

## Chapter 177. TREES

**[HISTORY: Adopted by the Township Committee of the Township of Woolwich as indicated in article histories. Amendments noted where applicable.]**

### GENERAL REFERENCES

Joint Land Use Board — See Ch. 23.

## Article I. Tree Removal

**[Adopted 11-16-2009 by Ord. No. 2009-17]**

### § 177-1. Intent and purposes.

A. Indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within Woolwich Township 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 Woolwich Township, decrease property values, render the land unfit and unsuitable for its most appropriate use and negatively affect the health, safety and general welfare of Woolwich's residents. Thus, the Township governing body desires to regulate and control indiscriminate and excessive cutting of trees within the Township and to require appropriate tree replacement. This environmental regulation is enacted pursuant to N.J.S.A. 40:48-2.

B. It is recognized that there is a strong interrelationship between the integrity of the Township's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources. Fewer trees throughout the Township also correlates with increased air pollution, as trees are an important ecological resource. Therefore, the governing body finds that the appropriate management of these resources is an important health, safety and general welfare concern. Managing the Township's tree resources is consistent with the state-approved Community Forestry Management Plan, as P.L. 1996, c. 135. *Editor's Note: See N.J.S.A. 13:1L-17.1 et seq.* 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; and
- (3) Protection and Care of the Urban Forest, NJDEP Division of Parks and Forestry.

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 article, except in accordance with the provisions of this article.

D. The enforcement of this article shall be the duty of the Shade Tree Commission of Woolwich Township and its agents, *Editor's Note: See Art. II, Shade Tree Commission.* such as the Tree Specialist, 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 the Township.

## **§ 177-2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

### **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, 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 a municipality that outlines the goals and objectives for managing trees on municipal property with the intent of minimizing liability to the municipality and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forest Service. A Shade Tree Commission shall be formed to oversee the implementation of the Community Forestry Management Plan. *Editor's Note: See Art. II, Shade Tree Commission.*

### **DIAMETER BREAST HEIGHT (DBH)**

The diameter of a tree measured 4 1/2 feet above the ground level.

### **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 article 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, New Jersey Forest Service, or similar state or federal agency.

### **HISTORIC TREE**

A tree that has been found to be of notable historic interest to Woolwich Township 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 Township and accompanied by a resolution of the governing body so designating said tree.

#### **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 can be formed by municipal ordinance, N.J.S.A. 40:64-1 et seq.

#### **SPECIMEN TREE**

Any tree in fair or better condition which is so designated by the Shade Tree Commission *Editor's Note: See Art. II, Shade Tree Commission.* based on considerations of whether the tree is a rare species or specimen thereof; is abnormal in height, trunk diameter or dripline 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, 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 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, c. 135, *Editor's Note: See N.J.S.A. 13:1L-17.1 et seq.* as it is intended to sustain the overall biomass of the Township.

#### **TREE PLANTING PLAN**

A specific plan adopted by Woolwich Township for the location and placement of trees on public property.

#### **TREE PRESERVATION AND REMOVAL PLAN (TREE SAVE PLAN)**

A specific plan that contains tree locations and other information in accordance with § 177-5 herein.

#### **TREE REMOVAL PERMIT**

The permit issued by the 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 provisions of this article.

#### **TREE SPECIALIST**

A. The governing body shall appoint a tree specialist. This individual shall be responsible for the inspection of sites for which application(s) is (are) filed under this article. This individual will be responsible for the administration and protection requirements of this article and enforcement of the article. A tree specialist 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.

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

### **§ 177-3. Applicability; exceptions.**

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

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

B. Specimen and historic trees. Trees which have been designated as specimen or historic under the provisions of this article 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 Shade Tree Commission.

C. Exceptions. The provisions of this article shall not apply to the following:

(1) Any property upon which no trees are located, as confirmed by a statement of no tree verification as issued by the Township Tree Specialist within 14 days of received request.

(2) Any tree of less than six inches DBH.

(3) Any tree or trees removed or cut in accordance with a forest management plan, provided that such plan is filed with the Tree Specialist, Shade Tree Commission 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 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 or for the purpose of establishing a survey line.

(7) Any tree that is removed by the owner of the property for personal use as firewood on the property by the owner.

(8) The exempt area under the other sections of this article.

