

# BOROUGH OF FAIR HAVEN

## TREE REMOVAL APPLICATION/PERMIT

Ordinance 2007-12 requires all homeowners desiring the removal of any tree 10" or larger in diameter at breast height to receive permission for removal. Also, no more than 20% of a property's trees may be removed without permission. The Tree Preservation Ordinance is available in full online at [fairhaventnj.org](http://fairhaventnj.org)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

Contractor's Name and Address Who Will Be Performing the Work:

1. Are you the owner of the property? \_\_\_\_\_  
If not, Owner's Signature for Consent: \_\_\_\_\_

2. Is the tree(s) to be removed diseased, damaged or pose a threat to public health or safety?  
\_\_\_\_ Yes \_\_\_\_ No \_\_\_\_ Unknown

3. Do you have an application pending with the Zoning or Planning Board? \_\_\_\_ Yes \_\_\_\_ No

4. Narrative Description Provide reasons for the removal of the trees including a description of any alternatives considered: (Attach additional sheets as necessary)

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5. Description of Tree(s) to be removed and Location of Replacement Tree (s)

Tree	Diameter	Location	Replacement Tree	Diameter
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6. Evaluation and Recommendation by a Tree Expert (required if answer to #2 above was "Yes")

Name of Expert \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_

(PLEASE TURN OVER AND COMPLETE APPLICATION)

7. Tree Expert's Recommendations and Comments:

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\_\_\_\_\_  
*Resident Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature of Tree Expert*

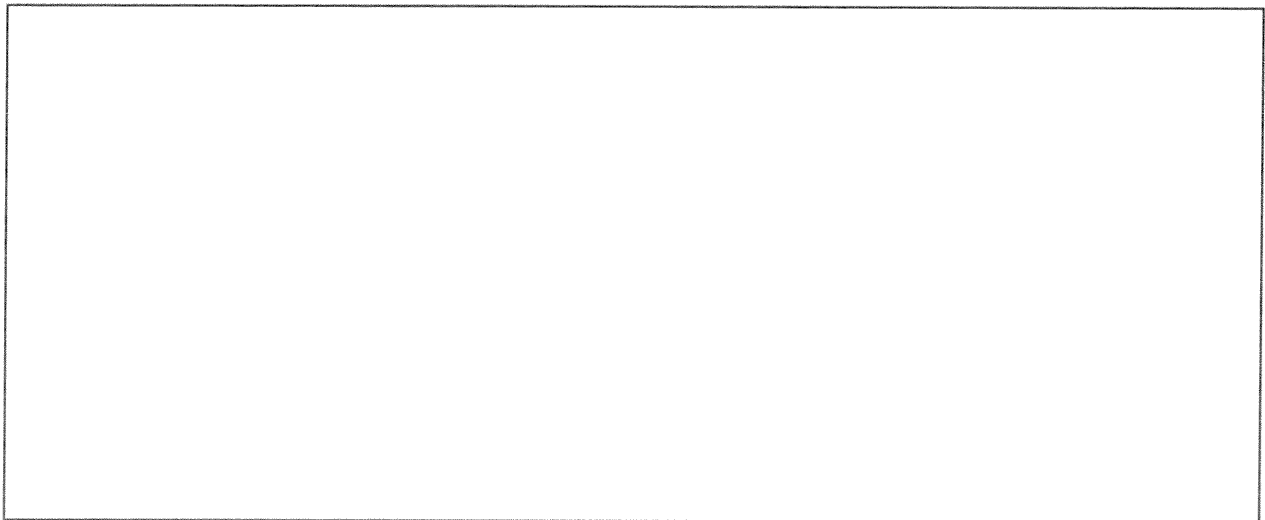
\_\_\_\_\_  
*Date*

8. Property Sketch. Please provide a diagram of the parcel of land including:

- a) Structures
- b) Driveway
- c) Location of diseased/dangerous tree(s) to be removed
- d) Location of any specimen trees
- e) Replacement tree location

