

ORDINANCE NO. 2014-16

**AN ORDINANCE OF THE TOWNSHIP OF OLD BRIDGE, NEW JERSEY
REPEALING AND REPLACING CHAPTER 457 OF THE TOWNSHIP CODE
ENTITLED "TREES"**

SECTION 1. PURPOSE

The purpose of this ordinance is to repeal Chapter 457 of the Township Code entitled "Trees" and to replace this chapter with new version of a tree removal ordinance entitled "Tree Removal."

SECTION 2. ORDINANCE

NOW THEREFORE, be it ordained by the Township Council of Old Bridge Township, New Jersey that Chapter 457 of the Township Code is hereby repealed in its entirety and replaced as follows:

Chapter 457: Tree Removal

§ 457- 1 Intent and Purposes.

A. Indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within Township of Old Bridge may cause increased drainage control costs, increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon dioxide, the establishment of a heat island effect and increased dust and pollution.

The singular or cumulative effect of any of the foregoing could adversely impact the character of Old Bridge, decrease property value, render the land unfit and unsuitable for its most appropriate use and negatively affect the health, safety and general welfare of Old Bridge residents. Thus, the Township desires to regulate and control indiscriminate and excessive cutting of trees within the Township and require appropriate tree replacement.

B. It is recognized that there is a strong interrelationship between the integrity of Old Bridge's water resources, development on steep slopes, tree removal, soil disturbance, storm water management and the general use of the land resources. Fewer trees throughout the area also correlates with increased air pollution. Therefore, the Township of Old Bridge finds that the appropriate management of these resources is an important health, safety and general welfare concern. Managing its tree resource is consistent with our State-approved Community Forestry Management Plan, as P.L. 1996, c.135. The appropriate management guidelines for tree preservation to be utilized are:

1. The American National Standard, ANSI A300 (Part 5) - Management;
2. Trees and Development: A Technical Guide to Preservation of Trees During Land Development, Nelda Matheny and James R. Clark;
3. Protection and Care of the Urban Forest, NJDEP Division of Parks and Forestry; and
4. Up By Roots; Healthy Soils and Trees in the Built Environment, James Urban ISA Books.

C. 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 forestry 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 which are compatible with the maintenance of the environment. This will be accomplished by ensuring proper management of forest and trees through the application of sound management practices. To that end, it shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any trees covered by this chapter, except in accordance with the provisions of this chapter.

D. The purpose of the provisions relating to heritage/historic trees within this article is to require the preservation of those trees which are identified as mature (fully developed) trees of a specific size and species and those trees involved in documented historic events. Permission to remove such trees from any property, other than a modified home site as hereinafter defined, within the Township, except in the most compelling and extraordinary circumstances, shall be prohibited. Removal shall take place only after a thorough investigation and recommendation by a New Jersey board-licensed tree expert and the agreement of the Township Conservation Officer.

E. The enforcement of this chapter shall be the duty of the Shade Tree Commission of Old Bridge and its agents, such as the Conservation Officer, through the regulation, planting, care and control of shade, ornamental and evergreen trees and shrubs in the streets, highways, public places of the Township and tree removal on all lands within Old Bridge.

§ 457-2 Definitions.

DIAMETER BREAST HEIGHT (DBH) - The diameter of a tree measured four and one-half (4 1/2') feet above the ground level.

CALIPER: ANSI Z60 FOR NURSERY STOCK - Caliper is a type of diameter measurement used in the nursery industry. The height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken six inches above the top of root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches (4"), the caliper should be measured at 12 inches above the top of root flare. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements.

COMMUNITY FORESTRY MANAGEMENT PLAN - A plan developed by municipalities/counties outlining the goals and objectives for managing trees on municipal/county property with the intent of minimizing liability to the municipality/county and maximizing the useful life of the tree resource. The plan is to be approved by the N. J. Department of Environmental Protection, Division of Parks and Forestry, N. J. Forest Service. A Shade Tree Commission shall be formed to oversee the implementation of the Community Forestry Management Plan.

EROSION - The detachment and movement of soil or rock fragments by water, ice, wind and gravity.

EXEMPT AREA - The lot area as provided in this chapter for which tree replacement shall not be required.

