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# Proposed Amendment to Chapter 270 Trees

**[HISTORY: Original Ordinance adopted by the Mayor and Council of the Borough of Oradell 7-22-2008 by Ord. No. 08-09. Amendments noted where applicable.]**

## GENERAL REFERENCES

Environmental Committee — See Ch. 22.

Shade Tree Committee — See Ch. 92, Art. VI.

Yard and autumn leaf waste — See Ch. 290.

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**Note: The plan would be for the current text in Chapter 270 to be struct in its entirety and replaced with the following:**

### § 270-1 Intent and Purpose.

Whereas, the intent of this ordinance is to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees within the Borough of Oradell; and

Whereas, the purpose of this ordinance is to provide for the control and prevention of the indiscriminate or excessive removal and destruction of trees and their canopies and to establish and define the various roles of the entities who are responsible in the planning, management and enforcement of these critical resources; and

Whereas, the goal of this amended ordinance is to strike a balance between limiting the adverse impacts of tree removal without unduly interfering with the ability of a property owner to appropriately remove trees on private property; and

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Oradell, in the County of Bergen and State of New Jersey, as follows:

### § 270-2 Definitions.

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

#### **CALIPER**

The diameter of the trunk of a tree measured at a point six inches above ground level.

#### **CANOPY**

The upper and outermost part of a tree created by the tree's crown and shall mean, in the case of contiguous trees, the upper and outermost parts of the trees' crowns.

#### **CROWN**

The upper mass or head of a tree created by its branches and leaves.

**DECIDUOUS TREE**

Any woody plant with a main stem or multiple stems with branches protruding above the root flare and that seasonally loses its leaves.

**DESTROY**

To kill or damage irreparably, which shall include, but not be limited to: damage inflicted to the root system by machinery, storage of materials, soil compaction or change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; excessive pruning or thinning not in conformance with American National Standards Institute (ANSI) standards, leading to a failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the tree; or application of any substance toxic to the tree or causing the tree to be exposed to any such substance level.

**DIAMETER BREAST HEIGHT or DBH**

The diameter of the trunk of a tree measured at a point four and one-half feet about ground level on the downhill side of the tree.

**DRIP LINE**

An imaginary line on the surface and subsurface of the ground delineated by the outer limits of the branches of a tree and measured plumb from the branches to the ground. When the outer limits of the branches are indistinct or otherwise unclear, the drip line shall be presumed to be located one and one-half feet from the center of the trunk of a tree for each inch of the trunk DBH. For trees with multiple trunks, the drip line of each trunk shall be measured separately.

**EVERGREEN TREE**

A tree with foliage that remains green and functional throughout the year.

**HERITAGE TREE**

A tree native to, or adapted to, climatic conditions of this area (e.g., oak, maple, sycamore), having a trunk diameter of 25 inches or more measured at four feet above the ground. For this area, such a tree would be presumed to be at least 100 years old.

**ORNAMENTAL TREE**

A tree whether single or multi-stemmed and growing to a maximum height of twenty-five feet.

**ORADELL SHADE TREE TRUST RESERVE**

The fund established and maintained by the Borough pursuant to Section 270-3 of this Code.

**PERMIT**

Written permission of the Public Officer. Whenever, pursuant to any provision of this chapter, the Public Officer shall have occasion to pass upon an application for a permit, they shall, in determining whether or not to issue such permit, take into consideration the nature, species, size, age and condition of any tree involved; the location thereof on the property; the planting, care, protection, maintenance, or removal procedures involved; the public safety and welfare.

**PERSON**

Any individual, firm, partnership, or corporation, or any combination thereof, which shall be construed to designate the plural as well as the singular.

**PLANT CONSTRUCTION**

As applied to public utility companies, poles, wires, cables, subsurface conduits, pipes, manholes and appurtenant facilities of such companies installed in a street.

**PUBLIC OFFICER**

The Code Official as it pertains to tree work on private properties; the Superintendent of the Department of Public Works as it pertains to tree work on public properties and Borough right of ways

**PUBLIC UTILITY COMPANY**

A public utility as defined in N.J.S.A. 48:2-13.

