

Township of South Hackensack
Bergen County, New Jersey

ORDINANCE NO. 2010-08

AN ORDINANCE REGULATING THE REMOVAL OF TREES WITHIN THE TOWNSHIP OF SOUTH HACKENSACK, CREATING A TOWNSHIP SHADE TREE COMMISSION AND ESTABLISHING CHAPTER 209 OF THE CODE OF THE TOWNSHIP OF SOUTH HACKENSACK ENTITLED "SHADE TREES"

BE IT ORDAINED by the Township Committee of the Township of South Hackensack, Bergen County, New Jersey, as follows:

Section 1. Purpose

The Township Committee of South Hackensack *has* determined that it is necessary to maintain the Township's tree stock so as to preserve the quality of life in South Hackensack because of its important role in maintaining the mature tree inventory, as well as preventing soil erosion and controlling drainage.

This ordinance preserves and perpetuates the Township's tree stock through providing regulatory control over removal of trees which have attained a specific minimum size and to provide for orderly replacement plans by property owners or their agents.

Section 2. Definitions

For the purposes of this ordinance, the below *terms have the* following defined meanings.

B&B (balled & burlapped) means *a method of* excavation in which the subject tree is removed along with soil surrounding its roots and such soil and roots are wrapped and laced.

Diameter at Point of Measurement, or DPM, means the diameter of a tree measured at a point on the trees six (6) inches from ground level *on the* downhill side.

Emergency Removal means a removal which is necessitated by any event, whether natural or man-made, which requires the immediate removal of a regulated tree because it has been determined *that such* tree presents an imminent hazard to the public's safety. Such determination shall be made by a certified arborist, the Township engineer or the Shade Tree Commission. Additionally, if in the opinion of emergency service personnel (police, fire or other emergency personnel) there appears to be an imminent threat to property or the public safety the commanding officer of said department may order the immediate removal of a regulated tree or any portion thereof.

Project means any undertaking whatsoever which would involve potential damage to or which may result in the planned or unplanned removal of regulated trees. Such projects shall include, but not be limited to, new construction, modifications of existing structures, grade modification and drainage improvement works, except for those exempted in this ordinance.

Regulated Tree means a living deciduous or coniferous tree *which has* attained at least thirty (30') feet in height or a DPM of at least eight (8') prior to any limb removal or other such activity.

Removal means any activity which results in cutting down completely or substantially eliminates a living regulated tree for the Township's tree stock.

Removal Period means a period of time consisting of 365 consecutive days after a project is regulated by this ordinance.

Replacement Plan means a plan developed in accordance with and conforming to the provisions of this ordinance which has been approved by the Township Engineer.

Replacement Tree means a nursery grown certified, balled and burlapped tree bearing a durable label upon which the following data is set forth: genus, species, variety, watering and fertilization requirements.

Site Plan means a plan as defined by the Township's Municipal Land Use Ordinance.

Section 3. Cutting or Removal Restricted.

With the exception of the exemptions set forth in this ordinance, including, but not limited to dead, dying or diseased trees, no person shall cut or remove, or cause to be cut or removed any regulated tree upon any lands within the Township of South Hackensack unless cutting or removal is performed in strict accordance with the provisions of this ordinance.

Section 4. Permit Required.

A Project Permit is required for the removal of regulated trees within the Removal Period.

Section 5. Project Permit Application Process

A. Project Permit Application Submission.

A Tree Removal Project Permit application *shall be* submitted to the Township Engineer.

B. Application Contents.

An application for applying for and issuing a Tree Removal Project Permit shall consist of the following.

1. The name and address of the owner of the *land*;
2. The description of the lands in question, including the lot and block numbers of the land as shown on the current Tax Map of the Township of South Hackensack;
3. The purpose or reason for removing the tree(s);
4. The quantity, caliper size and species of tree(s) to be removed;
5. The proposed dates for commencement and completion *of the project*;
6. Name and address of the person having express charge, supervision, and/or control of the proposed removal of tree(s)
7. A written statement of plans for the proposed replanting of trees as required herein.
8. A statement granting permission to Township officials or their employees to enter the premises and make *surveys* and inspections as the work progresses; and
9. A Tree Replacement Plan that includes quantity, caliper size and species of tree(s) to be replanted.

C. The Township Engineer shall review the application to determine whether such Project complies with this ordinance and shall provide written notice to the applicant indicating one of the *following* determinations:

1. The Project Permit is granted; or
2. *The Project Permit is granted subject to prescribed conditions attached to such notice;*
or
3. *The project permit is denied, in which event the written notice shall state the reasons for said denial and shall allow for appeal to the Township Shade Tree Commission as provided by this ordinance..*

D. The Township Engineer shall make the foregoing determination and prepare and furnish the foregoing notices within thirty (30) days following the submission of a completed application.

E. Failure of the Township Engineer to make such determination within said thirty (30) day period and any extensions granted by the applicant shall be deemed an approval.

F. Any proposed change in the approved project shall be submitted to the Township Engineer for approval in the same manner as the original application for approval of the project.

G. The applicant shall maintain a copy of the approved project at the project location which shall be available for inspection.

