TOWNSHIP OF MEDFORD
ORDINANCE 2020-22

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE TOWNSHIP OF MEDFORD CODE AND CREATING CHAPTER 123, ENTITLED "TREES".

WHEREAS, the Township of Medford Code (the "Township") does not contain specific provisions regarding the removal of trees on individual lots or tracts of land in the Township; and

WHEREAS, it has come to the Township's attention that there have been instances of the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees on privately owned individual lots and tracts of land; and

WHEREAS, the Township desires to amend the Township Code so as to add provisions regarding the removal of trees on privately owned individual lots and tracts of land; and

WHEREAS, the Township Council finds and determines that amending the Township Code so as to establish regulations regulating the removal of trees on privately owned individual lots and tracts of land is required to ensure and protect the safety, health and welfare of residents of the Township and the public at large.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Medford in the County of Burlington and State of New Jersey, that the Township of Medford Code be hereby amended as follows:

SECTION 1. Amendment(s). The Township Code is hereby amended to create new Chapter 123, entitled "Trees," which shall read as follows:

Chapter 123: Trees

A. PURPOSES:

Given the Township of Medford's location within the Pinelands Natural Reserve and it's long-standing commitment to preserving the environmental assets and aesthetics of its natural surroundings, the Township Council of the Township of Medford has determined that the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees upon privately owned individual lots and tracts of land within the Township of Medford will increase the municipal costs to control surface drainage and will increase the probability of soil erosion, sedimentation and a decrease of soil fertility; all of which conditions negatively impact the environment and the public safety, health and welfare of the citizens of the Township of Medford.

The appropriate management and use of existing vegetation resources are an important

health, safety and welfare concern as per N.J.S.A. 40:48-2. Therefore, it is the intent of these regulations to: (1) Reduce soil erosion and protect surface water quality by minimizing soil and tree root disturbance in existing woodlands, around tree masses or under individual trees. (2) Reduce stormwater runoff, velocity and volume by retaining woodland and forest areas where stormwater can infiltrate easily. (3) Increase groundwater recharge by retaining woodland areas where stormwater can infiltrate easily. (4) Improve air quality by conserving existing trees and other mature vegetation which produce oxygen and remove carbon dioxide from the atmosphere. (5) Protect wildlife habitat. (6) Retain existing trees to provide wind breaks, shade and other microclimate benefits. (7) Retain trees and woodlands that are important to the history or natural and aesthetic beauty of the Township of Medford. (8) Preserve and enhance property values by retaining and properly protecting existing trees

B. DEFINITIONS

For the purposes of this Tree Ordinance, the following terms as used within the Ordinance are defined as follows:

Caliper: Standard measure of tree size for trees to be newly planted. The measurement is taken six inches above the ground level for trees four inches in diameter or less and 54 inches above the ground for trees over four inches in diameter.

Dripline: A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

Emergency: Any tree that creates an immediate hazard or danger to persons and property, as a result of a weather event, such as a hurricane, wind storm, flood, freeze or other disaster, or other cause.

Endangered Species Tree: Any tree of a species which is threatened with extinction including, but not limited to, those species of trees so noted in New Jersey State and/or national registers.

Historic Tree: Any tree with or approaching the girth which is the largest of its species in the State of New Jersey, or any tree located on private property which has been identified as such by the State of New Jersey and/or dedicated by the Township Council, with the consent of the landowner, to an individual or event.

International Society of Arboriculture: Provides accreditation to those in the tree industry with demonstrated knowledge and skills to properly care for trees.

Licensed Tree Care Operator (LTCO) and Licensed Tree

Expert (LTE): Professional Certifications issued by the NJ Board of Trees Experts as delineated in the Tree Expert and Tree Care Operator Licensing Act of 2010. All tree care companies doing business in that State of New Jersey are required to have at least one licensed LTCO or LTE on staff.

Plan: The "Tree Removal/Replacement Plan", in accordance with the requirements of this tree ordinance, which indicates the trees to be removed or replaced.