**PROPERTY SKETCH**

THE TREES UNDER CONSIDERATION MUST BE IDENTIFIED WITH TAPE OR COLORED MARKING MATERIAL



Please advise us once the replacement tree has been planted

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**BOROUGH OFFICE USE ONLY**

DATE APPLICATION RECEIVED: \_\_\_\_\_

FEE: \$ \_\_\_\_\_  
(\$25/tree or \$150 max)

PERMIT STATUS:

- ( ) Granted: \_\_\_\_\_ Permit #: \_\_\_\_\_  
( ) Denied: \_\_\_\_\_  
( ) Partial Approval: \_\_\_\_\_

\_\_\_\_\_  
Code Enforcement Officer

\_\_\_\_\_  
Borough Clerk Office

## 14-8 TREE PRESERVATION.

a. *Title.* This section shall be known as and may be cited as the "Tree Preservation Regulations of the Borough of Fair Haven."

b. *Purpose.* The purpose of this section is to prevent clear cutting of trees on privately owned properties in the Borough, and to restrict the **removal** of other trees, thereby maintaining the beauty and character of the Borough of Fair Haven, preventing erosion, controlling action that will substantially change drainage patterns, and restricting any action that could create a hazard to persons or property.

The stream encroachment ordinances enforcing the Fair Haven Stormwater Plan take precedence over any live **tree removal** permitted by this section.

c. *Definitions and Word Usage.* For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**Borough Tree** shall mean any **tree** on Borough owned property or in Borough right-of-way.

**Diameter at Breast Height (DBH)** shall mean the diameter of a **tree** measured at breast height, which is approximately four and one-half (4.5) feet above the ground. The diameter of a multi-trunked **tree** shall be two-thirds (2/3) of the sum of the diameters of all trunks but not less than the diameter of the largest trunk. Diameter shall be calculated to be one-third (1/3) of the circumference for the purpose of this definition.

**Emergency** shall mean any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property.

**Mitigation Plan** shall mean a plan prepared by a **tree** expert showing the planting of replacement trees on the property on which **tree removal** is taking place. The plan must conform to the provisions set forth in this section.

**Ornamental Tree** shall mean any living Dogwood, American Holly, and Native Laurel with an anticipated mature height of six (6) feet or more.

**Permittee** shall mean any person who has been issued a permit pursuant to the terms and conditions of this section and who is obligated to fulfill all the terms of this section.

**Person** shall mean any person, firm, partnership, association, corporation, company, or public or private organization of any kind other than those exempted from the provisions of this section.

**Removal** shall mean the actual **removal** of trees, or direct or indirect actions resulting in the effective **removal** of trees through damage or poison, or similar actions directly or indirectly resulting in the death of trees subject to the provisions of this section. Moving a **tree** to a different location on the same property does not constitute **removal**. **Removal** shall not include pruning for maintenance purposes.

**Significant Specimen Trees** shall mean any **tree** with a diameter at breast height (DBH) exceeding sixty (60%) percent of that of the largest similar **tree** listed in either the "Monmouth County's Largest Trees" prepared and annually updated by the Monmouth County Shade Tree Commission or "New Jersey's Big Trees" prepared and updated biannually by the Division of Parks & Forestry of the New Jersey Department of Environmental Protection.

**Specimen Tree** shall mean any **tree** or ornamental **tree** which is not a Significant Specimen Tree and which has a diameter at breast height (DBH) of ten (10) inches or more.

**Tree** shall mean any living deciduous or evergreen **tree** with a normally anticipated mature height of twenty (20) feet or greater (including, but not limited to: Norway, Red, Silver or Sugar Maple, Sweetgum, London Plane, American Sycamore, White, Red or Pin Oak, American Elm, Yellow or White Poplar, Copper Beech, Cedar, Spruce, Pine, Fire or Hemlock).

