



**2008
BOROUGH OF DUMONT
ORDINANCE**

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
CASPARE	✓			
MANNA	✓			
MCQUADE	✓			
STYLIANOU	✓			
ZAMECHANSKY	✓			
MAYOR MCHALE				
TOTALS	5			

Ordinance No. 1358
 Date: March 4, 2008
 Page: 1 of 17
 Subject: Shade Tree Rules & Regulations Ordinance
 Purpose: _____
 Account No. _____
 Contract No. _____
 Dollar Amount: _____
 Prepared By: Gregg Paster, Esq.

Offered by: McQuade
 Seconded by: Manna

Certified as a true copy of an Ordinance adopted at the 2nd reading by the Borough of Dumont on the above date at a Regular Meeting by: Susan Connelly

 Susan Connelly, RMC, Borough Clerk
 Borough of Dumont, Bergen County, New Jersey

DUMONT SHADE TREE RULES AND REGULATIONS ORDINANCE

An ordinance regarding Public Lands and Public Safety Interests to promote and regulate the preservation of Borough Trees, incorporate Community Forestry Management Plan, outline Tree removal procedures and requirements, and implement standards and procedures for compliance, and penalties for violations of the ordinance.

PURPOSE

The purpose of this ordinance is to promote the general welfare of the people of the Borough of Dumont by: (i) providing for the regulation, planting, care, control, improvement, removal, preservation, and general protection of Borough Trees in such a way as to protect and preserve the Borough environment with regard to Public Lands and Public Safety Interests; (ii) incorporate a Community Forestry Management Plan; (iii) providing for standards and procedures in connection with Borough Trees; and (iv) prescribing penalties for violations of this ordinance.

The Dumont Community Forest is recognized to be a living and constantly changing part of the Borough. As such, it is recognized that it is not possible to completely control, predict or prevent all events related to planting, growth, maintenance, decline, and death of Trees. However, the general objective of this ordinance is to establish a system for better managing this valuable resource through the Program established under the New Jersey Shade Tree and Community Forestry Assistance Act P.L. 1996, Chapter 135 and subsequent revisions thereto. The Community Stewardship Incentive Program Practices are:

1. Plan Preparation
2. Training
3. Public Education and Awareness
4. Arbor Day Activities
5. Assessment / Inventory
6. Tree Hazard Identification Plan
7. Tree Planting
8. Tree Maintenance
9. Tree Recycling
10. Ordinance Establishment
11. Tree Care Disaster Plan
12. Insect and Disease Management

Exemptions. The following shall be exempt from the requirements of this ordinance: (a) Bergen County Roads located in the Borough, without approval of the Bergen County Shade Tree Commission (if any) or, the Bergen County Department of Parks and Recreation; (b) any living woody, deciduous or coniferous species which does not qualify as a Tree under the definitions of this Ordinance; and (c) Utility and Cable Companies undertaking emergency tree work to restore service or spot work to prevent interruption of electrical, telephone, telegraph, cable TV, internet, or other wire or cellular services provided that such Utility or Cable Company has complied with notice provisions.

I. DEFINITIONS

As used in this ordinance, the following terms shall have the following meanings:

APPEAL: The process by which decisions of the Commission are reviewed and resolved when a Property Owner wishes to dispute the decision.

BOROUGH: The Borough of Dumont.

BOROUGH TREE: any Tree, as hereinafter defined, which is situated in or along any public property, park, field, public right of way, easement or encumbrance. Tree situation is evidenced by 50% or more of the root collar or base of the trunk at the entry point to the ground being upon Borough land, regardless of the location of the crown, roots, tilt of the trunk, or other part of the Tree in relation to the property line.

CODE ENFORCEMENT OFFICER: An individual appointed by the Shade Tree Commission, who may, but need not be, a Certified Tree Expert, a Certified Arborist, or who may be a Code Enforcement Officer of the Building, Police or Fire Departments as designated by the Mayor and Council. No person shall be reappointed or re-designated as Shade Tree Code Enforcement Officer unless the individual has completed the NJ DEP CORE Training within 12 months of the initial appointment.

