

**TOWNSHIP OF LONG HILL
ORDINANCE 479-21
AN ORDINANCE CONCERNING SHADE TREES AND AMENDING CHAPTER XXIII
OF THE TOWNSHIP CODE ENTITLED "SHADE TREES"**

WHEREAS, implementation of the new Shade Tree Ordinance has shown that several amendments and clarifications are needed;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey that the Township Code and the Township Land Use Ordinance are hereby supplemented and amended as follows:

Section 1. Chapter XXIII of the Township Code entitled "Shade Trees" is hereby supplemented and amended to read as follows:

"Chapter 23 Shade Trees

Section 23-1 Purpose and Intent

A. The purpose of this section is:

1. To preserve and protect trees within the Township of Long Hill, which helps to preserve water quality, abate noise, and enhance the ambience and character of the community.
2. To control the indiscriminate destruction of trees which has been shown to have severe detrimental environmental, ecological and economic effects including increased soil erosion and surface drainage problems, creation of insect breeding sites, decreased oxygen production, decreased property values and increased Township costs and thereby to eliminate a threat to the public health, welfare and safety.
3. To protect the semirural character and natural resources of the Township, consistent with the goals and objectives of the Master Plan. This section is not intended to restrict homeowners from removing dead, diseased, or hazardous trees. It is not intended to restrict homeowners from conducting routine pruning of trees or other maintenance procedures.

B. This section places special emphasis on the preservation of trees around the perimeter of a property to create Conservation Areas based upon setback requirement pursuant to the Township of Long Hill Zoning Code. The ordinance will also provide a sound management structure for the removal of trees in the Township.

Section 23-2 Definitions

Diameter at Breast Height ("DBH") shall mean the diameter of a tree measured 4'6" above the uphill/highest side above grade.

Enforcement Officer shall mean the Code Enforcement Officer.

Hazardous Tree shall mean a tree that meets the following two criteria: (1) The tree, or a tree part, must be at an increased likelihood of failure, usually due to the presence of some structural defect e.g., the presence of a significant amount of decay in a portion of the tree, and (2) there must be one or more targets present. A target may be any person or property that could potentially be damaged or injured should a failure occur. If there are no targets present there is no risk and the tree will not be considered a hazard, even if it is structurally unsound and likely to fail at any time.

Healthy Tree shall mean a tree exhibiting good structural integrity, free of serious diseases, and maintaining the normal appearance and displaying the normal vigor and growth characteristics of the species as determined by the Township Public Works Manager.

Landmark Trees shall mean any tree designated and identified by the Township Shade Tree Commission meeting the criteria for designation.

Township Trees shall mean trees located on Township property or within Township right-of-way.

Private Trees shall mean any tree other than a Township tree.

Screening shall mean one or more trees or hedges which provide a visual barrier between properties.

Tree shall mean any self-supporting, single stem, perennial woody plant which reaches a typical height of 12 feet or more at maturity and has a typical mature DBH of twelve inches or greater.

Tree Removal Registration shall mean the document that must be filed with the Township Clerk on the official Township form before a property owner or tenant removes a tree with a DBH of twelve inches or greater.

Unhealthy Tree shall mean a tree that is in poor condition or represents a hazard with respect to its general health, status as a public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility services, and/or its status as a host for plant pest or disease, endangering the tree itself, or other trees or plants, with infection or infestation, that cannot be controlled or remedied through reasonable preservation and/or preventative procedures and practices

Section 23-3 Responsible Officials; Enforcement

Enforcement Officer. The Code Enforcement officer is hereby authorized to enforce the regulations set forth within the Township Code.

Section 23-4 Prohibition and Requirements with Respect to Township Trees

- A. It shall be unlawful to commit any of the following acts with respect to Township Trees within parks and public property or within Township rights-of-way without the prior written permission of the Public Works Manager.
 1. Cut, prune, break, injure, alter or remove any tree; or cut, unduly disturb or interfere in any way with any root of a tree or trees.

2. Spray any tree with a chemical.
 3. Fasten any rope, wire, sign, or other device to a tree or trees or to any guard about such a tree or trees.
 4. Install, remove or injure any guard or device placed to protect any trees.
 5. Obstruct access of air, water, or fertilizer to the roots of such tree or trees.
 6. String any wires or lines through a public park.
 7. Remove any tree without obtaining written permission from the Public Works Manager pursuant to section 23-5 below.
- B. The Public Works Manager shall grant such written permission if the activity for which such permission is requested is in the public interest and, except in the case of removal, is not likely to materially injure any Township tree. The Public Works Manager shall render his or her decision within 30 days after submission of a complete application. Failure of the Public Works Manager to render a decision within such 30-day period or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant.
- C. Any person or persons who cause damage to any tree(s) by machines, autos, etc. shall be held liable for damages to the tree or trees. Damages shall be corrected or repaired by the liable person or persons billed for the damages and shall be liable to the penalties set forth in section 1-5 of this Code.

Section 23-5. Removal of Township Trees

- A. Any Township tree determined to be unhealthy or hazardous by the Public Works Manager may be removed by the Township at its expense. The Township may, in its sole discretion, replace any tree that it removes.
- B. A resident may not remove a Township tree unless he or she first files a registration form and obtains written permission from the Public Works Manager. Permission to remove healthy Township trees located in the Township right of way immediately adjacent to a resident's property may be granted by the Public Works Manager, in his sole discretion, if the following conditions are met:
- a. The cost of the removal is borne solely by the resident.
 - b. The resident, at his or her sole expense, plants a replacement tree in accordance with section 23-11 below.

