved forest management plan, taking into consideration that certain trees will be left for scenic beauty.

- (4) Application for permit by applicant that is not property owner of record. If the applicant is not the property owner of record, a statement of permission to remove or destroy the trees or shrubs as defined in this ordinance from the property owner of record and duly attested by a public notary of the State of New Jersey shall accompany the application for a permit.
- (5) Permit applications. All permits are to be issued by the Township Engineer after review by the Construction Official and Code Enforcement Officer, upon condition that the application is in proper form in accordance with the standards hereinabove referred to and shall be in the form of an original and three (3) copies of the permit, the original of which shall be given to the property owner; one (1) copy to be given to the Township Clerk; one (1) copy to be given to the Police Department; and one (1) copy to be kept in the files of the Code Enforcement Officer.

Any person cutting or harvesting wood pursuant to this section shall have on his person a copy of the permit issued by the Township Engineer. [Added 6-7-82 by Ord. No. 1982-12; amended 6-1-87 by Ord. No. 1987-12]

- D. *Protection of Trees.* [Amended 6-1-87 by Ord. No. 1987-12; 8-3-87 by Ord. No. 1987-19; 9-5-00 by Ord. No. 2000-30]

No soil material, permanent or temporary, shall be placed within three (3) feet of any trees or shrubs. Where grading may be required, trees shall be walled in an extension tile to the outer crown of the tree.

On any wooded lot within the township, the maximum permitted removal of trees shall be limited in accordance with the table set forth below. In no case, however, shall the removal of trees exceed that which is necessary to accommodate the proposed activity, use or structure in accordance with the requirements of Section 55-295.

<i>Zoning District</i>	<i>Maximum Removal Allowed</i>
RH Residential High Density	85%
RM Residential Moderate Density	50%
RL Residential Low Density	40%
RL/AC* Residential Low/Adult*	40%
*PAC (Planned Adult Communities)	85%
PV Pinelands Village	40%
PA Preservation Area	40%
PF Preserved Forest Pinelands	40%

In addition to the above schedule, all lands subject to New Jersey Pinelands Commission jurisdiction shall comply with all requirements of the Pinelands Comprehensive Management Plan. Specifically, all forestry activities shall comply with the requirements of Section 55-292 and any development, clearing, landscaping and screening shall be made in compliance with Section 55-295 of this chapter.

A permit which allows the cutting of trees in excess of the above schedule on a lot will only be issued if the applicant can demonstrate to the satisfaction of the Township Engineer that the existing terrain and/or small lot size makes the removal of the trees necessary. In addition, the applicant must demonstrate that all proposed excavation or filling of a lot is unavoidable and that no feasible method exists for preserving the trees on the lot.

In each major site plan development, minor site plan development and major subdivision, the owner shall be

responsible for planting shade and/or decorative trees on each existing or newly created lot at the rate of one (1) tree per one thousand (1,000) square feet of gross lot area, or fraction thereof. Existing trees which meet the size requirements of this section and which were not injured during construction may be included in the number of trees required. Planting sites shall be indicated on the site plan and/or on a separate landscaping plan and must be approved by the Township Engineer.

As a condition of any Planning Board or Board of Adjustment approval, specimen trees and trees of significant historical value shall be preserved. This condition shall be evaluated by the Board having jurisdiction over the application based upon recommendations made by the Barnegat Township Shade Tree Commission and the Board Engineer.

All trees and shrubs planted in accordance with the provisions of this section shall be placed in a proper manner and in a good grade of topsoil. All shade trees shall be nursery grown in conformance with AANIS (American Standard for Nursery Stock ANN also known as ANSI Z60.1 latest revision) and shall be of substantially uniform size and shape and shall have straight trunks. Ornamental trees need not have straight trunks, but must conform in other respects with the provisions of this section.