COMMERCIAL BUFFER AREA: A landscaped buffer area along all commercial side yard and rear yard lot lines.

COMMISSION: The Shade Tree Commission of the Borough of Dumont including any of its agents, employees and duly appointed members. Also referred to herein as the "DSTC."

COMMUNITY FOREST: Collectively, all Trees in or upon all Public and Private Lands within the Borough of Dumont.

COMMUNITY FORESTRY MANAGEMENT PLAN: The Community Forestry Management Plan prepared from time to time for the benefit of the Borough, and as approved by the State of New Jersey, in keeping with the Community Forestry Program of the State of New Jersey.

DIAMETER BREAST HEIGHT (or "DBH"): The diameter of a Tree measured at a point on the Tree four feet and six inches (4'-6") from ground level.

GUARD: A device placed on or about a Tree with the purpose of preventing injury to such tree.

HAZARD TREE: A Tree that has structural defects in the roots, stem or branches and which may cause the Tree or part of the Tree to fail, and where such failure may cause property damage or personal injury. Risk levels are assessed at low, medium or high in accordance with the USDA publication #NA-TP-03-03 entitled "Urban Tree Risk Management".

HERITAGE TREE: Any Tree: (i) with a DBH of at least thirty six (36") inches; or (ii) of a particular historical significance specifically designated by official action of the Mayor, the Borough Council, the DSTC or the Borough Historian; or (iii) over 50 years of age.

LANDSCAPER: Any Person engaged in the business of landscaping as a primary occupation.

LARGE TREES: Tree species attaining a height of fifty (50) feet or more at maturity.

MEDIUM TREES: Tree species attaining a height of twenty-five (25) feet to fifty (50) feet or more at maturity.

SMALL TREES: Tree species attaining a height of less than twenty-five (25) feet at maturity.

MEMBERS: Duly appointed Members of the Commission.

OVERGROWN TREE: A Tree that has exceeded a confined space as evidenced by less than fifteen (15%) percent of the DBH as clearance between the root collar at ground level and a confining border such as a curb or sidewalk. (Example: A Tree with 20" DBH would require 3" between the root collar where it enters the ground and the sidewalk or curb).

PERSON: Any individual, association or individuals, partnership, corporation, developer, or entity other than the Borough.

PLANNING BOARD: The Planning Board of the Borough of Dumont.

PRIVATE TREE: any Tree, as hereinafter defined, which is situated in land other than Borough Land. Tree situation is evidenced by 50% or more of the root collar or base of the trunk at the entry point to the ground being upon private land, regardless of the location of the crown, roots, tilt of the trunk, or other part of the tree in relation to the property line.

RIGHT OF WAY ("ROW"): The public property in the Borough of Dumont, which excludes private property, and is the jurisdiction of the Borough, and is inclusive of all land in and along any Street up to the private property lines as shown on the Tax Map of the Borough of Dumont.

SPECIMIN TREE: Any Tree, which, by singular nature, species, condition, size, or location, imparts particular value to a property or landscape specifically designated by official action of the Mayor, the Borough Council, the DSTC or the Borough Historian.

STREET: Any road, avenue, street or highway in the Borough dedicated to the public use.

TREE: Any living woody, deciduous or coniferous species, of any age after germination, which at maturity is expected to have a circumference of more than ten (10") inches, or three (3")

inches diameter, measured at DBH. Any species not qualifying as a "Tree", under this definition, shall be considered a "Stem" and shall not fall within the purview of this ordinance.

TREE ACCOUNT: A segregated interest bearing account where the use of the funds is restricted under this ordinance.

TREE GUARD: A permanent enclosure used to protect the trunk of a tree from injury.

TREE PIT: A specially prepared area of land, which is surrounded by paving, curbs, sidewalks, or other impervious surfacing, and with specific requirements for protection and pedestrian safety.

TREE PERMIT: A Permit issued by the Code Enforcement Officer, for the planting, maintenance or removal of a Tree or Trees on Borough Land.

TREE REPLANTING REQUIREMENT: A requirement to plant new Trees when Trees are removed, or under other conditions of this Ordinance.

