

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: _____

**ORDINANCE OF THE MONROE TOWNSHIP COUNCIL
AMENDING CHAPTER 97 OF THE CODE OF THE TOWNSHIP OF MONROE
ENTITLED, "TREE PRESERVATION"**

BE IT ORDAINED by the Township Council of the Township of Monroe, County of Middlesex, State of New Jersey, that the Code of the Township of Monroe, Chapter 97 entitled, "Tree Preservation" shall be amended and supplemented as hereinbelow set forth:

TREE PRESERVATION

SECTION 1.

§ 97-1. Findings; purpose.

§ 97-2. Definitions.

§ 97-3. Establishment of Conservation Officer.

§ 97-4. Cutting or removal restricted.

§ 97-5. Tree removal permit.

§ 97-6. Tree eEscrow fFund established.

§ 97-7. Replacement trees.

§ 97-8. Criteria for removal without replacement trees.

§ 97-9. Enforcement.

§ 97-10. Violations and penalties.

§ 97-11. Appeal.

§ 97-12. Severability.

§ 97-13. Repealer.

§ 97-14. Effective date.

[HISTORY: Adopted by the Council of the Township of Monroe 6-27-01 by Ord. No. 0-6-2001-026. Amendments noted where applicable.]

§ 97-1. Findings; purpose.

The Township Council of the Township of Monroe finds that indiscriminate, uncontrolled and excessive destruction, as well as the removal and cutting of trees on lots and tracts of land within the tTownship may cause:

- A. Increased drainage control cost.
- B. Increased soil erosion and sedimentation.
- C. Decreased fertility of the soil.
- D. Degradation of water resources.
- E. Decreased groundwater recharge.
- F. Increased buildup of atmospheric carbon.
- G. The establishment of a heat island effect.
- H. Increased dust and pollution.

This could impact the character of the ~~the~~Township and decrease property values, and render the land unfit and unsuitable for its most appropriate use and adversely affect the health, safety and welfare of the inhabitants of the ~~the~~Township. The ~~the~~Township desires to regulate and control indiscriminate and excessive cutting of trees within the ~~the~~Township. The ~~the~~Township strives to preserve the maximum possible number of trees within the ~~the~~Township as well as to protect larger, older specimens of trees, and in addition, to promote the preservation of existing trees and to provide a plan for replacement of trees.

It is recognized that there is a strong relationship between the integrity of the ~~the~~Township's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources; and a correlation between increased air pollution and high density residential and commercial or industrial uses. Therefore, the ~~the~~Township finds that the appropriate management of these resources is an important health, safety and general welfare concern.

§ 97-2. Definitions.

The following words and expressions used in this ~~e~~Chapter shall have the following meanings, unless the context clearly indicates a different meaning:

CLEAR CUTTING - The removal of all standing trees on a lot or portion of a lot.

DIAMETER AT POINT OF MEASUREMENT - The diameter of a tree measured four and one-half (4-1/2) feet (forestry method) above the ground level on the downhill side for existing trees. Trees utilized in the replacement of existing trees or proposed as part of a landscape plan, shall be measured twelve (12) inches above ground level for trees over a four (4) inch caliper. The measurement shall be six (6) inches above grade for trees up to four (4) inch caliper (nursery method). Diameter at point of measurement may appear as the abbreviation "DPM."

MANAGEMENT PLAN - Plan for the management of timbered or forested lands developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, or similar state or federal agency or the Township Forester.

MUNICIPAL TREE PLANTING PLAN - A specific plan adopted by the Township Council of the Township of Monroe for the location and placement of trees on public property.

REPLACEMENT TREE - A nursery grown certified tree, property balled, and marked with a durable label indicating genus, species and variety, and satisfying the standards for nursery stock and installation thereof, set forth by the American Association of Nurserymen.