FOREST MANAGEMENT PLAN - A plan for the management of timbered or forested lands approved by the New Jersey Department of Environmental Protection, N. J. Forest Service, or similar state or federal agency.

HERITAGE TREE - Any tree by reason of its diameter measured 4 1/2 feet above the ground (dbh) on the uphill side to be a mature tree of significant size. The Township Conservation Officer shall prepare and maintain the Standards for Determining Heritage Trees, for individual tree species. These standards shall set forth the size requirement for determining a heritage tree.

HISTORIC TREE - A tree that has been found to be of notable historic interest to Old Bridge because of its age, type, size or historic association and which has been so designated and that designation has been officially made and promulgated as part of the official records of the municipality, county or state.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use and enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces, provided that such areas may be improved with only those buildings, structures, streets and off-street

parking and other improvements that are designated to be incidental to the natural openness of the land.

SHADE TREE COMMISSION - Shade Tree Commissions formed by municipal ordinance, Title 40, Chapter 64, §§ 1-14, as amended 1984 or by a Board of Freeholder Resolution, Title 40, Chapter 37, §§1.11, as amended 1958.

SPECIMEN TREE - Shall mean any tree in fair or better condition which is so designated by the Shade Tree Commission, or its designee, based on considerations of whether the tree is a rare species of specimen thereof: is abnormal in height, trunk diameter or drip line circumference for a tree of its species; has foliage of an unusual quality for a tree of its species; occupies a location which confers special shade tree, fragrance, erosion control, aesthetic, scenic enhancement, historic, preservation or cultural values to the community. For purposes of this definition, "in fair or better condition" shall mean that a tree has a relatively sound and solid trunk with no evidence of extensive decay or visual evidence of being hollow and with no major insect or pathological problem.

TREE - Any deciduous or coniferous species which has a DBH of six inches (6") or greater.

TREE ESCROW FUND - A fund established by the governing body for the administration and promotion of tree and shrubbery resource sustainability projects and practices which may be consistent with the Community Stewardship Incentive Program as outlined within the New Jersey Shade Tree and Community Forestry Assistance Act P.L. 1996, chapter 135.

TREE PLANTING PLAN - A specific plan adopted by municipality for the location and placement of trees on public property.

TREE PRESERVATION & REMOVAL PLAN (Tree Save Plan) - A specific plan that contains tree locations and other information in accordance with § 457-5 herein, Chapters 250-91, 250-74 and 250-13M of the Township Code.

TREE REMOVAL PERMIT - The permit issued by the Conservation Officer, Shade Tree Commission or, its designee, to remove or destroy a tree or trees.

TREE REPLACEMENT PLAN - A specific plan for replacement of removed trees in accordance with the provision of this chapter.

CONSERVATION OFFICER - The governing body shall appoint a Conservation Officer. This individual shall be responsible for the inspection of sites for which application(s) are filed under this chapter. This individual will be responsible for the administration and protection requirements of this chapter and enforcement of the ordinance as directed by the Shade Tree Commission.

A Conservation Officer is either of the following:

1. A Forester who shall have a bachelor's degree in forestry or arboriculture from a college or university, shall be certified as a Certified Tree Expert by the State of New Jersey and shall have a minimum of three years experience in planting, care and maintenance of trees. The Forester shall have the responsibility of reviewing an approved forest management plan and inspecting the forested site for plan compliance if requested by the tax assessor.
2. A Conservation Officer who shall be certified as a Certified Tree Expert by the State of New Jersey and shall have a minimum of three years experience in planting, care and maintenance of trees.

The Conservation Officer shall be paid from the Tree Fund, which is established herein, and shall be paid in accordance with a fee schedule established by contract with the municipality.

§ 457- 3 Applicability.

The terms and provisions of this chapter shall apply as follows:

- A. Unless specifically excepted in subparagraph C below, it shall be unlawful for any person to remove or cause to remove trees with a DBH of six inches (6") or more without first having obtained a tree removal permit as provided herein.

- B. Specimen & Historic trees: Trees which have been designated as specimen or historic under the provisions of this chapter shall be maintained in a living condition and it shall be unlawful for any person to remove such tree without an approved tree removal permit. No specimen or historic tree shall be removed unless the applicant has obtained the approval of the governing body, with consideration of the Shade Tree Commission's recommendations.

