



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE O-22-01

AN ORDINANCE AMENDING SECTION 22-1.3 (DEFINITIONS AND WORD USAGE) AND SECTION 22-1.7 (REVIEW OF APPLICATIONS) OF SECTION 22-1 OF THE BOROUGH CODE ENTITLED TREE REMOVAL AND PROTECTION

WHEREAS, the Borough of Highlands has determined that it is in the best interest of the Borough to update Section 22-1.3 and Section 22-1.7 of the Borough Code.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands as follows:

SECTION I. Borough Code Section 22-1.3, “Definitions and Word Usage” shall be amended as follows (all additions are shown in **bold italics with underlines**; all deletions are shown as ***strikeovers in bold italics***):

22-1.3 Definitions and Word Usage.

For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. The word “shall” is always mandatory and not merely directory.

APPLICANT – Shall mean any person making application to the ~~Tree Conservation Officer~~ **Tree Commissioner** for a Tree Protection Permit.

There are no changes to the remainder of this Section.

SECTION II. Borough Code Section 22-1.7, “Review of Applications” shall be amended as follows: (All additions are shown in **bold italics with underlines**; all deletions are shown as ***strikeovers in bold italics***):

22-1.7 Review of Applications.

- a. Application will be reviewed by the Tree Commissioner.
- b. When reviewing applications, the Tree Commissioner will, after inspecting the site, evaluating soil, location, grading, drainage and other conditions on the site and adjacent properties and consulting with such other officials, agencies, committees, boards and commissions as the ~~Officer~~ **Commissioner** deems appropriate, determine if the regulated activity proposed is prohibited, permitted or restricted in accordance with this section.

1. Prohibited regulated activities include:
 - (a) Clear cutting areas, outside of the limits of removal which collectively exceed forty (40%) percent of a lot.
 - (b) Removal of any trees.
 - (c) Any action that will substantially increase the potential of erosion.
 - (d) Removal of any vegetation, including trees with a DBH less than four (4) inches on a slope.
 - (e) Any action that will substantially change drainage patterns.
 - (f) Any action inconsistent with other land use approvals or regulations affecting the site.
 - (g) Any action that would create a potential hazard to persons or property.

2. Restricted regulated activities include:
 - (a) All regulated activities, which are neither prohibited nor permitted, are restricted. Applications may propose a combination of prohibited, permitted and restricted activities. In such cases, the ~~Tree Conservation Officer~~ **Tree Commissioner** may segregate the activities proposed and take the appropriate action on each type of activity.

 - (b) Applications for restricted activities shall be referred to the **Planning Board Land Use Board** for recommendation to the ~~Tree Conservation Officer~~ **Tree Commissioner**.

- c. The **Planning Board Land Use Board** shall consider these factors in making a recommendation to the Tree Commissioner concerning a restricted regulated activity:
 1. Whether the proposed cutting or removal would impair the growth and redevelopment of the remaining trees on the applicant's property or adjacent property.
 2. Whether the proposed cutting or removal would change existing drainage patterns.
 3. Whether the proposed removal would allow soil erosion or increase dust.
 4. Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots or the aspect of the lot as viewed from the adjacent public road.
 5. The overall, effect of removal of such tree(s) on the physical and aesthetic value of the property and the neighborhood.

6. Whether proposed changes to the topography of the area where such tree(s) are located will have a land configuration which shall be deemed injurious to the trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement.
 7. Whether reasonable application of the standards of this section create a substantial hardship for the applicant, prohibiting reasonable use of the property consistent with the Planning and Development Regulations, and whether, therefore, one (1) or more of the standards should be waived.
 8. In appropriate circumstances, an applicant may be required to post performance and maintenance guarantees assuring compliance with the provisions of any tree protection permit and this section and assuring provision of replacement plantings damaged or removed contrary to the terms of any tree removal/protection permit or this section.
- d. The Tree Commissioner shall give due deference to the recommendations of the ***Planning Board Land Use Board*** with regard to an application for a permit to allow a restricted regulated activity. The ***Officer Commissioner*** may only act contrary to, or significantly modify, the recommendations of the ***Planning Board Land Use Board*** if the ***Officer Commissioner*** finds that the recommendations are based on incomplete or inaccurate information, are unreasonable or impracticable or would produce results contrary to the intent of this section. The Tree Commissioner shall, provide the ***Planning Board Land Use Board*** with a copy of the Commissioner's final action on all permits for a restricted regulated activity.

SECTION III. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION IV. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION V. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk's Office.

DATE OF VOTE: January 1, 2022

Michelle Hutchinson, Municipal Clerk
Borough of Highlands

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CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk's Office.

DATE OF VOTE: January 19, 2022

Nancy Tran, Acting Municipal Clerk
Borough of Highlands

Carolyn Broullon, Mayor