All trees shall be planted in a dormant state. The minimum height of all shade and ornamental trees when planted shall be not less than twelve (12) feet and shall have a minimum caliper (diameter) of three (3) inches as measured at six (6) inches above finished grade. The types of trees to be planted shall be approved by the Township Engineer and shall be selected from the list of approved trees set forth in Section 55-126.9 of Chapter 55 Land Use. All trees shall be balled and wrapped in burlap.

- (1) Exempt lands or activities. The following lands or activities shall be exempt from the provisions of this paragraph D: nurseries, farms, garden centers, orchards and tree farms, gardening, surface mining operations [this exemption only applies to those twenty-five (25) acres being mined pursuant to a valid permit], public right-of-way, engineers and surveyors engaged in professional activities, building lots of one (1) acre or less where an existing home has been fully constructed and activities for which a forestry permit has been approved by the Zoning Officer in accordance with Section 55-292.
- (2) Fees. [**Amended 6-7-82 by Ord. No. 1982-12; 4-18-83 by Ord. No. 1983-9**] Upon filing of an application with the Township Clerk, the applicant shall pay ten (\$10.00) dollars to the Township of Barnegat for the application fee, unless the property to be harvested qualifies as a homestead, in which case the application must be submitted but the application fee and all other fees herein will be waived. In addition, if the Township Clerk, after review of the Code Enforcement Officer, issues a permit for the destruction and/or removal of trees pursuant to the terms of this ordinance, an additional permit fee often (\$10.00) dollars shall be required. Thereafter, the following fee schedule shall be in effect:

Twenty-five (\$25.00) dollars per acre of area harvested. For the purposes of computing such fee, fractions of one (1) acre shall constitute one (1) acre, if the total acreage exceeds one (1) acre. If the total acreage exceeds less than one (1) acre, no additional fee, other than the ten (\$10.00) dollar application fee and the ten (\$10.00) dollar permit fee, shall be required.

In the alternative of the permit fee and a fee to be imposed in accordance with the acreage to be harvested, the applicant shall submit a management plan prepared by the New Jersey Department of Environmental Protection, Division of Forestry, or a similar State or Federal agency, or a management plan prepared by a person holding a Bachelor of Science Degree in Forestry from a recognized institution of higher education, in which event the permit fee often (\$10.00) dollars and the acreage fee of twenty-five (\$25.00) dollars per acre, or for a part of an acre, will be waived by the Township Clerk.

In addition, no permit fee or harvesting fee, other than the ten (\$10.00) dollar application fee, need to be paid for harvesting dead wood if and upon the condition that written permission from the owner of the subject premises be given to the Township Clerk and Code Enforcement Officer and a copy of said written permission be in the possession of the wood harvester at all times that said person is harvesting the dead wood from the subject premises.

In the event that an applicant is a partnership, corporation or other entity having more than one (1) individual wishing to use a permit then and in that event each additional individual wishing to be authorized to cut trees or shrubs on behalf of that corporation, partnership or other business entity shall be required to pay an additional fee of ten (\$10.00) dollars per person in excess of the first designated individual.

E. *Appeals.* Whenever an application for a permit shall be denied by the Municipal Clerk, the applicant may appeal the denial to the Township Committee by filing a written notice of appeal with the Township Clerk within ten (10) days after receiving a written notice of denial of

the application. The Township Committee shall hold a public meeting on the matter in accordance with rules or procedures to be established by the Township Committee and may modify or affirm or reverse the decision of the Municipal Clerk.

- F. *Enforcing Officers.* The Barnegat Township Police Department and the Zoning Officer are hereby designated as enforcing officers of this section.

55-191.1 Division H: East of Parkway [Added 5-1-00 by Ord. No. 2000-20]

- A. *Purpose.* The purpose of this ordinance is to regulate and control, through the registration program, indiscriminate and excessive cutting of trees and shrubs within the Township of Barnegat.
- B. *Definitions.* As used in this ordinance, the following words shall have the following meanings:

Building lot shall mean a parcel of land upon which a dwelling house has been or may be erected in accordance with the Zoning Ordinance or may be erected with a variance.

