

**TOWNSHIP OF GREENWICH
COUNTY OF CUMBERLAND**

ORDINANCE NO. 17 -2014

**AN ORDINANCE OF GREENWICH TOWNSHIP, COUNTY OF CUMBERLAND AND
STATE OF NEW JERSEY ESTABLISHING THE SHADE TREE COMMISSION OF
GREENWICH TOWNSHIP**

BE IT ORDAINED by the Township Committee of the Township of Greenwich, County of Cumberland and State of New Jersey as follows:

This Ordinance is made for the purpose of establishing the Shade Tree Commission of Greenwich Township and therefore any and all other related Ordinances of the Township of Greenwich are hereby repealed and the Shade Tree Commission of Greenwich Township is hereby ordained as follows:

Section 1. Purpose

- A. The Shade Tree Commission of Greenwich Township (the “Commission”), a body authorized by the Act is to be formed;
- B. To protect and preserve trees located on property owned or under the control of the Township of Greenwich and which are within the Commission’s jurisdiction;
- C. To take such action as is necessary and appropriate to protect the public from an imminent threat to health and safety due to condition of trees on property which is not Township property and which by virtue of this Act and this Ordinance are within the Commission’s jurisdiction;
- D. To set forth and standardize the procedures for reviewing applications to plant, maintain, remove or replace Township trees; and
- E. To set forth prohibited actions, establish penalties and preserve a uniform standard for assessing the replacement cost of Township trees that are removed by private parties or which otherwise are damaged and destroyed.

Section 2. Definitions

ACT shall mean N.J.S.A. 40:64-1 et seq.

ANSI shall mean American National Standards Institute.

TOWNSHIP shall mean the Township of Greenwich.

TOWNSHIP PROPERTY shall mean such lands as are within the right-of-way of the Township streets or highways or in all such other places within the Township on lands owned or under the control of the Township and which are subject to the jurisdiction of the Commission,

including but not limited to, lands used for active or passive recreation, open space, ball fields or parks.

TOWNSHIP TREE(S) shall mean any tree or shrubbery situated on Township property.

TOWNSHIP TREE ESCROW FUND or “Fund” shall mean a fund established by the Township for administering, protecting, preserving, maintaining and replacing of Township trees and encouraging best preservation practices as may be consistent with the Act and the Community Stewardship Incentive program as outlined in N.J.S.A. 13:1L-17.1 et sq. (the “Fund”).

COMMISSION shall mean the Shade Tree Commission of the Township of Greenwich.

DIAMETER BREAST HEIGHT (“DBH”) shall mean the diameter of a tree measured approximately four and one half feet (4.5’) above the natural ground level commensurate with the trunk flare.

PERFORMANCE BOND shall mean a sum paid by a person seeking to remove a Township tree to guarantee that person will perform said work in accordance with the permit and related documents, thus protecting the Township. In lieu of a Performance Bond, where appropriate and in the sole discretion of the Commission, a monetary fee may be placed in escrow in an amount, in each specific case, set by the Commission.

PRESERVATION AREA shall mean the area directly around the Township tree wherein its roots grow. It generally encompasses the area beneath its crown and such area whose regulation is necessary and appropriate to the health and maintenance of a Township tree.

PRIVATE TREE shall mean any tree or shrubbery located on private property.

REPLACEMENT ASSESSMENT shall mean the amount paid by a person who removes or otherwise damages or destroys a Township tree.

TRUNK FLARE shall mean the point of intersection between the tree roots and the tree trunk.

Section 3. Shade Tree Commission

- A. Pursuant to N.J.S.A. 40:64-1 et seq., the Township has established the Commission which consists of five regular members and two alternate members, all of whom are residents of the Township, and who shall be appointed by the Mayor of the Township with the advice and consent of the Township Committee which Commission shall be known as the “Shade Tree Commission of the Township of Greenwich” and the terms of appointment of its regular members shall be staggered so that one appointment expires each year. All regular member appointments, except to fill vacancies and for purposes of the initial staggering of memberships, shall be for the full term of five years, to take effect on January 1. Alternate members shall be appointed for a term of five years, to take effect on January 1, wherein the initial term of Alternate No. 2 shall be for four years.

- B. Alternate members shall be designated at the time of their appointment as “Alternate No. 1” and “Alternate No. 2”. Alternate members may participate in the discussion of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate is to vote, alternate members shall vote in the order of their numerical designations.

Section 4. Organization, Meetings and Election of Officers

The Commission shall organize annually and conduct meetings and actions consistent with the provisions of the Act and shall elect one of its members as Chairperson and the appointment of a Secretary, who need not be a member of the Commission.