### **§ 177-4. Tree removal permits.**

A. Any person wishing to obtain a tree removal permit shall make application to the Joint Land Use Board Secretary by filing a written application with the Tree Specialist and paying such fees as set forth in § 177-8. No permit shall be issued until a tree preservation and removal permit for the lot or parcel has been reviewed and approved as compliant with § 177-5 by the Tree Specialist, within 21 days of submission of said application and payment of fees. A person

claiming an exemption must supply a written statement of reasons as to why his or her tree removal is specifically exempt under the provisions of this article. Thereafter, the Tree Specialist shall issue a certificate of exemption specifying that the enumerated exemption is applicable in that particular factual circumstance.

B. Where an application, as required by this article, 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 § 177-5 by the Tree Specialist and until the filing of a written report of an on-site inspection by the Tree Specialist. 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.

C. All required fees for any application, including required tree replacements or fees, shall be verified as paid prior to the issuance of the tree removal permit or construction permit for developments approved under the Municipal Land Use Law. *Editor's Note: See N.J.S.A. 40:55D-1 et seq.*

D. Tree removal permit applications shall be filed at the Tree Specialist's office and shall be completed in full. The application must be deemed complete and all required fees, as set forth in § 177-8, be paid prior to review. The Tree Specialist shall have up to 21 days to review the complete application.

E. Inspections. After the application is complete and reviewed, the Tree Specialist shall inspect the trees and property which are the subject of the permit application within 21 days.

F. Permit approval or denial. The Tree Specialist shall approve or deny the tree removal permit within 10 business days after completion of the inspection. The Tree Specialist shall notify the applicant in writing of the factual basis and criteria for any denial. The final decision of the Tree Specialist may be appealed to the governing body by filing written notice within 10 days of the final decision. The governing body shall hold a public hearing and issue its decision within 60 days after notice of appeal is filed, unless the applicant requests, and the governing body consents to, an extension of time.

#### **§ 177-5. Tree removal permit application and tree preservation and removal permit.**

A tree preservation and removal permit shall be submitted to the Tree Specialist's office. Applications that require Joint Land Use Board approval may, at the option of the applicant, have tree preservation and removal plans as part of the submittal to the Joint Land Use Board and said plans be provided to the Tree Specialist for review and approval in accordance with this article. Tree preservation and removal plans shall contain the following:

A. The name and address of the applicant.

B. The name and address of the owner of the property from which the trees are to be removed.

C. The lot and block of the property.

D. 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 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 article, including the information set forth in Subsection D(1), (2), (6) and (8) 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 equals 50 feet, the following information:

(1) The existing and proposed tree preservation limits.

- (2) The proposed limit of the clearing (exempt area under article) and all individual trees to be retained outside the exempt area identified by some approved method as determined by the Tree Specialist such as flagging, prior to the field inspection. For any clearing greater than or equal to three acres, a representative 5% of the wooded areas proposed to be cleared shall be inventoried. The representative 5% shall be determined by agreement between the Tree Specialist and the applicant. Where less than three acres is proposed to be cleared, all trees that are greater than the six-inch caliper to be removed shall be inventoried, but not more than 50 trees in the three acres.
- (3) The installation and limits of a temporary existing tree protection fence along the limits of the proposed tree removal shall be in compliance with § 177-9.
- (4) Locations of all forest types shall be identified by common and botanical names of dominant tree species.
- (5) All specimen and historic 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 recommendations. The governing body shall grant permission, especially where infrastructure, roadways, or buildings are contemplated, for the removal at double the rate of the tree compensation as provided elsewhere in this article.
- (6) A proposed tree replacement plan in accordance with this article. A tree replacement plan shall be considered the proposed landscaping plan required for all subdivision and site plan approvals.
- (7) A North arrow.
- (8) The location of existing and proposed structures and improvements, if any.

#### **§ 177-6. Term of permit.**

Any and all permits approved by the Shade Tree Commission shall be declared null and void if the tree removal is not completed within a reasonable time, not to exceed 12 months after permit issuance, except subject to the Joint Land Use Board's conditions of approval. In no case will the permit be valid for more than 12 months, except that a tree removal permit issued in conjunction with a development approved under the MLUL shall extend for the period of protection granted to the development approval under the MLUL. *Editor's Note: The Municipal Land Use Law; see N.J.S.A. 40:55D-1 et seq.* 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.