**Tree Expert** shall mean a forester, arborist, certified **tree** expert or landscape architect properly licensed or certified with the State of New Jersey.

d. *Tree Removal Permit Required.* Unless excepted under paragraph j. below, no person shall engage in, nor allow, permit or direct any person to remove the following without first obtaining a **Tree Removal Permit**:

1. Any trees which have a diameter of ten (10) inches or larger at DBH;
2. Any Borough **tree**; or
3. Clear cutting areas more than twenty (20%) percent of the total trees on a lot or on slopes steeper than fifteen (15%) percent.

e. *Application Procedure for Tree Removal.*

1. Fees.

(a) Any person desiring to undertake any action prohibited by paragraph d. above shall file a written application for a **tree removal** permit with the Borough Clerk, together with prepayment of application fee of the greater of twenty-five (\$25.00) dollars per **tree** or one hundred fifty (\$150.00) dollars. (Fees restated at subsections 2-56.1, Fee Schedule)

(b) No prepayment need be made of that portion of the fee for trees which it is claimed must be removed because they are diseased, dead or pose a significant danger to public health and/or safety. The **removal** of such trees does not require payment of any fee, provided that the Code Enforcement Official or other official designated by the Borough finds in fact that such trees should be removed because they are diseased, dead or pose a significant danger to public health and/or safety.

2. The written application may include some or all of the following information:

(a) Name and address of applicant and status of legal entity.

(b) Status of application with respect to the land.

(c) Written consent of the owner of the land, if applicant is not the owner.

(d) Name and address of person preparing any map, drawing or diagram submitted with application.

(e) Location of the property, including a street number and address and lot numbers as shown on the Official Tax Map of the Borough.

(f) Diagram of the parcel of land, specifically designating the area or areas of proposed **tree removal** and the proposed use of such area.

(g) Location of all proposed structures and driveways on the site.

(h) Location of all specimen trees and identification of size and species specifically highlighting the location of each specimen **tree**.

(i) Designation of all diseased trees.

(j) Designation of any trees posing significant danger to public health and/or safety.

(k) Any proposed grade changes that might adversely affect or endanger any trees on the site and specifications of how to maintain them.

(l) Designation of trees to be removed and trees to be maintained.

(m) Purpose of **tree removal** (construction, street or roadway, driveway, recreation area, patio, parking lot, etc.).

(n) All materials to be planted with an indication of size, species and methods of planting.

(o) Such other information as may be required by an official application form adopted by resolution of the Borough Council and which, if so adopted, shall be provided to the applicant by the Borough Clerk.

(p) A Mitigation Plan in conformity with the provisions of this section.

(q) Name and address of **tree removal** company.

(r) Evaluation and recommendation by a **tree** expert.

3. The Borough Clerk shall maintain a register of all **tree removal** permit applications, past and present, by lot and block designation.

4. The Borough Clerk shall, within two (2) days of the receipt of a completed written application and correct application fee, refer the application, together with a copy of any previous applications for **removal** of trees from the tract of land, to the Code Enforcement Official or other official designated by the Borough for consideration as detailed below.

5. Upon referral of an application from the Borough Clerk, the Code Enforcement Official or other official designated by the Borough shall examine the premises referred to in the application; inspect the trees referred to therein, and the physical conditions of the lands and the vicinity thereof.

6. In determining whether or not a permit should be granted, the Code Enforcement Official or other official designated by the Borough may consider some or all of the following:

(a) The condition of the **tree** or trees with respect to disease, insect attack, danger of falling, proximity to existing or proposed structures and interference with utility services.

(b) The necessity of removing the **tree** or trees in order to construct the proposed improvements to allow reasonable economic use of the property.

(c) The effect of the **removal** on erosion, soil moisture retention and flow of surface waters.

(d) The number and density of trees in the area and the effect of **tree removal** on property values of the neighborhood and other existing vegetation.

(e) Whether any **tree** in question is a **tree** worthy of preservation.

(f) The ease with which the applicant can alter or revise the proposed development or improvement to accommodate existing trees.

(g) The economic hardship that would be imposed upon the applicant if the permit were denied.

