

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: O-9-2018-031

ORDINANCE OF THE MONROE TOWNSHIP COUNCIL
REPEALING AND REPLACING CHAPTER 97
OF THE CODE OF THE TOWNSHIP OF MONROE
ENTITLED, "TREE PRESERVATION"

WHEREAS, the Monroe Township Council adopted Chapter 97, "Tree Preservation," for the purposes set forth in Section 97-1 thereof; and

WHEREAS, the Township Council has determined that it is appropriate to repeal and replace Chapter 97 to clarify the circumstances under which a tree removal permit is required; to update and extend the tree replacement requirements; and to revise the criteria for exemption from tree replacement obligations for new residential developments;

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Monroe, Middlesex County, that Chapter 97, "Tree Preservation," is hereby repealed and replaced to read as follows:

Section 1.

**Chapter 97
TREE PRESERVATION**

- § 97-1. Findings; purpose.
- § 97-2. Definitions.
- § 97-3. Establishment of Conservation Officer.
- § 97-4. Cutting or removal restricted.
- § 97-5. Tree removal permits.
- § 97-6. Tree Escrow Fund established.
- § 97-7. Replacement trees.
- § 97-8. Criteria for tree removal without replacement trees.
- § 97-9. Enforcement.
- § 97-10. Violations and penalties.
- § 97-11. Appeal.

§ 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 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 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 Township. The Township desires to regulate and control indiscriminate and excessive cutting of trees within the Township. The Township strives to preserve the maximum possible number of trees within 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 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 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 Chapter shall have the following meanings, unless the context clearly indicates a different meaning:

CALIPER: Caliper indicates the diameter of a tree trunk measured, in inches, six (6) inches above ground level for trees up to four (4) inches in diameter and measured twelve (12) inches above ground level for trees over four (4) inches in diameter.

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."

LIMIT OF DISTURBANCE LINE – where a four (4) foot high standard wood snow fence will be erected if required by the Conservation Officer.

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 trees that reach a specified diameter/circumference in inches at 4.5 feet above ground level at uphill side, any tree designated by the Township Council as a historic tree or landmark tree, and such other trees or species of tree as may, from time to time, be designated as Specimen Trees in the Monroe Township Tree Planting Standards and Specifications, Specimen Tree List and Recommended Plantings, on file in the Township Clerk's office.

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 Chapter.

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 "Conservation Officer of the Township of Monroe." This official shall be charged with the inspection of sites for which permit applications are filed under this Chapter, and the administration and enforcement of the tree removal and protection requirements of this Chapter.

§ 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 Township, unless the cutting or removal is accomplished in accordance with the provisions of this 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 Chapter.
- (3) Where a tree is proposed to be removed in conjunction with an application for development that requires approval by the Planning Board or Zoning Board of Adjustment, no tree removal permit under this section shall be required, but all other requirements of this Chapter, including the tree replacement requirements, shall apply and be satisfied by the applicant as a condition of approval by the Planning Board or Zoning Board of Adjustment.
- (4) Where a tree is proposed to be removed from the Township public property by a private party and is not associated with a development application pending before the Planning Board or Zoning Board of Adjustment, the approval of the Shade Tree Commission shall be required.

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.
 - (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.
 - (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 Specimen Trees shall be indicated on the plan.
 - (d) All reasonable efforts shall be made to preserve Specimen Trees, including but not limited to, if feasible, relocation of infrastructure, roadways, and buildings. Removal of Specimen Trees shall require the specific written recommendation of the Conservation Officer and approval of the Township Council.
 - (e) The plan shall indicate a limit of disturbance line.

- (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 or her designee shall inspect the trees and the property which is 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 exempt 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) Less than four (4) inches in caliper.
- E. Permit Fees. Upon application for a tree removal permit, the applicant shall be charged the following fees:
- (1) Application: Thirty-five dollars (\$35).
 - (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 permit fees are in addition to replacement tree obligations or in-lieu contributions.
- 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 the applicant is again subject to the payment of a permit fee.