Preferred Tree List: A list of trees recommended by tree specialists to be best adapted to the climate, soil and topography of the Township of Medford, formulated by the Pinelands Commission and, upon approval by the Township Council, shall be adopted by the Township Council and be kept on file in the offices of the Township Zoning Official for use by persons intending to plant trees.

Protective Barrier: A barrier constructed to protect the root system and/or the trunk of a tree from damage during construction and/or from equipment, soil or material deposited on the site. The protective barrier may consist of a snow fence, sawhorses or other similar structure which is sufficient to protect the root system or trunk of a tree from potential damage.

Regulated waters: all waters in the state excluding man-made canals and waters draining less than 50 acres as described in N.J.A.C 7:13-2.2.

Right of Way: A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a street, a crosswalk, a railroad, electric transmission lines, an oil or gas pipeline, a water line, a sanitary storm sewer, or other similar uses.

Riparian Zone: Land and vegetation within and adjacent to a regulated water.

Specimen Tree: Any tree which by its singular nature, condition, size, location and/or appearance is determined by the Township Planner, Zoning Official, and/or Environmental Affairs Advisory Committee to impart a particular value to a property or landscape.

Township Property: Lands which are owned by the Township of Medford or are within the right-of-way (ROW) of the Township's, County's or State's streets, highways (especially the area between the curbing and sidewalk), open space or under the control of the Township of Medford by way of ownership, deed restriction or other covenant.

Tree: Any living woody perennial deciduous plant with a caliper of at least six inches (6") measured six inches (6") above the ground, or any living woody perennial evergreen plant or thinner deciduous plant (e.g., dogwoods, birches,

American Hornbeams, etc.) at least fifteen feet (15') in height above ground level.

Tree Removal Permit: Written authorization from the Medford Zoning Official allowing the removal of trees in accordance with the "Tree Removal/Replacement Plan" as approved by the Zoning Official, Township Planner, and/or the Medford Environmental Affairs Advisory Committee.

C. TREES IN REGULATED WETLANDS AND BUFFER AREAS:

Freshwater wetlands: The clearing and removal of trees and all vegetation located within freshwater wetlands and freshwater wetland transition areas is regulated under N.J.A.C 7:7A Freshwater Wetlands Protection Act Rules and enforced by the New Jersey Department of Environmental Protection and the New Jersey Pinelands Commission. within the areas of the Township under Commission jurisdiction,

Flood Hazard Areas: The clearing and removal of trees and all vegetation located along a regulated water and within a designated riparian zone is regulated under N.J.A.C. 7:13 Flood Hazard Area Control Act Rules and enforced by the New Jersey Department of Environmental Protection and the New Jersey Pinelands Commission within areas of the Township under Commission jurisdiction,

The Zoning Official shall not authorize the removal of trees in any freshwater wetlands or freshwater wetlands transition area, or along a regulated water way or riparian zone until all required approvals have been issued by the Department of Environmental Protection Division of Land Use Regulation and/or the New Jersey Pinelands Commission.

D. TREES ALLOWED TO BE REMOVED WITHOUT TREE REMOVAL PERMIT

If permitted as set forth below, any "Tree" as defined in this Ordinance (and any smaller trees) may be removed from a privately owned lot or tract of land without the necessity of submitting a "Tree Removal/Replacement Plan" and obtaining a "Tree Removal Permit" except that, in any case, no "Endangered Species Tree", "Historic Tree" or "Specimen Tree" may be removed without a "Tree Removal Permit", except in the case of an emergency as set forth in subsection 2 (b), below:

1. Up to three (3) trees may be removed every twelve (12) months for any reason from an existing lot within the Township of Medford which contains a residential dwelling, but no more than ten (10) trees may be removed for any reason from an existing lot which contains a residential dwelling within any five (5) year period. The limitations herein shall not apply to any tree or trees removed for the construction of a new home or an addition to an existing home, or the installation of a new septic system or the repair/replacement of an existing septic system, but only to the extent reasonably required for the construction of the home, the addition, or repair/replacement of the septic system.

2. The removal of the tree or trees permitted below shall not count toward the three (3) trees permitted to be removed every twelve (12) months or the total of ten (10) trees permitted to be removed in each five (5) year period specified in subsection 1, above.

