

Chapter 208

TREES

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CROTON-ON-HUDSON CODE

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ARTICLE I
Street/Public Trees**§ 208-1. Purpose.**

The Village of Croton-on-Hudson has a vital interest in the planting and preservation of trees within its borders. The preservation of trees as defined herein within the Village is necessary to protect the health, safety and general welfare of the Village because trees provide shade, impede soil erosion, aid water absorption and retention, inhibit excess runoff and flooding, enhance air quality, offer a natural barrier to noise, provide a natural habitat for wildlife, provide screening, enhance property values and add to the aesthetic quality of the community.

§ 208-2. Definitions.

As used in this article, the following term shall have the meaning indicated:

DEPARTMENT – The Superintendent of the Department of Public Works.

PRUNING – The removal or reduction of certain plant parts that are not required or are no longer effective, in order to retain or improve the tree's health, natural habit, balance, stature, value and contribution to the landscape design.

STREET/PUBLIC TREES — Trees, shrubs, bushes and all other woody vegetation growing on land within the right-of-way on private property or growing within the limits of a Village Park or on Village owned property.

STREET/PUBLIC TREE PLAN –An annual plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

TREE SIZE–

- a. SMALL TREES are defined as having an ultimate height equal to or greater than 13 feet but less than 26 feet;
- b. MEDIUM TREES are defined as having an ultimate height equal to or greater than 26 feet but less than 52 feet; and
- c. LARGE TREES are defined as having an ultimate height equal to or greater than 52 feet.

TOPPING –The indiscriminate cutting back of tree branches to stubs or lateral branches that are not large enough to assume the terminal role, which can lead to branch dieback, decay and unstable sprout production from the cut ends, resulting in a potentially hazardous situation once the sprouts become large and heavy.

§ 208-3. Designation of official custodian; duties.

The Superintendent of the Department of Public Works, hereinafter also referred to as the "Department," shall serve as the official custodian of all street and public trees and, in consultation with the Conservation Advisory Council, shall develop and update annually and administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

§ 208-4. Duties and responsibilities of Department.

The duties and responsibilities of the Department shall be to:

- A. Study, investigate, develop, and or update annually a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas, hereinafter referred to as the "Street/Public Tree Plan."

- B. Administer the Street/Public Tree plan and consult with the Conservation Advisory Council to determine the type and kind of trees to be planted upon Village streets, Village parks or any other public land. The Department may also consult with a certified urban forester, arborist or tree expert as needed and approved by the Board of Trustees.
- C. Work with the Conservation Advisory Council which will disseminate news and information regarding the selection, planting and maintenance of trees within Village limits, including information about the Street/Public Tree Plan.

§ 208-5. Planting, maintenance, and removal.

- A. It shall be the responsibility of the Department, or its designated agents, to plant, prune, maintain, remove and replace trees, shrubs and other vegetation within the limits of any public street, right-of-way, park or other public place as it may deem necessary to preserve or enhance the symmetry and beauty of the Village and its streets, parks and public spaces.
- B. No person or entity, other than the Village of Croton-on-Hudson or its designated agents, shall plant any tree, shrub or other vegetation within the limits of any public street, right-of-way, park or other public place without written approval by the Department or in accordance with §230-126.
- C. No person or entity, other than the Village of Croton-on-Hudson or its designated agents, shall spray, fertilize, treat, prune, remove, cut, or otherwise disturb any street or public tree, shrub or other vegetation on any public street, right-of-way, park or other public place without written approval by the Department.
- D. No person or entity, other than the Village of Croton-on-Hudson or its designated agents, shall remove a tree, shrub, or other vegetation from within the limits of any public street, right-of-way, park or other public place without written approval by the Department or in accordance with §230-126.

§ 208-6. Spacing of trees planted.

A. To achieve ideal growing conditions, the preferred distances for the spacing of street trees will be in accordance with the following guidelines, unless otherwise determined by the Department in consultation with the Conservation Advisory Council or a certified urban forester or arborist:

- (1) SMALL TREES – 30 feet apart;
- (2) MEDIUM TREES – 40 feet apart; and
- (3) LARGE TREES –50 feet apart.

§ 208-7. Distance from curbs and sidewalks.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with their species Tree Size, with final determination made by the Department.

§ 208-8. Distance from street corners and hydrants.

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of the nearest intersection curbs or curblines. No street tree shall be planted closer than ten (10) feet to any fire hydrant.

§ 208-9. Distance from utilities.

