

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: \_\_\_\_\_

ORDINANCE OF THE MONROE TOWNSHIP COUNCIL  
AMENDING AND SUPPLEMENTING CHAPTER 108  
OF THE CODE OF THE TOWNSHIP OF MONROE  
ENTITLED "LAND DEVELOPMENT",  
SPECIFICALLY ARTICLE XVII, "TREE REMOVAL"

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**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 108 entitled, "Land Development", shall be amended and supplemented as hereinbelow set forth:

**ARTICLE XVII Tree Removal**

~~[Adopted 9-9-98 by Ord. No. 0-9-98-039]~~

**SECTION 1.**

**§ 108-17.1. 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 ~~the~~Township, 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 general 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 in the course of development of a site as well as protect larger, older specimens of trees, and in addition, to encourage innovative design and grading, promote the preservation of existing trees and 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.

**SECTION 2. § 108-17.2. Definitions.**

The following words and expressions used in this Article 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.

CONSERVATION OFFICER - The individual appointed by the Mayor pursuant to §108-17.3, or his or her designee.

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."

DRIPLINE - A limiting line established by a series of perpendicular drop points marking the maximum radius of the crown of an existing tree, but not less than six (6) feet from the trunk, whichever is greater.

HOMEOWNERS ASSOCIATION - A community association which is organized in a development in which individual owners share common interests in open space or facilities.

REPLACEMENT PLAN - A specific plan for replacement of removed trees in accordance with the provisions of this ~~chapter~~ **Article**.

REPLACEMENT TREE - A nursery grown certified tree, properly 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 American Association of Nurserymen.

SELECTIVE CUTTING - The removal of larger trees on an individual basis while leaving trees of lesser size.

SILVICULTURE - The management of any wooded tract of land to insure the continued survival and welfare whether for commercial or noncommercial purposes, pursuant to a plan approved by the New Jersey Bureau of Forestry.

SLASH — The forest debris remaining after a tree removal operation.

SPECIMEN TREE — ~~Any tree with a DPM of eighteen (18) inches or greater. 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 the Council may, from time to time, designate as a Specimen Tree.~~

Tree Species, Cultivar or Variety	Diameter	Common Name	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 ovate	14 ½ "		45"
Fagus frandifolia	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		

**THINNING** — The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of the remaining trees on the lot.

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

**WOODED ACRES PERMITTED FOR DEVELOPMENT** — Those wooded lands within a lot or tract which are not specifically excluded by any general, state, county or municipal law or ordinance, deed restriction or covenant running with the land. For purposes of this ~~chapter~~ **Article**, those lands specifically eliminated from considerations as wooded acres permitted for development include, but are not limited to, wetlands as defined by N.J.S.A. 13-9B-1 et seq.

**§ 108-17.3. 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 upon which there is an application for site plan approval or for subdivision approval in regard to the provisions of this Article, and with inspection and enforcement of the tree removal and protection requirements of the Code.

**§ 108-17.4. Cutting or removal restricted.**

Subject to the exemptions set forth, no person shall cut or remove, or cause to be cut or removed, any tree with a diameter at point of measurement (DPM) of four (4) inches or greater upon any lands within the ~~T~~Township, unless the cutting or removal is accomplished in accordance with the provisions of this Article.

**§ 108-17.5. Tree removal.**

**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. Tree removal permits shall be issued by the **Conservation Officer**. ~~Planning Administrator or designee. A permit is required for the removal of all trees of four (4) inch caliper or larger.~~
- (2) ~~Single-family existing residential property shall be exempt from the requirements of this Article, provided that said homeowner is clearing one (1) acre or less of his property.~~

**B. Permit application.** Applications for a permit shall be made to the **Planning Administrator 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 a plan.
  - (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, specifically by an assigned number.
  - (c) The plan shall indicate a limit of disturbance line (i.e., where the four (4) foot high standard wood snow fence will be erected if required by the Conservation Officer).
  - (d) For any clearing greater than three (3) acres, a representative five percent (5%) 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. Where less than three (3) acres is proposed to be cleared all trees to be removed shall be inventoried.
  - (e) All trees greater than twenty (20) inches in caliper or any ~~s~~Specimen ~~t~~Trees (i.e., any unique or remarkable tree or species) to be removed shall be indicated on the plan. All reasonable efforts shall be made to preserve such trees, including but not limited to, if feasible, relocation of infrastructure, roadways, and buildings. Removal of such trees shall require the specific written approval of the Conservation Officer.
- (4) Any other information which may reasonably be required to enable the application to be properly evaluated, in the sound discretion of the **Planning Administrator Conservation Officer**.