(a) Any dead or diseased tree, or any tree that creates an imminent hazard or danger to persons and property or an Emergency, as defined in Section B, above, may be removed immediately. However, the property owner shall, upon request of the Zoning Official, be required to provide documentation confirming said conditions, which will include photographs of the trees removed and the property, and a certification from a duly licensed LTCO or LTE, or from an ISA certified arborist.

(b). Any tree may be removed as directed by the government of Medford Township, Burlington County, the State of New Jersey or the United States;

(c) Any tree may be removed if part of a logging operation and/or a Forestry Management program in accordance with a management plan approved by the New Jersey Department of Environmental Protection and/or the Pinelands Commission and on file in the office of the Township Assessor;

(d). Any tree may be removed pursuant to an application for development (as defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1et. seq.) approved by the Medford Township Planning or Zoning Board, and, where required, the New Jersey Pinelands Commission, provided that said approval includes a Tree Replacement Plan.

(e). In the Pinelands Area of the Township, any tree may be removed under the authority of Chapter 600 of the Medford Township Code (Development Regulations), Section 612 “Forestry”, the provisions of which are expressly saved from repeal, provided that the removal is permitted pursuant to an approved “Forestry Management Plan” authorized by said Section 612.

E. REQUIRED TREE REMOVAL/REPLACEMENT PLANS

Unless the tree is smaller than described in the "Tree" definition of this ordinance or is otherwise permitted to be removed in accordance with one or more of the provisions listed in Section D.2. of this Ordinance hereinabove, no more than three trees every twelve (12) months, or ten (10) trees in any five year time period on any residential lot within the Township of Medford shall be removed (or purposely injured or damaged) unless a "Tree Removal/Replacement Plan" is submitted to and approved by the Zoning Official, with the advice and review of the Medford Township Planner and/or Engineer, and/or the Medford Environmental Affairs Advisory Committee in accordance with the provisions of this ordinance. Additionally, any landowner desiring to clear an area greater that one thousand five hundred (1,500) total square feet, including not only trees, but also brush and/or natural

vegetation, must obtain approval under this Ordinance.

The "Tree Removal/Replacement Plan" and accompanying information shall include the following:

1. The subject property where the tree(s) is/are to be removed shall be identified by street address, tax block and lot number(s) and approximate acreage;

2. The name, address and telephone number of the owner of the subject property or the owner's duly authorized agent;

3. The name, address, and State license identification number of the NJ licensed tree contractor who will be performing the tree removal work. All tree contractors must comply with the NJ Tree Care Licensing Act, N.J.S.A. 45:15C-11 et seq,, and the Contractor must carry a current/valid LTCO or LTE license from the State of New Jersey. Unless the tree removal is being performed by the landowner, the tree removal must be performed by a LTCO or LTE as defined herein.

4. The tree(s) proposed to be removed shall be clearly marked on the subject property for review by the Zoning Official, Township Planner and/or representatives of the Medford Environmental Affairs Advisory Committee;

5. To the extent required by the Zoning Officer to make an appropriate decision, the following information shall be shown on a map, legal survey or site plan which is drawn to scale and is of a suitable size to depict the required information:

    a. The total number and the location and size of each tree proposed to be removed;

    b. The total number and approximate location of any trees removed from the lot in the preceding twelve months, if known;

    c. The location of the principal building and all accessory buildings on the subject property;

    d. The location of any driveway on the subject property;

    e. The location of any deed restricted areas, scenic buffers, and/or HOA restricted areas on the subject property;

F. GUIDELINES FOR THE PREPARATION OF REQUIRED TREE REMOVAL/REPLACEMENT PLANS

1. Accessory Structures: Accessory structures (e.g., driveways, patios and decks, tennis courts, swimming pools, paver patio areas, pergolas, sheds, solar arrays, etc.) should be located so that as few trees as possible are removed.

2. Hardship Trees: Generally, any tree likely to cause a hardship upon the landowner or a neighboring landowner will be approved for removal.

