

BOROUGH OF CRESSKILL

ORDINANCE NO. 19-16-1547

**ORDINANCE AMENDING THE GENERAL ORDINANCES  
OF THE BOROUGH OF CRESSKILL SECTION 18-02.14(C)  
CHAPTER 275-66 TREE REMOVAL**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Cresskill, County of Bergen, State of New Jersey, that those portions of the aforesaid set below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged.

**BE IT FURTHER ORDAINED** This amended Ordinance replaces Chapter 275-66, Tree Removal, et seq. in its entirety.

**§ 275-66.1 – Tree Removal**

**I. General Provisions.** The following shall apply to the removal of all trees within the borders of the Borough of Cresskill and is hereby incorporated into all sections and subsections of this Ordinance.

**II. Definitions.** Terms used in this Ordinance.

“Buffer Zone” the outer ten (10) feet of the rear yard setback and the outer five (5) feet of each side yard setback.

“Clearcutting” the removal of five (5) or more trees within a three hundred sixty-five (365) day period, with a diameter of greater than ten (10) inches as measured four (4) feet in height.

“Dangerous” such a condition of any tree which may cause a substantial risk of foreseeable injury.

“Dead” the cessation of the tree’s life as certified by a licensed Tree Care Operators (See N.J.S.A. 45:15 C-12 et seq. and N.J.A.C. 7:3A-3.6 et seq.).

“Hazardous” condition of the tree whose existence exposes injury to person or damage to property.

**III. Permits and Fees.**

1. No tree with a diameter greater than ten (10) inches as measured at four (4) feet of height may be removed without a Permit issued by the Building Department.
2. The Permit Fees for tree removal shall be as follows for each tree (diameter at four (4) feet height):
  - a. Under sixteen (16) inches diameter: No Fee;
  - b. Sixteen (16) inches and greater than sixteen (16) inches diameter: one hundred twenty-five (\$125.00) dollars.
3. In addition to Permit Fees each Applicant for tree removal shall be responsible for Administrative Fees as follows:
  - a. New Construction: three hundred (\$300.00) dollars;

- b. Existing structures: thirty-five (\$35.00) dollars;
- c. Vacant lots: thirty-five (\$35.00) dollars;
- d. Administrative and Permit Fees may be amended as needed by Resolution.

4. Condition Precedent to Issuance of a Permit.

- a. A pre-condition for issuance of a Permit to remove any tree shall be replacement of each such tree in setbacks or buffer zones.
- b. Applicant shall present a “marked up survey” or “site plan” showing the locations of replacement trees in either setbacks or Buffer Zones.
- c. The diameter of the replacement trees shall not be less than two and a half (2 ½) inches in diameter;
- d. Species of replacement trees shall conform to the Borough’s approved list without exception;
- e. i) Permits shall only be issued to Applicants who own the property upon which the tree(s) is located through the Applicant’s agent(s), who shall be licensed Tree Care Operators (See N.J.S.A. 45:15 C-12 et seq. and N.J.A.C. 7:3A-3.6 et seq.).  
  
ii) All Permittees shall supply insurance certificates naming the Borough as an insured in an amount not less than one million (\$1,000,000.00) dollars.

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5. Waiver of Administrative Fees.

- a. Permit and/or Administrative Fees may be waived upon petition to the Council. Applicant must provide proof of income. The Pharmaceutical Assistance to the Aged & Disabled Income Guidelines shall be the determining metric.

**IV. Inspections.**

1. All tree inspections (excepting trees located on Borough property or within the Borough’s right of way) shall be conducted by the Building Department which shall inspect every tree on the petitioned site and confirm every tree petitioned for removal.
2. All the inspections for trees located on Borough Property or within the Borough’s right of way shall be conducted by the Department of Public Works.
3. All trees to be removed must be prominently marked at the time of Permit Application with orange spray paint;

**V. New Construction.**

1. In addition to the provisions of Articles I, II, III and IV as set forth above, the following shall apply to all trees within the borders of the Borough of Cresskill that are affected by new construction.
2. Clearcutting.
  - a. There shall be no Clearcutting of trees during any phase of new construction except:

- i. Clearcutting of trees within the building's footprint may be Permitted during any phase of new construction without payment of the Permit Fee (but Applicant would still be required to pay the Administrative Fees).
    - ii. Within fifteen (15) feet of the building foot print as Permitted by either the Zoning Board of Adjustment or Planning Board.
  - b. If an Applicant applies for a New Construction Building Permit within 6 months of applying for a Tree Removal Permit for the same lot, there shall be an additional Administrative Fee of three hundred (\$300.00) dollars.
3. Additional Site Plan or Building Permit Requirements for Nonresidential Use.
  - a. Whenever a nonresidential use is adjacent to the side or rear lot line of a lot in a Residential or a Professional Office Zone, there shall be planted along such lot line or buffer area evergreen trees or thick bushes or hedges of such type and spacing as required by the Planning Board and/or the Zoning Board of Adjustment, of an initial height of not less than four (4) feet, except as provided for in § 275-70, which will adequately screen all operations on such nonresidential lot. All of the foregoing planting shall be properly maintained throughout the life of any use on all lots.
  - b. Upon good cause shown, Planning Board and/or Zoning Board of Adjustment may waive the requirement that removed trees be replanted in the Buffer Zones;
  - c. All trees proposed to be removed in excess of ten (10) feet in height shall be delineated on a topographical survey;
  - d. Applicant shall be required to pay the Borough Engineer's inspection fee in an amount not to exceed five hundred (\$500.00) dollars.