**REPLACEMENT TREE**

In the case of a deciduous tree, a tree which measures at least two and one-half inches in caliper, and in the case of an evergreen tree, a tree which measures at least six feet in height measured from grade. In all cases, the replacement tree shall be of a species and size appropriate for the premises on which it will be planted. Replacement nursery stock shall adhere to the American Standard for Nursery Stock (ANSI Z60.1).

**SHRUB**

Any woody plant with persistent stems protruding from grade level.

**SPECIMEN TREE**

Any tree equal to at least eighty percent of the size of those listed on the “Champion Big Tree Register” of the New Jersey Community Forestry Program in the Department of Environmental Protection’s Division of Parks and Forestry, or any tree actually listed on the “Champion Big Tree Register.

**STREET**

Any road, avenue, street or highway dedicated to the public use for street purpose. A “street” shall be deemed to include all portions lying between the dedicated or established right-of-way and/or planting easement thereof, said lines being identical with the front property lines of lands abutting the street.

**TREE**

Any woody plant with a main stem or multiple stems with branches protruding above the root flare, which includes all deciduous, ornamental and evergreen trees.

**TREE PROTECTION ZONE**

The area within the “drip line” of a tree, as that term is defined hereinabove.

**§ 270-3 Appropriations, Trust Reserve.**

There shall be established and maintained by the Chief Financial Officer of the Borough a segregated fund referred to as the Oradell Tree Trust Reserve, which shall be the depository for all tree replacement fees, service fees, and other funds collected under this chapter of this code, except as may be otherwise provided by law.

The governing body may authorize funds for use by the appropriate parties from the general fund and/or the Oradell Tree Trust Reserve, in its sole discretion in consultation with the individuals and/or entities who are involved in the management and oversight of the program.

The governing body shall take relevant measures and appropriate funds for the retention of a Licensed Tree Expert, who shall advise the Borough in all matters pertaining to this ordinance.

The governing body may appoint such clerks and other employees as it may require and as shall be in accordance with the prevailing Borough salary guidelines and within the limits of the funds so appropriated by the governing body for such use.

The appropriate parties shall make any and all requests for appropriations from the general fund and/or expenditures from the Oradell Shade Tree Trust Reserve in conjunction with the preparation of the Borough's annual budget.

**§ 270-4 Protection and removal of trees on public streets, public properties and Borough rights-of-ways.**

**Approval Required.**

No person shall do, or cause to be done, any of the following acts upon public streets, public properties and Borough rights-of-way or other lands under the Borough's jurisdiction, or cause or permit the same to be done by any third-party contractor or subcontractor, without obtaining the written approval of the Public Officer in accordance with subsection below:

Cut, break, climb with spikes, disturb the roots of or otherwise injure, remove or destroy any tree or shrub or injure, misuse or remove any structure or device placed to support or protect such tree or shrub.

Plant any tree or shrub.

Fasten, staple, nail, screw, or otherwise affix any rope, wire, electric attachment, sign or other device to a tree or shrub.

Place or maintain, or cause to be placed or maintained, in or upon the ground, any stone, cement, sidewalk, mortar, building material, impervious material or other substance that shall impede or prevent the free access of water, air or fertilizer to the roots of any tree or shrub or within the drip line of a tree or shrub.

Place or cause to be placed any chemical or substance harmful to tree life, including but not limited to gasoline or oil, on any tree or shrub or within the drip line of any tree or shrub.

Hitch or fasten an animal to any tree or shrub, or to any guard or support provided for the same or permit any animal to bite or otherwise injure any tree or shrub.

Hitch or fasten a bicycle or other personal property to any tree or shrub, or to any guard or support provided for the same.

A person may request in writing the approval of the Public Officer to undertake an activity otherwise prohibited in subsection above. Within ten (10) business days of said written request, the Public Officer shall, in his or her discretion, approve or deny the request. The failure of the Public Officer to approve or deny the request within ten (10) business days shall constitute an approval of the request.