TREE TOPPING: The severe cutting back of limbs to stubs larger than three (3") inches in diameter within the Tree's crown, to such a degree so as to remove the normal canopy and disfigure the tree except where other pruning practices are impracticable or impossible with respect to Trees severely damaged or causing obstructions to wires or cables subject to Cable and Utility Company exemption.

URBAN TREE RISK MANAGEMENT: A publication of the USDA Forest Service # NA-TP-03-03 of complete title: "Urban Tree Risk Management: A Community Guide to Program Design and Implementation."

UTILITY AND CABLE COMPANY: Public utility or cable television companies entering the Borough for the purpose of erecting, installing, moving, removing, altering, or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication, or cable television, cellular communications, or internet services.

II. COMMUNITY FORESTRY MANAGEMENT PLAN

Unless otherwise excepted by the Borough as inconsistent with the overall master plan or not in the best interests of the Borough, the Community Forestry Management Plan dated 10/16/06 is hereby adopted and the policies and procedures contained therein are incorporated by reference, including, by way of example and not limitation, the provisions involving goals, administration, training, public education, awareness and outreach, Tree inventory, hazard management, planting, maintenance, waste recycling, and disaster plans. To the extent there shall be any inconsistencies between this ordinance and the Community Forestry Management Plan, this ordinance shall govern. The Borough may require the Community Forestry

Management Plan be amended, modified, or supplemented to comply with or effectuate the purpose of this ordinance or any amendments thereto.

The Community Forestry Management Plan shall be periodically updated for submission and approval, upon the timetable established or required by the State of New Jersey, for compliance with the New Jersey Community Forestry Program under the New Jersey Shade Tree and Community Forestry Assistance Act, P.L. 1996, Chapter 135, or as amended. Revised Community Forestry Management Plans shall be adopted by the Borough prior to submission to the State of New Jersey, subject only to modifications required by the State for approval.

III. GENERAL PROTECTION AND MAINTENANCE REQUIREMENTS

Construction. All Persons who shall conduct, or cause to be conducted, any erection, repair, alteration, construction, or other similar act near any Tree, shall use best efforts to protect and preserve the Trees in and about the area of such conduct.

Tree Maintenance of Borough Trees. The Borough shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the Borough as may be necessary to insure public safety, preserve or enhance the beauty or symmetry or public grounds, or effectuate the intent and purpose of this ordinance. The Borough may remove or cause to be removed any Tree or part thereof which is in an unsafe condition or which may be injurious to sewers, electric lines, gas lines, water lines, or other public improvements, or which is or may be infected with any fungus, insect, or pest.

Borough Projects. In the event that the Borough Engineer has determined that one (1) or more Borough Trees must be removed a) for the benefit of a Borough Project, or b) due to one (1) or more Borough Trees becoming a Hazardous Tree due to a Borough Project, then

- a. The Borough Tree(s) and the stump(s) shall be removed, and,
- b. The Borough Tree(s) shall be replanted on a one (1) for one (1) basis, in accordance with the Planting Requirements of this Ordinance, and,
- c. The cost of the removal(s) and replanting must be a part of the Project Cost, and,
- d. Adjacent Property owners shall be notified and offered the option to participate in the Adopt-a-Tree Program.

Prohibited Actions: The following practices are prohibited and shall constitute a Violation if such practice continues by the same person, Landscape Company, or on or near the same private property.

Notice of the Violation condition shall allow a 7 calendar day grace period after which the property owner shall be subject to the proscribed Violation Penalty if the condition remains or continues.

Second Violations of the same type for the same property owner shall not allow such grace period.

Violation Types 1, 2 and 4 shall not allow such grace period.

Violation Type 1 - Unauthorized Removal:

- a. Unauthorized removal of a Borough Tree.