#### **§ 177-7. Criteria for issuance of permits.**

A. Upon completion of the Tree Specialist's field inspection report and review of any requested recommendations, the Tree Specialist shall approve of a permit if:

- (1) The tree preservation and removal permit is compliant with § 177-5;
- (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 the Joint Land Use Board 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 article.
  - (d) The trees slated for removal are all within the exempt area.
- B. The Tree Specialist may deny a permit if the plan is inconsistent with the article and the removal will contribute to extra runoff of surface water onto adjacent properties; erosion; or silting, and such conditions are not otherwise satisfactorily abated, or if the tree removal causes
- 1) significant impairment to the growth or development of remaining trees on the applicant's property or upon adjacent properties;
  - 2) soil instability;
  - 3) dust;
  - 4) drainage or sewerage problems;
  - 5) dangerous or hazardous conditions; or
  - 6) depresses the value of adjacent properties.
- C. The aforementioned conditions must be determined and/or confirmed by a New Jersey licensed forester based upon the most up-to-date accepted practices in that field of licensure from the state.

#### **§ 177-8. Fees.**

##### **A. Application.**

- (1) The applicant, at time of filing the application with the Tree Specialist, shall pay the application fee of \$25 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 § 177-11.

B. Tree Escrow Fund. A Tree Escrow Fund shall be established and maintained by the Chief Financial Officer of Woolwich Township 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 recommendation in accordance with the municipal tree planting plan. The primary purpose of said fund is to provide for the replacement of trees and shrubs. The fund will also cover administrative costs to implement the provisions of this article, including but not limited to site inspections, processing of permits and supervision of tree replacements. Administrative costs imposed in accordance with this article shall not exceed 30% of the fund, as determined on an annual basis.

#### **§ 177-9. Replacement trees.**

##### **A. Replacement criteria.**

- (1) Any tree removed pursuant to this article, unless exempt under § 177-3C, shall be replaced based on the following:

<b>Number of Trees to be Removed</b>	<b>Size/Diameter (inches)</b>	<b>Number of Replacement Trees</b>	<b>Size of Replacement Trees (inches)</b>	<b>Or Dollar Amount</b>
1	Greater than 6 up to 10	1	2 to 2 1/2	\$200
2	Greater than 6 up to 10	1	3 1/2 to 4	\$400
1	Greater than 10 up to 16	2	2 to 2 1/2	\$480
1	Greater than 16 up to 23	2	3	\$840
1	Greater than 23 up to 30	4	3 1/2 to 4	\$1,680
1	Greater than 30	5	3 1/2 to 4	\$2,100

(2) In cases where the tree cost requirement criteria are 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 10 or more trees greater than six inches in diameter be preserved within the limit of the disturbance line (exempt area).

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 nonreplaced trees to the Tree Escrow Fund; or

(2) The Tree Specialist and the applicant agree in writing that the applicant shall make payment to the Tree Escrow Fund based upon the chart provided; or

(3) The Tree Specialist and the applicant agree in writing that the applicant shall plant replacement trees off site on municipally owned property pursuant to the municipal tree planting plan.

**§ 177-10. Existing tree protection during construction.**

A. Protective barriers.

(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 Tree Specialist 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 dripline of trees or 15 feet from the trunk diameter, whichever is less, in the protection zone (outside the exempt area), appropriate measures shall be taken to minimize impact to the trees. Any trees seriously damaged during



construction must be professionally treated by a New Jersey certified tree expert 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 feet high.

(3) The self-supported protective barrier shall be placed, as determined by the Tree Specialist, at the dripline of any tree along the limit of clearing and around the entire dripline for trees to remain undisturbed within the limit of clearing (exempt area). Refer to Trees and Development, Table 6.2, page 74. *Editor's Note: See the reference to Trees and Development in § 177-1B(2).*

(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 dripline. B. Street right-of-way and utility easements (exempt area) may be delineated by placing stakes a minimum of 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 § 177-10B as determined by the Tree Specialist following a field evaluation.

### **§ 177-11. 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 260.1, American Standard for Nursery Stock. Tree replacement shall be in accordance with either Subsection A, B, C or D below or a combination of Subsections A, B, C and D.

A. In accordance with this article. For each tree six inches 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 generally reflect a one-to-one tree replacement for each tree six inches or greater to be removed. All proposed replacement trees shall be in accordance with selections from 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. Please see the table in § 177-9.

