

Strongsville Ohio

CHAPTER 1025: Tree Preservation

1025.01 PURPOSE AND INTENT.

(a) The purpose and intent of this Chapter is to promote the public's health, safety and general welfare, through the regulation of the removal, planting, and preservation of trees, and to preserve, protect and enhance the natural beauty, environment and property values of the city by preserving trees and natural areas to moderate storm water runoff, reduce erosion and sedimentation, provide natural screening and shading, lessen air pollution, intercept airborne particulate matter, reduce noise and moderate air temperatures.

(Ord. 2001-33. Passed 9-17-01.)

1025.02 DEFINITIONS.

For the purposes of this chapter, certain terms are defined as follows:

(a) "Bona fide agriculture" means a land use to derive income from growing plants or trees on land, including but not limited to land used principally for timber production, and not including land used principally for another use and incidentally for growing trees or plants for income.

(b) "City Forester" means that individual designated by the City as the City Forester or his/her designee.

(c) "Commercial nursery or tree farm" means a plant or tree nursery or farm in relation to those trees planted and growing on the premises, which are planted and growing for sale or intended for sale to commercial establishments or to the general public in the ordinary course of said business.

(d) "Diameter breast height (dbh)" means the diameter in inches of a tree measured at four and one-half feet (4½') above the existing grade.

(e) "Drip line" means an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

(f) "Grubbing" means the effective removal of understory vegetation such as, but not limited to, palmetto from the site.

(g) "Historic tree" means a tree which has been found by the City forester, a professional forester, horticulturist, or other professional plantsman, to be of notable historic interest to the City because of its age, type, size or historic association and has been so designated and that designation has been officially made and promulgated as part of the official records of the City.

(h) "Individual homeowner" means an individual or entity who owns not more than three (3) individual residential lots in the City and is not holding the lots solely for sale or development.

(i) "Land clearing stage" means those operations where trees and vegetation are removed and which occurs previous to construction or building; e.g., road right-of-way excavation and

paving, lake and drainage system excavation, utility excavation, grubbing, clearing site for a home, building, or other structure, and any other clearing operations.

(j) “No tree verification” means a signed, notarized statement by owner or his agent stating that no trees exist upon the site as further set out in this Chapter 1025.

(k) “Opacity” means the state of being impervious to rays of light measured by observation of any two (2) square yard areas lying between two (2) feet and ten (10) feet from the ground.

(l) “Person” means any individual, partnership, corporation, association, or other legal entity, including the plural as well as the singular, and including all tree removal companies and persons removing trees on behalf of others.

(m) “Protective barrier” means a physical structure limiting access to a protected area, composed of wood or other suitable materials which assures compliance with the intent of this Chapter.

(n) “Remove” or “removal” means the actual removal of a tree by digging up. Cutting down, or the effective removal through damage.

(o) “Specimen tree” means a tree which has been determined by the judgment of the City forester, a professional forester, horticulturist or other professional plantsman to be of high value because of its type, size, age or other professional criteria and has been recorded in the records of the City.

(p) “Transplant” means the digging up by a property owner of a tree from one place on his property and the planting of the same tree in another place.

(q) “Tree” means any self-supporting, woody plant of a species which normally, in the area, grows at maturity to an overall height of a minimum of fifteen feet (15').

(r) “Tree survey” means a minimum of 1 inch equals 200 feet scale aerial or drawing to scale which provides the following information: location of all trees protected under the provisions of this Chapter, plotted by accurate techniques; common name of all trees; and diameter breast height.

(Ord. 2001-33. Passed 9-17-01.)

1025.03 APPLICABILITY.

The regulations of this Chapter shall apply to all lands in the City except as exempted in Section 1025.05 of this Chapter. The regulations shall specifically apply to the following:

(a) No building permit, grading plan or erosion and sediment control permit shall be issued for the construction, alteration or addition to a building, or the grading or alteration of the land surface without the conformance to the provisions of this Chapter.

(b) All development plans and new construction shall comply with the requirements of this Chapter.

(c) All single family subdivisions and development shall comply with this Chapter.

(d) No tree with a dbh of six inches (6") or greater shall be cleared or removed without a tree removal permit issued by the City Forester unless permitted to be removed through these regulations or exempt from regulation under Section 1025.05.

(e) No tree removal permit shall be issued for any parcel of land or development which requires an approved subdivision plan under chapter 1228, until a development plan including a Tree Preservation Plan is submitted to and approved by the Planning Commission and the City Forester.

(f) No tree removal permit shall be issued for any parcel of land or development which requires a site approval plan, until a tree preservation Plan is approved by the Planning Commission and City Forester.

(Ord. 2001-33. Passed 9-17-01.)