(h) The heightened desirability of preserving **tree** cover in densely developed or densely populated areas.

(i) The need for visual screening in transition zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.

(j) Whether the continued presence of the **tree** or trees is likely to cause danger to a person or property.

(k) Whether the topography of the area in which the **tree** is located is of such a nature to be damaging or injurious to trees.

(l) Whether the **removal** of the trees is for the purpose of thinning a heavily wooded area where some trees will remain.

(m) Whether the **tree** is a Significant Specimen **Tree**.

7. In the event the Code Enforcement Official or other official designated by the Borough fails to issue the **tree removal** permit within thirty (30) days of application, or denies the application, the property owner may appeal to the Governing Body for the permit.

f. *Tree Replacement.*

1. As a condition of any activity regulated under this **tree** preservation section, a mitigation plan must be submitted which will provide for the replacement of all removed trees under the following schedule:

(a) For trees removed twenty-four (24) inches DBH or less, the replacement trees planted must be a minimum of two and one-half (2 1/2) inches DBH;

(b) For trees removed greater than twenty-four (24) inches DBH, the replacement trees planted must be a minimum of four (4) inches DBH.

2. All **tree** replacement required herein shall be located within the boundaries of the property from which the **tree removal** occurs.

3. The Governing Body shall have authority to grant relief from the provisions of this section upon demonstrating that:

(a) Alternate measures, including the planting of trees on other property within the Borough, achieve substantially similar benefits to the required measures; and

(b) Literal compliance is technically impractical or presents a substantial economic hardship.

g. *Significant Specimen Trees.* It is presumed that Significant Specimen Trees should only be removed in the most compelling and extraordinary circumstances. **Removal** will be permitted only if approved by the Governing Body. The loss of lot yield, building area, or profitability of developmental layout shall be deemed neither compelling nor extraordinary.

h. *Protection of Existing Trees.* In connection with any construction, subsequent to **tree** clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Borough Engineer shall be placed around trees that are not to be removed. The protective barriers shall be placed at the drip line or canopy line of any **tree** and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the **removal** of the barriers shall be accomplished with light machinery or hand labor.

i. *Emergency Action.* In the event of an emergency, any person, otherwise subject to this section, having responsibility, jurisdiction and/or authority to cure, remedy or mitigate dangerous, hazardous, inconvenient, unhealthy or obnoxious conditions resulting from the emergency may, without first applying for and obtaining a permit under this section, take any lawful action which is otherwise a regulated activity. However, such person, or the agent or designee of such person shall apply for a **tree removal** permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration until a permit is obtained.

j. *Persons Exempt.* The provisions of the **Tree** Preservation Regulations shall not apply to activities by:

1. The Borough or those acting under the control and direction of the Borough including any person acting pursuant to a specific agreement or contract approved by the Borough Council.

2. Federal, State or County agencies or those acting under their control and direction.

3. Entities, having by their charters and the Laws of the State, authority to engage in a regulated activity without the consent of the Borough but only insofar as the purpose to which such authority extends; in all other respects, such entities shall comply with this section.

4. Properties operating under a silviculture or forestry management plan approved by the State of New Jersey.

5. Utility companies with public rights-of-way when such companies are operating under the jurisdiction of the public agency controlling the right-of-way.

k. *Violations and Penalties.* Any person who violates the provisions of this section, shall be subject to the following penalties:

Failure to comply with any provisions of this section shall be considered a violation of the Code of the Borough of Fair Haven and shall be punishable, upon conviction, by the penalty stated in Chapter I, Section 1-5. Each day of such violations continuance shall be considered as a separate offense and shall be separately punishable. These penalties shall not be the exclusive remedy available to the Borough and nothing in this section shall prevent the Borough or a property owner from seeking injunctive relief.

l. *Tree Escrow Fund.* A **Tree** Escrow Fund shall be established and maintained by the Chief Financial Officer of Fair Haven Borough 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** Commission recommendation in accordance with the municipal **tree** planting plan.

(Ord. No. 2013-13)