#### **VI. Existing Commercial Structures.**

1. In addition to the provisions of Articles I, II, III and IV as set forth Above, the following shall apply to all trees within the borders of the Borough of Cresskill that are located on lots with existing commercial structures;
2. Requirements:
  - a. The Building Department shall have the Jurisdiction to waive the Permit Fee associated for trees sanctioned for removal within ten (10) feet in any direction of the main structure, excepting trees located in Buffer Zones. The Applicant shall be subject to all other required Fees;
  - b. No trees may be removed in Buffer Zones without a Permit;
  - c. Buffer Zones adjacent to R-10,R-15,R-40, and R-SC Zones. All lots in C and P Zones which are adjacent to a rear or side lot line or are across the street from an R-10, R-15, R-40, or R-SC Zones shall have Buffer Zones, which shall be fully landscaped areas without any buildings, signs, parking or loading spaces or any other primary or accessory structures or uses, except driveways or an open fence of not more than six (6) feet in height. The Buffer Zones shall have the widths along such lot lines as set forth in §275-66(V).

#### **VII. Existing Residential Structures.**

1. In addition to the provisions of Articles I, II, III and IV as set forth above, the following shall apply to all trees within the borders of the Borough of Cresskill that are located on lots with existing residential structures.
  - a. For good cause shown, the Building Department shall have the Jurisdiction to waive the Permit Fee associated for trees Permitted to be removed within ten (10) feet of any direction of the Residential Structure, excepting trees located in the Buffer Zones. The Applicant shall be subject to all other required Fees;
  - b. No trees with a diameter greater than ten (10) inches as measured at four (4) feet of height may be removed in Buffer Zones without a Permit.

#### **VIII. Vacant Lots.**

In addition to the provisions of Articles I, II, III and IV as set forth above, no tree located on a vacant lot with a diameter greater than ten (10) inches as measured at four (4) feet of height may be removed without a Permit.

#### **IX. Engineering.**

In addition to the provisions of Articles I, II, III and IV as set forth above, any tree within the borders of the Borough of Cresskill may be removed without a Permit if an emergency exists such that a licensed Tree Care Operator, as soon as practical, but in any event, not more than three (3) Business Days, after removal, certifies that the condition of the tree was either "Dead", "Dangerous", or "Hazardous", that there was not enough time to obtain a Permit, that the tree was an imminent danger to public safety or to property and provides photographic proof of same. Application for a retroactive Permit must be made in conjunction with the submitted certification.

#### **X. Appeals from Denial of Permits.**

The Applicant may only appeal the decisions of the Building Department pursuant to N.J.S.A. 40:55D-70 (A):

"Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of an Administrative Officer of the Municipality based on or made in the enforcement of the Zoning Ordinance or Official Map."

#### **XI. Municipal Court.**

1. All summons issued shall be presented before the Borough's municipal court Judge.
2. Fines
  - a. On the finding of guilt, the Judge shall levy the following fine(s) plus Court costs on any liable person or entity.
3. Failure to obtain a Permit:
  - a. First Offense: Not less than two (2) nor more than ten (10) times the combined amount of the Permit, plus Court costs and Administrative Fees;
  - b. Second Offense: Not less than five (5) times nor more than fifteen (15) time the amount of the Permit, plus Court costs and Administrative Fees;
  - c. Third Offense: Five thousand (\$5,000.00) dollars per day starting on the day of the offense until the earlier of

- a. the liable party replants a tree of equal diameter and height as the removed tree, or
  - b. the liable party is adjudicated guilty or enters a guilty plea at which time the Court will assess the fine per this Ordinance, as of the date of entry of the guilty plea.
- d. Fourth Offense: Mandatory ten (10) days incarceration in the Bergen County Jail plus the fines enumerated for a Third Offense.

**XII. Consistency, Severability and Repealer.**

- (A) If any provision or portion of a provision of this Ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalidated by any court of competent jurisdiction, the remaining provisions of the Ordinance shall not be invalidated.
- (B) All ordinances or parts of ordinances, which are inconsistent with any provisions of this Ordinance, are hereby repealed to the extent of such inconsistencies.
- (C) No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this Ordinance or from other law.