- A. Small and Medium street trees shall be planted at a minimum distance of three (3) lateral feet from an underground waterline, sewer line, transmission line or other utility.
- B. Large street trees shall be planted at a minimum distance of five (5) lateral feet from any underground waterline, sewer line, transmission line or other utility.

§ 208-10. Rights of Village.

- A. The Village shall have the right to plant, prune, maintain and remove street trees within the lines of all streets, alleys, avenues, lanes, squares, sidewalks and public land, as may be necessary to ensure public safety or convenience or to preserve or enhance the symmetry and beauty of such public spaces.
- B. The Department may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which, by reason by its nature, is injurious to sewers, electric power lines, gas lines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest.

§ 208-11. Tree Topping prohibited.

It shall be unlawful for any person or entity, other than the Village or its designated agents, to top any street trees or public trees. Trees severely damaged by storm or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this article at the determination of the Department.

§ 208-12. Responsibilities of property owners.

- A. Every owner of any tree or shrub on private property overhanging any street or right-of-way within the Village shall prune the branches so that such branches:
 - (1) Shall not obstruct the light from any street lamp;
 - (2) Shall not obstruct the view of any street intersection or any traffic control device; and
 - (3) Shall leave a clear space of eight (8) feet above the surface of the street or sidewalk.
- B. Said owners shall also remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Department shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign or interferes with visibility at an intersection.
- C. Every owner of any shrub, hedge, bush or other vegetation shall prune such vegetation so that there shall be a clear space of six (6) lateral inches from any Village sidewalk.

§ 208-13. Removal of stumps.

While it is the goal of the Village to remove all stumps of street and public trees to below the surface of the ground, the removal of stumps of street and public trees shall be determined on an individual-case basis taking into account safety, aesthetics and the environmental value of allowing the stump to deteriorate

§ 208-14. Removal of healthy trees prohibited.

In order to protect the Village's investment in time and resources in the street tree program, it shall be unlawful to remove or cause the destruction of any healthy street tree without prior approval of the Department.

§ 208-15. Consent required for deviations.

Any deviation from this article shall be unlawful without the express written consent of the Superintendent of the Department.

ARTICLE II Tree Preservation

§ 208-16. Purpose.

- A. The Board of Trustees finds that trees are necessary to protect the health, safety, environment, ecosystems and general welfare of the inhabitants and properties in the Village of Croton-on-Hudson. The Village recognizes that preservation of the environment is the responsibility of the entire community. Trees provide oxygen, impede soil erosion, aid water absorption, ameliorate against potential flooding, and absorb CO₂ and other pollutants and breathable particulate matter; provide shade, screening, privacy, green space, aesthetic appeal and even historic value; absorb and lessen impacts from winds and act as natural noise barriers; yield advantageous microclimatic effects and provide other environmental benefits and generally enhance the quality of life and values of properties within the Village. Indiscriminate removal of trees causes deprivation of these benefits and disrupts the Village's ecological systems.
- B. It is, therefore, the purpose of this article to regulate the quantity, quality, canopy and distribution of trees and prevent the indiscriminate or unnecessary destruction of trees within the Village of Croton-on-Hudson in order to maximize the beneficial functions of trees for the welfare of Village residents.
- C. It is further the intent of the Village to provide the procedures prescribed herein to preserve and protect the health, welfare and rural character of the community as reflected in the woodlands of the Village of Croton-on-Hudson in order to meet the Village's responsibility under the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, to serve as a steward of air, water, land and living resources and protect the environment for the use of this and further generations.

§ 208-17. Definitions.

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

APPLICANT — Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including a municipal corporation, governmental agency or subdivision thereof, filing an application pursuant to this chapter.

APPROVING AUTHORITY — The Village Engineer or their designee or the Planning Board as applicable, as specified in § 208-19C hereof.

CLEAR CUTTING — The removal of four or more trees from a property without the benefit of a current and valid tree removal permit.

DIAMETER AT BREAST HEIGHT (DBH) — The diameter of a tree measured at a point 4.5 feet above the ground, or at the highest measurable point of the remaining stump if less than 4.5 feet, on the uphill side of the tree.

EXCESSIVE PRUNING - Removing 1/4 (25%) or greater of the functioning leaf, stem or root area of a tree.

FALL ZONE – The area around a tree based on the topography, site conditions, wind and other factors that influence the natural direction where the entire tree, or pieces of a tree, would land on a property.

GIRDLING - Any activity that injures the bark of a tree trunk, typically extending around much of the tree's circumference.