1025.04 REQUIREMENT BEFORE TREE REMOVAL.

No land shall be cleared of trees nor shall any tree with a dbh of six inches (6") or greater be cleared and/or removed without having first obtained a permit pursuant to the provisions of this Chapter unless specifically exempted by Section 1025.05 of this Chapter.

(Ord. 2001-33. Passed 9-17-01.)

1025.05 EXEMPTIONS.

The following activities and properties are exempt from the regulations in this Chapter and no tree removal permit is required in the following instances:

(a) The removal of dead, diseased, or damaged trees.

(b) Any tree on public property or within the street right of way.

(c) The removal of trees necessary for the construction, operation and maintenance of drainage facilities and sanitary and storm sewers as approved by the City.

(d) The removal of trees for construction of public streets and improvements as approved by the City.

(e) The removal of trees in time of emergency or which pose potential danger to life or property.

(f) The removal of trees required for the installation, maintenance and repair of underground and overhead utilities as approved by the City.

(g) The removal of trees by an individual single-family homeowner or someone on the individual single-family homeowner's behalf on the homeowner's own residential dwelling lot

if there is already a single-family residence located on the lot.

(h) Any land recognized by the City upon which bona fide agricultural or commercial nursery or tree farm uses are being conducted.

(Ord. 2001-33. Passed 9-17-01.)

1025.06 PERMIT.

Any person wishing to obtain a permit to remove, cause to be removed, or relocate a tree, clear land or grub land as required under the provisions of this Chapter shall make application to the City forester by filing a written application and paying such a fee as is established herein. Where an application as required by this Chapter has been submitted, no permit shall be issued until a Tree Preservation Plan for the lot or parcel has been reviewed and approved by the City forester. The Tree Preservation Plan shall show the following information at a scale sufficient to enable the determination of matters required under these regulations:

(a) Permit Requirements.

(1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of all structures, improvements, and utilities if any.

(2) Location of all existing trees with a trunk diameter of six inches (6") or more dbh, which are subject to this Chapter, identified by common or botanical name. Trees proposed to remain, to be transplanted, or to be removed shall be identified. Groups of trees in close proximity, three-to-five foot spacing or closer, may be designated as a "clump" of trees, and the predominate species, estimated number and average size shall be listed.

(3) A statement showing how trees not proposed for removal are to be protected during land clearing and construction, i.e., a protective barrier as defined herein.

(4) Locations and dimensions of all setbacks and easements.

(5) Statements as to grade changes proposed for the lot or parcel.

(6) Any proposed tree replacement program.

(7) All trees to be retained shall be so identified by some method, such as painting or flagging, etc., prior to field inspection. Where protective barriers are necessary to prevent damage to a tree that is not to be removed, such barriers shall be erected before work starts.

(8) A topographical survey sealed by a registered engineer or registered surveyor, which shows the information set forth in subsections (a) (1) through (7) above. The City Forester may also require an aerial photograph of suitable quality (minimum 1" equals 200'), to facilitate plan review or a tree survey as defined herein. A tree survey will be required on all areas for which tree removal or relocation authorization is being requested.

(b) Land clearing or grubbing. Upon written request, land clearing or grubbing shall be permitted when the physical condition of the proposed development site does not permit the preparation of a tree survey as defined herein. Information as to the general number, species and size of the protected trees on the property will be required before land clearing or grubbing will be authorized. Land clearing shall be permitted within designated street rights-of-way, drainage and other utility areas as depicted on a recorded plat and an approved site plan if applicable. During grubbing, all trees not scheduled for removal will be left in an undisturbed condition with no less than the area designed as the drip line understory left intact.

(c) Alternate site plan information. In the event that there are no trees greater than six inches (6") dbh located on the site to be developed which are required to be protected under the provisions of this Chapter, the applicant shall so state in the application for a no tree verification. If such statement is substantiated by an inspection of the site by the City forester, the applicant shall be relieved of the necessity of complying with the provisions of this Chapter in regard to removal of trees.

(d) Time of permit. Any and all permits issued by the City as requirements of this Chapter shall be declared null and void if commencement of work so permitted is not started within a reasonable time, not to exceed one (1) year as set by the City forester. In no case shall the permit be valid for more than twelve (12) months. Permits not used within this period will become null and void and future work will require a new application and permit.

(Ord. 2001-33. Passed 9-17-01.)

1025.07 PERMIT PROCEDURE.

The tree removal or relocation shall be field checked prior to issuance of a permit. The City forester may request a recommendation concerning the application from other City departments. No tree removal permit will be approved without final site plan approval of the project, except in the case of a land clearing or grubbing permit as permitted herein. Each applicant, at the time the application is filed, shall pay a non-refundable permit fee of one hundred dollars (\$100.00) for each single-family residential lot and a nonrefundable permit fee of two hundred fifty dollars (\$250.00) for each lot other than a single-family residential lot.