SPECIMEN TREE – ~~Any tree with a DPM of thirty-six (36) inches or greater and any tree~~ Any of the following trees that reach the indicated diameter/circumference* and any tree designated by the Township Council as a historic tree or landmark tree and such other trees or species of tree as Council may, from time to time, designate as a ~~s~~Specimen ~~t~~Tree. ~~[Amended 4-1-02 by Ord. No. 0-4-2002-013]~~

Tree Species, Cultivar or Variety	Diameter	Circumference
Abies concolor	14 ½ "	45"
Acer campestre	25"	78"
A. nigrum	25"	78"
A. platanoides	28 ¾"	90"
A. rubrum	33 ½"	105"
A. saccharinum	50"	157"
A. saccharum	25"	78"
Aesculus hippocastanum	14 ½"	45"
A. octandra	19 ¾"	62"
Betula nigra	33 ½"	105"
B. pendula	25"	78"

Carya ovata	14 ½"	45"
Fagus grandifolia	17"	53"
F. sylvatica	22 ½"	70"
Fraxinus americana	25"	78"
F. pennsylvanica lanceolata	28 ¾"	90"
Gleditsia triacanthos inermis	28 ¾"	90"
Gymnocladus dioicus	28 ¾"	90"
Ilex opaca	14 ½"	45"
Juglans nigra	28 ¾"	90"
Liquidambar styraciflua	25"	78"
Liriodendron tulipifera	40 ½"	127"
Nyssa sylvatica	25"	78"
Picea abies	30"	94"
P. pungens 'Glauca'	22 ½"	70"
Pinus nigra	25"	78"
P. resinosa	22 ½"	70"
P. strobus	23 ¼"	73"
P. sylvestris	28 ¾"	90"
Platanus occidentalis	28 ¾"	90"
Prunus serotina	25"	78"
Pseudotsuga menziesii	22 ½"	70"
Pyrus calleryana 'Bradford'	33 ½"	105"
Quercus alba	19 ¾"	62"
Q. coccinea	25"	78"
Q. imbricaria	19 ¾"	62"
Q. palustris	28 ¾"	90"
Q. prinus	22 ½"	70"
Q. rubra	28 ¾"	90"
Q. shumardii	33 ½"	105"
Q. velutina	28 ¾"	90"
Tilia americana	30 ¼"	95"
T. cordata	33 ½"	105"
Ulmus americana	33 ½"	105"
*Diameter/Circumference in inches at 4.5 feet above ground level on uphill side		

TREE - Any deciduous or coniferous species which reaches a typical mature height of twelve (12) feet or more, and has a typical DPM of four (4) inches or greater at maturity.

TREE REMOVAL AND REPLACEMENT PLAN - A specific plan for replacement of removed trees in accordance with the provisions of this eChapter.

TREE REMOVAL PERMIT - License issued by the Conservation Officer of the Township of Monroe to remove or destroy a tree or trees.

§ 97-3. Establishment of Conservation Officer.

There shall be appointed and designated an official whose formal title shall be that of "Conservation Officer of the Township of Monroe." This official shall be charged with the inspection of sites for which applications are filed under this eChapter, and the administration and enforcement of the tree removal and protection requirements of this eChapter.

§ 97-4. Cutting or removal restricted.

Subject to the exemptions set forth herein, no person shall cut or remove, or cause to be cut or removed, any tree upon any lands within the ~~the~~ Township, unless the cutting or removal is accomplished in accordance with the provisions of this ~~the~~ Chapter.

§ 97-5. Tree removal permits.

A. Permit Required.

- (1) No person shall remove or destroy or cause to be or allow to be removed or destroyed any tree of four (4) inch caliper or larger without first obtaining a tree removal permit unless exempt under this Chapter. Tree removal permits shall be issued by the Conservation Officer. .
- (2) Where the tree removal is for the construction of any building, driveway, recreation area or anything else for which a building permit is required, no building permit shall issue until the applicant, unless exempt, has obtained any permit(s) required under this ~~the~~ Chapter.
- (3) Where a tree is proposed to be removed in conjunction with an application for development that requires site plan approval, the provisions of Section 108-11 of the ~~the~~ Township's Land Development Ordinance shall apply in lieu of the requirement for a tree removal permit.
- (4) ~~Where a tree is proposed to be removed from the Township right-of-way or Shade Tree Easement area or within any planned development within the Township's boundaries, the permit requirement provisions of Section 96-3 of the Township's Code and the tree replacement provisions of this Chapter shall apply.~~

B. Permit application. Applications for a permit shall be made to the Conservation Officer and shall contain the following information:

- (1) The name and address of the applicant.
- (2) The name and address of the owner of the property from which the tree(s) are to be removed.
- (3) Location on the property of the tree(s) to be removed, indicated on the Tree Removal and Replacement Plan.
[Amended 4-1-02 by Ord. No. 0-4-2002-013]
 - (a) The plan shall indicate all tree(s) to be removed, specifically by an assigned number, and the caliper of each tree.
 - (b) The plan shall indicate all tree(s) to remain, and proposed replacement trees, specifically by an assigned number.
[Amended 4-1-02 by Ord. No. 0-4-2002-013]
 - (c) In lieu of (a) and (b), for any clearing greater than three (3) acres, or where determined to be appropriate by the Conservation Officer for any clearing of less than three (3) acres where the property is heavily wooded, a representative five percent (5%) sampling of the wooded areas proposed to be cleared shall be inventoried. The representative five percent (5%) shall be determined by agreement between the Conservation Officer and the applicant, provided that all ~~the~~ ~~Specimen~~ ~~Trees~~ shall be indicated on the plan.
 - (d) All reasonable efforts shall be made to preserve ~~the~~ ~~Specimen~~ ~~Trees~~, including but not limited to, if feasible, relocation of infrastructure, roadways, and buildings. Removal of ~~the~~ ~~Specimen~~ ~~Trees~~ shall require the specific written recommendation of the Conservation Officer and approval of the Township Council.
[Amended 41-02 by Ord. No. 0-4-2002-013]
 - (e) The plan shall indicate a limit of disturbance line (i.e., where a four (4) foot high standard wood snow fence will be erected if required by the Conservation Officer.)

- (4) Any other information which may reasonably be required to enable the application to be properly evaluated including, but not limited to, a description of the purpose for which this application is to be made; e.g. clearing land for agricultural use, harvesting timber, fire protection, private parks, scenic improvements, hardship, danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities, or drainage of surface water.
- C. Inspection required. The Conservation Officer or his designee shall inspect the trees and the property which are the subject of the permit application, for the purpose of enforcing this Chapter.
- D. Exemption from chapter. Any destruction or removal of trees, except ~~Specimen~~ ~~Trees~~, shall be exempt from the provisions of this chapter if the trees sought for destruction or removal are:
- (1) Growing on property actually being used as a nursery, garden center or orchard.
 - (2) Removed in accordance with a "management plan" approved by the New Jersey Department of Environmental Protection ("DEP") and approved by the Environmental Commission and Conservation Officer.
 - (3) Located on a working farm and either cleared in accordance with a soil conservation plan approved by the Department of Environmental Protection, or ~~exempted~~ from DEP requirements. ~~Agricultural operations are exempt from replacement requirements provided the property in question is farmed for a minimum of five (5) years after the date of clearing. An application must be submitted prior to clearing. If the property is developed for any other use before the five (5) years expires, the replacement obligation shall be enforced according to the new use of the property.~~
 - ~~(4) Located on property of less than one (1) acre, provided no more than five (5) trees per year are to be removed.~~
 - ~~(4) Less than four (4) inches in caliper.~~
- E. Fees. Upon application for a tree removal permit, the applicant shall be charged the following fees:
- (1) ~~Fifteen dollars (\$15.) per tree to be removed, up to a maximum of six hundred dollars (\$600.) per acre, or part thereof, to be cleared.~~Application: Twenty-five dollars (\$25).
 - (2) For new residential building lots: after the first five (5) trees, fifteen dollars (\$15) per tree, up to a maximum of three hundred dollars (\$300) per lot, irrespective of lot size.
 - (3) For all other properties: after the first five trees, fifteen dollars (\$15) per tree to be removed, up to a maximum of six hundred dollars (\$600) for each acre, or part thereof, to be cleared.
 - (4) These fees are in addition to any replacement tree obligations or in-lieu contributions as provided in Section 97-7.
- F. Time limit. All tree removal permits shall be limited to one (1) year from date of issuance. If the approved tree removal has not occurred within one (1) year, a new permit must be applied for and ~~is subject to the payment of new fees. If, however, applicant diligently pursues other governmental approval, or if approved development is ongoing, the permit may be renewed for up to two (2) six (6) month periods. A renewal fee of seventy-five dollars (\$75.) shall be due and payable for each renewal.~~ the applicant is again subject to the fees set forth in § 96-3 (B)(4) and this Article.