The condition of trees proposed to be saved shall be evaluated by use of guides as follows:

1. Evaluation of Hazard Trees in Urban Areas. ISA Books, Nelda Matheny and James R. Clark.
 2. Urban Tree Risk Management, USDA Forest Service, Northeastern Area.
 3. The Guide for Plant Appraisal, The Council of Tree and Landscape Appraisers.
 4. Up By Roots, ISA Books, James Urban
- C. Exceptions: The provisions of this chapter shall not apply to the following:
1. Any property upon which no trees are located, as confirmed by a Statement of No Tree Verification.
 2. Any tree of less than six inches (6") DBH.
 3. Any tree or trees removed or cut in accordance with a forest management plan provided that such plan is filed with the Conservation Officer, Shade Tree Commission, or its designee and Tax Assessor.
 4. Any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District, provided that such plan has been filed with the Shade Tree Commission, or its designee and Tax Assessor.
 5. Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantations or tree orchards.
 6. Any tree growing in a utility right-of-way or fire trail subject to the approval of the Old Bridge Shade Tree Commission, or its designee.

§ 457-4 Tree removal permits-general.

- A. Any person wishing to obtain a tree removal permit shall make application to the Department of Community Development – Division of Engineering by filing a written application with the Director of Community Development and paying such fees as set forth in § 457-8. No permit shall be issued until a Tree Preservation and Removal Plan for the lot or parcel has been reviewed and approved as compliant with § 457- 5 by the Shade Tree Commission, or its designee and until the filing of a written on-site inspection report by the Conservation Officer.
- B. Where an application, as required by this chapter, has been submitted, no permit shall be issued until a tree save plan for the lot or parcel has been reviewed and approved as compliant with § 457-5 by the Conservation Officer, and until the filing of a written report of an on-site inspection by the Conservation Officer.
- C. All required escrow and bond fees for any application, including required tree replacements or fees, shall be verified as paid prior to the issuance of the tree removal permit.
- D. Tree removal permit applications shall be filed at the Office of the Director of Community Development and shall be completed in full. The application must be deemed complete and all required fees, as set forth in § 457-8, be paid prior to review.
- E. Where an application is made in connection with the construction of a building or other improvement, no building permit shall be issued until the tree removal permit has been issued.
- F. Inspections: Upon the preliminary/final approval of site plan or subdivision, by the Planning/Zoning Boards as appropriate, and after the application is complete and reviewed, the Conservation Officer shall inspect the trees and property which are the subject of the permit application within thirty (30) days. The Conservation Officer may, upon inspection, provide recommendations to the applicant prior to the issuance of the tree removal permit.

G. Permit approval or denial: Upon the Conservation Officers recommendation, the Shade Tree Commission, or its designee, shall approve or deny the tree removal permit within ten (10) business days after completion of the inspection. The Shade Tree Commission shall notify the applicant in writing of the factual basis and criteria for any denial. The final decision of the Shade Tree Commission may be appealed to the Governing Body by filing written notice within ten (10) days of the Shade Tree Commission's final decision. The governing body shall hold a public hearing and issue its decision within sixty (60) days after notice of appeal is filed, unless the applicant requests, and the Governing Body consents to an extension of time.

§ 457-5 Tree removal permit application, Tree Preservation and Removal Plan.

A. Tree Preservation and Removal Plan shall be submitted to the Conservation Officer. Applications that require Planning Board or Zoning Board approval shall have tree preservation and removal plans as part of the submittal to the Planning Board or Zoning Board and said plans shall be provided to the Conservation Officer for review and approval prior to hearing in accordance with this chapter. Tree preservation and removal plans shall contain the following:

1. The name and address of the applicant.
2. The name and address of the owner of the property from which the trees are to be removed.
3. The lot(s) and block(s) of the property.
4. The shape and dimensions of the lot or parcel, including the location of all easements. If the tree removal permit is for a single-family or duplex residence, the plan shall consist of a tree location sketch containing the minimum amount of pertinent information to enable the determination of compliance with the regulations in this chapter, including the information set forth in subsection 4 (a) and (b) below and, if necessary, in subsection 4 (f) and (h) below. The plan for any other property shall include a survey prepared by a licensed land surveyor that contains tree locations. The survey shall contain, at a scale of no less than one inch (1") equals fifty feet (50'), the following information:
 - a. The existing and proposed tree preservation limits;
 - b. The proposed limit of the clearing and all individual trees to be retained outside the tree clearing identified by an approved method as determined by the Conservation Officer such as flagging, prior to the field inspection. For any clearing equal to or greater than three (3) acres, a representative five percent (5%) of the wooded areas proposed to be cleared shall be inventoried. The representative five percent (5%) of the wooded areas proposed to be inventoried shall be cleared. The representative five percent (5%) shall be determined by agreement between the Conservation Officer and the applicant. Unless otherwise determined by the Conservation Officer, where less than three (3) acres is proposed to be cleared, all trees to be removed shall be inventoried;
 - c. The installation and limits of a temporary existing tree protection fence along the limits of the proposed tree removal shall be in compliance with §457-9;
 - d. Locations of all forest types shall be identified by common and botanical names of dominant tree species;
 - e. All specimen, historic and Heritage Trees 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 specific written approval of the governing body with consideration of the Shade Tree Commission's, or its designee's, recommendations;

- f. A proposed tree replacement plan in accordance with this chapter.
A tree replacement plan shall be considered the proposed landscaping plan required for all subdivision and site plan approvals;
- g. A North arrow; and
- h. The location of existing and proposed structures and improvements, if any.

§ 457-6 Term of permit.

Any and all permits approved by the Shade Tree Commission, or its designee, shall be declared null and void if the tree removal is not completed within a reasonable time, not to exceed twelve (12) months after permit issuance. In no case will the permit be valid for more than twelve (12) months, unless the Conservation Officer determines that the applicant has sufficiently demonstrated a hardship. In that event, the Conservation Officer shall be permitted to grant an extension of up to six (6) months. Permits not used within this period will require a new application and the payment of new fees. For purposes of this section, a permit shall no longer be valid when the work authorized by the permit is completed.

§ 457-7 Criteria for issuance of permits.

A. Upon completion of the Conservation Officer's field inspection report and review of any requested recommendations, the Conservation Officer shall recommend approval of a permit if:

1. The Tree Preservation and Removal Plan is compliant with section 457-5;
2. The Tree Replacement Plan is approved;
3. None of the conditions set forth below in subsection B exists;
4. At least one of the criteria as follows has been satisfied:
 - a. The tree is located in an area where a structure or improvements will be placed according with the approval of Planning/Zoning Boards and the tree cannot be relocated on the site because of age, type or size of the tree.
 - b. The tree is dead, diseased, injured, in danger of falling, is too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision of clearance or conflicts with other ordinances or regulations.
 - c. The tree is to be removed for harvesting as a commercial product or for the purpose of making land available for farming or other agricultural activity, or is to be removed in furtherance of a forest management plan or soil conservation plan, or to serve some other purpose which is consistent with the purposes of this ordinance.

B. The Shade Tree Commission, or its designee, with recommendations considered from the Conservation Officer, may deny a permit if the removal will contribute to:

1. Extra runoff of surface water onto adjacent properties;
2. Erosion; or
3. Siltng and such conditions are not otherwise satisfactorily addressed; or if the tree removal will cause:
 - a. Impairment to the growth or development of remaining trees on the applicant's property or upon adjacent properties;
 - b. Soil instability;
 - c. Dust;
 - d. Drainage or sewerage problems; or
 - e. Dangerous or hazardous conditions.

§ 457-8. Fees.

- A. Application.
1. The applicant, at time of filing the application as set forth herein, shall pay the application fee of \$35.00 in accordance with an approved fee structure for each new or existing lot. No application shall be considered without the payment of the required fees.

