TITLE 20
MISCELLANEOUS

CHAPTER 1
TREE ORDINANCE

SECTION
20-103. Exemptions.
20-104. City arborist.
20-105. Tree preservation.
20-106. Permits.
20-109. Tree maintenance.

20-101. Purpose. The purpose and intent of the chapter is to establish
a system to regulate the management, care, removal and preservation of trees
within the city limits consistent with the natural resource goals established by
the comprehensive plan by:
(1) Encouraging the protection of existing trees on the city’s streets
and public lands,
(2) Regulating the preservation, removal and replacement of trees in
future subdivisions and nonresidential developments, and
(3) Establishing arboricultural standards and practices for existing
and future trees and woody vegetation in the city. (Ord. #93-134, Aug. 1993)

20-102. Definitions. The following definitions shall apply to this
chapter as these terms are used herein:
(1) "Basal area." Cross sectional square footage measured by going
through the trunk of a tree on a parallel plane to the ground at diameter breast
height.
(2) "Beautification committee." The City of Forest Hills Beautification
Committee established September 12, 1991.
(3) "Caliper inches." Quantity in inches of the diameter of replacement
trees measured at a height of six (6) inches above the ground for trees four (4)
inches in trunk diameter and under, and at twelve (12) inches above the ground
for trees over four (4) inches in trunk diameter.
"Diameter Breast Height (DBH)." The diameter in inches of a tree measured at four and one-half (4½) feet above the existing grade.

"Hazard tree(s)." Dead, dying or diseased trees that pose a safety or health risk to the public or to other public trees.

"Prohibited trees." Any tree which by the nature of its fruit, root system, brittleness or wood, or susceptibility to disease is not allowed as a replacement tree. Prohibited trees are those specifically identified in the list of prohibited trees available in the city recorder's office.

"Protected tree(s)." Existing tree, exclusive of any prohibited tree, eight (8) inches DBH or greater.

"Public tree(s)." Any tree growing on public land. Trees growing on public street rights of way which are owned by a governmental entity other than the city and on easements on or through private property are expressly excluded.

"Replacement tree(s)." Those trees required to be planted based on the difference between the required tree density factor and the actual tree density factor following all approved tree removal.

"Subdivision." The division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division of less than five (5) acres for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided.

"Tree(s)." A woody perennial plant including deciduous and non-deciduous varieties generally having one (1) or more main stem or trunk which develops many branches above ground which may grow and become a protected tree or has already become a protected tree.

"Tree density factor." A number based on the basal area and derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted as further defined in the zoning ordinance.

"Tree topping." Arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

(1) Private residential property including single lots, except as compliance is required by section 504 of the zoning ordinance.

(2) Public rights of way: As to the requirements for replacement trees.

20-104. City arborist. The following provisions apply to the city arborist:
(1) The city arborist shall be appointed by the board of commissioners based upon the recommendation of the beautification committee. The city arborist shall have such education, skill, experience and training in the art and science of municipal arboriculture, as the beautification committee deems appropriate.

(2) The city arborist may receive compensation commensurate with his training and experience as set from time to time by the board of commissioners.

(3) The duties of the city arborist shall include but not be limited to the following:

(a) Superintend, regulate and encourage the preservation, culture and planting of trees and to direct the method and time for planting and pruning the same.

(b) Review all permits related to tree removal, tree protection and tree replacement as outlined in this chapter and/or the zoning ordinance.

(c) Respond to complaints and concerns about public trees.

(d) Prepare, review and maintain the list of prohibited trees.

(e) The city arborist shall meet with each utility company once a year to review maintenance practices.

(f) Perform other tree related duties as determined by the city.