Violation Type 2 – Vandalism or Severe Preventable Damage:

- a. Malicious vandalism of any Borough Tree.
- b. Cut, break, injure, disturb, install nails or other metal objects into, or interfere in any material manner with any Borough Tree, or Tree in a Commercial Buffer Area;
- c. Roots cut from a Borough Tree in such a manner to destabilize the Borough Tree.
- d. Conduct any excavation without a Permit within four (4') feet of any Borough Tree; and/or
- e. Engage in any Tree Topping of a Borough Tree as defined in this ordinance.
- f. Spray any Borough Tree or near any Borough Tree, any chemical which may cause injury or death to said Borough Tree, or place salt, brine, oil, or any other substance which is or may be injurious to plant growth on the ground, sidewalk or street area within 30' of the base of the Borough Tree.

- g. To build fires or station any kettle, road roller, fuel oil dispensing truck, or other engine in any street or other public place in such a manner that the heat, vapors, fuel or fumes may injure a Borough Tree.

Violations Type 3 - Other:

- a. Mulch installed to more than 6" deep at the base of a Borough Tree.
- b. Motorized trimmers and lawn mowers utilized in such a way to damage the bark or cambium layer of a Borough Tree.
- c. Soil applied in excess of 6" deep on top of the soil at the area under the drip line of a Borough Tree.
- d. To remove or injure any guard or device placed to protect any Borough Tree.
- e. To place salt or other substances injurious to plant growth in any street, park, and public place in such a manner to injure any Borough Tree.
- f. Fasten any rope, wire, sign, or other device to any Borough Tree or to any Guard about such Borough Tree;
- g. Close or obstruct any open space about the base of any Borough Tree which would prevent the access of air, water, and fertilizer to the roots of such Tree;
- h. Every person having or maintaining utility lines in the street, park or public place shall maintain such lines in a manner as will safeguard the Borough Tree against damage and make periodic adjustments whenever necessary to prevent damage to Borough Trees.
- i. Place or maintain in any street or ROW or park, any stone, cement, or other sidewalk or other substance which may impede the free access of air and water to the roots of any Borough Tree, and, where any Borough Tree is surrounded by pavement of stone, placement of cement or asphalt or any other substance tending to impede the free access of air and water to the roots of any Borough Tree;

Violation Type 4 – Heritage or Specimen Tree:

- a. Violations, as listed above, against a Heritage Tree.

b. Violations, as listed above, against a Specimen Tree.

Borough Intervention for Public Safety. The Borough may notify in writing any property owners of any Tree(s) which may, for any reason, threaten public safety, and require the removal of any such Tree(s), or pruning of such Tree limbs, at the owner's expense and in accordance with the requirements of this ordinance with such removal to occur within thirty (30) days of the date of such notice. The Borough may remove such Tree(s), or prune such Tree limbs, in the event of owner's failure to cause such removal, and the costs thereof shall be included in the next property tax bill rendered to the owner. The Borough or the Commission shall give reasonable notice of its intention to remove or prune, or cause the removal or pruning of any Tree(s), or part thereof, unless public safety requires immediate removal, in which case no notice shall be necessary.

Diseased Trees: The Commission shall have the power to administer treatment to or remove any Tree(s) situated upon Private Land which is believed to harbor a disease or insects, or is within the recommended radius of a Tree which is believed to harbor a disease or insects, readily communicable to neighboring healthy trees in the care of the Borough. The Borough shall have the right to enter upon Private Land for that purpose, with notice to the Property Owner thereof, provided that the suspected condition is first confirmed by a certificate by or on behalf of the Department of Agriculture. The cost of such treatment or removal shall be borne by the Borough.

Sewer Service Mains. All sewer service mains from private improvements to the point of tap at the public sewer main are the responsibility of the Property Owner to maintain regardless of the origination of any Tree roots or other Tree related problem. The Borough shall not be responsible for clearance of Tree roots, or replacement of sewer piping, or any other affiliated expense of sewer service mains. In the event that repair or replacement of the sewer main pipe would destabilize a Borough Tree(s) and cause it (them) to become a Hazard Tree(s) according to USDA Forestry guidelines, then the Property Owner must remove and replace the Borough Tree(s) at the Property Owner's expense. The replacement Tree must comply with the Planting Requirements of this Ordinance.