Homestead shall mean the principal owner occupied residence having a maximum of three (3) acres upon which the property owner resides and is cutting and harvesting trees on the said property solely for his own heating requirements. [Added 6-7-82 by Ord. No. 1982-12]

Management plan shall mean a plan for the management of timbered or forested lands developed by the New Jersey Department of Environmental Protection, or similar State or Federal agency, or Township officials.

Nursery, garden center, orchard or tree farm shall mean only land within the municipality used for horticultural purposes under controlled agricultural conditions.

Permit shall mean a permit issued by the Municipal Clerk of the Township of Barnegat upon registration of a property owner to remove or destroy trees or shrubs as defined in this ordinance.

Public right-of-way shall mean any street or road shown upon a map or plan filed in the Ocean County Clerk's office on the Official Map of the Township of Barnegat.

Shrub shall mean native laurel (*Kalmia latifolia*), having a root crown of three (3) inches or greater measured as the soil or surface level.

Tree shall mean any living deciduous tree having a trunk of a diameter greater than five (5) inches DBH (diameter at breast height) (deciduous trees regulated under this ordinance are all types of maple, oak, birch, gum and willow); and any living coniferous tree having a trunk of a diameter greater than five (5) inches DBH; or any living dogwood (*Cornus slarida*): or American holly tree having a diameter of two (2) inches or greater DBH.

C. *Permits.*

- (1) Permit required. No person, association, group or corporation is to remove or destroy or cause to be removed or destroyed any tree or shrub growing in the township without having first obtained a permit as provided in this section. Nurseries, farms, garden centers, orchards and tree farms, gardening, surface mining operations [only applies to those twenty-five (25) acres being mined pursuant to valid permit], public right-of-way, engineers and surveyors engaged in professional activities and building lots of less than one (1) acre where an existing home has been fully constructed shall be exempt from the foregoing requirement. Consideration shall be given when size and species indicates historic and landmark value. Coniferous trees may be removed in areas where deciduous

trees predominate, only to the extent necessary to provide existing shade trees room for growth. All permits shall be good for one (1) year from the date of issue. All permit applications shall include the tax, lot and block numbers of all property upon which trees or shrubs are to be removed.

- (2) Application for permit with building permit. Upon application for a building permit for any construction which would cause the removal or destruction in whole or in part of any tree or shrub as defined in this ordinance, the application shall be accompanied by a plot plan which shall indicate the location of all trees and shrubs on the lot or lots for which such a permit is sought. The plot plan shall designate which trees, if any, are to be removed or destroyed. Copies of such plot plan shall be filed by the applicant with the Construction Official, the Municipal Clerk, Township Engineer and Code Enforcement Officer. The Construction Official and the Township Engineer shall review same and notify the Code Enforcement Officer of their recommendation. Such recommendation shall not be binding upon the Code Enforcement Officer. The recommendation shall be forwarded to the Code Enforcement Officer within fifteen (15) days of the receipt of the application by the Construction Official, Township Engineer and Municipal Clerk, failing in which the Municipal Clerk may grant or deny a permit without further delay. Upon such approval, the Construction Official shall issue a building permit as required by law. **[Amended 6-7-82 by Ord. No. 1982-121]**
- (3) Application for permit without building permit. Applications for a permit for the removal or destruction of trees or shrubs as defined in this ordinance, where a building permit is not immediately involved, shall be made directly to the

Municipal Clerk and shall contain the name of the applicant, location of the property and, in addition thereto, the purposes for which the application is being made. The following shall be considered legitimate purposes for the removal of a tree or shrub as defined: harvesting timber, fire protection, industrial use, private parks, scenic improvement, hardship or danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities or drainage of surface water. The foregoing shall be carried out in accordance with an approved forest management plan, taking into consideration that certain trees will be left for scenic beauty.

