

Chapter 161: TREE CUTTING

[HISTORY: Adopted by the Town Board of the Town of Putnam Valley 10-22-2003 by L.L. No. 7-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Forestry — See Ch. 140.

§ 161-1. Purpose.

- A. This chapter regulates certain activities in the Town relating to the cutting of trees. The purposes of the chapter are to:
 - (1) Preserve, protect, conserve and regulate the forests, woodlands and trees and the benefits derived therefrom.
 - (2) Prevent uncontrolled, widespread cutting of trees.
 - (3) Prevent soil erosion.
 - (4) Protect wetlands, water bodies and watercourses, air quality, vegetation, wildlife and fragile natural resources.
 - (5) Promote fire protection.
- B. It is the further purpose of this chapter to preserve the rights of property owners in the Town of Putnam Valley consistent with the purposes enumerated above.

§ 161-2. Findings.

- A. The Town Board finds that healthy trees stabilize the soil and control water pollution by preventing soil erosion and flooding, absorb air pollution, provide oxygen, yield advantageous microclimatic effects, have an intrinsic aesthetic quality, offer a natural barrier to noise and a natural habitat for wildlife and are integrally involved in fundamental ecological systems.
- B. The Town Board has reviewed the experience of past development and land use in the Town and, based on that review, finds that excessive cutting of trees can create surface drainage problems, increase municipal costs to control drainage, adversely affect air quality, impair the stability and value of nearby properties, adversely affect fundamental ecological systems and result in unsightly and barren conditions.

§ 161-3. Definitions.

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

APPROVING AUTHORITY — The Zoning Board of Appeals, the Planning Board, the Town Board or the Building Inspector, as specified in § 161-6 of this chapter.

ARBORIST — A person with a bachelor's degree in plant science from an accredited college or university who is certified to conduct business in the State of New York by a relevant professional or governmental agency.

CLEAR-CUTTING — Tree cutting (as defined herein) of more than 30% of the trees in an area 10,000 square feet or more.

COMMISSION FOR THE CONSERVATION OF THE ENVIRONMENT — The Commission for the

Conservation of the Environment of the Town of Putnam Valley ("CCE" hereafter).

FORESTER — A person with a bachelor's degree in forestry from an accredited college or university who is certified to conduct business in the State of New York by a relevant professional or governmental agency.

LOT — A parcel of land that is owned separately from any adjoining lot or lots.

PROTECTED TREE — Sugar maple (*acer saccharum*), white birch (*betula papyrifera*), big shellback hickory (*carya laciniosa*), shagbark hickory (*carya ovata*), flowering dogwood (*cornus florida*), copper beech (*fagus cuprea* or *f. sylvatica*), kentucky coffee tree (*gymnocladus dioica*), american holly (*ilex opaca*), butternut (*juglans cinerea*), black walnut (*juglans nigra*), osage orange (*maclura pomifera*), sweetbay magnolia (*magnolia virginiana*), mulberry (*moms sp.*), jack pine (*pinus banksiana*), virginia pine (*pinus virginiana*), white oak (*quercus alba*), red oak (*quercus borealis*), scarlet oak (*quercus coccinea*), willow oak (*quercus phellos*), black oak (*quercus velutina*), atlantic white cedar (*thuja occidentalis*), and wetland trees of the types listed in § 24-0107, Subdivision 1(a), of Article 24 of the New York State Environmental Conservation Law as currently in effect.

REGULATED ZONE — A strip of land 20 feet wide measured inward from the property's perimeter at all points. Trees, as defined herein, any portion of whose trunk falls within the regulated zone, shall be considered wholly within said zone.

SPECIMEN TREE — A tree which has a minimum diameter of 12 inches at a point 4 1/2 feet above the ground level and/or a minimum crown spread of 15 feet.

TREE — A woody perennial, either deciduous or coniferous, having a diameter six inches or greater measured 4 1/2 feet above ground level ("dbh" hereafter), but excepting the following species: Poison Sumac (*Rhus Vernix*), Shining Sumac (*Rhus Copallina*), Smooth Sumac (*Rhus Glabra*), Staghorn Sumac (*Rhus typhira*), and Japanese Lacquer-Tree (*Rhus Verniflora*).

TREE CUTTING — The clearing, cutting uprooting or any similar activity on any tree except normal maintenance such as trimming, pruning, bracing and selective removal of dead or diseased trees.

WILDLIFE HABITAT — The arrangement of food, water, shelter or cover, and space necessary for wildlife existence.

§ 161-4. Regulated activities.

