

## Chapter 173. Trees

### § 173-2. Removal of trees.

[Amended 2-17-2023 by Ord. No. 803]

- A. Trees with a circumference of less than 20 inches measured one foot above ground level may be removed without a permit.
- B. No tree 20 inches or greater in circumference measured one foot above ground level shall be removed or destroyed without written approval in the form of a permit from the Town Building Official, based upon the criteria set forth below.
- C. The Town Building Official shall issue a permit for the removal or destruction of a tree only if:
  - (1) The tree is less than 40 inches in circumference, as measured one foot above ground level, and is shorter than 25 feet measured from ground level; or
  - (2) The removal or destruction of the tree is required to protect persons or property from harm; or
  - (3) The tree is unlikely to survive due to age, disease, or other cause; or
  - (4) The tree is located within the footprint of any new construction, including the area necessary to facilitate such construction. All reasonable efforts shall be made during construction or renovation to protect from harm any and all trees otherwise protected under this chapter. To this end, the Town may identify and enforce protected areas for the protection of trees and roots during construction.
- D. A signed statement from a licensed arborist is required to support removal of a tree under the criteria in Subsection **C(2)** or **(3)**. The Town reserves the right to consult an independent licensed arborist before issuing a permit to remove the tree. If a tree poses imminent harm to persons or property because of a storm or other emergency, the Town Building Official should be notified, and the tree or portions of the tree posing imminent harm may be removed.

### § 173-3. Replacement of trees removed under permit.

[Amended 2-17-2023 by Ord. No. 803]

- A. Each tree removed or destroyed under a permit approved according to the criteria in § **173-2C(1)** or **(4)** must be replaced with a new tree satisfying the following minimum requirements:

- (1) Native species included on the Delaware Department of Agriculture list of recommended trees, or other similar authoritative list; the Town Building Official shall maintain and provide a copy of the current list;
  - (2) Minimum <sup>diameter</sup> ~~circumference~~ measured one foot above ground of <sup>3</sup> ~~4.5~~ inches; and
  - (3) Minimum height of 12 feet when planted.
- B. Replacement shall be completed within 90 days after removal. The Town Building Official may extend this period if weather or other conditions warrant.
- C. If the cost of replacing the tree would exceed \$5,000, with prior documentation to and approval from the Building Official, the replacement tree may be of smaller circumference than specified above, provided the tree was removed under a permit. The replacement tree must be the largest size commercially available under \$5,000.
- D. Replacement trees must be properly maintained and may be inspected by the Town one year after replacement. The Town Building Official may consult with a licensed arborist and may require replacement of any tree for which, in the arborist's judgement, survival of the tree is threatened because of improper maintenance.