INJURY - Any act which significantly weakens the tree, or its stems, trunk or roots, which may also include, but is not limited to, the following listed acts: excessive pruning; girdling or partial girdling of the tree trunk; excavation; compaction of the roots and/or raising or lowering the existing grade adjacent to the tree; or poisoning in any manner (including, but not limited to, the addition of paint, brine, oil, gasoline, toxins, petroleum products, concrete mix, dirty water, etc., to the ground around a tree); which list is not exclusive of other acts which may have deleterious effects.

HAZARDOUS TREE – A tree identified as structurally defective which poses an imminent risk to the health and safety of person, property, power lines or places where people gather, or an increased likelihood that all, or part, of the tree will fail resulting in a risk of personal injury, death or property damage in the fall zone.

LANDMARK TREE — A tree as defined on a list of trees which may be promulgated and established by the Board of Trustees of the Village of Croton-on-Hudson, which list is on file in the office of the Village Manager.

LOT — Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, if any, or by a group of buildings having any land in common and the buildings accessory thereto, if any, together with the required open spaces appurtenant to such building or group of buildings.

PRUNING – The removal or reduction of certain plant parts that are not required or are no longer effective, in order to retain or improve the tree's health, natural habit, balance, stature, value and contribution to the landscape design.

REGULATED BUFFER ZONE — Any area of vegetative screening as established by an approved site plan, minor site plan, special permit or subdivision plat or any area of a residentially zoned property as measured from each perimeter property line of the property towards the interior of such property as follows:

Zoning District	Width of Regulated Buffer Zone (feet)
RA-40	15
RA-25	10
RA-9	5
RA-5	3
RB (One-Family Residence)	3
RB (Two-Family Residence)	5
RC (One-Family Residence)	5
RC (Multiple Residence)	12

TOPPING - The indiscriminate cutting back of tree branches to stubs or lateral branches that are not large enough to assume the terminal role, which can lead to branch dieback, decay, and unstable sprout production from the cut ends, resulting in a potentially hazardous situation once the sprouts become large and heavy.

TREE — Any woody perennial plant of a species which grows at maturity to an overall height of ten (10) feet or more and has a main stem or trunk or multiple trunks at maturity which, in combination normally attain a DBH of four (4) inches or greater.

TREE EXPERT – A certified arborist or other professional certified by a recognized program of higher education or governmental agency as a tree expert.

TREE PRESERVATION FUND – A special purpose fund into which shall be deposited any penalties for violations or payments in lieu of replanting which shall be used at the discretion of the Village Board of Trustees to promote the intent and purpose of this Chapter, including the purchase and maintenance of trees, shrubs, and plants on public land. The Board of Trustees may request from and consider recommendations initiated by the Conservation Advisory Council as to the use of these funds.

§ 208-18. Prohibitions.

- A. No person shall cut down or remove more than three (3) trees from any lot within the preceding twelve (12) months without first obtaining a tree removal permit issued pursuant to this chapter, which permit shall be in force and effect at the time of such tree removal.
- B. No person shall fasten or attach to any tree any sign, poster, bill, notice, advertisement of any kind, birdhouse, clothesline or any other object, in a manner which will damage or cause injury to a tree, in any way.
- C. No person shall perform clear cutting on any property within the Village, as defined in this chapter.
- D. No person shall top or excessively prune any tree.
- E. No owner, lessee or occupant of any land or any part thereof shall install on any such lot or land any trees, shrubs or bushes which are classified as a prohibited invasive species in 6 NYCRR Part 575 Prohibited and Regulated Invasive Species (http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf).

§ 208-19. Tree removal permit required; approving authority.

- A. General regulations. A tree removal permit will be required before removing:

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- (1) More than three (3) trees within the preceding twelve (12) months.
- (2) Any tree eight (8) inches or more in DBH on any parcel of land capable of being subdivided under the zoning provisions applicable to the district in which the parcel is situated or on any parcel of land without a residential structure or on any property which would require site plan approval to be developed.
- (3) Any tree four (4) inches or more in DBH growing on slopes of over 20%.
- (4) Any tree that is four (4) inches or more in DBH within a wetland, watercourse or wetland/watercourse buffer as defined in § 227-3.
- (5) Any threatened or endangered species of tree, regardless of size, as defined by the New York State Department of Environmental Conservation.
- (6) Landmark trees as herein defined, regardless of size.
- (7) Any tree four (4) inches or more in DBH, the trunk of which is wholly or partially located in a regulated buffer zone as herein defined.
- (8) Clear cutting.

