

**ORDINANCE NO. 18-2018**

**AN ORDINANCE TO CREATE CHAPTER XIX, TREE PRESERVATION AND REMOVAL  
AND SETTING THE REQUIREMENTS FOR SAME IN THE BOROUGH CODE OF  
THE BOROUGH OF SEA GIRT, MONMOUTH COUNTY, AS AMENDED**

**BE IT HEREBY ORDAINED BY THE COUNCIL OF THE BOROUGH OF SEA GIRT AS  
FOLLOWS:**

**SECTION 1. Purpose.**

The purpose of this section is to prevent indiscriminate, uncontrolled, and excessive destruction, removal, and clear cutting of trees upon lots and tracts of land within the Borough of Sea Girt in order to maintain the aesthetic character of the Borough of Sea Girt, prevent erosion, and control actions that will substantially change drainage patterns, and restrict actions that will cause a hazard to persons or property.

**SECTION 2. Definitions.**

*Clear cutting* shall mean the removal of all standing trees on a site or portion of a site.

*Competent Public Authority* shall mean the members of the Shade Tree Commission, the Code Enforcement Officer, Borough Engineer, members of the Sea Girt Police or Public Works Departments, or a N.J. Certified Tree Expert.

*Diameter at Point of Measure (DPM)* shall mean the diameter (caliper) of a tree at a point on the tree 54 inches above the actual ground level.

*Emergency* shall mean any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property as determined by a N.J. Certified Tree Expert or competent public authority (Borough Engineer);

*Public right-of-way* shall mean any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Borough of Sea Girt.

*Removal* shall mean the actual removal of trees, or direct or indirect actions resulting in the effective removal of trees through damage or poison, or similar actions directly or indirectly resulting in the death of trees subject to the provisions of this section. Moving a tree to a different location on the same property does not constitute removal. Removal shall not include pruning for maintenance purposes.

*Significant specimen trees* shall mean any tree with a diameter at point of measure exceeding sixty (60%) percent of that of the largest similar tree listed in either the Monmouth County's Largest Trees, prepared and annually updated by the Monmouth County Shade Tree Commission or New Jersey's Big Trees, prepared and updated bi-annually by the Division of Parks & Forestry of the New Jersey Department of Environmental Protection.

*Site* shall mean any lot, tract, parcel or parcels of land within the Borough.

*Tree* shall mean any living deciduous or evergreen tree with a single trunk at a height of one (1) foot above the root crown, with a normally anticipated mature height of thirty (30) feet or greater (including, but not limited to: Norway; Silver and Sugar Maple; Sweetgum; London Plane; American Sycamore; White and Red Pin Oak; American Elm; Yellow and White Poplar; Copper Beech; Cedar; Spruce; Pine; and Fir).

*Tree removal permit* shall mean a certificate issued by the Borough to remove trees as defined in this section.

*Undisturbed area* shall mean an area in which trees, shrubs, and understory will not be disturbed by filling, cutting or by any other means.

### **SECTION 3. Tree Removal Prohibited.**

No person shall remove, or cause to be removed any existing trees with a diameter of six (6) inches or greater caliper at point of measure, upon any lands within the Borough of Sea Girt without a tree removal permit except as follows:

- a. Trees that are to be removed as the direct result of a development application that has been approved by the Borough of Sea Girt Planning Board;
- b. Any trees cut or removed in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, filed with the Construction Official of the Borough;
- c. Trees directed to be removed by municipal, County, State or Federal authority.

No person shall remove any tree growing on or over a public right-of-way or public land without the express written consent of a competent municipal authority (Code Enforcement Officer, Borough Engineer, etc.) or Shade Tree Commission.

### **SECTION 4. Tree Removal Permit.**

A Tree Removal Permit shall be required for the removal of any trees of six (6) inches or greater caliper at point of measure, as follows:

- a. Trees that are dead, severely damaged by natural causes or accident to the point that the natural habit of the tree cannot be restored as determined by a N.J. Certified Tree Expert or competent public authority trees that are severely diseased and require removal as certified by a N.J. Certified Tree Expert; or trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (Police, Department of Public Works, Borough Engineer, etc.).
- b. An application for zoning approval for the construction of new residences, additions to residences in excess of 300 square feet, or the construction of swimming pools or other accessory buildings or structures for the zoning permit or to the Planning Board for a variance shall include an inventory of all trees on the site. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall be limited to no more than thirty (30%) percent of the total number of trees on the site and shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure.
- c. Trees required to be removed subject to a construction permit as issued by the Construction Official for construction of new residences, additions to residences in excess of 300 square feet, or the construction of swimming pools or other accessory buildings or structures that are not the subject of Planning Board application approvals. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure.
- d. Trees removed by a property owner on his own property where no building permit for a new or replacement principal structure is sought.