2. Replacement Fee will be in accordance with 457-10.

B. Tree Fund. A Tree Fund shall be established and maintained by Old Bridge to receive and disburse replacement tree contributions. Appropriations from the Tree Fund shall be authorized by the governing body with consideration of the Shade Tree Commission, or its designee's, recommendation in accordance with the municipal tree planting plan. The primary purpose of said fund is to provide for the replacement of trees. The fund will also cover administrative costs incurred by the Conservation Officer to implement the provisions of this chapter, including but not limited to site inspections, processing of permits and supervision of tree replacements by the Conservation Officer. Implementation of this chapter shall not exceed 30% of the fund, as determined on an annual basis.

§ 457-8.1 Replacement Trees.

A. Any tree removed pursuant to this chapter, unless exempt under 100-3C, shall be replaced based on the following:

TABLE 10.1

# of trees to be removed	Size/Diameter in Inches @ dbh	# of replacement trees	Size of replacement trees	Or dollar amount
1	Greater than 6" up to 10"	1	2 – 2½"	\$ 240.00
2	Greater than 6" up to 10"	1	3½ – 4"	\$ 420.00
1	Greater than 10" up to 16"	2	2 – 2½"	\$ 480.00
1	Greater than 16" up to 23"	2	3"	\$ 840.00
1	Greater than 23" up to 30"	4	3½ – 4"	\$1,680.00
1	Greater than 30"	5	3½ – 4"	\$2,100.00

In cases where the tree cost requirement criteria is combined with other criteria of this subsection, the value of proposed shade, ornamental, evergreen and shrub material shall be deducted from the calculated amount for replacement trees. The value of the proposed landscape material shall be calculated based upon average local material costs for planting.

- B. The applicant will receive a one-for-one replacement tree credit should stands of ten (10) or more trees greater than four inches in diameter be preserved within the limit of the 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 non-replaced trees to the Tree Fund; or
 2. The Conservation Officer and applicant agree in writing that the applicant shall make payment to the Tree Escrow Fund based upon the chart provided; or
 3. The Conservation Officer and applicant agree in writing that the applicant shall plant replacement trees off-site on municipally owned property pursuant to the municipal tree planting plan.

§ 457-9 Existing tree protection during construction.

- A. (1) Prior to construction and any tree removals, suitable tree protective barriers shall be erected and this protection, where required, shall remain until such time as the protection is authorized to be removed by the Conservation Officer or after issuance of a final certificate of occupancy. In addition, during construction no attachments or wires shall be attached to any of said trees so protected. Where some grading must take place within the drip line of trees in the protection zone, appropriate measures shall be taken to minimize impact to the trees. Any trees seriously damaged during construction must be professionally treated by a N. J. Certified Tree Expert, assessed a monetary fee in accordance with the Guide for Tree Appraisal or replaced if the damage is beyond treatment.

- (2) A detail of the existing tree self-supported protective barrier shall be provided on all applications. The protective barrier shall be a minimum of four (4') feet high.
- (3) The self-supported protective barrier shall be placed, as approved by the Conservation Officer, at the drip line of any tree along the limit of clearing and around the entire drip line for trees to remain undisturbed within the limit of clearing. Refer to: *Trees and Development*, Table 6.2, page 74.
- (4) It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery or temporary soil deposits within the drip line.
- B. Street right-of-way and utility easements may be delineated by placing stakes a minimum of fifty (50') feet apart and tying ribbon, plastic tape, rope, etc., from stake to stake along the outside perimeters of such areas to be cleared.
- C. Large property areas separate from construction and land-clearing areas into which no equipment will venture may also be delineated as set forth above in 457-9 (B) as determined by the Conservation Officer following a field evaluation.

§ 457-10 Tree Replacement.

Any tree removed pursuant to a tree removal permit shall be replaced as provided below, unless said tree is located in an exempt area or is dead or fatally diseased as determined by a Certified Tree Expert. Tree replacement shall be required in accordance with the standards set forth in ANSI Z60.1, American Standard for Nursery Stock. Tree replacement shall be in accordance with either paragraph A, B, C or D below or a combination of paragraphs A, B, C and D.