B. Exceptions.

- (1) No tree removal permit shall be required for work done by or on behalf of the Village of Croton-on-Hudson.
- (2) Trees may be removed by the appropriate agency or authority as may be necessary to maintain village, county, state or utility right-of-way, as a control measure to fight forest or other fires, or under such other actual or ongoing emergency condition when such tree removal is essential for the protection and preservation of life or property.

C. Approving authority. The approving authority for all applications shall be the Village Engineer or their designee, except that the Planning Board, as applicable, shall be the approving authority for any application that is also the subject of a pending site plan, minor site plan, subdivision approval, wetlands permit, or steep slopes permit in accordance with the requirements of the Code of the

Village of Croton-on-Hudson. Except as otherwise required in connection with the review of subdivision and site plan applications and steep slope applications by the Planning Board, the application for a tree removal permit shall not be subject to a public hearing, and notification of adjoining or other property owners is not required.

- D. Standards for granting tree removal permits. In determining whether a tree removal permit shall be issued, and, if issued, whether conditions should be included with the permit, or denied, the approving authority shall consider the following:
- (1) It is a hazardous tree endangering the health, safety, welfare or property of the general public, the property owner or an adjoining property owner.
 - (2) The tree is preventing compliance with state, county or local standards for sight lines, driveways or intersections.
 - (3) The tree is preventing the property owner from undertaking otherwise approved construction or alteration because the location of the designated tree substantially interferes with a permitted use of the property and the construction or alteration cannot be reasonably modified to accommodate the designated tree; written explanation may be required describing how the designated tree interferes with construction or alteration and why the construction or alteration cannot be modified reasonably to accommodate the designated tree.
 - (4) The condition and species of the tree with respect to overall health, disease, insect attack, damage, interference and potential interference with utility services, and proximity to existing trees, existing structures or proposed structures.
 - (5) The tree is dead, or so substantially diseased that it constitutes a danger to people, property or other trees.
 - (6) The environmental impact of the tree removal, including, but not limited to, the effect of the tree removal on erosion moisture retention, steep slopes, flow of surface waters and drainage, CO₂ and breathable particulate removal, ecosystems supporting wildlife, or any other environmental factor, and the aesthetic compositions of the land and surrounding area.
 - (7) Whether the proposed tree removal will cause injury to, cut, damage, destroy or remove more trees than is reasonably necessary to achieve the goals of the applicant, or is inconsistent with the stated purposes of this chapter.
 - (8) Considerations of land use and the general welfare and overall environment of the area.
 - (9) The species of the tree and whether any tree in question is a tree worthy of preservation due to unusual characteristics such as age, history, size, rarity, financial value or visual importance to the neighborhood.
 - (10) The removal of the tree is not inconsistent with good silvicultural, horticultural or vegetation management and will not have an adverse visual or ecological impact.
- E. Planning Board action which is deemed approval of tree removal. Where tree removal is proposed in connection with any site plan, minor site plan, subdivision plat, wetlands permit or steep slope permit application submitted or to be submitted to the Planning Board, as applicable, trees shall be removed from the affected property only in conjunction with an approved final subdivision plat, final site plan, minor site plan, wetlands or steep slope permit application. A tree removal permit is not required in these cases.

§ 208-20. Permit application.

- A. Any person proposing to conduct or cause to be conducted a regulated activity specified in §208-19 hereof shall file an application for a permit with the approving authority. The approval authority may require such information as it deems pertinent to the individual circumstances. At minimum, the application shall include the following information:
- (1) The name and address of the applicant.
 - (2) The address and Village Tax Map designation of the property on which the tree(s) is/are located.
 - (3) The total land area involved in the regulated activity.
 - (4) The number and size in DBH of trees to be removed.
 - (5) The purpose of the tree removal.
 - (6) A survey of that section to be disturbed, showing location of any regulated buffer zone as herein

defined as well as all trees, indicating those trees to be removed and those trees to be preserved, their species and their diameter. In the case of site plans, including minor site plans, and subdivision plats, the tree survey shall be submitted to the Planning Board or Village Board as applicable as a part of the site plan, subdivision plat, wetlands or steep slopes applications. Trees shall have numbering and tagging. The numbering and tagging shall be both in the field as well as illustrated on the plan.

