

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: O-10-2018-030

**ORDINANCE OF THE MONROE TOWNSHIP
COUNCIL REPEALING AND REPLACING CHAPTER 96, OF THE CODE OF THE
TOWNSHIP OF MONROE ENTITLED “SHADE TREES AND SHRUBBERY;
LANDSCAPING”**

WHEREAS, the Monroe Shade Tree Commission was created by the Township Council of the Township of Monroe by section 3-84 of the Code of the Township of Monroe (“Code”); and

WHEREAS, the powers and duties vested in the Shade Tree Commission, as set forth in Chapter 96 of the Code, overlap with and/or conflict with the responsibilities of other municipal officials under the Code and New Jersey statutes in certain instances, including as pertaining to the regulation of tree removal on private land being developed within the Township; and

WHEREAS, this overlap and/or conflict has created confusion and inconsistency in the manner in which tree regulations are applied and enforced in the Township; and

WHEREAS, the Township Council has determined that it would be in the best interests of the Township to repeal and replace Chapter 96 of the Code to provide that the Monroe Township Shade Tree Commission’s responsibilities encompass the planting, care and maintenance of trees in public spaces within the Township, as well as the other powers vested in the Shade Tree Commission set forth in Chapter 96-1; and

WHEREAS, the Township Council has further determined that the regulations regarding proper planting procedures and recommended plantings should be moved out of Chapter 96 and set forth in a separate reference document due to the detailed nature of the requirements and for ease of future modification as need be;

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Monroe, Middlesex County, that Chapter 96, “Shade Trees and Shrubbery; Landscaping,” is hereby repealed and replaced to read as follows:

Section 1.

Chapter 96 SHADE TREES AND SHRUBBERY

§ 96-1. Powers of Shade Tree Commission.

§ 96-2. Prohibited acts.

§ 96-3. Enforcement.

§ 96-4. Violations and penalties.

§ 96-1. Powers of Shade Tree Commission.

The Shade Tree Commission, as created under § 3-84 of this Code, shall serve without compensation and have the following powers:

- A. To exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, park or parkway of the Township or public right of way, exclusive of state or county highways, unless the proper authority gives assent thereto.
- B. To regulate and control the use of the ground surrounding same as far as may be necessary for their proper growth, care and protection.

- C. To move or require the removal of any tree or part thereof dangerous to public safety.
- D. To care for and control parks and parkways and to encourage arboriculture.
- E. To administer treatment to or remove any tree situate upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality and enter upon private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the Department of Agriculture.
- F. To receive an oral report from the Township's Licensed Tree Expert with regard to street trees proposed in the landscape plans associated with the development applications before the Planning Board or Zoning Board of Adjustment, and to provide comments and/or recommendations through the Licensed Tree Expert to such Board on an advisory basis.

§ 96-2. Prohibited acts.

No person shall do or cause to be done any of the following acts affecting the trees, plants, shrubbery or other ornamental flora planted or growing naturally within the highway or public places under the jurisdiction of the Township, unless permission is first obtained from the Shade Tree Commission.

- A. Cut, trim, break, disturb the roots of or spray with chemicals any living tree or shrub; or injure, misuse or remove any structure or device to support or protect any tree or shrub.
- B. Plant or remove any living tree or shrub, or climb with spikes any living tree or shrub on Township land.
- C. Fasten any rope, wire, electric attachments, sign or other device to a tree or shrub, or to any guard about such tree or shrub.
- D. Close or obstruct any open space provided about the base of a tree or shrub or add fertilizer to the roots of such tree or shrub.
- E. Pile any building material, or make any mortar or cement within six (6) feet of a tree or shrub.
- F. Change the grade of the soil within the limits of the lateral spread of the branches of any such tree.
- G. Place or maintain or cause to be placed or maintained upon the ground on any street, or place any stone, cement or other substance, which shall impede the tree access of air and water to the roots of any tree or shrub in any street or place.
- H. Lay any sidewalk along, or open, construct, curb or pave any street or do any like act so as to interfere with or do injury to any highway shade tree.
- I. Place salt, brine, oil, gas, sewage water or other substances injurious to plant growth in any public highway or place in such a manner as to injure any tree or shrub growing thereon.
- J. Build any fire or station any tar kettle, road roller or other engine in any public highway in such a manner that the heat vapors or fumes therefrom may injure any tree or shrub.
- K. Do any excavating within six (6) feet of any tree or shrub in any public highway or place.
- L. Cut roots when necessary of more than one (1) inch in diameter without first protecting such roots.

§ 96-3. Enforcement.

The provisions of this Chapter shall be administered and enforced by the Shade Tree Commission through the Township Conservation Officer. Upon ascertaining a violation of this Chapter, the Conservation Officer shall refer charges to municipal court. If any person shall continue to violate any of the provisions of this Chapter after being duly notified of such violation, or shall neglect or refuse to comply with any lawful order of the Conservation Officer, the failure to comply with a second or each of any subsequent notifications or orders shall be construed as an additional violation of this Chapter, and each additional offense shall subject the offending party upon conviction to the same penalty as provided for the first offense.

§ 96-4. 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 (\$250.00) and not more than Two Thousand Dollars (\$2,000.00) and shall replace each tree destroyed or removed in violation of this Chapter 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 Chapter shall be considered a separate offense.

Section 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 3. All ordinances or parts of ordinances inconsistent herewith shall be and the same are hereby repealed.

Section 4. This Ordinance shall take effect upon passage and publication in accordance with applicable law.

SO ORDAINED as aforesaid.

STEPHEN DALINA, Council President

RECORDED VOTE – INTRODUCTION – October 1, 2018						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Baskin	X		X			
Councilwoman Cohen			X			
Councilman Dipierro		X	X			
Council V. President Schneider			X			
Council President Dalina			X			

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Monroe Township Council held on October 1, 2018. Said Ordinance will again be read and considered for final passage at the next scheduled meeting of the Monroe Township Council to be held on November 7, 2018 at 7:00 p.m. at the Monroe Township Municipal Building, 1 Municipal Plaza, Monroe Township, New Jersey 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 consideration for final passage by the Council.

PATRICIA REID, Township Clerk

RECORDED VOTE – SECOND READING & FINAL ADOPTION– November 7, 2018						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Baskin						
Councilwoman Cohen						
Councilman Dipierro						
Council V. President Schneider						
Council President Dalina						

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TREES AND SHRUBBERY; LANDSCAPING"**

MAYORAL APPROVAL

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

GERALD W. TAMBURRO, Mayor

Date signed: _____