

482-10. Preservation of certain trees. [Added 6-20-2006 by Ord. No. 68-2006]

- A. Purpose. The intent and purpose of this section is to establish standards for the City for the **protection** and preservation of certain trees defined herein growing in a natural state within this municipality.

- B. Definitions.

ISSUING AUTHORITY — The Shade **Tree** Commission shall review and approve the issuance of all **tree** removal permits.

NATURAL RESOURCE **TREE** — Any woody perennial plant, having a diameter of eight inches or greater measured at a point four feet above the ground.

PRESERVATION EASEMENT — Agreement wherein the landowner agrees to take no action which will jeopardize the health of a protected **tree** and to grant to the City access to maintain such protected **tree**.

REMOVE OR REMOVAL — The cutting down or other permanent destruction of a **tree**, regardless of whether the trunk or root system is allowed to remain.

- C. Applicability. This section shall apply to the removal of all trees, growing upon any land in the City unless such trees are permitted to be removed under the provisions included in Sections 482-1–482-7 above, are trees growing on a property as part of a nursery or garden center, or are otherwise regulated as part of the City's zoning regulations as set forth in Section 482-10F. below. Trees blown over and damaged beyond repair as approved by the Shade **Tree** Commission may be removed immediately without permit.

- D. Permit; application; procedure; fee.

- (1) No person shall remove or destroy any **tree** subject to the regulations contained in this section without first obtaining a **tree** removal permit from the City.
- (2) **Tree** removal permits shall be reviewed and approved by the Issuing Authority and, once approved, issued by the Shade **Tree** Commission Office to the owner or his authorized contractor and shall contain the name and address of the owner of the lands upon which the **tree** or trees sought to be removed are located, and the type, size and location of **tree** or trees sought to be removed.
- (3) The applicant shall file an application for a **tree** removal permit on forms made available in the Shade **Tree** Commission Office. At the time of filing the application, the applicant shall pay a fee of \$25. for each **tree** to be removed, but not more than \$100. per application. Fee is reimbursable if **tree** remains.
- (4) The **tree** removal permit shall be valid for one year from the date of issuance. If, at the end of the term, the Issuing Authority is satisfied that the standards set by this section have been met and that no violations of this section have taken place, the permit shall be renewed, subject to any conditions as defined in Subsection E. of this Section 482-10.

- E. Conditions and standards for grant or denial of permit. The Issuing Authority shall grant or deny such permit with reference to the standards contained in this subsection. In applying such standards, the Issuing Authority may condition the grant of the permit upon such reasonable conditions as may be deemed necessary to effectuate the purpose of this section.

- (1) The Issuing Authority shall be satisfied that the removal of any particular **tree** which is unique in age, size or type is required for the effective utilization of the lands in question.
 - (2) The Issuing Authority shall be satisfied that the removal of trees proposed shall not impair the growth and development of the remaining trees on the lands where the proposed **tree** or trees are situated as well as on other adjacent lands therefrom.
 - (3) The Issuing Authority shall be satisfied that adequate precautions shall be taken with respect to the removal of the **tree** or trees, that other trees will not be damaged by mechanical removal, that the roots of remaining trees will not be cut. Wood may be cut to fireplace size and stacked at an appropriate location for owner's use.
- F. Development, subdivision and site plan approval. The removal of trees as part of any development which is governed by the zoning and development regulations contained in Chapters 417, 445 and 525 shall not require a **tree** removal permit. Said removal shall conform instead to the requirements of such regulations, and it shall be inferred that any **tree** removed from a property in conformance with the provisions of such regulations shall be permitted by this section.
- G. Right to hearing. Any person aggrieved by a decision of the Issuing Authority shall be afforded a hearing with respect thereto before the City Manager and a representative of the Shade **Tree** Commission, if a written request is filed within ten (10) days from the action of the Issuing Authority.
- H. Trees of special value.
- (1) The City Council may designate, by ordinance, a certain **tree** or a certain species of **tree** as being of special value based on size, rarity or historical importance.
 - (2) Notwithstanding Subsection F. of this Section 482-10, if any **tree** or species of **tree** designated under this section is located on a site being considered for subdivision approval, the Planning Board may, as a condition of final approval, require the developer to grant a preservation easement to the City of Cape May.
 - (3) If any **tree** or species of **tree** designated under this section is located on private property not seeking subdivision approval, the City may acquire a preservation easement by gift or purchase.
 - (4) It shall be a violation of this section, punishable under Subsection I. of this Section 482-10, for any person, corporation or entity to remove a **tree** in order to avoid the provisions of this section.
- I. Violations and penalties.
- (1) Any person, corporation or entity violating any provision of this section shall be punished as provided in Section 482-9A. of this chapter.
 - (2) The Code Enforcement Officer shall be responsible for enforcing of this chapter.
 - (3) Nothing herein shall be deemed to limit the remedies available to the City of Cape May or other person seeking to compel enforcement of this section, and the remedies of compelling replacement of a **tree** or trees by paying money damages shall be considered cumulative.