

10-4 TREE REMOVAL PROJECT PERMIT AND TREE REPLACEMENT PROGRAM.

10-4.1 Purpose.

The purpose of this section is to control and regulate the indiscriminate or excessive removal, large-scale, clear-cutting and destruction of trees and to control, regulate and prevent conditions such as: degradation of littoral areas or wanton destruction which cause an increase in stormwater runoff, sedimentation, soil erosion, loss of wildlife habitat, air or noise pollution or inhibit aquifer recharge or impair the ambiance or physical appearance of a neighborhood. The regulations contained in this section are designed to limit such adverse impact while not interfering with the right of a Borough property owner to appropriately remove trees in accordance with the regulations set forth herein below. (Ord. No. 2004-732 Art. 2)

10-4.2 Definitions.

As used in this section, the following terms shall have the following definitions:

- a. *B&B (balled and burlapped)* shall mean a method of excavation in which the subject tree is removed along with soil surrounding its roots and such soil and roots are wrapped and laced.
- b. *Diameter at point of measure* or *DPM* shall mean the diameter (caliper) of a tree at a point on the tree fifty-four (54) inches above the actual ground level.
- c. *Emergency removal* shall mean a removal which is necessitated by any event, whether natural or man-made, which requires the immediate removal of a regulated tree because it has been determined that such tree presents an immediate hazard to the public's safety. Such determination shall be made by the Zoning Officer or other designee, as authorized by the Borough Administrator.
- d. *Zoning Officer* shall mean the Zoning Officer and/or qualified arborist appointed by the Mayor and Borough Council for the purpose of enforcing the terms of this section.
- e. *Person* shall mean an entity whose existence is recognized by law, including but not limited to any individual, partnership, corporation (for-profit, nonprofit, or municipal and its agencies), firm, association or any combination of the foregoing.
- f. *Project* shall mean any undertaking whatsoever which would involve potential damage to or which may result in the planned or unplanned removal of regulated trees.
- g. *Removal* shall mean any activity that results in cutting down completely or substantially eliminating a living regulated tree within the Borough.
- h. *Replacement plans* shall mean a plan developed in accordance with and conforming to the provisions of this section which has been approved by the Zoning Officer.
- i. *Replacement Tree* shall mean a nursery grown certified, balled and burlapped tree bearing a durable label upon which the following data is set forth: genus, species, variety, watering and fertilization requirements.
- j. *Site plan* shall mean a plan as defined by the Borough's Land Development Ordinance.

k. *Tree* shall mean any living woody perennial plant having a trunk diameter of at least four (4) inches measured at fifty-four (54) inches above the natural ground level.

l. *Vacant land* shall mean land where no principal structure currently exists or where the principal structure is demolished pursuant to a demolition permit. (Ord. No. 2004-732 Art. 2)

10-4.3 Applicability.

a. The terms and provisions of this section shall apply to real property, in all cases of vacant lots upon which new construction will take place and/or cases of demolition of existing principal structures. Nothing contained herein is intended to restrict a property owner's right to remove trees on his own property where no building permit for a new or replacement principal structure is sought.

b. Unless specifically exempted herein, it shall be unlawful for any person to remove or cause to be removed any tree, under the circumstances set forth in paragraph a. above, with the trunk diameter of four (4) inches or more DPM (fifty-four (54) inches above the actual ground level) without first having obtained a tree removal project permit to do so as provided herein. Tree removal project permits shall be issued by the Zoning Officer or his/her designee.

c. Notwithstanding paragraphs a. and b. above, trees removed from a property within one (1) year prior to an application for a building permit for a new or replacement principal structure shall be subject to the provisions of this section. (Ord. No. 2004-732 Art. 2)

10-4.4 Tree Removal Project Permit Process.

a. Any person wishing to obtain a permit to remove one (1) or more trees or clear land as required under the provisions of this section shall make application to the Zoning Officer by filing a written application and paying such fee as set forth in subsection 10-4.9 of this section. Where an application, as required by this section, has been submitted, no permit shall be issued until a site plan, survey or plot plan of the lot or parcel has been reviewed and a tree replacement plan approved.

b. Where an application is made in connection with the construction of a new principal structure, no building permit shall be issued until the tree removal project permit has been granted.

c. The Borough Zoning Officer shall review the application to determine whether such project complies with this section and shall provide written notice to the applicant indicating one of the following:

1. The project permit is granted; or
2. The project permit is granted subject to prescribed conditions attached to such notice.
3. The project permit is denied, in which event the written notice shall state the reasons for such denial.

d. The Borough Zoning Officer shall make the foregoing determination and prepare and furnish the foregoing notice within thirty (30) days following submission of a completed application.

e. Failure of the Zoning Officer to make said determination within such thirty (30) day period or within any extension of time granted by the applicant, shall constitute and have the same effect as an approval.

f. Any proposed change in the approved project shall be submitted to the Borough Zoning Officer for approval in the same manner as an original application for approval of a project.

g. The applicant shall maintain a copy of the approved project at the project location that shall be available for inspection. (Ord. No. 2004-732 Art. 2)

10-4.5 Conditions for Issuance of Permits.