(Ord. 2001-33. Passed 9-17-01.)

1025.08 PREAPPLICATION INSPECTION SERVICE.

In connection with application under the alternate site plan procedure, and in connection with applications involving large tracts of property and land clearing, the City Forester shall or the City Forester's designee shall be available for pre-application inspection of the site involved.

(Ord. 2001-33. Passed 9-17-01.)

1025.09 CRITERIA FOR ISSUANCE OF PERMIT.

Upon receiving the field inspection report and any requested recommendations concerning the application, the City Forester shall issue a permit after the application and application fee and the

permit deposit fee are filed with the City Forester's office for the removal or relocation of trees or clearing; if the criteria set out in subsection (a) are met, and provided that none of the conditions set forth under subsection (b) exist; and provided that all the criteria of this Chapter are met including the relocation or replacement of trees as set out in Section 1025.10.

(a) Criteria for Removal.

(1) The tree is located in an area where a structure or improvements will be placed according to an approved plan or the drip line of the tree is within the confines of the structure or improvement.

(2) The tree unreasonably restricts the economic enjoyment of the property, and the tree cannot be relocated on the site because of age, type or size of the tree.

(3) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing or proposed utility service, creates unsafe visual clearance or conflicts with other ordinances or regulations.

(4) The removal is necessary in order to install proper drainage systems.

(b) Professional evaluations. The City Forester shall consider significant adverse impact in the following areas on the urban and natural environment in granting a permit, and shall deny the permit if one or more of the following conditions exists:

(1) Ground and surface water stabilization. The removal will substantially alter the water table adversely with regard to water assimilation by vegetation, transpiration, and the evaporation potential of associated soils and bodies of water.

(2) Water quality or aquifer recharge. The removal will substantially lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from ground and surface waters.

(3) Ecological impacts. The removal will have a substantial adverse impact upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, or such removals will create conditions which may adversely affect the dynamic equilibrium of associated systems.

(4) Noise pollution. The removal will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of the City's noise ordinance is anticipated to occur.

(5) Air movement. The removal will significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.

(6) Air quality. The removal will significantly affect the natural cleaning of the atmosphere by vegetation through particulate matter interception or the release of oxygen to the atmosphere as a byproduct of photosynthesis.

(7) Wildlife habitat. The removal will significantly reduce available habitat for wildlife existence and reproduction or result in the emigration of wildlife from adjacent or associated ecosystems.

(8) Aesthetic degradation. The removal will have an adverse effect on property values in the neighborhood where the applicant's property is located.

(9) Screening of adjacent properties. The removal will reduce the buffering or screening to the abutting property under a minimum of eighty percent (80%) summer opacity and sixty percent (60%) winter opacity, when viewed from two (2) to ten (10) feet above the adjacent ground level from the abutting property.

(c) Basis for denial. The City Forester, upon a determination that an application is to be denied, shall state the basis for such denial specifically and shall notify the applicant of the criteria upon which said denial is predicated.

(Ord. 2001-33. Passed 9-17-01.)

1025.10 RELOCATION OR REPLACEMENT.

Except for trees required to be removed to construct or clear for street right of ways, public easements, lakes or detention or retention basins, or other drainage ways, and public utilities, as a condition of the granting of a permit, the applicant shall be required to install trees on the following basis:

SCHEDULE OF THE MINIMUM NUMBER AND CALIPER OF TREES.

Zoning Districts*	Total Minimum	Total Minimum
	Number of Trees**	dbh of Trees (in.)**
R1-75, R1-100, R1-125, OF-C, RT-C, ER		
Individual lot:	2	6
or		
Per Acre:		
(whichever is greater)	20	80

R2-F per acre:	20	100
RMF-1, PDA-1, PDA-2 per acre:	20	100
PF, SR-1, SR-2, LB, GB, MS, R-RS,	15	60
Zoning Districts*	Number of Trees**	dbh of Trees (in.)**
OB per acre:		
SC per acre:	15	60
RD, CS, GI per acre:	10	30
All other Districts per acre:	20	80

* District abbreviations are set out in §1250.01.

** The total number and dbh of trees are in addition to trees required pursuant to Codified Ordinance §1228.01.

Developments shall meet or exceed the minimum of both the number and the caliper or dbh of trees on the site after construction or development and after all public utilities and drainage areas have been installed and approved by the City.

The requirements of this Section may be varied by the City Forester upon a showing that such requirements will create a hardship in the use of the site or if the applicant, in the sole judgment of the City Forester, utilizes alternative means of saving trees such as common areas with trees within the development or construction site. Each replacement tree shall be the State Department of Agriculture Nursery Grade No. 1 or better. A suggested list of kinds of replacement trees will be on file in the City Forester's office. The City Forester shall designate the location of the replacement or relocation or the tree(s) removed and shall base her/his designation on a determination of the location which will best serve to lessen the adverse impact considering the factors set forth under Section 1025.09(b).