Overhead Utility Lines. Property Owners shall not prune or cause to be pruned any portion of any Tree within ten (10') feet vertical or horizontal distance of a utility wire, inclusive of electric, cable and telephone wiring. Issues pertaining to such wires shall be reported to the Utility Company.

Sidewalk Repairs and Replacements. Property Owners are responsible for the maintenance of sidewalks at all times. In the event that sidewalk work for repair or replacement

becomes necessary for any reason, the Property Owner must obtain a Permit from the Department of Buildings. The Permit process shall include a review by the DSTC of any Borough Tree(s) within the ROW.

In the event that repair or replacement of the sidewalk, in like and kind, would destabilize the Borough Tree(s) and cause it (them) to become a Hazard Tree(s) according to USDA Forestry guidelines, then the Property Owner must remove and replace the Borough Tree(s), on a one for one basis, at the Property Owner's expense unless the Property Owner meets both of the following two requirements of Proof:

- a. Proof that one, or a combination of, the following options cannot be done to avoid creating a Hazard Tree condition:
 - i. Re-route the sidewalk, within the ROW, with a minimum sidewalk width of three (3') feet and a clear distance of at least twenty-five (25%) percent of DBH from the edge of the new sidewalk to the point where the root collar enters the soil, AND/OR,
 - ii. Re-grade soils and the sidewalk, but the new sidewalk slope shall not exceed 1:12 ratio, or current ADA handicapped accessibility standards, and the soil height shall not be increased more than 6", AND/OR
 - iii. Use alternate materials, but such materials shall have a warranty period of at least ten (10) years.
- b. Proof that the Borough Tree(s) meet the definition of an Overgrown Tree.

The Property Owner must provide such proof along with any notice to the DSTC that the Borough Tree(s) requires removal at Borough expense.

The replacement Tree(s) must comply with the Planting Requirements of this Ordinance.

IV. PLANTING REQUIREMENTS

No Person shall plant any tree in any Park or Street, or other Public Land, or in the ROW, without a Permit or written direction from the DSTC. Planting in Private Land is not governed by or regulated by this Article.

The DSTC may waive or modify required planting locations if field conditions or mitigating circumstances exist, such waiver or modification to be in writing only.

Adopt-a-Tree Program:

If the DSTC or the Borough deems that a new Tree or replacement Tree shall be planted, then the Borough may plant within the ROW as determined by the DSTC. Property Owners shall be given the opportunity to participate in the Adopt-a-Tree Program, which shall be reviewed periodically by the DSTC and shall, at a minimum meet the following criteria:

- a. The Property Owner may select a tree from the appropriate DSTC approved list.
- b. The Property Owner shall water the Tree after planting once a day for a week, once a week for a month and once a month for a year. Approved DSTC guidelines for watering shall be followed.
- c. The Borough of Dumont shall maintain the tree.

DSTC Approved Tree Lists:

The DSTC shall periodically review and approve lists of Small, Medium and Large Trees for planting in Public Lands in the Borough. Such lists shall be made readily available to the public.

Planting Technical Criteria and Requirements:

- 1. Minimum Spacing Between Trees: The spacing for planting of street trees shall be in accordance with the three (3) size classes listed under Definitions, as follows:

	Small Tree	Medium Tree	Large Tree
Small Tree distance to the nearest	15'	15'	15'
Medium Tree distance to the nearest	15'	30'	30'
Large Tree distance to the nearest	15'	30'	40'

1. Confining Elements: When practicable, the planting distance from curbs or curb lines and sidewalks or other paved areas shall be in accordance with the three (3) size classes listed under Definitions, as follows: for a Small Tree, shall be one-foot and three inches (1'-3"); for a Medium Tree shall be two (2') feet and for a Large Tree shall be four (4') feet.
2. Distance from Utilities: The distance from the center of the tree to the vertical plane through a utility line shall be as follows:

	Small Tree	Medium Tree	Large Tree
Underground water, gas or sewage mains, or oil fill pipes, or coal fill chute	6'	12'	16'
Overhead electric, telephone and cable wires	0'	4'	4'