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-by-twenty-foot grid. Of this number of trees, 10% shall be balled and burlapped, two inches to 2 1/2 inches caliper; 20% shall be balled and burlapped, 1 3/4 inches to two inches caliper; 30% shall be bare root, 1 1/4 inches to 1 1/2 inches caliper; and 40% shall be bare root, six-foot- to eight-foot-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 to 20 feet on center. The ground shall be seeded with a grass mixture approved by the Shade Tree Commission. *Editor's Note: See Art. II, Shade Tree Commission.* The reforestation formula shall follow the guidelines as set forth in the New Jersey No Net Loss Reforestation Act, P.L. 1993, c. 106 (N.J.S.A. 13:1L-14.2).

C. Credits. The permit applicant will receive a one-to-one replacement tree credit:

(1) For stands of 10 or more trees within a DBH of six inches or greater preserved within the limit of the disturbance line (exempt area); or

(2) Forested areas of one acre or greater, which are left natural and conveyed to the Township 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 pay the tree replacement fee in accordance with the schedule in § 177-9.

E. Exempt areas.

(1) For all existing residential properties and new residential development with a proposed lot area less than 40,000 square feet, up to 50% of the lot area shall be exempt area. For residential development with a proposed area of 40,000 square feet or greater, up to 20,000 square feet in area shall be exempt area. The exempt area shall be calculated as a contiguous area from a fixed point within the footprint of the existing or proposed primary residential structure on the property. The exempt area should be calculated to minimize any adverse environmental impacts.

(2) 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 4:1C-10, which preempts 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 consecutive years after the date of clearing or date of commencement of the prescribed farming activity is deemed compliant by the Tree Specialist. An approved permit must be submitted prior to clearing. If the property is not farmed as prescribed on the tree removal permit within three years of the tree removal or is developed for any other use before the five years expires, the reforestation replacement obligation in accordance with § 177-11B will be enforced according to the new use of the property.

(3) In all commercial and nonresidential developments, 50% of the lot area may be exempt area. The exempt area should be calculated to minimize any adverse environmental impacts.

(4) Utility line clearance operations, provided that such plan is filed with the Township Forester 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.

(5) Lots or parcels which serve as the "receiving areas" and/or "sending parcels" for TDR credits under Woolwich Township's Transfer of Development Rights Plan, which was adopted by ordinance in October of 2008. *Editor's Note: See Ch. 203, Zoning, Art. VI, Voluntary TDR Program.*

(6) Lots or parcels that contain covenants, which run with the land, that effectively limit the right to future development by way of deed restriction on said lots or parcels.

(7) Residential lots with a maximum lot size of 20,000 square feet or less.

**[Added 5-17-2010 by Ord. No. 2010-12]**

(8) Lands that are part of a planned development or general development plan pursuant to N.J.S.A. 40:55D-45 through 40:55D-47.

**[Added 5-17-2010 by Ord. No. 2010-12]**

### **§ 177-12. Emergencies.**

In case of emergencies such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster, or trees which are a hazard to persons or property, the requirements of the regulations set forth in this article shall not apply.

### **§ 177-13. Stop-work orders.**

A. The Shade Tree Commission *Editor's Note: See Art. II, Shade Tree Commission.* is hereby authorized to issue stop-work orders to the holder of the tree removal permit, and the Tree Specialist is authorized to recommend the issuance of stop-work orders 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) Noncompliance with the tree removal permit granted pursuant to this article; or
- (3) Noncompliance with the provisions of this article.

B. The stop-work order shall remain in effect until the Shade Tree Commission, upon recommendation of the Tree Specialist, has determined that the resumption of work will not violate the plans, permit or the provisions of this article.

### **§ 177-14. Enforcement.**

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

### **§ 177-15. Applicability to tree removal construction companies; permit required.**

All provisions of this article 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 article unless a valid permit therefor is in effect and is displayed in accordance with the provisions set forth in § 177-16; 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.

### **§ 177-16. 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 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 the Tree Specialist and all law enforcement officers as necessary to effectuate the provisions of this article, and such entries shall be deemed lawful. Failure to allow such entry shall be unlawful and shall constitute a violation of this article and shall constitute failure to display the permit as required herein. It shall be unlawful and considered a violation of this article for any person to engage in the business of plant cutting, trimming, removal, spraying

or otherwise treating trees, shrubs or vines within the Township and without the applicable certification or license for the designated work. All contractors offering tree care services for hire within Woolwich Township shall register annually with the Tree Specialist, 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 A13.1 Safety Standards, New Jersey Board of Tree Experts Pruning Standards for Shade Trees and ANSI A300 Practice Standards.