Section 23-6 Landmark Trees

- A. The Shade Tree Commission or its Chair upon request, shall determine whether any tree qualifies as a "Landmark Tree." A tree may qualify as a Landmark Tree if it meets one (1) or more of the following criteria:
1. The tree species is rare.
 2. The tree is more than one-hundred (100) years of age.
 3. The tree is of an abnormal height or has an abnormal trunk diameter or dripline diameter for a tree of its species.

4. The quality of the tree foliage is abnormal for a tree of its species.
 5. The location, shade value, fragrance, erosion control, aesthetic, features or scenic enhancement of such tree is of especial importance to the Township.
- B. All trees designated as Landmark Trees, shall be shown on a map with appropriate code marks signifying each tree's designation, number, species, age, size and other distinguishing characteristics for ready reference and periodic monitoring.
- C. If the owner or owners of the property on which a Landmark Tree is located consents thereto, the Township may identify such tree as a Landmark Tree by the placement of a suitable marker thereon.
- D. If and when, any Landmark Tree is removed, the Shade Tree Commission shall arrange for the necessary changes to be made to the official Landmark Tree inventory records and Township Map.

Section 23-7 Protection of Trees on Private Property

- A. Any person wishing to remove one or more trees with a DBH of greater than 12", shall file a registration form with the Township Clerk which shall include a description of the tree(s) to be removed, their species, their size, their health and their location on the property.
- B. No fee shall be charged for a tree removal registration, however, failure to file the registration form before removing the trees in accordance with paragraph "A" above shall subject a property owner and/or tenant to the penalties set forth in section 23-13 below.

Section 23-8 Exemptions from Permit Requirement and Penalties

The following lands, activities and uses shall be exempt from the terms and conditions of this section and shall also be exempt from any violations or penalties.

- A. Activities lawfully conducted on public lands or rights-of-way by or on behalf of a local, federal, state, county or other governmental agency or entity or utility company.
- B. Trees removed in compliance with a woodland management plan that has been approved by NJDEP pursuant to N.J.S.A. 54:4-23.3 and N.J.A.C. 18:15-2.7 as part of an approved farmland assessment and that is on file with the Township Tax Assessor.
- C. Any activity protected by the Right to Farm Act, N.J.S.A. 4:1 C-9 et seq. or any other State statute or regulation in an area in which local regulation has been preempted.
- D. Trees removed in accordance with a site plan or subdivision plan approved by the Township Planning Board or Zoning Board of Adjustment.
- E. Trees removed by a nursery on its own property in the normal course of business.

Section 23-10 Nonliability of Township

- A. Nothing in this section shall be deemed to impose any liability upon the Township or its officers or employees or agents or upon the Commission or any of the Commissioners.
- B. Nothing in this section shall be deemed to relieve the owner and/or occupant of any private property from the duty to keep trees and shrubs thereon in a safe condition.

Section 23-11 Tree Replacement for Township Trees removed pursuant to Section 23-5

The Shade Tree Commission shall require that Township trees removed pursuant to Section 23-5 of this ordinance be replaced under the following guidelines:

- A. Trees should be replaced on a 1:1 basis.
- B. Deciduous replacement trees should be a minimum of 2 – 2.5” caliper, balled and burlapped and suitable for Zone 6 and guaranteed for two years.
- C. Evergreen replacement trees should also be balled and burlapped and of a minimum size of 7’ - 8’ in height and suitable for Zone 6 and guaranteed for two years.
- D. When appropriate, the Shade Tree Commission may permit the planting of hedges or other screening as an alternative to replacement tree(s) if same would provide a more suitable visual barrier and/or better serve the purpose of this section.
- E. The preferred tree replacement locations should be on the actual tree removal site, however in lieu of providing a replacement tree on site, an applicant may request that the Shade Tree Commission allow the applicant to contribute \$300 per tree to the Township Tree Trust Fund as established by section 23-12 below.

Section 23-12 Township Tree Trust Fund

- A. Tree Trust Fund. All contributions to the Township Tree Trust Fund pursuant to paragraph “E” of section 23-11 above shall be deposited in a separate interest-bearing Tree Trust Fund. All interest accrued in the Tree Trust Fund shall only be used on eligible tree replacement and maintenance activities.
- B. Use of the Money. The Township may use revenues and interest collected from the Tree Trust Fund for any purpose which promotes the planting and maintenance of trees in the Township. Such activities include, but are not limited to planting trees in the Township rights-of-way, in Township parks and on other public lands.
- C. Expenditure of funds from the Township Tree Trust Fund shall be approved by resolution of the governing body.

Section 23-13 Violations and Penalties

Any person violating or causing to be violated any of the provisions this section shall be subject to the penalties set forth in section 1-5 of the Township Code. Any person removing or destroying a Township tree in violation of this ordinance shall replace each tree destroyed or removed with another tree of the same species or a species approved by the Shade Tree Commission, at least two inches in diameter measured at a point four feet above the ground. Each tree destroyed or removed in violation of this

section shall be considered a separate offense. Failure to file a registration prior to removal or destruction of a tree on private property as required by Section 23-7 shall be a violation of this section. The minimum fine for a violation of this section shall be \$100. Each day said violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.”

Section 2. In case any article, section or provisions of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST

Megan Phillips, RMC

Guy Piserchia, Mayor

First Reading and Introduction: September 22, 2021
1st Publication: Echoes Sentinel September 30, 2021
Second Reading and Adoption: October 27, 2021
2nd Publication: Echoes Sentinel November 4, 2021