- (7) Methods of removal.
- (8) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 196, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any tree removal permit that qualifies as or authorizes a land development activity as defined in Chapter 196, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 196, Article I. The approved tree removal permit shall be consistent with the provisions of Chapter 196, Article I.
- B. Where no subdivision, site plan, minor site plan, wetlands permit or steep slope permit application is involved, the survey requirement may be eliminated by the approving authority, and a plan drawn to scale showing the property lines and tree locations with the tree diameters noted by the applicant may be substituted for Subsection A(6) above.
- C. In cases where the Planning Board has received or will receive a site plan, minor site plan, or subdivision application involving the disturbance of 100 or more acres and where an acceptable erosion and sedimentation control plan has been or will be prepared for such project and where an environmental impact statement has been or will be prepared for such project, a sampling technique may be used to estimate the number, species and diameter of trees on the site and the number of trees proposed to be removed. The specifics of the sampling technique shall be subject to the approval of the Planning Board. Notwithstanding the above, all trees 22 inches in diameter at breast height and greater in any areas proposed to be disturbed shall be individually identified and marked in accordance with this article.
- D. A tree removal permit application shall be accompanied by a fee in an amount set by resolution of the Board of Trustees.
- E. The approval authority is not required to process any application unless and until all relevant information and required fee has been supplied.
- F. At the time a tree removal permit application is submitted, and until a tree removal permit is granted or denied, the trunk of all trees proposed for removal shall be encircled with orange tape or other methods of tagging, as authorized by the Approval Authority, at 4.5 feet above the ground. No person shall cut down, remove, perform topping, excessively prune, cause injury to, damage, wound, break, kill, destroy or commit any act which will lead to the eventual removal of any tree regulated by this chapter, until the administrative process set forth herein is completed, unless specific written approval is provided by the approval authority prior to work taking place.

§ 208-21. Conditions for granting permits.

The approving authority may, as a condition of granting a permit:

- A. Require the reasonable relocation of proposed foundation walls, driveways, grading, surface and subsurface improvements or drainage systems to preserve specific trees.
- B. Regulate the days and hours of operations of regulated activity.
- C. Require that each tree to be cut or removed be marked at one point low enough on the trunk to be

visible after removal of the tree so as to permit subsequent inspection. Notwithstanding the above, where the use of a sampling technique has been approved, trees less than 22 inches in diameter at breast height need not be marked.

- D. Require such safeguards as appropriate to minimize the environmental impact of such removal operations, including the potential for reduced erosion control and increased soil moisture retention and flow of surface waters on the property.
- E. Require additional information and conditions if the tree removal involves clear cutting, including but not limited to:
 - (1) Detailed plans for the restoration of the site after tree removal, which shall be certified by a recognized tree expert at the applicant's expense and drawn to a scale of not less than one inch equals 50 feet, which includes to the satisfaction of the approving authority the following:

- (a) Description of the proposed vegetative cover of the tree removal area, including dominant species before and after the tree removal.
 - (b) The location of the tree removal in relation to property lines, roads, buildings, wetlands within 100 feet thereof, and any other regulated buffer areas.
 - (2) The assistance of the CAC and, when necessary, a professional tree expert selected by the approving authority who is especially qualified by reason of training or experience in tree assessment, valuation, planting, conservation and landscaping or landscape architecture or engineering, at the applicant's expense (with 10 days prior notice to the applicant), which expense shall be reasonable and customary for such services, in order to fully evaluate a tree removal permit application, and carry out any requirements or conditions of a permit issued under this chapter.
 - (3) Additional information as needed or deemed necessary by the approval authority to evaluate the proposed tree removal in terms of the goals and standards of this chapter.
- F. Require additional information and conditions, if the tree removal involves clear cutting; or removing, pruning or topping a tree in excess of twelve (12) inches DBH or 30 feet in height or a Landmark Tree; or any other tree if it is determined the fall zone endangers the health, safety and welfare of any persons or property; including but not limited to:
- (1) The applicant's hiring of a Licensed Professional Tree Care Company to perform the cutting, removal, or pruning.
 - i. Prior to permit issuance, the applicant shall provide the Licensed Professional Care Company's name, address, telephone number, name of job manager, certificate of liability insurance naming "Village of Croton-on-Hudson" as additionally insured, and a copy of their New York State Workers Compensation insurance.
 - ii. A contractor may be used at the approving authority's discretion when the tree removal is part of an approved permit issued by any Board or Officer of the Village and the contractor is approved for tree removal by the Village Engineer, provided the information outlined above is submitted in full.
- G. Require that the tree trunk, limbs, stump and any roots remaining above grade be removed to a height that takes into account the safety, aesthetics and environmental value of allowing the stump to deteriorate naturally.
- H. Require that the disturbed area be backfilled, replanted and/or reseeded.
- I. Require that in the case of a tree destroyed or removed illegally, another tree or trees of comparable size, species and/or value be replanted at the expense of the property owner, for each tree removed.
- J. Require the planting of a replacement tree or trees as herein defined.
- K. Impose such additional conditions as the approving authority deems necessary to ensure compliance with the policies and provisions of this chapter.