### **§ 177-17. Duties of Tree Specialist.**

The Tree Specialist shall perform the duties set forth in this article and shall be responsible for the enforcement of the provisions of this article as directed by the Shade Tree Commission.

*Editor's Note: See Art. II, Shade Tree Commission.* In this regard the Tree Specialist 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 article.

### **§ 177-18. Violations and penalties.**

A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this article shall, upon conviction of such violation be punished by a fine of up to \$2,000 for each offense, in the discretion of the judge before whom conviction may be had in conjunction with and similar to the corresponding fees for replacement enunciated in § 177-9 of this article. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this article 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, Tree Specialist or other authorized official may institute any appropriate legal action to prevent a continuing violation of the terms of this article.

## **Article II. Shade Tree Commission**

[Adopted 12-21-2009 by Ord. No. 2009-20]

### **§ 177-19. Creation of Commission; appointment of members; terms; alternate members.**

A. The regulation, planting, care and control of shade and ornamental trees and woody shrubs upon and in 1) the streets, highways, public spaces owned by the Township of Woolwich and which provide public access, allowing for activities such as pedestrian and vehicular travel, active and passive recreation, and flood control, and 2) parks and parkways of the Township of Woolwich except state highways, unless the Department of Transportation shall assent thereto and except county highways, parks and parkways, if a county Shade Tree Commission is operative and gives assent to, and excepting designated "conservation areas," or which are densely forested public places of size greater than 1/2 acre that are preserved under conservation easements or deed restrictions, shall be exercised by and under the authority of the Woolwich

Township Shade Tree Commission, which is hereby created. The Commission shall consist of five members and may include not more than two alternate members. The members and alternate members shall be appointed by the Mayor and shall be residents of the Township of Woolwich and shall serve without compensation.

B. First Commission; subsequent Commissions; terms.

(1) The first Commissioners shall be appointed within 60 days after the effective date of this chapter, and their terms of office shall commence upon the date of their appointment and be for the respective periods: five members of one year, two years, three years, four years, and five years. The terms of each appointee shall be designated in his appointment. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1, next succeeding such appointment. In event that the membership of any Commission is increased, the new members shall be appointed in such manner that the terms shall expire in accordance with the foregoing.

(2) If the ordinance provides for the appointment of two alternate members, the terms of each alternate member shall be five years commencing on January 1 of the year of appointment provided, however, that in the event two alternate members are appointed, the initial term of Alternate No. 1 shall be five years, and the initial term of Alternate No. 2 shall be four years. An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

#### **§ 177-20. Organization; vacancies.**

A. The Commission shall organize within 30 days after the appointment of its total membership for the remainder of the then calendar year, and thereafter annually by the election of one of its members as Chairperson, and the appointment of a Secretary, who need not be a member. The Chairperson, members and Secretary shall serve the Commission without monetary compensation.

B. Vacancies. Any vacancy occurring by reason of the death, resignation or removal of any Commissioner shall be filled for the unexpired term by the Mayor or other chief executive of the Township of Woolwich.

#### **§ 177-21. Powers.**

The Shade Tree Commission organized under this article shall have power to:

A. Exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and woody shrubs now located, or which may hereafter be planted, in any 1) public highway and 2) park or parkway, except such as are excluded pursuant to § 44-1 of this chapter, including the planting, trimming, spraying, care and protection thereof.

B. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.

C. Move or require the removal of any tree, or part thereof, dangerous to public safety.

D. Administer treatment to, or remove, any tree situated upon private property which is believed to harbor a disease of insects readily communicable to neighboring healthy trees in the area of the Township of Woolwich and enter upon private property for that purpose, with the consent of the

owner thereof, provided the suspected carton is first confirmed by certificate issued by or on behalf of the New Jersey Department of Agriculture.

E. Encourage

F. Oversee all tree removals pursuant to an issued tree removal permit, in conjunction with the Tree Specialist.

G. Issue stop-work orders to the holder of tree removal permits, upon the recommendation and in constitution with the Tree Specialist, for failure to comply with approved plan, noncompliance with the tree removal permit granted or noncompliance with the provisions of the Tree Removal Ordinance *Editor's Note: See Art. I, Tree Removal.* of the Township of Woolwich.

