

ORDINANCE 22 - 18

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF MOUNT ARLINGTON CHAPTER 161 TREES TO AMEND §161-2, §161-5 AND §161-7; AND ADD NEW SECTIONS §161-13, §161-14 AND §161-15 TO ESTABLISH A TREE BANK

WHEREAS, the Planning Board, Borough Planner and Borough Engineer reviewed the Borough Code Chapter 161 Trees and determined a Borough Tree Bank should be established to regulate and control indiscriminate and excessive removal, cutting and destruction of trees to prevent conditions which cause increased surface drainage with commensurate loss of groundwater infiltration to replenish subsurface water supplies; siltation, sedimentation, soil erosion and decreased soil fertility; dust conditions and mosquito breeding places; and impairment of the stability and value of real estate; all of which conditions are now and will be in the future a detriment to the public safety, health and general welfare; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Borough Planner's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, to amend Section §161-2 Definitions to re-define "Tree"; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Planning Board, Borough Planner and Borough Engineer's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, Section §161-5 Fees, to include a new item G. Tree Bank Fee to set forth a three hundred dollar (\$300.00) fee for each tree proposed for removal that are not replaced on site; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Borough Engineer's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, Section §161-7 Standards for considering application, to amend Item D. Protection of trees to remove subsections 1 through 4 and replace with language that the New Jersey Standards for Soil Erosion and Sediment Control, as promulgated by the N.J. State Soil Conservation Committee, are the Borough standards; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Borough Planner's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, Section §161-7 Standards for considering application, to revise Item E. Replacement and planting of trees; and also to include a new number (4) Standards for Considering Application in Item E to set forth a three hundred dollar (\$300.00) fee for each tree proposed for removal that are not replaced on site; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Borough Planner's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, to add a

new Section §161-13, Tree Bank to provide a fund for the planting of trees within the Borough of Mount Arlington; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Borough Planner's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, to add a new Section §161-14 Applicability to provide that the Tree Bank applies to all Tree Removal Permits where an applicant may be required to replace trees; and

WHEREAS, the Mayor and Council for the Borough of Mount Arlington reviewed the Borough Planner's suggestions and desires to amend and supplement the current code section Chapter 161 Trees, to add a new Section §161-15 Borough Tree Bank.

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris and State of New Jersey that the current code section Chapter 161 Trees be amended and supplemented as follows:

SECTION 1. Chapter 161 Trees, of the Code of the Borough of Mount Arlington is hereby amended, supplemented and added to read in relevant parts as follows:

§161-2. Definitions.

"Tree" shall mean any woody perennial plant, having a diameter greater than eight (8) inches, measured from a point four and one-half (4 1/2) feet above ground (dbh forestry method).

§161-5. Fees.

G. Tree Bank Fee: the fee for trees proposed for removal that are not replaced on site per tree as three hundred dollars (\$300.00) per tree.

§161-7. Standards for considering application.

D. Protection of trees. Whenever an application for tree removal is granted under the terms and conditions of this chapter, the tree protection standards as set forth in the New Jersey Standards for Soil Erosion and Sediment Control, as promulgated by the N.J. State Soil Conservation Committee, shall be observed and govern.

E. Replacement and planting of trees. When trees are proposed for removal, at least one (1) for every five (5) trees removed shall be replaced on the site. A planting plan shall be presented to the appropriate approving agency, which agency shall have the right to have said plan reviewed by an appropriate professional consultant. The applicant shall reimburse the borough for any fees paid to such consultant for review and preparation of opinion and/or report. The plan shall follow standards and recommendations set forth as follows:

- (4) Standards for Considering Application: In the event an applicant has demonstrated an inability to replace trees on the site as may be required by a Borough ordinance, the applicant shall pay an amount per tree as specified under 151-5G, herein.

§161-13. Tree Bank.

The purpose of this ordinance is to provide a fund for the planting of trees within the Borough of Mount Arlington. More specifically, when an applicant for a Tree Removal Permit has demonstrated an inability to comply with the tree replacement requirements of the ordinance, then the applicant shall pay a per tree fee to the Tree Bank. Public or private entities that wish to donate to the Borough of Mount Arlington to provide for trees to be planted may donate to the Tree Bank for said purpose.

§161-14. Applicability.

The Tree Bank applies to all Tree Removal Permits, where an applicant may be required to replace trees.

§161-15. Borough Tree Bank.

- A. The Borough shall establish and maintain a Tree Bank where fees collected from applicant contribution pursuant to Section §161-7 E (4) shall be kept. The fund shall be utilized by the Borough Administrator, or designee, for tree planting in the Borough of Mount Arlington.
- B. Funds within the Tree Bank shall be allocated to at least one tree planting event per year subject to fund availability.
- C. Trees planted by Tree Bank funds should be located as closely as possible to the areas where tree removal occurred that generated payments to the Tree Bank.
- D. The Borough Tree Bank Fund may also accept donations and/or funds from other sources for the express purpose of planting trees at locations selected by the Borough Administrator or designee.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.


I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on November 7, 2018 and will be further considered after a Public Hearing held on December 4, 2018 at the Municipal Building at 7:00 P.M.

INTRODUCED:


PUBLISHED:

ATTEST:

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY



Linda DeSantis, RMC, Borough Clerk



Michael Stanzilis, Mayor