(4) The city arborist shall serve at the pleasure of the board of commissioners and shall be subject to immediate dismissal by the act of the board of commissioners. (Ord. #93-134, Aug. 1993)

20-105. Tree preservation. Consistent with the expressed purposes of the chapter, all residents and citizens of the city are encouraged to make reasonable efforts to preserve and retain any native, existing, self-supporting, woody plants, whether such plants are trees as defined herein, or smaller native flora which are part of the understory, shrub or groundcover layer within the city limits. (Ord. #93-134, Aug. 1993)

20-106. Permits. The following provisions shall apply to the issuance of all tree permits.

(1) No person shall directly or indirectly damage, destroy or remove any living tree in violation of the terms of this chapter without first filing an application as described herein and procuring a tree permit from the city manager. Prior to its issuance by the city manager, the application shall be reviewed by the city arborist.

(2) An application form for a tree permit governing planting of replacement trees, pursuant to section 504 of the zoning ordinance, and removal of protected trees shall be prepared and issued by the city manager at the city office. The application form shall require the submission of the following items:

(a) Those items, at the same scale, required by section 806 and section 807 of the zoning ordinance.
(b) A tree survey which shall be dated within two (2) years of the date of the tree permit application establishing the location of all protected trees which the applicant wishes to count and maintain toward the required tree density factor. The tree survey shall also indicate tree species and Diameter Breast Height (DBH).

(c) Designation of location, size and species of replacement trees as required by section 504 of the zoning ordinance, which calculations showing compliance with required tree density factor.

(d) Location of all existing and proposed structures; improvements, rights-of-way and easements, including construction storage and staging areas, on the property and the designation of all public rights-of-way and other public land adjacent to the property.

(e) Any proposed changes in grade or drainage on the property with an explanation of how protected trees are to be preserved and protected from the changes.

(f) A statement of how trees are to be protected during construction. Methods shall be consistent with § 20-107.

(g) The name, address, seal and signature(s) of the site surveyor, engineer and/or landscape architect, who shall be responsible for the accuracy of the information provided.

(3) Notice of commencement and completion of the work or other activity authorized the by tree permit shall be made to the city arborist as set forth on the tree permit when issued. A tree permit shall be valid for a period of twelve (12) months, after which if work is not complete applicant must apply to the city manager for an extension, and until the extension is granted all tree removal governed by the tree permit must cease.

(4) Permits for public utilities: tree permits allowing for pruning or removal of trees necessitated by the installation and/or on-going maintenance of public utilities shall be issued by the city manager for a period of one (1) year and may be renewed annually subject to continued compliance with the conditions of this chapter.

(5) The city may establish reasonable fees sufficient to cover the costs of administration, including the review of plans, and inspection to be charged to applicants for tree permits established by this chapter. The amount of such fees may be set forth by amendment hereto, or in the city fee ordinance.

(6) In the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, safety or welfare, that determination must be made in writing by the city manager and city arborist, and the tree may be removed or repaired.

(7) During the period of an emergency, such as a tornado, ice storm, flooding or any other act of nature, any and all of the provisions of the chapter may be suspended by the city manager or any one of the board of commissioners.

(8) In the event that any applicant is dissatisfied with a decision of the city manager or city arborist involving any application or interpretation of any
provision of this chapter or the denial or granting of any tree permit hereunder, such applicant may make a written request to the city within thirty (30) days of any such decision, and the board of zoning appeals will review the decision based upon a study and recommendation of the beautification committee. The determination about the application or interpretation made by the board of zoning appeals shall be final. (Ord. #93-134, Aug. 1993)

20-107. Protection of trees. The following tree protection provisions shall apply:

(1) It shall be unlawful to fasten any sign, card, poster, wire, rope or other material to, around or through any tree or its guard.

(2) The following rules shall apply during work allowed and controlled by any tree permit and until such work is completed:
   (a) There shall be erected and maintained suitable protective barriers around all trees to be retained which are within twenty-five (25) feet of any construction activity;
   (b) Protective barriers shall generally be located no closer than ten (10) feet from the trunk of a protected tree;
   (c) Adjustments to the size, scope and materials used for tree protection barriers set forth in the tree permit may be altered with permission of the city arborist to avoid undue hardship during construction;
   (d) All land disturbing activity, storage of equipment, building material, dirt and other materials shall be kept outside of the tree protection barriers.