§ 97-6. Tree Escrow Fund established.

A Tree Escrow Fund shall be established by the 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 Tree Escrow 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 Chapter, unless exempt from replacement requirements, shall be replaced based on the following:

A. Trees to be Removed	Replacement Trees		
	Caliper	# of Trees	Caliper or Dollar Amount
One tree greater than 4" and up to 8"	1	2 —2 ½"	\$ 240.00
One tree greater than 8" and up to 12"	2	2 - 2 ½"	\$ 480.00
One tree greater than 12" and up to 16"	4	3"	\$ 1,680.00
One tree greater than 16" and up to 20"	5	3"	\$ 2,100.00
One tree greater than 20" – 24"	6	3 ½ - 4"	\$ 2,880.00
One tree greater than 24 - 28"	7	3 ½ - 4"	\$ 3,360.00
One tree greater than 28 - 32"	8	4"	\$ 3,840.00
One tree greater than 32"	10	4"	\$4,800.00

- 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 Tree Escrow Fund, or
 - (2) The Conservation Officer and applicant agree in writing that the applicant shall make payment to the Tree Escrow 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 shall conform to the recommended plantings set forth in "Monroe Township Tree Planting Standards and Specifications, Specimen Tree List and Recommended Plantings" on file with the Township Clerk unless otherwise approved by the Conservation Officer.
- E. Trees required to be planted in accordance with site plan or subdivision approval by the Planning Board or Zoning Board of Adjustment shall be counted towards an applicant's tree replacement obligation.

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

- A. Existing residential property.
- (1) If the application is on behalf of an existing homeowners association or a developed property not exempt from the provisions of this Chapter, and the total number of trees, other than Specimen 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 required.
 - (2) 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.
 - (3) 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. New residential development.

(1) Lots served by municipal sewerage

(a) If the application is for a new residential development and the proposed lot area is no more than 40,000 square feet, up to thirty-seven and one-half percent (37.5%) of the trees on the lot may be removed for the purpose of clearing for the building envelope, driveway and yard space for said building lot only without replacement trees required.

(b) If the application is for a new residential development and the proposed lot area is greater than 40,000 square feet, up to 15,000 square feet in area of trees on the lot may be removed for the purpose of clearing for the building envelope, driveway and yard space for said building lot only without replacement trees required.

(2) Lots not served by municipal sewerage

(a) If the application is for a new residential development and the proposed lot area is no more than 40,000 square feet, up to fifty percent (50%) of the trees on the lot may be removed for the purpose of clearing for the building envelope, driveway and yard space for said building lot only without replacement trees required.

(b) If the application is for a new residential development and the proposed lot area is greater than 40,000 square feet, up to 20,000 square feet in area of trees on the lot may be removed for the purpose of clearing for the building envelope, driveway and yard space for said building lot only without replacement trees required.

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 a tree removal permit. 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 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 (\$250.00) 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.

§ 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.

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 – September 5, 2018						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Baskin			X			
Councilwoman Cohen						X
Councilman Dipierro	X		X			
Council V. President Schneider		X	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 September 5, 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 October 1, 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

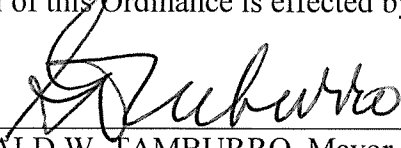
RECORDED VOTE – SECOND READING & FINAL ADOPTION – October 1, 2018						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Baskin		X	X			
Councilwoman Cohen					X	
Councilman Dipierro			X			
Council V. President Schneider	X		X			
Council President Dalina			X			

ORDINANCE NO.: O-9-2018-031

**ORDINANCE OF THE MONROE TOWNSHIP
COUNCIL REPEALING AND REPLACING CHAPTER 97, "TREE PRESERVATION"**

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: 10/2/18