A permit under this chapter shall be required for:

- A. Tree cutting within the regulated zone of any lot unless otherwise exempt under § 161-5 hereof; and
- B. Clear-cutting on any lot.

§ 161-5. Exempt activities.

A permit under this chapter shall not be required for:

- A. Logging operations for which a special use permit has been granted by the Planning Board under Chapter 140, Forestry, of the Putnam Valley Code.
- B. Clear-cutting on lots for which certificates of occupancy exist for all improvements upon such lot as follows:
 - (1) Within 15 feet of an existing building or proposed addition and within the footprint of any proposed addition.

- (2) Within five feet of an existing or proposed subsurface structure such as a septic tank or field, or other subsurface improvement or within the septic field area as required by the Putnam County Health Department;
 - (3) Within three feet of an existing or proposed sidewalk or driveway or within the area occupied by a proposed driveway or sidewalk;
- C. Tree cutting authorized and conducted in accordance with a tree plan approved by the Planning Board under Article VA of the Zoning Ordinance as part of a development approval plan or site plan approved by the Planning Board under Article IV or V of such ordinance. *Editor's Note: See Ch. 165, Zoning.*
 - D. The cutting of up to three nonspecimen trees within the regulated zone in one twelve-month period by any owner or combination of owners.

§ 161-6. Approving authority.

The approving authority under this chapter shall be as follows:

- A. The Zoning Board of Appeals shall be the approving authority with respect to any application under this chapter which requires the issuance of any other permit or approval from the Zoning Board pursuant to the local laws and ordinances of the Town of Putnam Valley.
- B. The Planning Board shall be the approving authority with respect to clear-cutting permit applications and any permit application under this chapter which requires the issuance of any other permit or approval from the Planning Board, or from both the Planning Board and the Zoning Board pursuant to the local laws and ordinances of the Town of Putnam Valley.
- C. The Town Board shall be the approving authority with respect to any permit application under this chapter which requires the issuance of any other permit or approval from the Town Board pursuant to the local laws and ordinances of the Town of Putnam Valley, including any application which also requires the issuance of any permit or approval by the Planning Board, the Zoning Board, or both.
- D. The Code Enforcement Officer shall be the approving authority with respect to all other regulated activities under this chapter.

§ 161-7. Permit procedures.

- A. Application requirements. An application for a permit required by this chapter shall be filed with the approving authority and shall contain the following information and such other information as required by it, except when waived by it as not pertinent or necessary for the proposed activity:
 - (1) The name, address and phone number of the property owner and applicant.

- (7) The size, number, location and type of trees to be cut.
- (8) The estimated size, number, location and type of trees to be saved.
- (9) If tree cutting is proposed to be conducted in stages, the location of each stage.
- (10) The location and size of loading areas for the removal of cut trees.
- (11) A plan for tree disposition and cleanup.
- (12) A statement from the landowner that each tree to be removed has been designated, with paint or other distinctive means, at two points so as to be readily visible to the approving authority and the tree remover. One point shall be low enough on the tree so as to be visible on the stump after the tree is removed.
- (13) A statement that the property owner and applicant (if different) will indemnify and hold the Town harmless against any damage or claims arising out of the permit's issuance, including but not limited to the performance of on-site inspection by the Town.
- (14) An explanation as to why a proposed activity prompting the tree removal application cannot be located on a different portion of the lot or on another lot owned and/or controlled by the applicant or owner.

B. Referral.

- (1) In all cases, the approving authority shall refer any application submitted to it pursuant to this chapter to the CCE for review and report. The date of referral from the approving authority shall be deemed to be the date of the first regularly scheduled monthly meeting of the CCE after receipt of a complete set of pertinent materials from the approving authority.
- (2) The CCE shall report back to the approving authority within 10 days of such referral if the approving authority is the Code Enforcement Officer, within 20 days of referral if the approving authority is the Zoning Board of Appeals or the Town Board, and within 60 days of referral if the approving authority is the Planning Board. Failure by the CCE to report back within the specified time period shall be interpreted by these approving authorities as indicating no objection to the application.

C. Notice. Upon receipt of a completed application under this chapter, the approving authority shall cause notice of receipt of the same to be mailed by first-class mail to adjoining property owners and those across any street adjoining the involved property. For applications to the Code Enforcement Officer, such property owners shall have 20 days from said day of notice to submit written comment to the approving authority with regard to said application. For applications to the Zoning Board of Appeals, the Planning Board, or the Town Board, such property owners shall be able to submit written comments to the approving party up until such time as the required public hearings are closed by the approving authority.