**Excepted from the requirements of this section are the following:**

The treatment of trees by the appropriate public agency with the consent of the Public Officer working in conjunction with the Licensed Tree Expert; and

The management, including integrated pest management, of Ash (*Fraxinus* spp.) trees to protect against damage and/or loss of the trees due to infestation by the Emerald Ash Borer (*Agilus planipennis*), with the consent of the Public Officer working in conjunction with the Licensed Tree Expert.

**Removal of Substance, Material or Covering at Base of Trees.**

Where any tree in any public street or right-of-way in the Borough may be surrounded at the base of its trunk by ground which is not open as required in Section [X], or by open ground of less quantity or measurement than that herein required in Section [X] above, it shall be the duty of the Public Officer to notify the owner or occupant of the property which borders any such tree or shrub may be to remove, within a time fixed in such notice, so much of the substance, material or other covering as may be necessary to give the space of open ground herein required.

If the person so notified shall not remove the substance, material or covering by the time so fixed, the Public Officer may do so, or cause the same to be done and, upon completion thereof, render a bill to the person so notified for the work done and the money expended therefor. If payment shall not be made within sixty (60) days from the time of completion of such work, suit may be authorized by the governing body in the name of the Borough for the amount due in any court of competent jurisdiction.

**Protection of Trees and Shrubs from Utility Wires.**

Any person having control over any wire for the transmission of electric current or telephone, cable or any other utility service along a public street right-of-way shall at all times guard all trees and shrubs through which such wires pass against any injury from the wires or from the current carried by them. Prior to undertaking any work on the utility wires affecting any such tree or shrub, the Public Utility Company shall provide at least five (5) days prior written notice to the Public Officer of same. The device or means used shall be subject to the approval of the Public Officer.

**Blanket written approval issuance.**

Upon the yearly receipt of proof from a utility company that trained and qualified persons carrying out the tree work are responsible; a blanket written approval may be provided for work within the area of jurisdiction of the Borough of Oradell. This work is subject to inspection by the Public Officer.

**§ 270-5 Tree Removal and/or Destruction on Private Property as part of an Application to the Building Department, Planning Board or Zoning Board.**

Where tree removal and/or destruction is part of a development application before the Building Department, Planning Board or Zoning Board, the application for such project work shall be made to the Building Department,

Planning Board or Zoning Board through the Public Officer's department and include the required information as stated below. The required information, including the plan for fulfilling the tree replacement obligation (as specified in Schedule A below) is to be included in the applicant's site plan as determined by the Public Officer and/or Borough Engineer as part of the standard Building Department, Planning Board or Zoning Board application process.

The Building Department, Planning Board or Zoning Board, working in conjunction with the Public Officer and/or Borough Engineer will consider the tree removal and or destruction component of the applicant's overall site development plan, including the tree replacement obligation, in order to determine whether to approve or deny the overall project application. The Building Department, Planning Board or Zoning Board may also utilize the License Tree Expert as a subject matter expert to help determine their decision.

**General Site Plan Information Requirements.**

All tree work related filings and materials submitted to the Borough under this section shall be provided to the Public Officer in both electronic and hard copy formats, to scale where appropriate and include the following narrative specifying:

The location of the premises where the tree removal or destruction is to take place, by street address;

The name and mailing address of the owner of the premises;

The name and mailing address of the applicant for the permit, if other than the owner, accompanied by the owner's consent to said application;

A list providing the species, DBH and number of trees to be destroyed or removed;

The reason or purpose for the destruction or removal of trees; and

A description of the applicant's "tree replacement plan" in accordance with subsection X below.

**Marking.** If required for the purposes of a site visit by the Public Officer, Borough Engineer and/or Licensed Tree Expert, the applicant shall conspicuously mark each tree to be removed or destroyed with a material which can be wrapped around the trunk of each tree, such as ribbon or string.

**Sketch/Printed Plan.** The application required by subsection [X] above shall be accompanied by a sketch and/or printed plan showing the following:

The size of the lot;

All structures and their appurtenances, including but not limited to any building, garage,

shed, deck, pool, driveway, walkway, patio or other impervious surface;

The location upon the lot where the destruction or removal of the tree or trees is proposed;

The identity and location of trees to be destroyed or removed and those to remain;

The location of all streams and wetlands on the lot; and

The proposed location(s) for planting of replacement tree(s), as well as their species and DBH.