**C. Inspection required.** The Conservation Officer or designee shall inspect the trees which are the subject of the application, the drainage incidental thereto, other physical conditions existing on the property, and the impact upon adjacent properties.

**D. Building permit requirements.** Where an application is made in connection with the construction of a building or other land use improvement, no building permit shall be issued until the tree removal permit has been granted, or an exemption granted.

**E. Replacement tree requirements.**

- (1) Existing residential property.
  - (a) ~~Homeowners associations.~~ If the application is on behalf of an existing homeowners association or a developed property not exempt from the provisions of this Article and it is disclosed that the total number of trees, other than Specimen Trees, to be removed or destroyed on the property or open space area in question, which ~~are~~ is the subject of the application, is ten (10) or less, the permit shall be issued without replacement trees required. Within a one (1) year period, permits may be used for removal 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 obtain formal approval by the ruling body of the association or its designee prior to obtaining a tree removal permit.

(2) New residential development.

(a) If the application is on one acre or less for a new residential development (subdivisions or site plans), 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 may be removed for the purpose of clearing for the building envelope, driveways and yard space for said building lot(s) only without replacement trees required.

If the application is on more than one acre for a new residential development (subdivisions or site plans), or for which a building permit to construct a new single or two-family dwelling on an individual lot is required, up to 20,000 square feet of the trees may be removed for the purpose of clearing for the building envelope, driveways and yard space for said building lot(s) only without replacement trees required.

(b) For new residential development where tree removal is to occur within public or private roadways or rights-of-way, drainage facilities, parking areas or proposed open space, all trees are subject to replacement in accordance with this Article.

(c) 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 Article where not inconsistent with the Residential Site Improvement Standards Act ("RSIS"), shall guide the Board hearing the application.

(3) Agricultural operations. Agricultural operations are exempt from replacement requirements providing 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 expire, the replacement obligation shall be enforced according to the new use of the property.

(4) Nonresidential development. All commercial and industrial developments are required to replace all trees removed in accordance with this Article.

(5) Sparse land/major subdivisions and site plans. In regard to major subdivisions and site plans, lots with tree cover less than thirty percent (30%) shall be required to plant a minimum of 1.5 trees per ten thousand (10,000) square feet or less of open field. The owner/applicant shall have a landscape architect or licensed surveyor calculate the total required trees to be distributed in accordance with a landscape plan of the entire project, which shall be approved by the Conservation Officer.

F. Tree Escrow Fund established. A Tree Escrow Fund shall be established by the ~~T~~Township to promote environmental enhancement programs such as tree planting, tree preservation, park ~~development plantings~~, landscaping and/or other related projects on or within municipally 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 Tree Escrow Fund shall be authorized by the Mayor and Council and shall be used for a municipal purpose in accordance with the Municipal Tree Planting Plan, taking into consideration pursuant to the recommendations of the ~~Planning Administrator~~, Conservation Officer, and/or the Shade Tree Commission.

G. Replacement tree value calculations. The replacement value of all trees to be removed where replacement trees are required by this Article shall be calculated as follows:

(1) Trees to be removed.			
<u>Caliper</u>	<u># of Trees</u>	<u>Caliper</u>	<u>Dollar Amount</u>
Greater than 4" & up to 12"	1	2 - 2 1/2"	\$ 240.00
<u>Greater than 4" up to 12"</u>	<u>1</u>	<u>3 1/2" - 4"</u>	<u>\$ 480.00</u>
Greater than 12" & up to 18"	2	2" - 2 1/2"	\$ 440.00
Greater than 18" & up to 24"	2	3"	\$ 840.00
Greater than 24"	4	3"	\$1,680.00

Dead and diseased trees are not counted as trees to be replaced. The value of proposed shade, ornamental, evergreen and shrub material shall be deducted from the calculated amount for replacement trees, not including those plantings otherwise required pursuant to land development provisions or as a condition of Planning or Zoning approval. The value of the proposed landscape material shall be calculated based upon average area material costs for planting.

