

## Chapter 263

### TREES

§ 263-1.	Short title.	§ 263-7.	Exemption; permit for selective cutting.
§ 263-2.	Findings.	§ 263-8.	Standards for removal.
§ 263-3.	Definitions.	§ 263-9.	Protection of trees.
§ 263-4.	Applicability.	§ 263-10.	Enforcement.
§ 263-5.	Permit required; application.		
§ 263-6.	Issuance of permit.		

[HISTORY: Adopted by the Township Committee of the Township of Eagleswood 11-10-1992 by Ord. No. 17-92 (Ch. 95A of the 1977 Township Code). Amendments noted where applicable.]

#### GENERAL REFERENCES

Land Use Board — See Ch. 9, Art. I.

Soil erosion and sediment control — See Ch. 226.

Environmental Commission — See Ch. 9, Art. II.

Subdivision of land — See Ch. 285.

Fees — See Ch. 135.

Zoning — See Ch. 295.

#### § 263-1. Short title.

The short title of this chapter shall be the "Tree Ordinance," and this chapter shall hereafter be cited or referred to for purposes of amendment or otherwise by said title.

#### § 263-2. Findings.

The Township of Eagleswood finds that the development of unimproved or vacant land for the purpose of commercial and residential development has resulted in indiscriminate and excess cutting of trees upon tracts of land and has resulted in creating increased surface water runoff and soil erosion, thereby increasing municipal costs to control drainage within the Township. It further finds that such excessive removal and destruction of trees impairs the proper occupancy of existing residential areas and impairs the stability and value of improved and unimproved real property in such areas with the attendant deterioration of conditions affecting the health, safety and general welfare of the inhabitants of the Township, and further finds that regulations for the indiscriminate removal of trees is within the police power of the Township.

#### § 263-3. Definitions.

For the purpose of this chapter, the following words shall have the meanings indicated:

**BUFFER AREA** — The distance from the side and rear property lines beginning at the front setback line of the lot and running to the rear line in the case of the side lines and for the entire width of the rear line. For specific buffers, refer to the existing zoning ordinance.<sup>1</sup>

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1. Editor's Note: See Ch. 295, Zoning.

**BUILDING PLOT** — A parcel of land upon which a building has been or may be erected in accordance with the zoning ordinance.<sup>2</sup>

**NURSERY, GARDEN CENTER, ORCHARD OR TREE FARM** — Only such land within the municipality used for horticultural purposes under controlled agricultural conditions.

**PERMITS** — A license issued by the Zoning Office to remove or destroy trees from any land as defined in this section. Permits shall be valid for a period of one year from the date of issuance.

**SHRUB** — A woody plant that is never treelike in habit and produces branches or shoots from or near the base, such as kalmia, rhododendron, azalea, ilex, viburnum and similar species.

**TREE** — Any living deciduous tree having a trunk of a diameter greater than three inches (diameter at four feet from ground level), any living coniferous tree having a trunk of a diameter greater than four inches (diameter at four feet from ground level), or any living dogwood (cornus florida) or American holly (ilex opaca) having a diameter of one inch or greater (diameter at four feet from ground level).

#### **§ 263-4. Applicability.**

The provisions of this chapter shall apply to all lands within the Township of Eagleswood. Where a structure is located on a lot, the owner of residential property may claim exemption from this chapter for an area of land surrounding his home equal to the minimum lot area provided by the Eagleswood Township Zoning Ordinance<sup>3</sup> for construction of a residential dwelling in that zone. In addition, where an applicant for a building permit for construction of a residential structure proposes the removal of no trees which are greater than 15 feet away from the proposed new building and from the attendant driveway, drainage field, septic tank or other facility being constructed contemporaneously therewith, the applicant shall be exempt from the requirements of this chapter.

#### **§ 263-5. Permit required; application.**

- A. Permit required. No person, including the property owner, shall remove or destroy or cause to be removed or destroyed by any person any tree on land within the Township unless a permit is obtained for such removal or unless there is an exemption for the property under § 263-4. Anything to the contrary continuing with this chapter notwithstanding, no permit shall be required to remove any dead or diseased tree within the Township of Eagleswood.
- B. Application fee. The permit shall be obtained from the Zoning Office upon an application being made therefor and the fee as set forth in Chapter 135, Fees, with each application. In the event that the Zoning Officer, after inspection, shall determine that substantial questions exist as to whether the removal pursuant to the permit would impair the growth and development of remaining trees, impair adjacent properties, cause erosion of soil, impair existing drainage or otherwise damage the environment, the Zoning Officer shall collect a two-hundred-and-fifty-dollar escrow to utilize as provided in this chapter. In all cases where the applicant seeks a permit for the harvesting of trees pursuant to § 263-8E of this chapter, the applicant shall be required to post a two-hundred-and-fifty-dollar escrow as provided elsewhere in this chapter.<sup>4</sup>
- C. Application information where no building permit is requested. An application for a permit for removal or destruction of any tree or trees where no building permit is requested shall contain the name of the applicant, the name of the owner of the property with the consent of the owner, if

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2. Editor's Note: See Ch. 295, Zoning.

3. Editor's Note: See Ch. 295, Zoning.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

different from the applicant, the location of the tree(s) on a sketch of property and the reason for the removal or destruction.

