

Borough of Caldwell
Municipal Street Tree Removal and Replacement Policy
August 20, 2020

In order to provide all Caldwell residents with an understanding of the Borough's approach to street tree removal and replacement, this policy statement has been prepared. The terms outlined below are the rules that govern the actions of the Borough regarding this issue.

I. Tree Removal Policy:

It is the policy of the Borough of Caldwell that it shall remove all street trees that meet the following criteria, unless the affected property owner is willing and able to agree to the "Tree Preservation Exceptions" standards set forth in section II below. Such "exceptions" shall not be considered for trees scheduled for removal pursuant to subsection I.A below.

A. Street trees shall be removed as soon as possible by the Borough if they meet any of the following criteria:

1. Dead trees
2. Trees which are infected by a disease which is difficult or impossible to control and which can be readily transmitted to other trees
3. Trees which due to their growing habit or as a result of mechanical damage interfere with the flow of vehicular traffic in the roadway.

B. During the process of repair and/or replacement of the street, sidewalk and/or curbing, trees shall be removed by the Borough prior to the commencement of such work if they meet any of the following criteria:

1. Trees that cause uplifting of sidewalks to a degree that such sidewalk do not satisfy the criteria set forth in the Americans with Disabilities Act and its regulations (the "ADA")
2. Trees that have overgrown the curbing, such that the regular alignment of the curbing cannot be maintained, even with the installation of new curbing
3. Trees that cause uplifting of the roadway pavement to a degree that such uplifting creates a condition that is either unsafe for vehicle operation, will make snow removal operations difficult and/or create a condition that will cause future deterioration of the roadway pavement at a rate that is faster than is normal for that type of roadway
4. Trees that have caused and are likely to continue to cause damage and/or blockage of underground utilities through the agency of the growth of their root systems.

II. Tree Preservation Exceptions:

A. To the extent that the conditions that would cause a tree to be subject to removal pursuant to this Tree Removal Policy can be remedied through the doing of work and the spending of money that is greater than that which would normally be done by the Borough in the course of its street, sidewalk, curb, roadway and infrastructure activities, and/or can be remedied through the use of

land not located within the existing right-of-way of the affected street, the Borough will consider the implementation of such remedy if, and only if:

- 1.) the request is made by the owner of the property immediately adjacent to the site of the affected tree;
- 2.) the requesting party has the legal authority to grant access and use of any real property required for the remediation; and
- 3.) the requesting party is willing and able to enter into a binding written agreement to pay all of the costs associated with: i.) the implementation of the remedy; ii.) the maintenance and/or replacement of any public property affected by the future growth of the tree; and iii.) claims for injuries and/or damages resulting from the tree and/or the remedial work.

B. Examples of situations in which a remedy would be considered may include, without limitation, the following:

- 1.) The case where the affected sidewalk could be re-routed further away from the curb, which might encroach on the adjacent private property, such that it would still meet ADA standards;
- 2.) The case where selective root pruning is possible to alleviate the problematic condition and where, in the professional opinion of a Licensed Tree Expert, Certified Tree Expert or Approved Arborist, such root pruning will neither adversely affect the health of the tree nor increase the potential for the tree to be uprooted by wind and/or stormy conditions;
- 3.) The case where the curb line could be relocated further into the vehicular ROW, without reducing the ROW to the point that it would violate state standards and/or cause material changes in either the directions of traffic flow and/or permitted parking regulations.

C. Examples of situations in which a remedy would be not considered may include, without limitation, the following:

- 1.) The case where the remedial action will not fully alleviate the problematic condition.
- 2.) The case where, in the opinion of the Borough Engineer, the tree will pose a continuing hazard to the proper operation of one or more underground utilities, regardless of the remedial action taken.
3. The case where the relocation of the sidewalk, even with the permission of the affected property owner, would adversely affect conditions on the private portions of any adjacent property.

III. Tree Replacement Policy:

It is the policy of the Borough of Caldwell that, in any area where the Borough has chosen to cause the street trees to be removed, the Borough shall offer to provide replacement trees for the area pursuant to the following terms.

A. The replacement trees must be able to be planted in either:

- 1.) a suitable location located inside of the sidewalk line on the private property, with the approval of the property owner; or
- 2.) a suitable location within the tree lawn that is large enough so as not to cause the recurrence of the problems with street trees discussed above, where the minimum area to be deemed suitable is to be based on the genus and specie of the tree to be planted.

B. The replacement trees are from the list of trees deemed suitable for planting in locations of that size and character as is published from time to time by the Borough. To the extent that it is financially feasible for the Borough, and that the desired trees are available in the geographic area at normal prices, the selection of the genus and specie of the replacement trees from the list of suitable trees shall be made by the affected property owner.

C. To the extent that a property owner wishes to have a replacement tree or trees planted on their private property, the cost of installation of the tree shall be borne by the Borough. After such planting, the property owner shall enter into a binding written agreement to pay all of the costs associated with:

- 1.) the implementation of the replacement tree or trees;
- 2.) the maintenance and/or replacement of any public property affected by the future growth of the replacement tree or trees; and
- 3.) claims for injuries and/or damages resulting from the replacement tree or trees.