Upon receiving an application for tree removal, the Zoning Officer shall issue a permit if the Zoning Officer determines that one (1) or more of the following criteria is met:

- a. The tree is located in an area where a principal structure will be placed according to an approved site plan and the tree cannot be relocated on the site because of age, type, or size of tree.
- b. The tree is dead, diseased, injured, in danger of falling, or is too close to existing or proposed structure(s) thereby creating an unsafe situation.
- c. The applicant elects to make a contribution to the Tree Replacement Fund in accordance with subsection 10-4.10 entitled Tree Replacement Fund. (Ord. No. 2004-732 Art. 2)

10-4.6 Tree Removal Project Permit Application.

a. *Tree Removal Project Permit Application Contents.*

1. The name and address of the owner of the land.
 2. Description of land in question including block and lot numbers of the land as shown on the current Tax Map of the Borough of Lake Como.
 3. The purpose of reason for removing the tree(s).
 4. The quantity, caliper size and species of tree(s) to be removed. In the case of the removal of trees with a DPM greater than twenty-four (24) inches, the plan shall include an analysis of design or layout alternatives.
 5. The proposed dates for commencement and completion of the project.
 6. Name and address of the person having express charge, supervision, and/or control of the proposed removal.
 7. A tree replacement plan, as set forth in subsection 10-4.8.
 8. A statement granting permission to Borough officials or their employees to enter the premises to survey and inspect the project as work progresses; and
 9. A tree replacement plan that includes location, quantity, caliper size and species of tree(s) to be replanted.
- b. *Fees.* An application for tree removal project permit shall be accompanied by an application fee of fifty (\$50.00) dollars. (Ord. No. 2004-732 Art. 2)

10-4.7 Appeal.

Within ten (10) days of receipt of decision of the Zoning Officer, or his/her designee, which denies the approval for the tree removal or otherwise destruction, the applicant may appeal in writing to the Governing Body. (Ord No. 2004-732 Art. 2)

10-4.8 Tree Replacement Plan.

A tree replacement plan shall consist of the following:

- a. A site plan, survey or plot plan of one (1) inch equals twenty (20) feet or less, showing the location of existing trees and clearly marked property boundaries. There shall be a list identifying the number and species of trees inventoried. The site plan shall include the lot and block numbers, the street address if assigned and a certification that it complies with the requirements of this section.
- b. The locations on the lot where tree removal is to take place.
- c. The total square footage of the lot.
- d. The total number by species of existing trees with a DPM of four (4) inches or greater on the lot.
- e. The total number by species of trees with a DPM of four (4) inches or greater, which are to be removed.
- f. A planting detail for replacement trees.
- g. All specific plans for replacement of removed trees shall be based on the following requirements:
 1. The replacement tree shall be planted on the property where the trees were removed or in a location designated by the Zoning Official.
 2. Replacement trees, including the size number of trees, shall be planted in accordance with the table:

*Number of
Replacement Trees
with at least*

<i>Size of Tree Removed Inches DPM</i>	<i>2-1/2" DPM</i>
Four, but not more than eight (4"-8")	1
More than eight, but less than twelve (8"-12")	2
More than twelve, but less than eighteen (12"-18")	3
More than eighteen, but less than twenty-four (18"-24")	4

(Ord. No. 2004-732 Art. 2)

10-4.9 Replacement Tree Value Calculations.

The replacement value of all trees to be removed, where replacement trees are required by this section, shall be calculated as follows:

a. *Trees to Be Removed.*

<i>Size/DPM</i>	<i>Replacement Tree Value</i>
Greater than 4" up to 8"	\$200.00
Greater than 8" up to 12"	\$400.00
Greater than 12" up to 18"	\$600.00
Greater than 18"	\$800.00

b. Dead and diseased trees as determined by the Borough Zoning Officer shall not be included as trees to be replaced.

c. The applicant may elect, in lieu of planting replacement trees, to pay to the municipality a sum of money as set forth in paragraph a. for each tree required to be planted pursuant to this subsection for the purpose of planting shade trees elsewhere in the Borough.

Said funds shall be deposited into the Tree Replacement Fund. (Ord. No. 2004-732 Art. 2)

10-4.10 Tree Replacement Fund.

Where an applicant chooses to make a contribution to the Tree Replacement Fund in lieu of physically replacing the trees on said property as provided in subsection 10-4.5c, the amount of said contribution shall be as set forth in subsection 10-4.9. The Tree Replacement Fund shall be in a separate fund with the dedicated purpose of tree replacement within the Borough of Lake Como. (Ord. No. 2004-732 Art. 2)

10-4.11 Penalty.

a. In the event that it is unknown how many trees were removed from any given site, and removal took place without a tree removal permit issued pursuant to this section, the number of trees requiring mitigation shall be computed by assuming ten (10) trees greater than twelve (12) inches DPM unless adequate proof is provided to the Borough Zoning Officer.

b. Any person who violates, or fails, or refuses to comply with this section, shall be liable to a penalty of not less than one hundred (\$100.00) dollars nor more than one thousand five hundred (\$1,500.00) dollars for each tree removed. (Ord. No. 2004-732 Art. 2)