- (4) Application for permit by applicant that is not property owner of record. If the applicant is not the property owner of record, a statement of permission to remove or destroy the trees or shrubs as defined in this ordinance from the property owner of record and duly attested by a public notary of the State of New Jersey shall accompany the application for a permit.
- (5) Permit applications. All permits are to be issued by the Township Engineer after review by the Construction Official and Code Enforcement Officer, upon condition that the application is in proper form in accordance with the standards hereinabove referred to and shall be in the form of an original and three (3) copies of the permit, the original of which shall be given to the property owner; one (1) copy to be given to the Township Clerk; one (1) copy to be given to the Police Department; and one (1) copy to be kept in the files of the Code Enforcement Officer.

Any person cutting or harvesting wood pursuant to this section shall have on his person a copy of the permit issued by the Township Engineer. **[Added 6-7-82 by Ord. No. 1982-12; amended 6-1-87 by Ord. No. 1987-12]**

- D. *Protection of Trees.* **[Amended 6-1-87 by Ord. No. 1987-12; 8-3-87 by Ord. No. 1987-19; 8-21-00 by Ord. No. 2000-32]**

No soil material, permanent or temporary, shall be placed within three (3) feet of any trees or shrubs. Where grading may be required, trees shall be walled in an extension tile to the outer crown of the tree.

On any wooded lot within the township, the maximum removal of trees is limited to:

<i>Zoning District</i>	<i>Maximum. Removal Allowed</i>
R-6 Residential	85%
R-7.5 Residential	85%
RC-7.5 Residential Cluster	85%
R-10 Residential	85%
R-15 Residential	60%
R-20 Residential	50%
R-40 Residential	40%
ML-1 Residential	85%
ML-2 Residential	85%
ML-3 Residential	85%
ML-4 Multifamily Residential	70%

In addition to the above schedule, all lands subject to New Jersey Pinelands Commission jurisdiction shall comply with all requirements of the Pinelands Comprehensive Management Plan.

A permit which allows the cutting of trees in excess of the above schedule on a lot will only be issued if the applicant can demonstrate to the satisfaction of the Township Engineer that the existing terrain and/or

small lot size makes the removal of the trees necessary. In addition, the applicant must demonstrate that all proposed excavation or filling of a lot is unavoidable and that no feasible method exists for preserving the trees on the lot.

In each major site plan development, minor site plan development and major subdivision, the owner shall be responsible for planting shade and/or decorative trees on each existing or newly created lot at the rate of one (1) tree per one thousand (1,000) square feet of gross lot area, or fraction thereof. Existing trees which meet the size requirements of this section and which were not injured during construction may be included in the number of trees required. Planting sites shall be indicated on the site plan and/or on a separate landscaping plan and must be approved by the Township Engineer.

As a condition of any Planning Board or Board of Adjustment approval, specimen trees and trees of significant historical value shall be preserved. This condition shall be evaluated by the Board having jurisdiction over the application based upon recommendations made by the Barnegat Township Shade Tree Commission and the Board Engineer.

All trees and shrubs planted in accordance with the provisions of this section shall be placed in a proper manner and in a good grade of topsoil. All shade trees shall be nursery grown in conformance with AANIS (American Standard for Nursery Stock AAN also known as ANSI Z60.1 latest revision) and shall be of substantially uniform size and shape and shall have straight trunks. Ornamental trees need not have straight trunks, but must conform in other respects with the provisions of this section.

All trees shall be planted in a dormant state. The minimum height of all shade and ornamental trees

when planted shall be not less than twelve (12) feet and shall have a minimum caliper (diameter) of three (3) inches as measured at six (6) inches above finished grade. The types of trees to be planted shall be approved by the Township Engineer and shall be selected from the list of approved trees set forth in Section 55-126.9 of the Township Land Use ordinance. All trees shall be balled and wrapped in burlap.