§ 208-22. Replacement of Trees.

- A. Any tree removal permit issued for three (3) or more trees under the conditions outlined in § 208-21 shall require the planting of replacement trees equal to at least 90% of the environmental value of the trees proposed to be removed.

- B. The environmental value of removed and replacement trees shall be determined by using the iTree

methodology on the U.S. Forest Service website, the National Tree Benefit Calculator on the Arbor Day Foundation website, or other methodology selected by the applicant and deemed acceptable by the approving authority.

- C. Replacement trees should predominantly be native trees for this region as designated either by the County of Westchester Department of Planning; or in the New York City Parks Department "Native Species Planting Guide for New York City and Vicinity"; or in Cullina, "Native trees, Shrubs and Vines."
- D. All replacement trees shall be shown on a landscape plan acceptable to the approval authority, which shall consider the total number of trees proposed for removal and other relevant factors such as the topography of the area where trees are proposed for removal. Replacement trees shall be a minimum 1.5-inch DBH for deciduous trees, and five (5) feet in height for coniferous (evergreen) trees, unless the Village Engineer provides a waiver or permits modifications to minimum size standards due to topography or other conditions of the property. If and to the extent the approval authority determines that one or more trees required to be planted as replacement trees cannot be planted due to shallow soil conditions on the property, property size or like prohibitive conditions, alternate plantings of shrubs on a site satisfactory to the Village Engineer to fulfill the legislative intent of this chapter or a payment to the Village Tree Preservation Fund in lieu of the replacement trees may be made in the sum or sums equivalent to the value of the trees which cannot be planted.
- E. Planting of replacement trees is not required if and to the extent the approval authority determines that the removal of trees on a property is required as part of good forestry practice to improve the health of remaining trees. Planting of replacement trees is not required to replace invasive species of trees which are removed, and in no event shall any invasive species of trees or plants be planted as replacements.
- F. If an applicant has violated this chapter and is seeking a tree removal permit, the replacement tree standard is 120% of the environmental value of the trees cut down, removed, topped, excessively pruned, injured, damaged, wounded, broken, killed or destroyed, or, depending on site characteristics, such other percentage deemed acceptable to the Village Engineer, or the applicant may make a payment to the Village Tree Preservation Fund of a sum or sums equivalent to the value of the trees destroyed. A combination of tree replacement and payment to the Village Tree Preservation Fund may also satisfy the applicant's obligation.
- G. The property owner shall warrant that all replacement plantings shall survive and be in a healthy state on the third anniversary of the date on which the replacement plantings have been provisionally accepted by the Village Engineer, or their designee, as complying with the permit conditions. The property owner shall be responsible to promptly replant, during the next April to November growing season, any replacement plantings which did not survive in a healthy state, and the permit conditions shall not be satisfied until such warranty replacement plantings have survived in a healthy state for two years from when the replacement plantings have been provisionally accepted by the Village Engineer, or their designee. Should the permit holder fail to replace the trees voluntarily, written demand for such replacement within a specified time period, may be issued by the Village Engineer, or their designee. Should the permit holder fail to replace the trees pursuant to demand, and within the specified period of time, the Village Engineer, or their designee, shall have the right to serve a summons and/or declare the maintenance bond, if any, in default, and apply the escrow cash deposit and/or the proceeds of the bond to the Village Tree Fund.

§ 208-23. Bond.

- A. Before issuing a tree removal permit, the approving authority may require the applicant to file with the Village a suitable bond or other security, payable to the Village, in an amount fixed by the approving authority and in a form approved by said approving authority and conditioned upon the faithful performance of the requirements of this article, the observance of all municipal laws and compliance with conditions imposed in connection with the granting of the permit, to indemnify the Village for completing the work in accordance with this article.
- B. Any bond or other security filed in accordance with the foregoing, or portion thereof specifically related to tree removal and replacement, shall not be released until the Village Engineer has

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determined that, in all respects, the work proposed under the approval has been satisfactorily completed in full compliance with all provisions of this article. Failure to timely complete the work in accordance with the terms and conditions of an approved plan and/or permit and to obtain a certificate of completion as provided in § 208-25 and/or result in replacement trees in a healthy state on the third anniversary of their date of acceptance may result in the forfeiture of the bond or other security and the Village shall be entitled to the full amount of said bond or other security for the purpose of complying with the provisions of this article.