(Ord. 2001-33. Passed 9-17-01.)

1025.11 TREE PROTECTION DURING CONSTRUCTION.

It shall be unlawful for any person in the construction of any structures or other improvements to place solvents, material, construction machinery, or temporary soil deposits within the drip line of any tree trunk having a three-inch or greater dbh above grade.

Before development, land clearing, filling or any land alteration, a permit will be required; the developer shall be required to erect suitable protective barriers, and this protection, where required, shall remain until such time as the protection is authorized to be removed by City field inspectors, City

Forester or issuance of a final certificate of occupancy. Also during construction, no wires or other attachments shall be made to any of said trees so protected except as authorized by the City Forester. Wood, metal or other substantial material shall be utilized in the construction of barriers and must be approved by the City Forester. Barriers shall be required for all trees being protected, except in the following cases:

(a) Street right-of-way and utility easements may be ribboned by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape, rope, etc. from stake to stake along the outside perimeters of such areas to be cleared.

(b) Large property areas separate from the construction of land clearing area into which no equipment will venture may also be ribboned off as above.

(Ord. 2001-33. Passed 9-17-01.)

1025.12 EMERGENCIES.

In case of emergencies, such as tornadoes, windstorm, flood, freeze, or other disasters, the requirements of these regulations may be waived by the City Forester, upon a finding that such waiver is necessary so that public or private work to restore order in the City will not be impeded.

(Ord. 2001-33. Passed 9-17-01.)

1025.13 VARIANCES AND WAIVERS.

The City Forester may, upon appropriate application in writing, vary or waive the terms and provisions of this Chapter due to unreasonable hardship to the use or proposed use of land upon which a tree is located or in areas where the applicant, in the sole judgment of the City Forester, utilizes alternative means of saving trees such as common areas with trees within the development or construction site.

(Ord. 2001-33. Passed 9-17-01.)

1025.14 WITHHOLDING OF PERMIT OR CERTIFICATE.

The City may withhold the issuance of the required clearing permit, building permit, certificate of occupancy, or permits and inspections, on any property as required until the provisions of this Chapter, including conditions of any permits issued under these regulations, have been fully met.

(Ord. 2001-33. Passed 9-17-01.)

1025.15 APPEAL.

Any person adversely affected by a decision of the City Forester or any other City employee in the enforcement or interpretation of any of the terms or provisions of this Chapter may appeal such decision to the Shade Tree Commission pursuant to the provisions of Section 1023.09 of the Codified Ordinances.

(Ord. 2001-33. Passed 9-17-01.)

1025.16 TREE REMOVAL COMPANIES; CONSTRUCTION COMPANIES.

The provisions of this Chapter shall apply to any owner of the property and to any person removing or relocating trees on behalf of any other person, including all tree removal construction companies or persons in the business of removing trees. It shall be unlawful for any person or company to remove or cause to be removed any tree, or undertake any work for which a permit is required pursuant to this Chapter, unless a valid permit therefor is in effect and is displayed in accordance with the provisions of this Chapter. If any such work or removal is performed without the permit being displayed as required, such removal work shall constitute a violation of this Chapter and shall subject the person or company violating this Chapter to all penalties and remedies provided for herein.

(Ord. 2001-33. Passed 9-17-01.)

1025.17 DISPLAY OF PERMIT; INSPECTION.

The applicant shall promptly display on the site the permit issued. Such permit shall be displayed continuously while trees are being removed, relocated, or replaced or work is done as authorized on the permit, and for ten (10) days thereafter. As a condition to the issuance of the permit, the applicant shall agree in writing to entry onto the property by representatives of the City to inspect the permit and work being performed at any time, and such entry shall be lawful. Failure to allow such entry shall be unlawful, shall constitute a violation of this Chapter and shall constitute failure to display the permit as required under this section.

(Ord. 2001-33. Passed 9-17-01.)

1025.18 DEPOSIT FEE AND REFUND.

At the time of application, the applicant shall deposit with the City an amount of five hundred dollars (\$500.00) to insure compliance with the provisions of this Chapter. After construction or development is completed, the City Forester shall conduct an inspection. If the inspection shows that the applicant has complied with all of the provisions of this chapter and the permit conditions, the five hundred dollars (\$500.00) shall be returned to the applicant. If the inspection shows that the applicant has failed to comply with all of the provisions of this Chapter and/or the permit conditions, in addition to the penalties and provisions set out in this Chapter, the applicant shall forfeit to the City the portion of the five hundred dollars (\$500.00) necessary to remedy the non-compliance.

(Ord. 2001-33. Passed 9-17-01.)