**Tree Replacement Plan.** The application required by subsection X above shall be accompanied by a narrative and/or sketch or printed plan showing a tree replacement plan, to include and comply with the following:

The tree replacement plan shall provide for replacing the removed or destroyed tree(s) in the same or contiguous location(s) on the premises, and in accordance with the following specific requirements. The tree replacement plan shall require that the applicant replace each removed or destroyed tree with one or more trees depending upon the DBH of the removed or destroyed tree, in accordance with Schedule A: "Tree Replacement Schedule".

Based on industry standards and site conditions on the premises, and in consultation with the Public Officer, the applicant may, in lieu of on-premises planting of the required replacement tree(s), be permitted to pay a tree replacement fee into the Oradell Shade Tree Trust Reserve for up to fifty percent of the trees to be removed and/or destroyed based on the foregoing Tree Replacement Schedule. The tree replacement fee shall represent the cost to replace the removed or destroyed tree(s), including administration and labor costs. At least fifty percent of the required replacement trees shall be planted on the applicant's premises as identified in either the Building Department, Planning Board or Zoning Board application. As used hereafter, the phrase "tree replacement plan" shall be deemed to include reference to the payment of a tree replacement fee.

The tree replacement plan shall identify the applicant's proposal for compliance with this section, including specifying the species, size and quantity of replacement trees, the proposed location(s) for planting of replacement trees and the applicant's acknowledgment of the required tree replacement fees. In order to maintain the existing canopy, preference shall be for the replacement of deciduous trees with deciduous trees and evergreen trees with evergreen trees.

**§ 270-6 Removal of trees on private property (including within the Borough right-of-way on such properties), prior to submitting an application to the Building Department, Planning Board or Zoning Board. Permit requirements.**

#### **Trees Requiring Permit Before Removal.**

If the property owner wishes to remove and/or destroy any tree on their property prior to the submission of an application to the Building Department, Planning Board or Zoning Board (i.e., as a step to prepare the property for an anticipated future development project), then the owner is required to apply for a permit and receive approval before such tree removal work can begin. This requirement remains applicable for up to two years prior to an application being submitted to the Building Department, Planning Board or

Zoning Board and applies to development projects involving the complete “above foundation” demolition of the current structure(s) on the property (i.e., does not apply to renovations and/or additions).

It shall therefore be a violation for any person to remove or otherwise destroy any tree as set forth in this section, or to cause or permit the same to be done by any third-party contractor or subcontractor, without first obtaining a permit and approval as provided hereinbelow. Except as otherwise provided in Section [X], the following acts are hereby regulated and shall require a tree removal permit:

Removal of or otherwise destroying a tree with a DBH of five (5) inches or more;

Removal of or otherwise destroying an ornamental or evergreen tree with a height of ten (10) feet or more;

Removal or otherwise destroying a tree with a canopy extending over a public right-of-way; and

Removal of or otherwise destroying any heritage or specimen tree, as defined in Section [X].

### **Exceptions.**

Excepted from the requirements of this article are the following:

Any tree that poses imminent danger to life or property or where removal is in response to an emergency. To qualify under this exception, the tree shall only be removed to the extent necessary to abate the imminent danger or emergency. If notification of the removal of said tree pursuant to this chapter has not been given to the Public Officer prior to removal, then notification must be provided by the next business day or as soon as practicable thereafter. Said notification shall include verification that the tree removal was necessary to abate the imminent danger or emergency;

Any tree that has fallen solely as a result of storm damage, accident, or other *bona fide* casualty;

Any dead tree or substantially diseased tree as a result of natural causes or storm damage where:

The tree is still standing;

The person desiring to destroy or remove the tree is the owner of the land upon which the tree is located;

The person notifies the Public Officer of the desire to remove the tree; and

The Public Officer, working in conjunction with the Licensed Tree Expert verifies in writing that the tree is dead or substantially diseased as a result of natural causes. The failure of the Public Officer to approve or deny the request within ten (10) business days shall constitute an approval of the request;

The removal of any trees that are a part of an approved woodland management program pursuant to the provisions of the New Jersey Farmland Assessment Act of 1964

### **General Application Requirements.**

A person desiring to remove or otherwise destroy a tree or trees as provided for in this section shall first apply to the Public Officer for a permit, on forms provided by the Borough and containing the information required in order for consideration to be granted a permit.