3. Streetscape Trees: All trees between the frontage street and the principal building on a lot should be preserved to the maximum extent possible.

4. Trees Which Visually Screen: All trees which visually screen large tracts of vacant land or large structures shall be preserved to the maximum extent possible.

5. Trees On Public Land: No tree within a public right-of-way or easement or on any publicly owned land shall be removed by any individual unless specifically authorized in writing by the Township of Medford.

6. Trees On Steep Slopes: No tree on a steep slope shall be removed if the Zoning Official, in consult with the Township Engineer, factually concludes that the removal of the tree will cause increased surface water runoff onto an adjacent property, will cause increased soil erosion and/or silting, will cause significantly increased dust in the air, and/or will cause a decrease in the fertility of the soil.

7. Solar Installations: No trees may be removed or "topped" to expose ground mounted or roof mounted solar panels unless expressly permitted as a part of the Zoning Permit application process.

8. Trees Within Buffers. No tree may be removed that is located within a buffer that was created as a condition of approval of a development approved by the Planning or Zoning Board, or within recorded Homeowners Association/Colony Club documents, without approval of the board or body that imposed the buffer.

G. REPLACEMENT TREES

Each tree removed pursuant to a submitted and approved "Tree Removal/Replacement" plan and not otherwise allowed to be removed without a Tree Removal Permit pursuant to Section D, above, either shall be replanted on the subject property or shall be replaced with a new tree planted either on the subject property or as directed by the Zoning Official. The specific location of all replanted and newly planted trees shall be as approved by the Medford Zoning Official, Open Space Coordinator, and/or the Environmental Affairs Advisory Committee. All newly planted trees shall meet the following minimum standards and requirements:

1. Each newly planted tree shall have a minimum caliper at the time of planting of one and one-half inches (1½") measured six inches (6") from the ground;

2. If located within the Pinelands designated areas, the species of each newly planted tree shall be selected from the native species "Preferred Tree List" of the Pinelands Commission in consideration of the attributes of the proposed location of the tree

(i.e., existing vegetation, soil conditions, water availability, land uses, etc.) and the proposed tree's color, growing season, texture, shape, blossoms and foliage;

3. Each newly planted tree shall be of nursery stock and shall be balled and burlapped; and

4. Each newly planted tree shall be guaranteed for at least two (2) years from the date of planting, and any tree which does not survive within that time period shall be replaced by another tree of the same size and species at the expense of the landowner.

H. PROTECTIVE BARRIERS

During the construction of any structure on a property, care must be taken to protect any existing tree within the vicinity of the construction by erecting a "Protective Barrier" as defined in this ordinance and in accordance with the following:

1. No equipment, soil or material shall be placed within the dripline of any tree located on the subject property within the vicinity of the construction and a protective barrier shall be erected around the areas of such trees defined by the dripline.

I. REVIEW AND ACTION ON SUBMITTED PLANS

The Medford Township Zoning Official or his/her designee shall review the site to determine whether the cutting, removal, or destruction of the tree shall impair drainage conditions, impair soil erosion, increase dust concentration, decrease the fertility of the soil or deteriorate the property value, destroy a buffer between residential and nonresidential uses; and shall further determine the overall physical conditions of the land and the deleterious effect thereon if any, in accordance with the standards set forth in this Ordinance. NO ACTION MAY BE TAKEN BY THE LANDOWNER UNTIL WRITTEN AUTHORIZATION IS RECEIVED AND A PERMIT ISSUED.

1. Two (2) copies of each "Tree Removal/Replacement Plan" shall be submitted to the Medford Township Zoning Official who shall retain one (1) copy for the Township's records.

2. The Medford Zoning Official shall review and act upon each submitted plan within ten (10) business days of the date the plan was submitted. Should the Zoning Official determine that a review is required by the Township Planner and/or Environmental & Open Space Committee, the Zoning Official shall have the authority to extend the review period to up to thirty (30) calendar days.

3. If the Zoning Officer requests review, the Medford Environmental Affairs Advisory Committee shall consider a report from the Zoning Official regarding the submitted plan, provided that the report is forwarded to the Committee within thirty (30) days of the date the plan was submitted to the Zoning Official.