3. Tree Collar Damage Prevention: There shall be kept clear of lawn, vegetation and weeds an area of a minimum of one (1) foot around the base of newly planted trees. The intent of this section is to prevent injury to the newly planted trees from lawn mowers and trimmers.
4. Fire Safety: No Street Trees, or other woody plant material shall be planted, or allowed to branch into the ROW within:
 - a. Fifteen (15') feet of a fire plug, a standpipe connection, or any other water connection point for Fire Department use, or
 - b. The area directly in front of the entrance and egress doors to a building.
5. Traffic and Pedestrian Safety: No Street Trees, or other woody plant material shall be planted, or allowed to branch into the ROW within:
 - a. Twenty (20') feet of the mid-point of the curb corner at any intersection,
 - b. Seven (7') feet of a curb cut,
 - c. A location where the roadbed curves, in such a manner to block the view of drivers exiting any curb cut.
 - d. Twenty five (25') feet of a street light.

- e. Thirty (30') feet of a stop sign, traffic light.
- f. Six (6') feet of other traffic signs.
- g. The area between five (5') feet and fifteen (15') feet behind a parking meter where car doors are anticipated to open.
- h. A zone where such tree or woody plant material does not allow a clear three (3') wide pedestrian walkway to be maintained.
- i. A zone within five (5') feet from the curb at bus stops, for the full length of the bus in the stopped position.

6. Other Planting Requirements:

- a. Tree species must be selected from the DSTC Approved Tree Lists of Small, Medium or Large Trees, or shall be reviewed by the DSTC on a case by case basis for authorization to plant.
- b. Three (3) or more trees of the same species may not be planted in immediate sequence proximity to each other. The purpose of this is to encourage biodiversity.
- c. Tree(s) may be planted on either side of sidewalks in lawn areas where there is sufficient room within the ROW, however, the center of the new Tree shall be set in at least one-foot six-inches (1'-6") from the ROW border line.
- d. Tree(s) may be planted in a Tree pit at the curb line of a sidewalk, where the sidewalk extends to the curb, provided that the remaining sidewalk is not less than three (3') feet clear, and provided that the tree pit is paved with a porous surface, such as cobbles or pavers set in sand, and that the tree pit is of the following sizes:

Tree Size:	Minimum Tree Pit Size:
Small Tree	3' x 4'
Medium Tree	5' x 10'
Large Tree	10' x 10'

V. COST OF TREES, MAINTENANCE AND IMPROVEMENTS

Borough Expenses:

The Borough shall bear the cost of the following Community Stewardship Incentive Program (CSIP) goals:

- CSIP 1 Plan Preparation
- CSIP 2 Training in accordance with the NJ DEP Community Forestry Program.
- CSIP 3 Public Education and Awareness
- CSIP 4 Arbor Day Celebration
- CSIP 5 Assessment and Inventory
- CSIP 6 Tree Hazard Identification Plan
- CSIP 7 Tree Planting
- CSIP 8 Tree Maintenance
- CSIP 9 Tree Recycling
- CSIP 10 Ordinance Establishment
- CSIP 11 Tree Care Disaster Plan
- CSIP 12 Insect and Disease Management
- CSIP 13 Other Expenses related to Borough Trees

Voluntary Planting and Maintenance Expenses:

Private Property Owners may apply to the Commission to voluntarily plant or maintain a Tree or Trees in the ROW abutting the Private Property. Permission shall be granted, provided the planting complies with this ordinance and other policies as approved by the Commission under an "Adopt-a-Tree Program". Voluntary plantings or maintenance costs may be borne by the Property Owner at one point in time, but this event does not obligate the Property Owner to bear future costs of maintenance or removal.

Fee and Violation Penalty Schedule:

The DSTC shall review and propose updates to the Fee Schedule for Tree Permits, Licensing, and for Violation Penalties at not more than 24 month intervals. Such fees shall not exceed the maximum amounts allowed by the NJ DEP Community Forestry Program. All such fees and violation penalties shall be deposited to the Segregated Tree Account.

The revised Fee and Violation Penalty Schedule shall be submitted to the Borough Council and shall be made effective only by a majority vote of the Borough Council.