D. Public hearing. Except as otherwise provided herein, a public hearing shall be held by the approving authority on the application made hereunder at such time or times, under such circumstances and upon such notice as may be required for the granting of the other permit or approval required of such approving authority pursuant to the local laws and ordinances of the Town of Putnam Valley. A public hearing shall be held by the Planning Board on any clear-cutting permit application for which no other permit or approval is being sought. Notice of such hearing shall be issued and/or published in the same manner as is required by law for site plans and development approval plans under Articles IV and V of the Zoning Ordinance. A public hearing, though not required, may be held when the approving authority is the Code Enforcement Officer.

E. Action by the approving authority. The approving authority shall review said application to ensure conformity with the requirements of this chapter. A determination shall be made to approve, approve with modifications or disapprove the issuance of such permit simultaneously with the determination by

the approving authority of any other permit or approval for which application was made.

§ 161-8. Standards for approval.

In granting, denying or conditioning any application for a permit required by this chapter, the approving authority shall evaluate the proposed activity, its purpose, and available alternatives, and shall determine that the impact of the proposed activity upon public health and safety, soil erosion, wildlife habitat, fire protection, and drainage will not be detrimental and shall be in accordance with the following additional standards, considerations and conditions:

- A. Trees shall be felled so that erosion is avoided. All tree-cutting debris shall be kept at least 20 feet from all public roads and rights-of-way.
- B. Consideration shall be given to preserving specimen trees and protected trees where feasible and practical.
- C. The approving authority may require the replanting of trees as a condition of permit approval and may establish standards for such replanting.

§ 161-9. Permit duration.

- A. Activities specified by the tree-cutting permit shall be undertaken pursuant to any conditions of same and shall be completed according to any schedule set forth therein.
- B. A permit shall expire upon completion of the permitted activity or one year from the permit's issuance, whichever shall first occur.
- C. A permit may be renewed by the approving authority for a period of up to one year, provided the terms and conditions of same have been observed and complied with as of the time of renewal.
- D. The approving authority may revoke or suspend a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit.

§ 161-10. Security.

In granting a permit, the approving authority may require a security in an amount and with surety and conditions satisfactory to it securing to the Town of Putnam Valley compliance with the conditions and limitations set forth in the permit.

§ 161-11. Inspection and monitoring of activities; suspension and revocation of permit.

- A. The approving authority and CCE may inspect or cause to be inspected by its representative activities undertaken pursuant to a permit so as to ensure satisfactory compliance with its terms and conditions.
- B. The approving authority may require that the activities undertaken pursuant to a permit be monitored and/or supervised by an appropriate licensed professional, including but not limited to the provision of written status reports at specified intervals with respect to the activities undertaken pursuant to the permit.
- C. The approving authority may suspend or revoke a permit issued pursuant to this chapter if any condition of such permit has been violated or if the scope of activities authorized by the permit has been exceeded.

§ 161-12. Penalties for offenses.

- A. Any person who violates any provision of this chapter shall be guilty of a violation punishable by a fine equal to \$20 per inch of tree diameter for each tree unlawfully removed, as measured at the stump. Where the diameter of removed tree(s) cannot be ascertained, the fine shall be \$200 per tree for each tree unlawfully removed. For a second and each subsequent offense, the fine shall be twice that applicable to a first offense or a term of imprisonment up to 15 days, or both.
- B. Any person who violates any provision of this chapter shall also be liable to the people of the Town of Putnam Valley for a civil penalty not to exceed \$1,500 for every such violation.
- C. In addition to the above penalties, the Town Board shall have the right to seek equitable relief to restrain and/or remedy any violation of any provisions of this chapter.
- D. The Code Enforcement Officer shall have the power to direct a violator to cease violation of this chapter and, with the consultation of the CCE, satisfactorily restore the affected area insofar as that is possible. The exercise of such power may be with or without the imposition of a civil penalty and/or fine under Subsections A and B of this section.
- E. In addition to the remedies specified above, no building permit, temporary certificate of occupancy, or permanent certificate of occupancy shall issue to any lot for which a notice of violation has issued pursuant to Subsection D hereof, until such violation has been remedied to the satisfaction of the approving authority, or until such notice of violation has been dismissed by a court of competent jurisdiction. Remediation may include replacement of trees removed in violation of this chapter in accordance with the following schedule:

dbh of Removed Tree (inches)	Number and dbh of Replacement Trees
6 to 12	3 trees at 2 inches or 2 trees at 3 inches
13 to 24	3 trees at 3 inches
25 or greater	5 trees at 3 inches