Section 5. Powers

The Commission shall have and exercise all of the powers as set forth in the Act, which shall include, but may not be limited to, the power to:

- A. Exercise full and exclusive control over the regulation, planting and care of Township trees now located, or which may hereafter be planted, on Township property, except such as are excluded pursuant to the Act and shall include, but not be limited to, the planning, trimming, spraying, care and protection thereof;
- B. Regulate and control the use of the preservation area, so far as may be necessary for their proper growth, care and protection;
- C. Remove or require the removal of any Township trees;
- D. Care for and control such parks and parkways and encourage arboriculture;
- E. Make, alter, amend and repeal, in the manner prescribed for the passage, alternation, amendment and repeal of Ordinances by the Township, any and all Ordinances necessary or proper for carrying out the provisions hereof;
- F. Remove or require the removal of any private tree, or part thereof, whose condition represents a danger to the public health and safety;
- G. Administer treatment to or remove any private tree which is reasonably believed to harbor a disease or insects readily communicable to neighboring Township trees and to enter upon private property for the purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by certificate issued by a Certified Tree Expert; and
- H. Other powers as provided by the Act, as amended and supplemented.

Section 6. Hazardous Trees on Private Property

- A. Where the Chairperson or the Chairperson’s designee reasonably believes, based on a certification from a Certified Tree Expert, that a private tree presents a dangerous condition to a Township tree or to other public property, the Commission is authorized to remove same. Formal notice shall be served on the owner of the private property, which notice shall specify the private tree, the condition, the basis for the opinion that the condition represents a dangerous condition and shall provide the owner of the Private property with ten days to consent to the removal or file a formal objection thereto. The property owner may remove the condition on his or her own initiative. If the property owner files an objection, the matter will be heard and decided by the Commission within thirty (30) days. If no objection is filed, the owner of the private property shall be deemed to have consented to the removal of the private tree. Service of the notice shall be by certified mail to the owner of the private property. All costs relating to the removal, consistent with the schedule hereinafter set forth for the removal of Township trees, shall be paid by the owner of the private property or shall be a lien on the private property.

- B. If the Chairperson or the Chairperson’s designee reasonably believes, based on a certification from a Certified Tree Expert that a private tree exhibits an imminent threat to public health and safety, the Township is authorized to remove same without prior notice. However, reasonable attempts shall be made to alert the owner of the private property. All costs related to the removal, consistent with the schedule hereinafter set forth, shall be paid by the owner of the private property or shall be a lien on the private property.

Section 7. Prohibited Acts

- A. No person, firm or corporation shall do, or cause to be done, any of the following acts with regard to Township trees without authorization obtained pursuant to the provisions of this Ordinance:
 - 1. Cut, trim, girdle, climb with spikes, disturb the roots of or otherwise injure, or remove any living Township tree; or injure, misuse or remove any structure or device placed to support or protect a Township tree;
 - 2. Plant any tree or shrub on Township property;
 - 3. Fasten any rope, wire, electrical attachment, sign or other device to a Township tree, or to any guard about any Township tree;
 - 4. Close or obstruct the preservation area around the base of any Township tree, or place any guard about a Township tree, including, but not limited to, excessive amounts of or improperly applied mulch;
 - 5. Close or obstruct Township property so as to prevent the planting of a Township tree if the Township property otherwise would be appropriate for such planting;

6. Hitch or fasten an animal to any Township tree; or allow such animal to bite, scratch or otherwise injure any Township tree; or
 7. Permit any brine, gas or any chemical or spray to come into contact with the leaves, stem or roots or preservation area around any Township tree.
- B. If the Chairperson or the Chairperson's designee has reason to believe that anyone has committed or is about to commit a Prohibited Act, then Township may issue a Stop Work Order delivery of same in person or by certified mail on the person, company or any employee or official of any such company which is the subject of the Order. The Order shall remain in effect unless and until the Commission issues a formal permit.
- C. The provisions hereof relating to Prohibited Acts shall not apply to Township Public Works employees and their agents acting within the scope of their employ, or to members of the Commission and their agents as designated by the Commission Chairperson.
- D. Any public utility or cable television company that clears, moves, cuts, or destroys any trees, shrubs, or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication, or cable television services upon any land in which it has acquired an easement or right-of-way, shall not be subject to any penalty imposed by a Commission pursuant to subsections A. or B. of this section. This subsection shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent actions.

Section 8. Specifications

- A. No person, board, body, official, separate entity and/or governmental entity may construct on the Township of Greenwich lands or right-of-ways, or easements, a sidewalk, curb, street or do similar acts which interfere with, injures or destroys a highway shade tree without consent of the Shade Tree Commission within whose jurisdiction such tree is located. In all such cases the Shade Tree Commission shall reasonably cooperate with such person, board, body, official, private entity and/or governmental entity for the general public good, as per N.J.S.A. 40:64-10.
- B. All residents, with Shade Tree Commission approval, Township employees and retained consultants and professionals or their agents and anyone planting, transplanting, trimming or undertaking any action affecting a Township tree shall contract, purchase, transplant and trim according to the following standards:
1. All nursery stock used for planting on Township property shall comply with ANSI, Z-60.1 – 2004 American Standard for Nursery Stock, as amended;
 2. All Township tree transplanting shall comply with ANSI A300 (Part