### **SECTION 5. Tree Removal Permit Requirements.**

- a. *Application Form.* An application form can be obtained from the Code Enforcement Officer or Borough Clerk and shall include the following information:
  1. Name and address (street and lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation).

2. Description of the premises where removal is to take place, including lot and block numbers, and street address as assigned if different than the address of the owner.
3. Purpose of tree removal.
4. In addition to the application form, a survey showing the approximate location and size of all trees with a diameter at breast height of SIX (6) inches or greater caliper that exist on the lot, and identifying those trees to be removed. At the discretion of the Code Enforcement Officer or his/her designee, other appropriate documents may be substituted if a survey is not available.
5. If a tree is removed under the requirements of SECTION 3 or 4(b) or (c) or (d), a mitigation plan must be submitted and approved by the Code Enforcement Officer or his/her designee prior to the issuance of any permit that will provide for the replacement of at least one-half of all removed trees by planting a tree of 3" to 3 1/2" caliper or remitting a fee to the Borough of Sea Girt in the amount of five hundred (\$500.00) dollars per tree removed.

#### **SECTION 6. Fees.**

Upon the filing of an application with the Code Enforcement Officer for a tree removal permit under the terms of this section, the applicant shall pay an application fee of fifty (\$50.00) dollars for any trees removed. No fee is required for a tree removed under section 4(a) of this Ordinance.

#### **SECTION 7. Permit Approval.**

a. *Time Limits for Action.*

1. The Code Enforcement Officer or his/her designee shall act on an application for a tree removal permit within thirty (30) business days of the receipt of a complete application. Failure to act within thirty (30) days shall be deemed to be an approval of the application and thereafter, a tree removal permit shall be issued.

b. *Duration of Permits.*

1. If granted for a lot or parcel of land for which no building permit is required three (3) months from the date of issuance.
2. If granted for a lot or parcel of land for which a building permit is required but for which no variance, subdivision, or site plan approval is required or has been approved by the Planning Board, until expiration of building permit granted with such tree removal permit.

#### **SECTION 8. Completion.**

The holder of a tree removal permit shall notify the Code Enforcement Officer when the tree removal has been completed.

#### **SECTION 9. Significant Specimen Trees.**

It is presumed that Significant Specimen Trees should only be removed in the most compelling and extraordinary circumstances. Removal will be permitted only after approval by a Hearing Panel, as described in SECTION 10. The loss of lot yield, building area, or profitability of developmental layout shall be deemed neither compelling nor extraordinary.

#### **SECTION 10. Appeals.**

Whenever any application for a tree removal permit shall be denied by the Code Enforcement Officer or his/her designee, the applicant may appeal the denial to the Borough Administrator by filing a written notice of appeal with the Borough Clerk within ten (10) days after receiving notice of the denial. Upon receipt of the notice of appeal, the Borough Administrator shall appoint a hearing panel consisting of three (3) members: The Borough Engineer, an employee of the Department of Public Works, and any

other designee of the Borough Administrator. This panel shall proceed to hear the appeal upon notice to the applicant within thirty (30) business days of the filing of such notice of appeal. This panel shall have the discretion, after interviewing both the applicant and the Code Enforcement Officer or his/her designee, to reverse, affirm, or modify the aforesaid decision.

#### **SECTION 11. Protection of Existing Trees.**

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Borough Engineer, shall be placed around trees that are not to be removed. The protective barriers shall be placed at the dripline or canopy line of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits, or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

#### **SECTION 12. Emergency Action.**

In the event of an emergency, trees that pose an imminent public safety hazard as determined by a N.J. Certified Tree Expert or a competent public authority (Police, Department of Public Works, Borough Engineer, etc.), shall have the authority to have such tree removed without requiring that the property owner first apply for a permit. However, the property owner or the designee of such person shall apply for a tree removal permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration until a permit is obtained-

#### **SECTION 13. Penalties.**

When regulated trees are removed without a tree removal permit, the affected areas shall be replanted as required by the Code Enforcement Officer or his/her designee. Any such replanting shall be in accordance with the requirements of development regulations. Any person found guilty of violating any of the provisions of this section shall be subject to a fine not exceeding one thousand (\$1,000) dollars as determined by the Commission dollars per removed tree. Each tree removed or destroyed in violation of this section shall be considered a separate violation.

### **CERTIFICATION**

I, LORRAINE P. CARAFA, Clerk of the Borough of Sea Girt, do hereby certify the above to be a true and exact copy of the Ordinance adopted after a public hearing thereon held on the 24<sup>th</sup> day of October, 2018.

*Lorraine P. Carafa*

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LORRAINE P. CARAFA, RMC  
Municipal Clerk