A. One-to-one tree replacement. For each tree six inches (6") in DBH or greater that is removed, the applicant shall prepare a replanting plan for other areas of the property. The replacement plan or landscape plan shall reflect a one-to-one tree replacement for each tree six inches (6") or greater to be removed. All proposed replacement trees shall be in accordance with selections from most current edition of *Trees For New Jersey Streets*, published by the New Jersey Shade Tree Federation, and *Street Tree Factsheets* a publication of the Municipal Tree Restoration Program, and submitted for review and approval prior to the issuance of a tree removal permit. (**Note: neither publication contains conifers!**)

- B. Tree area replacement/reforestation: For each square foot of tree area to be removed, the applicant shall prepare a reforestation scheme on other treeless open space areas of the property to compensate for the tree removals. The reforestation plan shall be based on a twenty foot (20') by twenty foot (20') grid. Of this number of trees, ten percent (10%) shall be balled and burlaped, two inch (2") to two and one-half inch (2 ½") caliper, twenty percent (20%) shall be balled and burlaped, one and three-quarter inch (1 ¾") to two-inch (2") caliper, thirty percent (30%) shall be bare root one and one-quarter (1 ¼") to one and one-half inch (1 ½") caliper, and forty percent (40%) shall be bare root six foot (6') to eight-foot (8') tall whips. A mixture of trees, indigenous to the area and site, shall be utilized. Proposed trees shall be planted in natural groves and may be spaced five feet (5') to twenty feet (20') on center. The reforestation formula shall follow the guidelines as set forth in the New Jersey No Net Loss Reforestation Act, P.L. 1993, c. 106 (c:13:1L-14.2).

- C. Credits. The permit applicant will receive a one-to-one replacement tree credit:
- (1) For stands of ten (10) or more trees within a DBH of six inches (6") or greater preserved within the limit of the disturbance line; or
- (2) Forested areas of one (1) acre or greater, which are developable and left natural and conveyed to Old Bridge with a deed restriction, will remain forested and undeveloped. This conveyance excludes all previous dedicated easements.
- D. All replacement trees shall be planted on site, unless all of the replacement trees cannot be physically accommodated. In such instance, the applicant shall plant replacement trees off-site as directed by the Shade Tree Commission, or its designee, or pay the tree replacement fee in accordance with the schedule set forth in §457-8.
- E. Exempt Areas.

(1) For all existing residential properties and new residential development with a proposed lot area less than forty thousand (40,000) square feet, up to fifty percent (50%) of the lot area may be exempt area.

(2) For residential development with a proposed area of forty thousand (40,000) square feet or greater, up to twenty thousand (20,000) square feet in area may be exempt area. The exempt area shall be calculated as a contiguous, circular area from a fixed point within the footprint of the existing or proposed primary residential structure on the property. The exempt area should be positioned to minimize any adverse environmental impacts.

(3) Agricultural operations are exempt from replacement requirements because such operations are governed by the Right-to-Farm Act, N.J.S.A. 4:1C-1 to 10, which pre-empt local regulation. Property owners claiming exemption under this subsection must continue to farm the property in question as described on the tree removal permit for a minimum of five (5) consecutive years after the date of clearing or date of commencement of the prescribed farming activity is deemed compliant by the Conservation Officer. An approved permit must be submitted prior to clearing. If the property is not farmed as prescribed on the tree removal permit within three (3) years of the tree removal or is developed for any other use before the five (5) years expires, the reforestation replacement obligation in accordance with §457-10B will be enforced according to the new use of the property.

(4) In all commercial and non-residential developments, fifty percent (50%) of the contiguous lot area may be exempt area. The exempt area shall be positioned to minimize any adverse environmental impacts.

(5) Utility line clearance operations provided that such plan is filed with the Conservation Officer and work performed in accordance with ANSI A300 Part 7: BMP "Utility Pruning of Trees", and Board of Tree Experts "Pruning Standards for Shade Trees" section 5.5. A.

(6) Any tree removed from an area of property to be dedicated as public improvement as a public roadway shall be exempt from the replacement provisions of this chapter, except that where private roadways, parking areas or open space are proposed, all trees are subject to replacement in accordance with this chapter.

§ 457-11 Emergencies.

In case of emergencies such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster, or in the case of dead or diseased trees which are a hazard to persons or property, the requirements of the regulations set forth in this chapter may be waived by the Conservation Officer upon a finding that such waiver is necessary so that the public or private work to restore order on the property in Old Bridge will not be impeded.

§ 457-12 Stop-work orders.