2012 Planting and Transplanting, as amended; and

3. All Township tree trimming shall conform to ANSI A300 (Part 1) 2008 Pruning, as amended.

Section 9. Permits

- A. Any person or entity wishing to remove, transplant, trim or otherwise treat a Township tree shall file a written application with the Township Committee. No action shall be taken on any Township tree until written authorization by the Shade Tree Commission is received following an on-site evaluation. The property owner has the responsibility to pay the cost of removing such a tree and may be responsible for a Tree Replacement Assessment in accordance with the standards and policies of the Commission. The assessment shall not exceed a maximum of \$27.00 per square inch as per N.J.S.A. 40:64-12 (see Section 10 for calculation formula).
- B. In reviewing any application for a building or construction permit, the Township Construction Official shall make a preliminary determination as to whether the intended work has the potential to adversely impact any Township tree. If the intended work has such potential, the Construction Official shall refer the matter to the Commission. Permits may not be issued until the Chairperson of the Commission or his or her designee conducts an on-site evaluation and advises the property owner or contractor of the protective measures that must be taken during the course of construction. The property owner or contractor may appeal to the Commission, which shall promptly review the necessity or reasonableness of the protective measures. The Construction Official shall issue a Stop Work Order if the property owner or contractor is not implementing the protective measures.
- C. No application shall be reviewed until it is complete.
- D. Review and inspections for all submitted applications shall be carried out within ten (10) business days of a completed application.
- E. Permission shall be granted or denied within five (5) business days after the completed review and inspection. Absence of a written approval is not considered an approval. In the case of a denial, the applicant will be given written notice with reasons for the denial and a right to appeal to the Commission.

Section 10. Fees, Assessments & Penalties

- A. Penalties:
 1. For a violation of any provision of Ordinance, the maximum penalty upon conviction shall be a fine not exceeding \$1,500.00.
 2. Separate Violations. Except as otherwise provided, each and every day in which a violation of any provision of this Ordinance exists shall constitute a separate violation.

- B. Tree Replacement Assessment. In addition the penalties authorized by subsection A of this section, any person who removes, damages or otherwise destroys a tree in violation of this Ordinance shall pay a replacement assessment to the Township. The Tree Replacement Assessment shall be calculated consistent with N.J.S.A. 40:64-12(b), not to exceed \$27.00 per square inch. The cross section shall be calculated from the diameter at breast height and, if there is a multiple stem tree, then each trunk shall be measured and an average shall be determined for the tree. The Commission may modify the value of the tree based upon its species variety, location and its condition at the time of removal or destruction. The range of Tree Replacement Assessments are set forth in the Commission's standard operating procedures.
- C. In cases where the Commission has given a property owner permission to remove a Township tree, the Commission may further require the property owner to replace the tree or otherwise provide for its replacement, and to post a performance bond.
- D. The Tree Replacement Assessments shall be paid into the Fund, described below.

Section 11. Township Tree Escrow Fund

There is hereby established the Township Tree Escrow Fund. The fund shall include the Tree Replacement assessment and shall be maintained by the Township in an account identified as such and which is separate from the general fund. Such funds shall include but not be limited to any monies collected pursuant to Section 10(B) and Section 11 of this Ordinance, donations and any other fund-raising program established by the Commission. The Township shall maintain a Fund with disbursements reported to the Commission on an as needed basis. The governing body with the advice of the Commission shall authorize appropriations from the Fund.

Section 12. Effect on Other Ordinances

Nothing in this Ordinance shall prevent the appropriate municipal body from enforcing any other Ordinance of the Township dealing with property maintenance, which may include maintenance of trees on private property or abutting public sidewalks adjacent to private property.

Section One. Repealer. All former Ordinances of the Township of Greenwich which are in conflict with the provisions contained in this Ordinance are hereby repealed upon the adoption of this Ordinance.

Section Two. Severability. If any part or parts of this Ordinance are held to be invalid for any reason such decision shall not affect the validity of the remaining portions of this Ordinance.

Section Three. This Ordinance shall take effect after final approval and publication as required by law.

BY: _____
William Reinhart, Mayor

Lisa Garrison, Municipal Clerk

CERTIFICATION

Please take notice that the above Ordinance was adopted after a Public Hearing at a meeting of the Greenwich Township Committee on the ____ day of _____, 20____ at the Greenwich Township Municipal Building in Greenwich, New Jersey.

ATTEST

Lisa Garrison, Municipal Clerk

INTRODUCED: SEPTEMBER 9, 2014

PUBLISHED: SEPTEMBER 15, 2014

ADOPTED:

PUBLISHED:

Adoption: First Reading: _____

Publication on First Reading: _____

Second Reading/ Public Hearing: _____

Final Adoption: _____

Final Adoption:

Motion By: _____

Seconded: _____

Aye: _____ Nay: _____

Abstain: _____