Section 6. Tree Replacement Plans

A site plan on a scale of one inch equals thirty feet or less showing the location of existing trees and clearly marked property boundaries. There shall be a list of the number and species of tree inventoried. The site plan shall include the lot and block numbers, street address, if assigned, and a certification of compliance with the ordinance.

Locations of streams and other watercourses

Locations of slopes of greater than 10% where any tree removal is proposed. The location on the tract where the tree removal is to take place The total acreage of the tract The total number of species of existing trees with a DPM of eight inches or greater on the tract.

The total number of species of tree with a DPM of eight inches or greater which are to be removed All specific plans for replacement of removed trees shall be base upon the following requirements

1. The replacement trees shall be planted on the property where the trees were removed or in a location designate by

the Township Engineer.

trees which would otherwise be required under Section 6 of this ordinance, but in no case shall it be less than \$200.00 per required replacement or the fee established by Section 10 of this ordinance, whichever is greater.

Section 8. Exemption.

The following shall be exempt from the requirements of this ordinance.

- A. Commercial nurseries.
- B. Pruning within the right-of-way by utility companies for maintenance of utility wires or pipelines. The utility company shall notify the Township Engineer prior to commencing such work.
- C. Trees that are deemed to be, removed by the Township that are on or over a public right-of-way.
- D. Public park lands owned by the Township of South Hackensack .
- E. Any *projects* that have received building permits prior to enactment of this ordinance.
- F. Trees that are deemed to be removed as part of a municipal project.
- G. Emergency removals.

Section 9. Protected Area.

No permit shall be issued for the removal of any tree within the minimum planting areas set forth in the Zoning Ordinance of the *Township of South Hackensack* unless the Township Engineer determines that such removal is necessary.

Section 10. Fees.

An application for a Tree Removal Permit shall be accompanied by the required fee as set forth below:

- A. Permit for each tree removal - \$50.00
- B. An escrow shall be established in the amount of two (2) times the permit fee which shall be retained until the Tree Replacement Plan is complete. In the event the Tree Replacement Plan is not completed within the time specified *by the Township Engineer*, the Township *may use such escrow to complete the Tree Replacement Plan or, in lieu thereof*, deposit said escrow in the Shade Tree Fund.
- C. Any application for site plan, sub-division or variance approval shall include a fee equal to one hundred dollars per one thousand square feet of proposed space to be built or renovated or land to be sub-divided to be paid by the applicant.
- D. All funds collected pursuant to this ordinance shall be segregated into a special fund designated as the "Township of South Hackensack Shade Tree Commission Fund" which shall be maintained at the Township's designated financial institution and administered by the Township Treasurer. Expenditures from said fund shall be authorized by the Township Committee and may or may not be upon the recommendation of the Township Shade Tree Commission

Section 11 Board established; membership; compensation

There shall be established a Board of Shade Tree Commissioners which shall consist of seven members whom are township residents and are appointed by the township committee and shall serve without compensation.

Section 12 Terms of Office; Organization

Three members of the board shall be appointed for four year terms, two members for three year terms and two members for two year terms. The board shall organize annually and elect one of its members as chairperson and appoint a secretary who may or may not be a member of the board.

Section 13 Power and duties

The Board shall have the power to:

- a. Prepare a planting plan for the Township owned lands and parks including a budget for the implementation of the same.
- b. Designate the types of trees to be planted on certain lands and areas of the municipality which the Township Engineer will adhere to in the implementation of this ordinance
- c. Regulate and control the use of the ground surrounding the shade and ornamental trees which are the subject of this ordinance
- d. Move or require the removal of any tree or part thereof if the Board determines it to be dangerous to the public safety, at the owner's expense.
- e. Remove any tree or part thereof at the request and expense of the owner
- f. Exercise full control over the regulation and care of shade and ornamental trees and shrubbery now located or which may hereafter be planted in accordance with this ordinance.
- g. Prepare a yearly plan and recommendation to the township committee as to proposed use and expenditure of funds collected pursuant to this ordinance.
- h. Hear appeal of non-emergency decisions made by the Township engineer. Said appeal shall be taken by filing with the board within twenty days of the date of the township engineer's decision a statement setting forth the basis of said appeal and a proposed alternate plan of compliance with or waiver from the terms of this ordinance. The board shall render its decision on any such appeal in writing within sixty (60) days of the date of submission of an appeal compliant with this ordinance.

Section 14. Penalty.

Any person who violates any provisions of this ordinance shall be liable for a fine not to exceed One Thousand (\$1,000.00) Dollars or imprisonment for a term not in excess of ninety (90) days, or both.

Section 15. Severability.

If any sentence, section, clause or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

Section 16. Inconsistency.

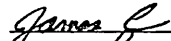
All ordinances or *parts thereof* Inconsistent herewith are hereby repealed to the extent of such inconsistency.

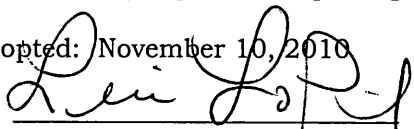
Section 17. Effective Date.

This ordinance shall take effect immediately upon final passage and *publication as* required by law.

Introduction October 14, 2010 Adopted: November 10, 2010

Effective date: January 1, 2011


James Anzevino, Mayor


Linda LoPiccolo, Municipal Clerk