- C. All bonds and security forfeited will be deposited in the Tree Preservation Fund pursuant to §208-24.

§208-24 Tree Preservation Fund.

- A. The Treasurer of the Village of Croton-on-Hudson is hereby directed to establish a special purpose fund which will be designated as the “Tree Preservation Fund.” All fees which are required pursuant to this Chapter to be paid into said fund shall be delivered to the Village’s Treasurer and deposited in the special purpose fund.
- B. Purpose: The Tree Preservation Fund shall be a fund to receive in-lieu payments from applicants to satisfy tree replacement requirements which cannot be met on site; tree replacement requirements for violations of this Chapter; and forfeited securities. The funds shall be used solely as directed by the Board of Trustees, by resolution, for planting and maintaining trees on public land in the Village in accordance with this chapter.
- C. The Village Board of Trustees shall establish any fee or basis of payments in lieu of replanting and the same shall be included in the master fee schedule and be revised in accordance with Chapter 122

§ 208-25. Inspection; indemnification.

Any site for which an application for a tree removal permit has been submitted shall be subject to inspection by the approving authority or its designated representatives upon notice to the property owner and applicant at any reasonable time, including weekends and holidays. The applicant, by making application for such permit, shall be deemed to have given its consent to such inspection. The applicant shall indemnify and hold the Village harmless against any damage or injury that may be caused by or

arise out of any entry onto the subject property in connection with the processing of the application, during construction or performance of the work or within one year after the completion of the work.

§ 208-26. Term.

No permit shall be valid for more than one year after approval of an application by the approving authority unless otherwise specified by the approving authority. All permits shall expire upon completion of the work specified therein. The validity of any work duly completed pursuant to an existing permit shall not be affected by the expiration date. Permits may be renewed by the approving authority upon application submitted at least 20 days before the expiration of the permit. Standards for issuance of renewals shall be the same for the issuance of permits.

§ 208-27. Action upon completion of work.

- A. Within 30 days after completion of all tree removals authorized under a permit issued in accordance with this chapter, the applicant shall notify the Village Engineer of such completion.
- B. Within 30 days of such notification of completion of work, the Village Engineer shall inspect or cause to be inspected the tree removal site for compliance with all conditions of the permit.
 - (1) (1) When all tree removal(s) authorized under a permit is deemed to be completed in an acceptable fashion, the approving authority shall issue a temporary certificate of completion, which may be conditioned upon the retention of the bond or surety until the conditions of §208-22(G) are fulfilled to the satisfaction of the Village Engineer or their designee.
 - (2) When tree removals authorized under permit are deemed not acceptable, the approving authority shall so notify the applicant. The notification of noncompliance shall include a list of all conditions in violation of the terms of the permit and shall specify a time limit for the correction of all items so listed.

§ 208-28. Suspension or revocation of permit.

- A. The approving authority after notice to the permit holder and an opportunity to be heard may revoke or suspend a tree removal permit if it finds that the applicant has not complied with any or all of the terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the approved application.
- B. Issuance of a stop-work order by the Village Engineer shall be as provided in § 86-14 of the Village Code. A stop-work order may be appealed by filing a written notice of appeal with the Planning Board not later than 30 days after service of the stop-work order upon the applicant. A hearing shall be scheduled by the Planning Board within 20 days of receipt of request for a hearing. After the close of the hearing, the Planning Board may confirm, modify or cancel the stop-work order.
- C. The approving authority shall set forth in writing its findings and reasons for revoking or suspending a permit pursuant to this section and keep a copy in the permit application file.