§ 97-6. Tree ~~e~~Escrow ~~f~~Fund established.

A ~~t~~Tree ~~e~~Escrow ~~f~~Fund shall be established by the ~~t~~Township to ~~promote environmental enhancement programs such as tree planting, tree preservation, park plantings, landscaping and/or other related projects on or within publicly owned properties or facilities.~~ A separate trust account shall be established to receive and disburse replacement tree contributions under the supervision of the Township Treasurer. Appropriations from the ~~t~~Tree ~~e~~Escrow ~~f~~Fund shall be authorized by the Mayor and Council and shall be used in accordance with the municipal tree planting plan~~-, taking into consideration the recommendations of the Conservation Officer and/or the Shade Tree Commission.~~

§ 97-7. Replacement trees.

Any tree removed pursuant to this ~~e~~Chapter, unless exempt under Section 97-8 or Section 97-5(D), shall be replaced based on the following:

A.	<u>Trees to be Removed</u>	<u>Replacement Trees</u>	
	Caliper	# of Trees	Caliper or Dollar Amount
(1)	Greater than 4" and up to 12"	1	2 — 2 1/2" \$ 240.00
(2)	Greater than 4" and up to 12"	1	3 1/2" — 4" \$ 480.00
(1)	Greater than 12" and up to 18"	2	2" — 2 1/2" \$ 440.00
(1)	Greater than 18" and up to 24"	2	3" \$ 840.00
(1)	Greater than 24"	4	3" \$ 1,680.00

B. The applicant will receive a one for one replacement tree credit should stands of ten (10) or more trees greater than four (4) inches in caliper be preserved within the limit of disturbance line.

C. All replacement trees shall be planted on-site in accordance with the foregoing. However, if one or more of the following conditions exist, some or all of the replacement trees may be planted off-site:

- (1) The site in question cannot physically accommodate the total replacement amount of trees, and the applicant contributes an amount equal to the calculated monetary value of the unreplaced trees to the ~~t~~Tree ~~e~~Escrow ~~f~~Fund, or
- (2) The Conservation Officer and applicant agree in writing that the applicant shall make payment to the ~~t~~Tree ~~e~~Escrow ~~f~~Fund based upon the above chart, or
- (3) The Conservation Officer and applicant agree in writing that the applicant shall plant replacement trees off-site on municipally owned property pursuant to the municipal tree planting plan.

D. Tree replacements should conform to the recommended plantings set forth in §96-13 unless otherwise approved by the Conservation Officer.

§ 97-8. Criteria for tree removal without replacement trees.

A. Existing ~~developed residential~~ property.

- (a) If the application is on behalf of an existing ~~homeowners association or a~~ developed property not exempt from the provisions of this ~~e~~Chapter, and it is disclosed that the total number of trees, other than ~~s~~Specimen ~~t~~Trees, to be removed or destroyed on the property ~~or open space area in question~~ which is the subject of the application, is ten (10) or less, the permit shall be issued without replacement trees ~~being~~ required. Within any one (1) year period, permits may be used for removal of a total of no more than ten (10) trees on the same property without replacement trees being required. ~~Any tree removal occurring where a homeowners association exists must present formal approval by the ruling body of the Association or its designee prior to obtaining a tree removal permit.~~

B. ~~Other exemptions~~ New residential development.

- (1) If the application is for a ~~new residential~~ development (~~subdivisions or site plans~~), or for which a ~~subdivision application is required under the municipal land use law or for which a~~ building permit to construct a new single or two-family dwelling on an individual lot is required, up to fifty percent (50%) of the trees ~~on an individual lot~~ may be removed for the purpose of clearing for the ~~proposed~~ building ~~envelope~~, driveways(s) and ~~usable~~ yard space for said ~~on the~~ building lots(s) only, without replacement trees ~~being~~ required.