Segregated Tree Account and Use of Funds:

All Tree Permit Fees shall be deposited to a segregated interest bearing account (Tree Account) administered by the Borough, and held for use as determined and directed by majority vote of the Commission during a regular meeting. Such funds may not be utilized to offset the annual Tree Budgetary expenditures of the Borough. Such funds may be utilized for the purposes of (i) Tree planting; (ii) public education regarding Trees; or (iii) Arbor Day observance or recognition.

VI. TREE PERMITS, PERMIT REVOCATION & LICENSING

Tree Permit:

The Tree Permit process shall be administered through the Department of Buildings, and shall include review and approval by the DSTC prior to issuance.

A Tree Permit is required in the event that a Property Owner intends to conduct any of the following types of work in the ROW:

- a. Repair, remove or replace a sidewalk;
- b. Remove or maintain a Tree;
- c. Plant a Tree.

Tree Permit Fees, as set by further enactment of the Borough of Dumont Mayor and Council, shall be paid prior to issuance of the Tree Permit in accordance with the Fee Schedule. All such fees shall be deposited to the Segregated Tree Account.

Tree Permit Revocation:

The DSTC or the Borough Council, through the Code Enforcement Officer, may revoke a Tree Permit where there has been a false or misleading representation, or where the Certificate of Insurance of a Landscaper or Tree Contractor has been revoked or expired.

VII. INTERFERENCE WITH BOROUGH OR COMMISSION

It shall be unlawful for any person to prevent, delay, interfere or impair the Borough, the DSTC, or any of its agents, while engaging in any act to affect the purpose of this ordinance.

VIII. VIOLATIONS AND PENALTIES

Any person who violates any of the provisions of this Ordinance or who fails to comply with the terms and provisions of any permit issued pursuant hereto shall upon conviction in municipal court thereof, be liable for a fine at the discretion of the court in accordance with the Violation Penalty Schedule. Each day that a violation shall continue shall constitute a separate offense.

IX. APPEAL PROCEDURES

Property Owners may Request to Appeal decisions of the Commission under the following procedure:

1. The Property Owner must submit a Request in writing to the Commission inclusive of their reasons and third party evidence upon which the Appeal will be based. Examples of third party evidence are photographs, surveys, authoritative documents, expert reports or other evidence in support of the Request.
2. The Commission shall have not more than 30 days from the date of receipt of the written documents to review the information and may respond with (i) a reasonable request for additional information; (ii) acceptance of the Property Owner's request, or (iii) rejection of the Property Owner's Request with reasons stated. If additional information is subsequently submitted, then the commission shall have an additional 30 days from the date of submission of the additional information to either accept or reject, with reasons stated, the Property Owner's Request.
3. In the event that the above conditions are met, and the Commission has continued to reject the Property Owner's Request, then the Property Owner may present the same request and the same information to the Borough Administrator. The Borough Administrator shall not have more than 30 days from the date of receipt of the written documents to review the information and may respond with a reasonable request for additional information. If all of the additional information requested is subsequently submitted, then the Borough Administrator shall have an additional 30 days to present the Request to the Mayor and Council who will decide to either accept or reject the Property Owner's Request with reasons.
4. In the event that the above conditions are met, and the Mayor and Council have rejected the Property Owner's Request, then and only then, will all administrative remedies be considered exhausted, and the Property Owner may pursue other legal options.

The cost of obtaining and submitting any reasonably requested information shall be at the expense of the Property Owner regardless of the outcome of the Appeal.

X. NO LIABILITY

Nothing in this ordinance shall be construed to make the Borough or the Commission nor any Member responsible for the death or injury of any person, or for injury to any property or Tree. Liability for any such death or injury shall be governed by relevant provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1).

XI. SEVERABILITY

The various sections of this ordinance, including articles, sections, sentences, clauses, phrases and words, are severable, and if any part is held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this ordinance.


XII. EFFECTIVE DATE

This ordinance shall take effect immediately upon publication thereof.

BOROUGH OF DUMONT


Matthew P. McHale, Mayor

ATTEST:


Susan Connelly, Borough Clerk

Introduced: February 19, 2008

Adopted: March 4, 2008