**Review and Decision on Permit Application.**

The Public Officer, or in his or her absence or incapacity, the assigned backup for the department, shall accept for filing the permit application referenced in the section hereinabove. Said application shall be date and time stamped when received. Thereafter, the Public Officer and/or the Licensed Tree Expert shall within ten (10) business days of receipt of the completed application:

Visit and inspect the location and inspect the land and trees that are the subject of the application, and the submission of an application shall constitute permission from the applicant for the Public Officer or Licensed Tree Expert to enter property upon reasonable notice for said inspection;

**Marking.** The applicant shall conspicuously mark each tree to be removed or destroyed with a material which can be wrapped around the trunk of each tree, such as ribbon or string.

If necessary, meet with the applicant to discuss the application; and

Grant or deny the requested permit in whole or in part, or make recommendations that would make the application acceptable to the Public Officer working in conjunction with the Licensed Tree Expert, in writing and in accordance with the following considerations:

Whether the removal or destruction of the tree or trees will cause or contribute to physical or environmental problems on the land and other property, including but not limited to flooding, soil instability and erosion.

Whether the destruction or removal of the tree or trees will have a negative impact on the contiguous canopy or on the growth and development of the remaining trees on the land and other property.

Whether the destruction or removal of the tree or trees will threaten or otherwise lead to a loss of wildlife habitat or tree species.

Whether the tree or trees are specimen tree(s) as defined in Section 270-2.

Whether the destruction or removal of the tree or trees is under the jurisdiction of a New Jersey or Federal agency.

Whether the destruction or removal of the tree or trees is a part of an overall landscape plan for the property.

Whether a denial of the permit, in whole or part, would cause an undue hardship on the applicant.

Whether the applicant's tree replacement obligation (as specified in Schedule A below) will mitigate the negative impact that the tree removal or destruction will have on the land and other

property.

A decision other than one to grant the requested permit in its entirety shall include the Public Officer's written findings and reasons for said decision.

The failure of the Public Officer to grant or deny the application for a permit for the removal or destruction of a tree or trees within the ten-business-day period shall constitute approval of said application and entitle the applicant to the permit requested unless an extension of the ten-business-day period has been agreed upon between the applicant and the Public Officer in writing before the period expires.

The removal of trees and any tree replacement project are to be implemented within one year from issuance of the permit. A permit shall expire and shall no longer be in effect twelve months after the date said permit was first issued, unless an extension of the twelve-month period has been agreed upon between the permittee and the Public Officer in writing before the period expires.

Permits may be transferred only within ninety (90) days of their date of issuance.

**Fee.**

There will be no fee for submitting a permit application.

**Appeals.**

If an application for a permit is denied or otherwise not granted in whole, the applicant shall have a right to appeal the matter.

The applicant may appeal to the Public Officer or may choose to appeal directly to the governing body. "Written notice" under this section may be provided electronically or in hard copy by the appellant and/or the Borough in connection with the processing of any appeals hereunder. Should the applicant choose to appeal to the Public Officer and is not thereafter satisfied with the Public Officer's decision, the applicant shall have the right to appeal to the governing body.

***Appeal to Governing Body.*** An appeal to the governing body is taken by submitting written notice to the Borough Clerk within-ten (10) days of receipt of a full or partial denial from the Public Officer's decision. The applicant will be notified as to the date and time when his or her matter will be heard by the governing body. The governing body shall decide the matter anew and in accordance with the standards set forth in Section X hereinabove. The governing body shall render their decision within thirty (30) days of receipt of the written notice of appeal. The failure of the governing body to decide the appeal within thirty (30) days shall constitute reversal of the decision being appealed. In any event, the applicant shall be notified of the governing body's action or failure to act by written notice from the Borough Clerk. If the applicant is not satisfied with the governing body's decision, then the applicant shall have a right to pursue an appeal in a court of competent jurisdiction as permitted by law.