- (2) If the application is for a **new residential** development for which site plan approval is required under the municipal land use law, all tree removal shall be controlled by the provisions of Section 108-11 of the ~~†~~Township's Land Development Ordinance. **However the provisions of this Chapter, where not inconsistent with the Residential Site Improvement Standards Act ("RSIS"), shall guide the Board hearing the application.**

~~(3) Any tree removed from an area of property to be dedicated as public improvement, e.g. drainage facilities and public roadways, shall be exempt from the replacement provisions of this chapter, except that where private roadways, parking areas or open space are proposed, all trees are subject to replacement in accordance with this chapter.~~

C. Other criteria.

- (1) The Conservation Officer shall approve the removal of a tree, except a ~~€~~Specimen ~~†~~Tree, without requiring replacement trees or payment into the ~~†~~Tree ~~€~~Escrow ~~†~~Fund, if the following criteria apply:
- (a) The tree is located on a parcel for which preliminary or final subdivision or site plan approval was obtained prior to the adoption of Ordinance No. 0-9-98-039 and it cannot be relocated on the site because of its age, type or size; or
 - (b) The tree is dead, diseased, injured, in danger of falling, interferes with existing utility service, creates an unsafe condition, or its continued presence conflicts with any other Ordinances or regulations.
- (2) No Specimen Tree shall be removed unless the Conservation Officer has obtained the approval of the Township Council.

§ 97-9. Enforcement.

The requirements of this ~~€~~Chapter shall be enforced by the Conservation Officer, who shall inspect or require adequate inspection of all sites upon which there is an application for tree removal. The Conservation Officer shall oversee all applicable tree removal or destruction and soil removal incidental thereto. Upon ascertaining a violation of this ~~€~~Chapter, the Conservation Officer shall refer charges in the Municipal Court as provided in this ~~€~~Chapter. In addition to other remedies, the Conservation Officer, Zoning Officer, Construction Official, or other proper municipal official, may institute any appropriate legal action to prevent a continuing violation of the terms of this ~~€~~Chapter.

§ 97-10. Violations and penalties.

Any person, **firm, partnership, association or other legal entity** violating or causing to be violated any of the provisions of this ~~€~~Chapter shall be subject to a fine of not less than two hundred fifty dollars (\$250.) and not more than ~~one~~ **two** thousand dollars (~~\$1,000~~ **2,000**.) and shall replace each tree destroyed or removed in violation of this ~~€~~Chapter ~~in accordance with the nursery grown tree(s) of the same species having a caliper of not less than two (2) inches. ~~tree replacement provisions of this chapter.~~~~ Each tree destroyed or removed in violation of this ~~€~~Chapter shall be considered a separate offense.

§ 97-11. Appeal.

Any applicant or permit holder, or any person otherwise aggrieved under this ~~€~~Chapter, may appeal to the Township Council any decision of the Township Conservation Officer by filing written notice with the Township Clerk within ten (10) days of said decision. The Township Council is hereby authorized and empowered in such cases to hear and fully decide and dispose of such matters. The Township Council shall hold a public hearing thereon and act upon the same no later than sixty (60) days after the notice has been filed, unless the applicant requests, and the Township Council consents to extend the time for such action.

§ 97-12. Severability.

If any section, paragraph, subdivision, clause or provision of this ~~€~~Chapter shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of this ~~€~~Chapter shall be deemed valid and effective.

§ 97-13. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this Chapter shall be and the same are hereby repealed. If any section, subdivision, sentence, clause or provision of this Chapter shall be adjudged invalid, such adjudications shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of the Chapter shall be deemed valid and effective.

§ 97-14. Effective date.

This Chapter shall take effect upon final passage and publication as provided by law.

SECTION 2. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

GERALD W. TAMBURRO, Council President

NOTICE

Notice is hereby given that the foregoing Ordinance has been introduced and passed on first reading at a meeting of the Monroe Township Council held on December 9, 2015. Said Ordinance will again be read and considered for final passage at a meeting of the Monroe Township Council to be held on December 28, 2015 at 7:00 p.m. at the Municipal Complex, 1 Municipal Plaza, Monroe Twp., NJ 08831. At said time and place all persons having an interest in the foregoing Ordinance will be granted an opportunity to be heard concerning the same prior to its consideration for final passage.

SHARON DOERFLER, Township Clerk

MAYORAL APPROVAL

By virtue of the Optional Municipal Charter Law of 1950 and Section 3-19 of the Code of the Township of Monroe, my approval of this Ordinance is effected by the affixing of my signature hereto.

RICHARD PUCCI, Mayor

Date Signed _____