The Shade Tree Commission, or its designee, are hereby authorized to issue stop-work orders to the holder of the tree removal permit and the Conservation Officer is authorized to recommend the issuance of stop-work orders to the Township officials in the event that there is:

- (1) A failure to comply with the approved plan such as a site plan, forest management plan or soil conservation plan;
- (2) Non-compliance with the tree removal permit granted pursuant to this chapter; or
- (3) Non-compliance with the provisions of this chapter.

The stop-work order shall remain in effect until the Shade Tree Commission, or its designee, upon recommendation of the Conservation Officer, has determined that the resumption of work will not violate the plans, permit or the provisions of this chapter.

§ 457-13 Enforcement.

The Shade Tree Commission in conjunction with the Conservation Officer shall oversee all tree removals pursuant to an issued tree removal permit. The Conservation Officer shall conduct adequate inspections of all sites for which a tree removal permit has been issued. Upon the ascertainment of a violation of this chapter, the Conservation Officer or Shade Tree Commission

shall be permitted to refer enforcement actions to either the Conservation Officer or the Code Enforcement Officer.

§ 457-14 Applicability to tree removal construction companies; permit required.

All provisions of this chapter shall apply to any person removing trees on behalf of any other person, including all tree removal construction companies or persons in the business of removing trees or construction. It shall be unlawful for any person or company to remove or cause to be removed any tree or undertake any work for which a permit is required pursuant to this chapter unless a valid permit therefore is in effect and is displayed in accordance with the provisions set forth in § 457-15; such removal or work shall constitute a violation of this section and shall subject the person or company violating this section to all penalties provided herein.

§ 457-15 Display of permit; carrying of plan or authorization; right of entry.

- A. The applicant shall prominently display on the site the tree removal permit issued. Such permit shall be displayed continuously while trees are being removed or replaced or work done as authorized on the permit and for ten (10) days thereafter. In addition, the person or persons cutting or removing trees, if other than the applicant, shall carry with him/her authorization from the owner or applicant authorizing such person to cut or remove trees. In the event that the trees are being cut or removed in accordance with a forest management plan or a soil conservation plan, a copy of the plan shall be in the possession of the person cutting or removing such trees.
- B. As a condition for the issuance of the permit, the applicant shall agree in writing to the entry onto his/her premises by representatives of the Township and all law enforcement officers as necessary to effectuate the provisions of this chapter, and such entries shall be deemed lawful. Failure to allow such entry shall be unlawful and shall constitute a violation of this chapter and shall constitute failure to display the permit as required herein. It shall be unlawful and considered a violation of this chapter for any person to engage in the business of plant cutting, trimming, and removal, spraying or otherwise treating trees, shrubs or vines within Old Bridge and without the applicable certification or license for the designated work. All contractors offering tree care services for hire within the Township shall register annually with the Conservation Officer, provide a current certificate of insurance showing evidence of employer liability and workers compensation coverage for the work to be performed, and shall comply with applicable OSHA regulations, ANSI Z133-2012 Safety Standards, New Jersey Board of Tree Experts Pruning Standards for Shade Trees and ANSI A300 Practice Standards. All work to be performed in Old Bridge shall be by or under the direction of a New Jersey Certified Tree Expert and in compliance with New Jersey Board of Tree Experts Pruning Standards for Shade Trees, ANSI Z133-2012 Safety Standards and ANSI A300 practice standards unless otherwise directed by or approved by the Conservation Officer and the Shade Tree Commission.

§ 457-16 Duties of the Conservation Officer.

The Conservation Officer shall perform the duties set forth in this chapter and shall be responsible for the enforcement of the provisions of this chapter as directed by the Shade Tree Commission. In this regard the Conservation Officer is authorized and shall perform any necessary inspections and is further authorized and shall issue violation notices and shall sign complaints and provide testimony in the Municipal Court for violations of this chapter. The Conservation Officer has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary. A public nuisance is any tree or plant with an infectious disease or insect problem; dead or dying trees; a tree limb(s) or root(s) that obstruct street lights, traffic signs, free passage of pedestrians or vehicles; a tree that poses a threat to safety, etc.

§ 457-17 Violations and penalties.