**§ 177-22. Cost of trees and improvements; charge and lien on property; exception.**

A. Except as hereinafter provided, the initial cost of all trees planted by the Commission, the cost of planting the same, the cost of the posts and boxes or guards used for the protection thereof, and the cost of the removal of any tree or part thereof dangerous to public safety shall, if the Commission shall so determine, in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost, if it is so determined that it is to be paid by the owner, shall, unless paid directly to the Commission, be certified by it to the collector of taxes of the Township of Woolwich, shall thereupon become and be a lien upon said real estate, shall be included in the next tax bill rendered to the owner or owners thereof, and shall be collected in the same manner as other taxes against that property.

B. The provisions of this section shall not apply to:

(1) Planting to replace a tree or trees theretofore planted by the Commission; and

(2) A planting in connection with Arbor Day exercises or other educational demonstration.

**§ 177-23. Planting and removal of trees; notice and hearing; emergencies.**

In every case where the property of an abutting owner will be chargeable with the cost of the planting of any shade tree or trees, the Commission shall give notice of the meeting at which it is proposed to consider said planting by publishing the notice at least once, not less than 20 days before the meeting, in a newspaper circulating in the Township of Woolwich, or by personal service of a copy of the notice upon the abutting owner at least 10 days before the meeting. The notice shall specify the street, streets, or portions thereof on which such planting is proposed and require all persons who may object thereto to present their objections to the Commission at or before the meeting. Before final action shall be taken, all objections so filed shall be considered. The Commission shall give reasonable notice of its intention to remove, or cause the removal, of a tree, or part of a tree, dangerous to public safety, unless public safety requires immediate removal, in which case no notice shall be necessary.

**§ 177-24. Public improvements affecting trees; consent of Commission and county park commissions unaffected.**

No statute giving any person or state, county or municipal board, body or official power or authority to lay any sidewalk along, or to open, construct, curb or pave, any street, or to do any similar act, shall be construed to permit or authorize any interference with or injury to a highway

shade tree without the consent of the Shade Tree Commission within whose jurisdiction such tree shall be located. In all cases such Commission shall reasonably cooperate with such person, board, body or official for the general public good. Nothing contained in this article shall be held to take away or diminish any of the powers or authority of a county park commission over the trees or woody shrubs in any county park within its jurisdiction or to give any other Commission or board any power or authority with respect to such trees or woody shrubs.

**§ 177-25. Annual appropriation; estimate; amount.**

A. During the month of December in each year, the Shade Tree Commission shall certify to the Woolwich Township Committee and its CFO the estimated sum necessary for the proper conduct of its work during the ensuing fiscal year, which shall include the sums estimated to be expended for such of the following items as it is anticipated expenditure will be made for, namely:

- (1) Purchase of trees and woody shrubs; and
- (2) Purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work.

B. The Township Committee of the Township of Woolwich shall annually appropriate such sum as it may deem necessary for said purposes.

**§ 177-26. Violations and penalties; jurisdiction of courts; copy of ordinance as evidence.**

A. Any person who violates any provision of this article shall, upon conviction in the Municipal Court of the Township of Woolwich, or such other court having jurisdiction, be liable for fines and penalties as set forth in the Code of the Township of Woolwich, at the discretion of the Court. Each day that a violation occurs shall be deemed a separate and distinct violation, subject to the penalty provisions of this article.

B. A copy of any ordinance of the Township, certified to under the hand of its Clerk, shall be received in any court of this state as full and legal proof of the existence of the ordinance and that all requirements of law in relation to the ordaining, publishing and making of the same, so as to make it legal and binding, have been complied with, unless the contrary be shown.

C. In addition to the penalties authorized by Subsection A of this section, the Commission may require a person who removes, damages and/or otherwise destroys a tree in violation of a municipal ordinance to pay a replacement assessment to the Township of Woolwich. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or certified tree expert retained by the Township of Woolwich for that purpose. In lieu of an appraisal, the Commission may adopt a formula and schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value per square inch, not to exceed \$27 per square inch. The square-inch cross section shall be calculated from the diameter at breast height, and if there is a multiple-stem tree, then each trunk shall be measured and an average shall be determined for the tree. For the purposes of this section, "diameter at breast height" shall mean the diameter of the tree taken at a point 4.5 feet above ground level. The Commission shall modify the value of the tree upon its species variety, its location and its condition at the time of removal or destruction.

D. Any public utility or cable television company that clears, moves, cuts, or destroys any trees, shrubs, or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures, necessary for the supply of electric light, heat or power,

communications, or cable television services upon any lands in which it has acquired an easement or right-of-way, shall not be subject to any penalty imposed by the Commission pursuant to Subsection A or B of this section. This subsection shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent actions.