4. The Medford Zoning Official, Township Planner and/or Environmental Affairs Advisory Committee or designated members thereof shall inspect and photo-document the subject property as part of the review of the submitted plan.

5. Should the Zoning Official approve the submitted plan, either as submitted or subject to specified conditions, a "Tree Removal Permit" shall be issued by the Zoning Official in writing to the landowner indicating any specific conditions of the approval.

6. Should the Zoning Official deny approval of the submitted plan, the Zoning Official shall notify the landowner in writing with the reasons for the denial.

7. If the submitted plan is denied by the Zoning Official, the landowner shall have the right to appeal the decision to the Zoning Board of Adjustment as set forth in Section 703.A of the Medford Development Ordinance.

J. FEES

A $25 Administrative Fee shall be required upon submission of a permit for the Tree Removal application. All fees collected for Tree Removal Application will be collected by the Zoning Office and deposited into a Tree Bank Trust Account, maintained by the Township Finance office. Any expenditure of said fees must be approved by the Township Manager and Chief Financial Officer, and be utilized only for the purposes of tree planting and restoration in the Township of Medford.

K. PROHIBITIONS

1. While in the course or cutting or removing any tree within Medford Township, no debris, limbs or other materials may be dropped upon any paved street, sidewalk or curb so as to protect against damage to roadways, sidewalks and right-of-way areas.

2. As per the Township Code Section 49-1 and all other applicable provisions of the Township Code, all waste generated as a result of tree removal authorized by this Ordinance must be removed and disposed of at the landowner's cost at the time the trees are removed.

3. The sale of wood at "wood stands" or similar facilities, except at retail commercial establishment or garden centers, is prohibited in the Township.

L. TREES IN THE RIGHT OF WAY

The Township of Medford is not responsible for, nor does the Township own the trees within the public right-of-way. All trees in the Township of Medford are owned by and are the responsibility of the property owner of the property on which the tree is located,

including all trees in the "right of way" located between the sidewalk and the curb line. The only trees owned by the Township for which the Township is responsible to maintain are on municipally owned property. In an emergency, Township personnel or Township employed contractors may cut a fallen tree in a roadway; however final disposition of the tree is the responsibility of the property owner.

1. The landowner is responsible for care and maintenance of trees within the Township right-of-way.
2. The Township will not remove live or healthy trees, or trees which are lifting sidewalks within any right-of-way.
3. The Township will not replace trees or plant new trees within the right-of-way.
4. The Township will not remove a tree from the right-of-way unless it is determined to be an emergency hazard to motorists, a residential dwelling, and/or other structures. Such determinations are made by the Director of Neighborhood Services, or his/her designee. In these circumstances, a Tree Removal Permit is not required.
5. It is the landowner's responsibility to remove trees, even when located within the Township's right-of-way, if it is determined by the Director of Neighborhood Services or his/her designee to be endangering a residence or structure. In these circumstances, a Tree Removal Permit is not required.
6. If a tree is removed from a right of way area, either by the landowner or by the Township, the landowner must also remove the tree stump.

M. ENFORCING AUTHORITY

1. The Medford Zoning Official shall be the enforcing authority under this ordinance.

2. The Construction Official shall not issue a Construction Permit or a Certificate of Occupancy until all applicable requirements of this Tree Ordinance have been met.

N. VIOLATIONS AND PENALTIES

Any person found to have violated any provision of this Ordinance shall be required to adhere to the requirements of this Ordinance and shall be subject to a fine not exceeding one thousand ($1,000) or imprisonment for thirty (30) days, or both, for each offense. In addition to monetary sanctions, the Zoning Official may request and the Court may grant a specific performance penalty by way of a restoration plan for the cut trees and/or other disturbed areas.

Cutting of each tree covered by this Ordinance shall be considered as a separate and independent Violation of this Chapter.

SECTION 2. *REPEALER, SEVERABILITY AND EFFECTIVE DATE*

A. Any and all Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency

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

C. This Ordinance shall take effect immediately upon final passage and publication according to law.