- (2) 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 tree removal areas.
- (3) All replacement trees shall be planted on-site **in accordance with the foregoing. However, unless** if one (1) or more of the following conditions exist, **some or all of the replacement trees may be planted off-site:**
  - (a) 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 ~~removed unreplaced trees, minus the value of the proposed landscaping~~ to the ~~Township~~ Tree Escrow Funds, as required herein, **or**
  - (b) Due to the unique site conditions, The Conservation Officer and applicant agree in writing that the applicant shall make payment to the ~~Township~~ Tree Escrow Fund based upon the above chart, **or**
  - (c) **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.**
- (4) **Tree replacements should conform to the recommended plantings set forth in §96-13 unless otherwise approved by the Conservation Officer.**

H. Fees. Upon application for a tree removal permit, the applicant shall be charged the following fees:

- (1) ~~For new resident building lots: fifteen dollars (\$15.) per tree, up to a maximum of three hundred dollars (\$300.) per lot.~~ Application: Twenty-five dollars (\$25).
- (2) ~~For all other properties~~ ~~For new residential building lots: After the first five trees, fifteen dollars (\$15.) per tree, up to a maximum of three six hundred dollars (\$3600.) for each per lot, acre, or part thereof to be cleared.~~  
~~(2-3) For all other properties: after the first five trees, fifteen dollars (\$15.) per tree up to a maximum of six hundred dollars (\$600.) for each acre, or part thereof, to be cleared.~~
- (3) ~~These fees are in addition to any replacement tree obligations or in-lieu contributions as provided in Section 97-7.~~

I. 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 **the applicant is again** subject to the **payment of new** fees set forth in §96-3 (B)(4) and this Article.

#### § 108-17.6. Criteria for tree removal.

The Conservation Officer may approve the removal of a tree if any of the following criteria apply:

- A. The tree is located in a parcel for which preliminary or final subdivision approval has been obtained, and it unreasonably restricts the economic enjoyment of the property and cannot be relocated on the site because of its age, type or size.
- B. The tree is dead, diseased, injured, in danger of falling, interferes with existing utility service, created an unsafe condition, or conflicts with any other ordinances or regulations.

**§ 108-17.7. Enforcement.**

The requirements of this Article shall be enforced by the Conservation Officer, who shall inspect or require adequate inspection of all sites upon which there is an application for site plan or subdivision; all applicable tree removal or destruction and soil removal incidental thereto; and for compliance with other pertinent conditions of approval from the Planning Board/Zoning Board. Upon ascertaining a violation of this Article, the Conservation Officer shall refer charges in the Municipal Court as provided in this Article. In addition to other remedies, the Construction Officer, the Planning Administrator, Building Inspector or other proper municipal official may institute any appropriate legal action to prevent a continuing violation of the terms of this Article.

**§ 108-17.8. Violations and penalties.**

Any person, firm, partnership, association or other legal entity violating or causing to be violated any of the provisions of this Article, shall be subject to a fine of not less than two hundred fifty dollars (\$250-) and not more than ~~fifteen hundred two thousand~~ dollars (~~\$1,500 \$2,000-~~) and shall replace each tree destroyed or removed in violation of this Article with nursery grown tree(s) of the same species having a caliper of not less than two (2) inches. Each tree destroyed or removed in violation of this Article shall be considered a separate offense.

**SECTION 3.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 4.** 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.

**SECTION 5.** This Ordinance shall take effect upon final passage and publication as provided by law subject to a copy being filed with the Middlesex County Planning Board.

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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.

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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.

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RICHARD PUCCI, Mayor

Date Signed \_\_\_\_\_