**§ 177-27. Disposition of penalties.**

All moneys collected, either as fines or penalties, for any violation of a rule or regulation of a Shade Tree Commission enacted by ordinance, or as a charge against real estate, under any provision of this article shall be forthwith paid over to the custodian of the municipal funds to be placed in the Tree Escrow Fund.

**§ 177-28. Public notice.**

All regulations adopted by the Shade Tree Commission shall be filed with the Municipal Clerk for inspection by the public during regular business hours.

**§ 177-29. Statutory authority.**

This article has been adopted by the Township Committee of the Township of Woolwich pursuant to the authority vested in this municipality under Title 40, Chapter 64, Sections 1 to 14, *Editor's Note: See N.J.S.A. 40:64-1 through 40:64-14.* as amended, of Public Laws of New Jersey 1958, Chapter 42.

**§ 177-30. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**COMMISSION or SHADE TREE COMMISSION**

The Shade Tree Commission of the Township of Woolwich.

**NEGLIGENT**

Beyond the scope of the standard operating procedure (SOP) for trimming trees established and approved by the Woolwich Township Shade Tree Commission.

**PERSON**

Every person, firm, association, partnership, and corporation.

**PLANT CONSTRUCTION**

As applied to public utility companies, poles, wires, cables, subsurface conduits, pipes, manholes and appurtenant facilities of such companies installed in a street.

**PUBLIC UTILITY COMPANY**

Shall refer to a public utility as defined in the Revised Statutes of the State of New Jersey (N.J.S.A. 48:2-13).

**STREET**

Any road, avenue, street or highway, dedicated to the public use for street purpose, regardless of whether or not it has been formally accepted by the Township of Woolwich. A "street" shall be deemed to include all portions lying between the dedicated or



established right-of-way lines and/or planting easement thereof, said lines being identical with the front property lines of lands abutting the street.

**TREE**

Trees and woody shrubs.

**§ 177-31. Required permits: nonutility operations.**

No person shall do any of the following acts to any tree on a street without first obtaining a permit from the Shade Tree Commission:

- A. Cut, prune, climb with spikes, break, damage or remove or kill.
- B. Cut, disturb or interfere in any way with any root, including during the placement or maintenance of gas or other pipes.
- C. Spray with any chemical.
- D. Fasten any rope, wire, sign or other device. (Nothing herein shall prevent any governmental agency from affixing in a manner approved by the Shade Tree Commission a public notice upon a tree in connection with administering governmental affairs.).
- E. Remove or damage any guard or device placed to protect or water any tree or woody shrub.
- F. Conduct razing, removal or renovation of any structure if deemed by the Commission to be damaging to neighboring street trees.
- G. Place or distribute chemicals, including, but not limited to, salt deleterious to tree health.
- H. Maintain a stationary fire or device which vaporizes noxious fumes deleterious to tree health.
- I. Remove soil, either through trenching or otherwise.
- J. Construct new sidewalks and/or driveways with any material whatsoever within five feet of a tree or do anything to impede the infiltration of water into the soil within the rooting zone of a tree.
- K. Plant any tree or woody shrub within the designated area under the control of the Commission.

**§ 177-32. Blanket permits: utility operations; exceptions.**

- A. The Shade Tree Commission may grant to public utility companies a blanket permit for 1) tree pruning for line clearance and 2) the installation and maintenance of subsurface and aboveground plant construction if there is interference with or endangerment of street trees. The activities authorized by this permit shall follow a standard operating procedure (SOP) approved by the Woolwich Township Shade Tree Commission.
- B. Public utility companies may, during periods of emergency, without specific prior permit, 1) install temporary attachments to trees and 2) make emergency subsurface repairs.
- C. Each public utility company shall exercise reasonable diligence in the maintenance of its plant construction so as to avoid damage to trees under the jurisdiction of the Haddon Township Shade Tree Commission.

**§ 177-33. Issuance of permits.**

Requests for permits required by the provisions of this article for the performance of work should be directed to the Shade Tree Commission, Woolwich Township, Gloucester County, New Jersey. In cases where an arborist or other contractor is to be used by a property owner to

perform work on trees, the permit applicant must provide evidence that said contractor possesses workers' compensation and liability insurance in the minimum amounts of \$1,000,000 for bodily injury or death and \$100,000 property damage indemnifying the Township or any persons injured or damaged resulting from the performance of said work.