

ORDINANCE 24-09
**AN ORDINANCE ADDING A NEW CHAPTER 158 TO THE CODE
OF THE CITY OF SOUTH AMBOY “TREE PRESERVATION”**

BE AND IT IS HEREBY ORDAINED by the Council of the City of South Amboy, Middlesex County, New Jersey, that the Code of the City of South Amboy be amended and supplemented as follows:

Add: Chapter 158

Tree Preservation

§158-1 Findings; purpose.

The South Amboy City Council finds that indiscriminate, uncontrolled and excessive destruction, as well as the removal and cutting of trees on lots and tracts of land within the City 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.

These effects could impact the character of the City by decreasing property values, rendering the land unfit and unsuitable for its most appropriate use, and otherwise adversely affecting the health, safety and welfare of the inhabitants of the City. The City desires to regulate and control indiscriminate and excessive cutting of trees within the City. The City strives to preserve the maximum possible number of trees within the City as well as to protect larger, older specimens of trees, and in addition, to promote the preservation of existing trees.

It is recognized that there is a strong relationship between the integrity of the City's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources; and there is also

a correlation between increased air pollution and high density residential and commercial or industrial uses. Therefore, the City finds that the appropriate management of these resources is an important health, safety and general welfare concern.

§158-2 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 inches above ground level for trees up to four inches in diameter and measured 12 inches above ground level for trees over four 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 12 inches above ground level for trees over a four inch caliper. The measurement shall be six inches above grade for trees up to four inch caliper (nursery method). Diameter at point of measurement may appear as the abbreviation "DPM."

LIMIT OF DISTURBANCE LINE

Demarcation of where a four foot high standard wood snow fence will be erected if required by the Conservation Officer or City Designee.

REPLACEMENT TREE

A nursery grown certified tree, properly 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.

TREE

Any deciduous or coniferous species which reaches a typical mature height of 12 feet or more, and has a typical DPM of four 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 or City Designee to remove or destroy a tree or trees.

§158-3 Establishment of Conservation Officer.

There shall be appointed and designated an official whose formal title shall be "Conservation Officer of the City of South Amboy." This official or city designee 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.

§158-4 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 City, unless the cutting or removal is accomplished in accordance with the provisions of this chapter.

§158-5 Tree removal permits; permit required.

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 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 or City Designee.

(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 required approval by the Planning/Zoning Board of Adjustment, a tree removal permit under this section shall be required, in addition to all other requirements of this chapter, including the tree replacement requirements, which

shall apply and be satisfied by the applicant as a condition of approval by the Planning/Zoning Board.

(4) Where a tree is proposed to be removed from the City public property by a private party and is not associated with a development application pending before the Planning/Zoning Board.

B. Permit application. Applications for a permit shall be made to the Conservation Officer or City Designee 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) 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 City 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, Less than four inches in caliper, shall be exempt from the provisions of this chapter.

E. Permit Fees. Upon application for a tree removal permit, the applicant shall be charged the following fees:

- (1) Application: \$50.00.
- (2) For new residential building lots: \$25.00 per tree, up to a maximum of \$300.00 per lot, irrespective of lot size.
- (3) For all other properties: \$25.00 per tree to be removed, up to a maximum of \$600.00 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 year from date of issuance. If the approved tree removal has not occurred within one year, a new permit must be applied for and the applicant is again subject to the payment of a permit fee.

§158-6 Tree Escrow Fund established.

A Tree Escrow Fund shall be established by the City 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 City CFO. Appropriations from the Tree Escrow Fund shall be authorized by the Mayor and shall be used in accordance with the recommendations of the Conservation Officer and/or City Engineer.

§158-7 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 Caliper	Replacement Trees		
	# of Trees	Caliper or Dollar Amount	
One tree greater than 4" and up to 8"	1	2" - 2 1/2"	\$300.00
One tree greater than 8" and up to 12"	2	2" - 2 1/2"	\$600.00
One tree greater than 12" and up to 16"	4	3"	\$1,200.00
One tree greater than 16" and up to 20"	5	3"	\$1,500.00
One tree greater than 20" - 24"	6	3 1/2" - 4"	\$1,800.00
One tree greater than 24" - 28"	7	3 1/2" - 4"	\$2,100.00
One tree greater than 28" - 32"	8	4"	\$2,400.00
One tree greater than 32"	10	4"	\$3,000.00

B. The applicant will receive a one for one replacement tree credit should stands of **10** or more trees greater than four 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 or City Designee 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 or City Designee and applicant agree in writing that the applicant shall plant replacement trees off-site on municipally owned property pursuant to a tree planting plan.

D. Trees required to be planted in accordance with site plan or subdivision approval by the Planning/Zoning Board shall be counted towards an applicant's tree replacement obligation.

§158-8 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 to be removed or destroyed on the property or open space area in question which is the subject of the application is five (5) or less, the permit shall be issued without replacement trees required.

(2) Within any one year period, permits may be used for removal of a total of no more than 10 trees on the same property without replacement trees being required.

(3) Any proposed 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) If the application is for a new residential development, 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.

C. Other criteria.

(1) The Conservation Officer or City Designee shall approve the removal of a 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 this ordinance 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.

§158-9 Enforcement.

The requirements of this chapter shall be enforced by the Conservation Officer or City Designee, who shall inspect or require adequate inspection of all sites upon which there is an application for a tree removal permit. The Conservation Officer or City Designee shall oversee all applicable tree removal or destruction and soil removal incidental thereto. Upon ascertaining a violation of this chapter, the Conservation Officer or City Designee shall prefer 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.

§158-10 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 \$350 and not more than \$2,000 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 inches. Each tree destroyed or removed in violation of this chapter shall be considered a separate offense.

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

This Ordinance shall take effect after final passage and publication as provided by law.

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