(3) Unless specifically approved by the city arborist, it shall be unlawful to place or maintain upon the ground within the protective barriers of any protected tree, any impervious material or substance that may obstruct the free access of air and water, including but not limited to fill material, pavements, toxic substances, vehicles or material storage, provided however, this limitation in this paragraph shall not apply to paving, repairing, or altering of streets or sidewalks authorized by the city, or to the installation of private drives which have been authorized by the city provided the private drive must be constructed in the area and in the manner authorized by the city.

(4) All protected trees designated to remain on the tree survey or by the tree permit that are damaged or injured during construction, or damaged or injured as a result of construction, shall be repaired according to accepted International Society of Arboriculture practices, or replaced such that the total density units of the replacement trees meets or exceeds the total density units of the protected trees.

(5) All protected trees designated to remain on the tree survey or tree permit shall be inspected by the city arborist one (1) year following completion of the construction to insure that they are surviving in a healthy condition. Protected trees which require repair or replacement shall be identified by the
city arborist and the holder of the tree permit shall be notified of the city arborist determinations in writing. Replacement and/or repair shall be completed as required by this § 20-107.

(6) All replacement trees required to meet the requirements of section 504 of the zoning ordinance, shall be inspected by the city arborist upon completion of planting and one (1) calendar year after planting to insure that they are surviving in a healthy condition. Replacement trees which are found to be in a declining condition shall be replaced by the developer within thirty (30) days of notification from the city arborist or as soon as conditions are favorable for planting as determined by the city arborist. All replacement trees shall be subject to inspection by the city arborist. The planning commission may require that a bond be posted to insure compliance with this requirement when approving a site plan for a nonresidential development or a final flat for a subdivision. (Ord. #93-134, Aug. 1993)

20-108. Hazard trees. (1) Trees standing on public land or standing on private land adjacent to any public land that are designated hazard trees by the city arborist may be removed or repaired if the city manager determines the removal or repair is necessary to protect the public health and safety. If the hazard tree is on private land, the city manager may notify the owner of the private land in writing of said risk and request the removal or repair of the hazard tree within a prescribed period of time.

(2) If the owner of the private land does not remove or repair the hazard tree within the prescribed time, then the city manager shall have the authority to enter upon the private land and remove or repair the hazard tree. The cost of removal or repair including stump removal to below ground level may be charged against the owner. (Ord. #93-134, Aug. 1993)

20-109. Tree maintenance. (1) Tree topping is strongly discouraged as a tree care practice for any trees in the city.

(2) The practice of tree topping is prohibited on all public trees unless specifically approved by the city arborist.

(3) The standard tree pruning method for public trees will be branch collar pruning or other approved pruning methods established by the National Association of Arborists.

(4) Tree pruning in the vicinity of public utility lines shall be undertaken by the utility responsible for maintaining those lines. The pruning methods undertaken by the utility shall be consistent with those indicated herein. The city manager shall be notified by the utility two (2) weeks in advance of proposed scheduled maintenance and the city manager shall notify the city arborist of the proposed maintenance. Where possible, under overhead lines, the utility shall undertake a program of replacing canopy trees which have undergone tree topping with understory trees which have a maturity height of not more than twenty (20) feet or as approved by the city arborist.
(5) All individuals and/or firms conducting tree maintenance and removal activities for public trees or hazard trees which affect public lands shall have and provide city manager with proof of three hundred thousand dollars ($300,000) of general liability insurance coverage and requisite workman's compensation coverage. Additionally, those individuals and/or firms conducting tree maintenance activities for public trees or hazard trees which affect public land shall have received certification by the International Society of Arboriculture by satisfactory completion of the national exam. (Ord. #93-134, Aug. 1993)