**SCHEDULE A — TREE REPLACEMENT SCHEDULE**

<b>Tree Removed/Destroyed</b>	<b>Required Replacement Tree*</b>	<b>Tree Replacement Fee</b>
Tree with DBH of 5” to 7.99”	One (1) Replacement Tree	\$125.00
Tree with DBH of 8” to 16.9”	One (1) Replacement Tree	\$250.00
Tree with DBH of 17” to 30.99”	Two (2) Replacement Trees	\$500.00
Tree with DBH greater than 31”	Three (3) Replacement Trees	\$1,000.00

All replacement trees must measure at least 2.5” in caliper or for evergreen trees, a minimum of 6’ in height. **Stump Removal.** All Trees removed must have their stumps removed to 8-12” below grade and backfilled to grade.

Schedule A Exception:

If the Tree or trees identified for removal and/or destruction have a DBH of less than 17” and represent 25% or less of the aggregate number of trees on the property, then replacement of those trees is encouraged but not required and the Tree Replacement Fee shall not apply to this exception.

**Removal or Trimming by Borough when Interfering with Public Thoroughfare.**

If the limbs or branches of any trees grown on private property within the Borough extend over or into any of the public streets or rights-of-way of the Borough and interfere with the free and uninterrupted use of such public thoroughfares for any lawful purpose, the Public Officer shall notify and direct the owner or occupant of the property on which such trees may stand, or the agent of such owner, to trim or detach, on or before a time to be fixed in such notice, any limbs, branches or parts of trees so extending into the street or right-of-way of the Borough.

If the owner of any such trees shall fail or neglect to comply with the terms of such notice, the Public Officer is authorized and empowered to trim or detach, or cause to be trimmed or detached, any limbs, branches or parts of trees so extending into such street or right-of-way. Upon completion of such work, there shall be rendered, by the Public Officer, to the owner or occupant of the property on which such trees stood and for whom such work was done, a bill for such work, showing the money expended by the Borough therefor, and upon failure of the party for whom such work was done and such money expended to reimburse the Borough within sixty (60) days from the time of completion of such work, suit may be authorized by the governing body in the name of the Borough for the amount due in any court of competent jurisdiction.

§ 270-7 **General Provisions.**

**Violations and penalties; Enforcement procedures.**

A person who removes or destroys a tree without a required permit or approval, or otherwise violates or

causes to be violated any of the provisions of this chapter, shall be subject to the following informal resolution and formal complaint procedures, as applicable:

**Informal resolution.** Any person who removes or destroys a tree without a required permit or approval under this chapter shall have the opportunity to resolve the matter prior to the issuance of a summons and complaint. The following procedure shall apply:

The Public Officer shall offer an electronic and/or hard copy written recommendation that is, in his or her judgment, sufficient to resolve the matter, which shall include either replacement of the removed or destroyed tree(s) or the payment of a replacement fee for removal or destruction of the tree(s), or both, in accordance with Schedule A above, the Tree Replacement Schedule. In addition to the planting of a replacement tree(s) and/or payment of a tree replacement fee(s) in accordance with Schedule A, there shall also be required the payment of an administrative service fee, which shall be charged per hour based on the anticipated staff time in investigating and resolving the matter, and which may include site visits and analysis, supervisory services and/or clerical services. The hourly rate shall be the hourly wage of the employee conducting the site visit(s) and analysis, supervisory services and/or clerical services as set by the governing body from time-to-time. The hourly wage of salaried personnel shall be calculated by dividing the employee's annual salary as set by twenty-six (weeks) and then dividing that biweekly pay by the number of hours worked in a biweekly period. The tree replacement and service fees shall be paid into the Oradell Shade Tree Trust Reserve.