ARTICLE III

Penalties; Appeals; Dead or Diseased Trees**§ 208-29. Penalties for offenses.**

- A. Any person, firm, corporation, or other entity who or which undertakes any regulated activity without a tree removal permit required by this chapter or who violates any condition attached to a tree removal permit, or who otherwise violates any of the provisions of this chapter shall be guilty of an offense punishable by a fine of not more than \$250. Each tree removed without a tree removal permit required by this chapter or in violation of any condition attached to a tree removal permit or otherwise in violation of this chapter shall constitute a separate offense. For a second and each subsequent violation within a one-year period, the violator shall be guilty of an offense punishable by a fine of not more than \$1,000 or a term of imprisonment of not more than 15 days, or both. Notwithstanding the foregoing, a violation of § 208-18 shall be punishable by a fine of not more than \$5,000 or a term of imprisonment of not more than 15 days, or both. Each violation of the provisions of this chapter shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. In addition, the court may order or direct a violator to replace any or all trees removed illegally, with a size and type selected by the Superintendent of the Department. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Village Engineer.
- B. In addition to the criminal penalties provided in § 208-29A any person, firm, corporation, or other entity who or which undertakes any regulated activity without a tree removal permit required by this chapter, or who violates any condition attached to a tree removal permit, or who otherwise violates any provision of this chapter shall also be liable for a civil penalty as defined herein for each such violation. Each consecutive day of the violation shall be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice and with right to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village and any action commenced to recover the same may be settled and discontinued by the Village.
1. Trees up to and including eight inches DBH: up to \$500.
 2. Trees greater than eight inches DBH and up to and including 12 inches DBH: up to \$1,500.
 3. Trees greater than 12 inches DBH: up to \$3,000.
 4. Street trees, trees within a wetland, watercourse or wetland/watercourse buffer, or on an excessively steep slope: up to \$4,000.
 5. Landmark Trees: up to \$5,000.
 6. Trees within Conservation Easement Areas or Designated Buffer Areas, or trees designated by the New York State Department of Environmental Conservation as a protected native plant: up to \$7,500.
 7. Fines per tree shall be doubled in the event that more than three (3) regulated trees on a site are cut down, removed, topped, excessively pruned, injured, damaged, wounded, broken, killed, destroyed, or for any act committed which will lead to the eventual removal of such tree without a permit, or, if clear cutting has been determined to have taken place, or, if any tree is cut down, removed, topped, excessively pruned, injured, damaged, wounded, broken, killed, destroyed, or any act is committed which will lead to the eventual removal of such tree, while an application is pending.

- C. The Planning Board also shall have the power, following a hearing, to direct a violator to cease violation of this chapter and, under the Board's supervision, to replace illegally removed trees and to restore satisfactorily the affected land to its condition prior to the violation, insofar as that is possible, within a reasonable time. Exercising of this power may be with or without the imposition of a fine or civil penalty under Subsections A and B hereof.
- D. Any civil penalty or order issued by the Planning Board shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
- E. The Village also shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter and to compel the replacement of any or all trees removed illegally and the restoration of the land affected to its condition prior to the violation of the provisions of this chapter.
- F. The Village shall not issue a building permit, temporary certificate of occupancy or certificate of occupancy for any property for which a violation of this chapter has been served, or for which an administrative or judicial proceeding has been commenced under this section, until said violation or proceeding is dismissed or resolved to the satisfaction of the approving authority or court, as is

appropriate.

- G. The Village Engineer and Code Enforcement Officer(s) are hereby authorized to issue appearance tickets for violation of this chapter.
- H. Any monetary penalties collected under this section shall be deposited in the Tree Fund.

§ 208-30. Appeals.

- A. A determination by the Planning Board to grant or deny a tree removal permit may be reviewed by the applicant or any other aggrieved person by the commencement of an action pursuant to the provisions of Article 78 of the Civil Practice Law and Rules.
- B. In the case of an application decided by the Village Engineer or the Village Engineer's designee, the applicant or any other party aggrieved by such determination may seek review by appealing to the Planning Board, in which case the Planning Board shall become the approving authority for such application. Such review shall be requested not later than 20 days after the filing of the subject decision by the approving authority.

§ 208-31. Removal of dead or diseased trees; dangerous trees or tree limbs.

- A. The Department shall have the right to cause the removal of any dead or diseased trees on private property within the Village when such trees constitute a hazard to life and property or harbor insects or diseases which constitute a potential threat to other trees within the Village. The Department shall notify, in writing, the owners of such trees. Removal shall be done by said owners, at their own expense, within 30 days after the date of service of notice.
- B. The Department shall have the right to cause the removal of any trees or tree limbs on private property within the Village that it has determined are dangerous because they are likely to constitute an imminent hazard to life and/or property. The Department shall notify, in writing, the owners of such trees or limbs. Removal shall be done by said owners, at their own expense, within three days after the date of service of notice.
- C. In the event of an owner's failure to comply with Subsection A or B hereunder, the Department shall have the authority to remove such tree(s) or limb(s), as the case may be, and charge the cost of removal to the owner. If the charge is not paid within 30 days from the date of the bill, the Village Manager shall cause, on the next succeeding April 15, any said unpaid removal charges to be added to the Village tax bills. Said charges shall constitute a lien on the real property so affected.

§ 208-32. Severability.

If any provision of this chapter shall be held for any reason to be invalid, such determination shall not invalidate any other provision hereof.