- D. Application information where building permit is sought. For an application for a permit for removal or destruction where a building permit for construction is being sought, the property owner shall file with the site plan a sketch showing which trees on the property are to be removed.
- E. Where required pursuant to Subsection B of this section, an escrow in the amount of \$250 shall be posted in order to defray any and all costs associated with a review of the application by the Eagleswood Township Engineer. If deemed necessary by the Zoning Officer as set forth hereinabove, the Engineer may review the documents submitted and make inspections to determine those issues required to be determined pursuant to this section for the issuance of a permit. Any services rendered by the Engineer shall be billed on an hourly basis, and any and all fees associated with the review by the Engineer shall be deducted from the escrow. In the event that the escrow fund shall be depleted to the extent that the amount on deposit shall fall below the sum of \$50, the Engineer shall cease all work unless and until additional escrow funds have been placed on deposit to bring the total sum on deposit up to \$250. After issuance of the permit, in the event that it is determined to be necessary by the Eagleswood Township Engineer, the escrow may be retained and the applicant shall be required to supplement the same in order to defray costs of inspection by the Township Engineer to ensure compliance with the terms and conditions of any permit issued and the removal of those trees governed by the permit. If at any time subsequent to the issuance of the permit the amount on deposit shall fall below \$50, the appropriate enforcement officer, upon notice of the Township Engineer, may order that the applicant cease and desist all work until such time as the escrow is replenished.

#### **§ 263-6. Issuance of permit.**

- A. Issuance of permits. The Zoning Officer, after consultation with the Township Engineer, shall determine which trees may be removed, and the permit for such removal shall be issued by the Zoning Officer.
- B. Referral to other agencies. The Township Engineer or Zoning Officer shall refer the application to the Environmental Commission for its review and comment when the application concerns property which is zoned commercial or when the applicant seeks to remove the majority of trees from a property in excess of one acre. The Eagleswood Township Land Use Board shall have the authority to issue blanket permits in lieu of trees in conjunction with a site plan or subdivision application.
- C. Appeal. In the event of a denial of a tree removal permit by the Land Use Board in conjunction with a site plan or subdivision application, appeal shall be taken as provided by law.

#### **§ 263-7. Exemption; permit for selective cutting.**

Anything to the contrary contained within this chapter notwithstanding, any applicant shall be entitled to obtain a permit for selective removal and cutting of up to 10% of the trees on any property owned by him upon which is located a single-family residential dwelling and on any adjacent contiguous vacant property also owned by the applicant. No sketch or plot plan shall be necessary for the issuance of such a permit. Upon application, the applicant shall execute a statement indicating that he shall remove no more than 10% of the trees covered by this chapter from his property pursuant to that permit. It shall be a violation of this chapter for an applicant under this section to remove more than 10% of the trees existing on his property during the term of validity of the permit.

#### **§ 263-8. Standards for removal.**

- A. Any area to be occupied by a building, driveway, draining field, septic tank, recreation area (tennis courts, swimming pools or similar facilities) may have the trees removed but for a distance of not more than 15 feet around the perimeter of such facilities, provided the same does not violate any buffer requirements within the zone. As set forth in § 263-4, applicants who comply with this section for single-family residential dwellings shall not be required to obtain a permit.
- B. The Township Zoning Officer and/or Township Engineer shall view the land where the tree or trees are to be removed, as well as drainage, grade and other physical conditions existing on subject or adjoining property, and will consider any report from the Environmental Commission in determining whether to issue the permit.
- C. The permit shall be granted if there is a finding that the removal and destruction will not impair the growth and development of remaining trees on the property of the applicant or adjacent properties and would not cause erosion of soil, impair existing drainage, lessen property values in the neighborhood or impair the aesthetic values of the area. Likewise, a permit shall be issued to remove trees more than 15 feet from a new proposed residential structure upon these same findings.
- D. The spirit of the provisions of this chapter shall be to grant permits in buffer areas only for compelling reasons, as it is essential to maintain aesthetic values, preserve privacy and drainage control.
- E. Permits may be issued for the harvesting of trees, provided that the applicant shall demonstrate compliance with Subsection C hereof, and further provided that the tree harvesting is conducted in accordance with an approved forest management plan which takes into consideration that certain trees will be left standing for scenic beauty and for soil retention, drainage and aesthetic values.

#### **§ 263-9. Protection of trees.**

- A. During construction of any structure, no equipment or movable machinery shall be permitted to operate within the dripline of any tree which is to be saved in order not to disturb the soil and thereby injure the tree, except when the dripline of the tree is within the fifteen-foot area set forth in § 263-8A.
- B. Exempt lands. The following lands shall be exempt from the provisions of this chapter: nurseries, garden centers, orchards, tree farms or Township, county and state land.
- C. No soil material, equipment, temporary buildings and work areas, fuels, paints and other construction items shall be placed within the dripline of the tree.
- D. Trees to be saved shall be fenced in or heavily marked with ribbon so none are mistakenly bulldozed down or injured.
- E. If branches must be pruned to make room for construction, standard pruning techniques should be followed as set forth by the International Society of Arboriculture and subject to inspection by the Township Zoning Officer or Engineer.
- F. Any tree of historical significance or otherwise significant by reason of its rarity or environmental significance shall be given special consideration and shall not be cut or destroyed unless there is no possible alternative. Specimen trees shall be protected in accordance with the provisions of Chapter 263 of the Eagleswood Township Code.

#### **§ 263-10. Enforcement.**

- A. Any person, corporation, firm, partnership or other entity violating or causing to be violated any of the provisions of this chapter shall be fined not more than \$1,000 or imprisoned in the County Jail for

not more than 90 days, or both, for each violation of this chapter. Each and every day that such violation continues shall be considered a separate violation. Each tree or shrub destroyed or removed in violation of this chapter shall be considered a separate violation.

- B. The Township shall have the right to proceed for a court order from a court of competent jurisdiction to restrain any violation of the provisions of this chapter and to require the replanting and reforestation of any property on which trees are removed in violation of the provisions of this chapter.
- C. The provisions of this chapter shall be enforced by the Township Zoning Officer, Code Enforcement Officer and/or Township Engineer.<sup>5</sup>

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5. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**