- (1) Exempt lands or activities. The following lands or activities shall be exempt from the provisions of this ordinance: nurseries, farms, garden centers, orchards and tree farms, gardening, surface mining operations (this exemption only applies to those twenty-five (25) acres being mined pursuant to a valid permit), public right-of-way, engineers and surveyors engaged in professional activities, building lots of less than one (1) acre where an existing home has been fully constructed.
- (2) Fees. [Amended 6-7-82 by Ord. No. 1982-12; 4-18-83 by Ord. No. 1983-9] Upon filing of an application with the Township Clerk, the applicant shall pay ten (\$10.00) dollars to the Township of Barnegat for the application fee, unless the property to be harvested qualifies as a homestead, in which case the application must be submitted but the application fee and all other fees herein will be waived. In addition, if the Township Clerk, after review of the Code Enforcement Officer, issues a permit for the destruction and/or removal of trees pursuant to the terms of this ordinance, an additional permit fee often (\$10.00) dollars shall be required. Thereafter, the following fee schedule shall be in effect:

Twenty-five (\$25.00) dollars per acre of area harvested. For the purposes of computing such fee, fractions of one (1) acre shall constitute one (1) acre, if the total acreage exceeds one (1) acre. If the

total acreage exceeds less than one (1) acre, no additional fee, other than the ten (\$10.00) dollar application fee and the ten (\$10.00) dollar permit fee, shall be required.

In the alternative of the permit fee and a fee to be imposed in accordance with the acreage to be harvested, the applicant shall submit a management plan prepared by the New Jersey Department of Environmental Protection, Division of Forestry, or a similar State or Federal agency, or a management plan prepared by a person holding a Bachelor of Science Degree in Forestry from a recognized institution of higher education, in which event the permit fee often (\$10.00) dollars and the acreage fee of twenty-five (\$25.00) dollars per acre, or for a part of an acre, will be waived by the Township Clerk.

In addition, no permit fee or harvesting fee, other than the ten (\$10.00) dollar application fee, need to be paid for harvesting dead wood if and upon the condition that written permission from the owner of the subject premises be given to the Township Clerk and Code Enforcement Officer and a copy of said written permission be in the possession of the wood harvester at all times that said person is harvesting the dead wood from the subject premises.

In the event that an applicant is a partnership, corporation or other entity having more than one (1) individual wishing to use a permit then and in that event each additional individual wishing to be authorized to cut trees or shrubs on behalf of that corporation, partnership or other business entity shall be required to pay an additional fee of ten (\$10.00) dollars per person in excess of the first designated individual.

(3) Violations - Tree removal in conservation easements and/or deed restricted areas. Any person and/or persons found to have removed, destroyed and/or diminished the existing vegetation in either a conservation easement and/or deed restricted area shall be subject to a penalty as set forth in Article XV herein. In addition, said person shall submit to the Township of Barnegat a proposed revegetation plan and planting schedule for review and approval by the Township Engineer and the Shade Tree Commission. The revegetation plan shall be in conformance with the requirements of plantings as outlined in subject ordinance. The revegetation plan shall be submitted within fourteen (14) days of the notice of violation. Should violator not submit required plan as stipulated herein, they shall be subject to an additional fine of one thousand (\$1,000.00) dollars per day until said plan is submitted, reviewed and approved by appropriate agencies.

E. *Appeals.* Whenever an application for a permit shall be denied by the Municipal Clerk, the applicant may appeal the denial to the Township Committee by filing a written notice of appeal with the Township Clerk within ten (10) days after receiving a written notice of denial of the application. The Township Committee shall hold a public meeting on the matter in accordance with rules or procedures to be established by the Township Committee and may modify or affirm or reverse the decision of the Municipal Clerk.

F. *Enforcing Officers.* The Barnegat Township Police Department and the Zoning Officer are hereby designated as enforcing officers of this section.

55-192—55-199 RESERVED.