The person shall have ten (10) days following receipt of the Public Officer's electronic and/or hard copy written recommendation to accept said recommendation. If the person, in an electronic and/or hard copy writing, accepts the Public Officer's recommendation within the ten-day period, then any agreed-upon tree replacement or payment of a tree replacement fee, and payment of the service fee, shall be completed within ten (10) days of electronic and/or hard copy written acceptance of the recommendation. The Borough in its sole discretion, may choose to grant an extension for the person to comply with accepted recommendation. If not completed within this ten-day period, then the Public Officer shall have the authority to cause the issuance of a summons or complaint returnable in the Municipal Court.

If the person does not accept the Public Officer's recommendation, then during the initial ten-day period the person may request, in an electronic and/or hard copy writing sent to the Borough Clerk, that the governing body review the Public Officer's recommendation. If such request is timely submitted to the Borough Clerk, then the person shall have the opportunity to bring the matter before the governing body during its next regularly scheduled meeting. The governing body shall have thirty (30) days after said meeting to issue its recommendation on the matter. The person seeking such review shall have ten (10) days after receipt of governing body's recommendation to advise the governing body in an electronic and/or hard copy writing sent to the Borough Clerk as to whether he or she accepts their recommendation. Any agreed-upon tree replacement or payment of a tree replacement fee, and payment of the service fee, shall be completed within ten (10) days of the electronic and/or hard copy written acceptance of the governing body recommendation. The Borough in its sole discretion, may choose to grant an extension for the person to comply with accepted recommendation. If not completed within this ten-day period, the governing body shall have the authority to cause the issuance of a summons and complaint returnable in the Municipal Court.

If the person does not accept the Public Officer's initial recommendation or the governing body's decision within the applicable periods set forth above, then the governing body shall have the authority to cause the issuance of a summons and complaint returnable in the Municipal Court.

**Adjudication before Municipal Court.** A person violating this chapter, who has not otherwise resolved the matter as set forth above in Subsection X, upon conviction before the Municipal Court, shall be sentenced in accordance with Schedule B hereinbelow, with the violator having the option to pay a monetary fine and provide replacement tree(s) under Schedule B (1), or in the alternative, pay a double monetary fine under Schedule B (2). Each and every tree damaged, destroyed, or removed by the violator, even if located upon the same lot, shall be a separate and distinct offense under this chapter. In addition to the fine(s) assessed hereunder, the Municipal Court may order the violator to pay restitution to the Borough in the form of an administrative service fee, as provided in Section X. Any fines and/or restitution ordered by the Municipal Court shall be paid into the Oradell Shade Tree Trust Reserve, except as otherwise provided by law.

**SCHEDULE B — SHADE TREE PENALTY SCHEDULE**

<b>Tree Removed/Destroyed</b>	<b>Penalty Schedule B (1)</b>	<b>Penalty Schedule B (2)</b>
Trees with DBH of 5" to 7.99"	One (1) Replacement Tree and \$250.00	\$500.00
Trees with DBH of 8" to 16.99"	One (1) Replacement Tree and \$500.00	\$1,000.00
Trees with DBH of 17" to 30.99"	Two (2) Replacement Trees and \$1,000.00	\$2,000.00
Trees with DBH greater than 31"	Three (3) Replacement Trees and \$2,000.00	\$4,000.00

All replacement trees must measure at least 2.5" in caliper or for evergreen trees, a minimum of 6' in height. **Stump Removal.** All Trees removed must have their stumps removed to 8-12" below grade and backfilled to grade.

**Annual Report.**

In each calendar year pursuant this chapter, the Public Officers shall make an annual report to the governing body as to permits granted and denied and as well, the outcome of Planning Board and Zoning Board applications involving tree activity. Said report shall include data concerning the quantity of complaints resolved, fees and assessments collected and disbursements from the Oradell Shade Tree Trust Reserve. Such report shall be submitted by February 1 of each year regarding the preceding year's activities.

Severance.

In the event that any portion of this chapter, or the application of this chapter to any specific situation, shall be declared invalid, such declaration shall not, in any manner, prejudice the enforcement of the remaining provisions, or the enforcement of this chapter in other situations.