

ORDINANCE #10-04

AN ORDINANCE REPEALING SECTION 525 OF THE LAND DEVELOPMENT ORDINANCE ENTITLED "TREE REMOVAL AND TREE CUTTING" AND ADOPTING ORDINANCE UNDER THE NEPTUNE TOWNSHIP CODE CHAPTER XII ENTITLED "PROPERTY MAINTENANCE"

BE IT ORDAINED by the Township Committee of the Township of Neptune of the County of Monmouth in the State of New Jersey that Section 525 of the Land Development Ordinance entitled "Tree Removal and Tree Cutting" shall be repealed and Chapter XII entitled "Property Maintenance" under the Neptune Township Code shall be amended to provide for Section 12 – 3 entitled "Tree Removal and Tree Cutting" as follows:

WHEREAS, the Township of Neptune may make, amend, repeal and enforce such ordinances, regulations, rules and by-laws not contrary to the laws of the State of New Jersey or the United States as it may deem necessary and proper for the good government, order and protection of persons and property and for the preservation, public health, safety and welfare of the Township of Neptune and its inhabitants and as may be deemed necessary to carry into effect the powers and duties conferred and imposed by the laws of Neptune Township in the County of Monmouth, State of New Jersey, pursuant to its police powers under N.J.S.A. 40:48-2; and

WHEREAS, the Township Committee of the Township of Neptune considered a Tree Removal and Tree Cutting Ordinance as not appropriate under the Land Development Ordinance but rather under its Township Code of Ordinances, for general enforcement under its police powers.

NOW THEREFORE BE IT ORDAINED AND ENACTED that the Township Committee of the Township of Neptune, County of Monmouth, in the State of New Jersey, that Section 525 of the Land Development Ordinance entitled "Tree Removal and Tree Cutting" shall hereby be repealed and the Neptune Township Code under Chapter XII entitled "Property Maintenance" shall be amended to provide for Section 12 – 3 entitled "Tree Removal and Tree Cutting" and shall provide as follows:

§12-3 – Tree Removal and Tree Cutting

12-3.1 Purpose. 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;

The singular or cumulative effect of any of the foregoing could adversely impact the character of the Township, decrease property values, render the land unfit and unsuitable for its most appropriate use and negatively affect the health, safety and the general 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 in the course of development of a site as well as protect larger, older specimens of trees. Additionally, the Township seeks 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 Township's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources. Therefore, the Township finds that the appropriate management of these resources is an important health, safety and general welfare concern.

Trees are declared to be an important cultural, ecological, scenic and economic resource. Proper management of this resource will ensure its maintenance and result in economic returns. A management program is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for the continued use of forest resources and are compatible with the maintenance of the environment. This will be accomplished by ensuring management of forest and trees through the application of sound management practices.

12-3.2 Establishment of Conservation Officer. There shall be appointed and designated, an official whose formal title shall be that of Conservation Officer or Designee of the Township of Neptune. 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 Section, and with the inspection and enforcement of the tree removal and protection requirements of this Ordinance.

12-3.3 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 Township, unless the cutting or removal is accomplished in accordance with the provisions of this Ordinance.

12-3.4 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 without first obtaining a tree removal permit. Tree removal permits shall be issued by the Zoning Officer or designee after appropriate inspection by the Conservation Officer. A permit is required for the removal of all trees of four (4) inch caliper or larger.
 - (2) Existing single family residential property shall be exempt from the requirements of this Ordinance, provided that said homeowner is clearing one acre or less of area.
- b. Permit application. Application for a permit shall be made to the Zoning 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 as follows:
 - (4) The plan shall indicate all tree(s) to be removed, specifically by an assigned number, and the caliper of each tree.
 - (5) The plan shall indicate all tree(s) to remain, specifically by an assigned number.
 - (6) The plan shall indicate a limit of disturbance line (i.e., where the four foot high standard wood snow fence will be erected if required by the Conservation Officer).
 - (7) For any clearing greater than (3) three acres, a representative five (5%) percent of the wooded areas proposed to be cleared shall be inventoried. The representative 5% shall be determined by agreement between the Conservation Officer and the applicant. Where less than (3) three acres is proposed to be cleared, all trees to be removed shall be inventoried.
 - (8) All trees greater than twenty (20) inches in caliper or any specimen 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.
 - (9) Any other information which may reasonably be required to enable the application to be properly evaluated.