- A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation be

punished by a fine of up to two thousand dollars (\$2,000.00) for each offense or to imprisonment for a term not to exceed ninety (90) days, or both, in the discretion of the Judge before whom conviction may be had. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this chapter and each day the same is violated shall be defined and taken to be a separate and distinct offense. In addition, the court may order restitution (fine and/or appraised value, whichever is greater) and/or replacement of the tree illegally removed.

B. In addition to other remedies, the Shade Tree Commission, Conservation Officer or other authorized official may institute any appropriate legal action to prevent a continuing violation of the terms of this chapter.

§ 457-18 Appeal; hearing.

Any applicant or permit holder or any person otherwise aggrieved under this chapter may appeal to the Township Council any decision of the Shade Tree Commission and/or Township Conservation Officer by filing written notice with the Township Clerk within 10 days of said decision. The Township Council is hereby authorized and empowered in such cases to hear and fully decide and dispose of such matters. The Township Council shall hold a public hearing thereon and act upon the same no later than 60 days after the notice has been filed, unless the applicant requests, and the Township Council consents, to extend the time for such action.

SECTION 3. INCONSISTENT ORDINANCES

All Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. PARTIAL INVALIDITY

If any section, paragraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder shall be deemed valid and effective.

SECTION 5. EFFECTIVE DATE

A. Except as set forth at subparagraphs B and C hereof, this Ordinance shall take effect on the earlier of the following dates: (1) on the date the Mayor affixes his/her signature thereto and returns same to the Municipal Council by delivering it to the Municipal Clerk pursuant to NJSA 40A:69A-41 or (2) on the tenth day following presentation to the Mayor of the Ordinance pursuant to NJSA 40:69A-41 applicable when the Mayor has failed to return the Ordinance; whichever occurs first.

B. If the Mayor vetoes the Ordinance (in the manner set forth at NJSA 40:69A-41), this Ordinance shall become effective upon the Township Council's vote to override the Mayor's veto.

C. Notwithstanding any other provision hereof, this Ordinance shall not take effect less than twenty (20) days after its final passage by the Council and approval by the Mayor, where such approval is required, unless the Council shall have also adopted a resolution declaring an emergency and at least two-thirds (2/3) of all the members of the Council vote in favor of such resolution.

First Reading – September 15, 2014

Moved by Councilman Cahill, seconded by Councilman Greene and so ordered on the following roll call vote:

AYES: Councilmembers Anderson, Butler, Cahill, Greene, Mollis, Panos, Rosencranz, Sohor, President Walker

NAYS: None

September 29, 2014

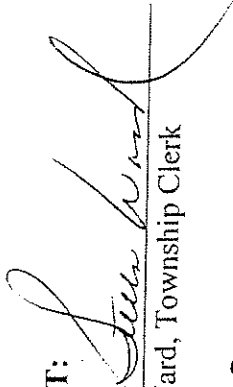
Moved by Councilwoman Sohor, seconded by Councilman Anderson and so ordered on the following roll call vote:

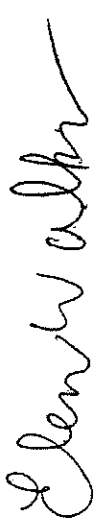
A YES: Councilmembers Anderson, Butler, Mollis, Panos, Rosenkrantz,
Sohor, President Walker

NAYS: None

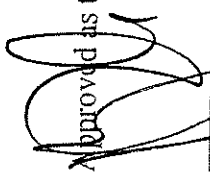
ABSENT: Councilmen Cahill, Greene.

ATTEST:

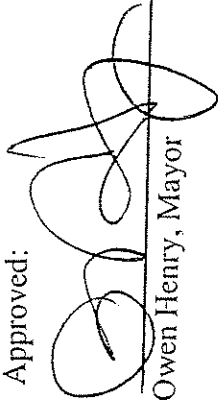

Stella Ward, Township Clerk


Eleanor Walker, Council President

Approved as to form and sufficiency:


Mark Roselli, Esq.
Department of Law

Approved:


Owen Henry, Mayor

First Reading: September 15, 2014
Publication: September 17, 2014
Second Reading: September 29, 2014
Publication: October 04, 2014
Effective Date: October 24, 2014