

## SAMPLE TREE PRESERVATION POLICY

The Town of \_\_\_\_\_, recognizing that trees protect the environment, provide natural habitat for wildlife, and contribute to the quality of life for all residents, does hereby adopt the following Tree Preservation Policy.

### Section 1: Definitions

As used in this policy, except where the context otherwise clearly requires:

- (a) “**Arborist**” means a person who has met the criteria for certification from the International Society of Arboriculture, American Society of Consulting Arborists, or similar professional organization, and maintains accreditation in that organization.
- (b) “**DBH**” means diameter at breast height - a tree’s diameter measured in inches at a height of four and one-half feet above grade. When a fork in the trunk occurs at or above four and one-half feet, the DBH is the smallest diameter at four and one-half feet or below. When the fork occurs below four and one-half feet, or the tree splits into multiple stems at ground level, each stem is considered a separate tree trunk and is measured accordingly.
- (c) “**Hazardous tree**” means a tree that is cracked, split, leaning, has a dead top or a large dead limb high in the crown, or is otherwise physically damaged, to the degree that it is likely to fall and injure persons or property. Hazardous trees include diseased trees, meaning those trees with a disease of a nature that, without reasonable treatment or pruning, is likely to spread to adjacent trees and cause such adjacent trees to become diseased or hazardous trees.
- (d) “**Heritage tree**” means a tree designated as a heritage tree by a certified arborist, acting upon request of the Town Board. The heritage tree designation implies age estimated to be in excess of 50 years, and/or diameter in excess of 24 inches DBH, and/or a canopy that towers over the area.
- (e) “**Authorized Official**” means the \_\_\_\_\_ for the Town or his/her designate.
- (f) “**Significant tree**” means a rare, threatened or endangered tree of any size as defined or designated under state or federal law and any tree with a DBH of sixteen inches or greater. Significant trees also include those so designated by a certified arborist acting upon request of the Town Board.
- (g) “**Tree removal**” means to cut down a tree or remove thirty percent or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the

tree to decline or die. "Removal" includes but is not limited to: topping; damage inflicted upon a root system by application of toxic substances; operation of equipment and vehicles; storage of materials; change of natural grade due to unapproved excavation or filling; or unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees.

## **Section 2: Relationship to Other Regulations**

Where the provisions of this policy are in conflict with other provisions of the Town's codes, ordinances, or regulations, or state or federal regulations or law, the provisions which are the more restrictive shall govern.

## **Section 3: Heritage Trees**

No person shall remove a heritage tree unless the tree has been determined to be a hazardous tree by a certified arborist and the Town Board has rescinded the heritage tree designation.

## **Section 4: Significant Trees**

No person shall remove a significant tree which is identified on a development site and clearly marked for preservation, or remove or reduce the effectiveness of any tree preservation efforts established, including but not limited to fencing, tree preservation zone markings or installed signs.

## **Section 5: Tree Conservation Plans**

(a) Tree conservation plans shall be required in conjunction with any development proposal if the development proposal will result in the removal of any trees greater than 8 inches DBH. The submission shall include a site plan of the subject property and include identification of the type, size and location of all existing trees or groups of trees averaging greater than 8 inches DBH on the property, and identification of those trees proposed for preservation and those designated for removal.

(b) The Town may require that the proposed project be evaluated by a certified arborist. This evaluation will determine which, if any, trees may be worthy of "heritage" or "significant" designations.

## **Section 6: Tree Protection Measures**

(a) During Construction: All trees designated for retention under the tree conservation plan shall be marked and protected during construction. Any heritage tree or significant tree shall require that at least seventy percent of a circular area beneath the tree measuring one foot in radius for every one inch of

DBH be protected by an above ground silt fence or its equivalent, which protection measures shall continue until the issuance of a Notice of Final Completion for the development.

(b) After Construction: If any trees required to be preserved or planted as part of a mitigated tree replacement plan should die within a period of eighteen (18) months after the issuance of a Notice of Final Completion for the development, the developer shall replace the trees within six (6) months.

### **Section 7: Site Adjustments and Exceptions**

(a) The Authorized Official may grant adjustments to a tree conservation plan to allow the removal of a tree designated for retention upon a showing by the owner or developer that there are special conditions that could not have been anticipated at the time the plan was submitted that create unreasonable hardships or practical difficulties which can be most effectively relieved by an adjustment to the plan. The Authorized Official may also defer such adjustments to the approval board, in the event that proposed adjustments may impact the outcome of the approved project.

*(This policy was adapted from the Tree Preservation Policy of the Conservation Board of the Town of Penfield, New Jersey.)*