12-3.5 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.

12-3.6 Zoning permit requirements. Where an application is made in connection with the construction of a building or other land use improvement, no zoning permit shall be issued until the tree removal permit has been granted, or an exemption granted.

12-3.7 Replacement tree requirements.

- a. Existing residential property. If the application is on behalf of an existing homeowners association and it is disclosed that the total number of trees to be removed or destroyed on the property or open space area in question, which are the subject of the application, is ten (10) or less, the permit shall be issued without replacement trees required. Within a one 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 prior to obtaining a tree removal permit.
- b. New residential development.
 - (1) If the application is for a new residential development (subdivisions or site plans), up to fifty (50%) percent of the trees may be removed for the sole purpose of clearing for the building envelope, driveways and yard space for said building lots only without replacement trees required.
 - (2) For new residential development where tree removal is to occur within public or private roadways or right-of-ways, drainage facilities, parking areas or proposed open space, all trees are not subject to replacement in accordance with this Ordinance.
- c. 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.
- d. Nonresidential development. All commercial and industrial developments are required to replace all trees removed in accordance with this Ordinance.
- e. 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 10,000 square feet or less of open field. The owner/applicant shall have a

qualified professional 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. Tree Escrow Fund shall be established by the Township to promote environmental enhancement programs such as tree planting, tree preservation, park development, landscaping and/or other related projects on or within municipality owned properties or facilities. A separate trust account shall be established for this purpose under the supervision of the Township Treasurer. Appropriations from the Tree Escrow Fund shall be authorized by the Mayor and Township Committee and shall be used for a municipal purpose pursuant to the recommendations of the Zoning Officer, the Conservation Officer, the Township Planner and/or the Shade Tree Commission.
- g. Replacement tree value calculations.
 - (1) The replacement value of all trees to be removed where replacement trees are required by this Ordinance shall be calculated as follows:

TABLE 5.11: REPLACEMENT TREE CALCULATIONS

R e p l a c e m e n t T r e e s			
Trees to be Removed: Caliper	Number	Caliper	Dollar Amount
Greater than 6” & up to 12”	1	2-2-1/2”	\$240.00
Greater than 12” & up to 18”	3	2-2-1/2”	\$660.00
Greater than 18” & up to 24”	6	3”	\$2,440.00
Greater than 24”	8	3”	\$3,680.00

- (2) Dead and diseased trees are not counted as trees to be replaced.
- (3) The applicant will receive a one and one-half for one replacement

tree

credit should stands of eight (8) or more trees greater than 4 inches in caliper be preserved within tree removal areas.

- (4) All replacement trees shall be planted onsite unless one or more of the following conditions exist: (A) The site in question cannot physically accommodate the total replacement amount of trees. The applicant shall contribute an amount equal to the calculated monetary value of the removed trees minus the value of the proposed landscaping to the Township Tree Escrow Funds, as required herein; (B) Due to 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.
- h. Trees replaced according to the foregoing calculations shall not be construed to satisfy other street tree and landscaping quantity requirements contained elsewhere in this Chapter.

12-3.8 Fees. Upon application for a tree removal permit, the applicant shall be charged the following fees:

- a. For new resident building lots: fifteen (\$15.00) dollars per tree up to a maximum of three hundred (\$300.00) dollars per lot.
- b. For all other properties: fifteen (\$15.00) dollars per tree up to a maximum of six hundred (\$600.00) dollars for each acre.

12-3.9 Time Limit. All tree removal permits shall be limited to one (1) year from the 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.

12-3.10 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.

12-3.11 Enforcement. The requirements of this Ordinance 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

BE IT FURTHER ORDAINED that this ordinance shall take effect upon advertisement and final adoption in accordance with the law.

APPROVED ON FIRST READING: February 8, 2010

APPROVED, PASSED AND ADOPTED: March 8, 2010

ATTEST:

Richard J. Cuttrell,
Municipal Clerk

Mary Beth Jahn,
Mayor