

O-19-24

**AN ORDINANCE AMENDING CHAPTER 297 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE
OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 297 Article I. Trees is hereby amended as follows:

Chapter 297. Trees/Vegetation

Article I. Trees

§ 297-1. Findings.

The Mayor and Council of the Borough do herein decide and find that the indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within the Borough have resulted in creating increased Borough costs for control of drainage and, further, have caused increased soil erosion, decreased fertility of soil and increased dust, which have deteriorated property values and, further, have rendered the land unfit and unsuitable for its more appropriate use. The result has been and will be in the future a deterioration of conditions affecting the health, safety and general well-being of the inhabitants of the Borough and has caused the passage of this chapter to regulate and control the indiscriminate and excessive cutting of trees in the Borough.

§ 297-2. Intent and purpose.

The intent and purpose of this chapter is to preserve coniferous and deciduous trees, flowering trees and shrubs growing in a natural state within this Borough.

§ 297-3. Definitions.

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

BUILDING LOT

A parcel of land upon which a dwelling house has been or, in accordance with the zone code or a variance, may be erected.

MANAGEMENT PLAN

A plan for the management of timbered or forested lands developed by the New Jersey Department of Environmental Protection Bureau of Forestry or a similar state or federal agency or the Housing and Zoning Officer.

NURSERY, GARDEN CENTER, ORCHARD or TREE FARM

Only such land within the Borough used for horticultural purposes under controlled agricultural conditions.

PUBLIC RIGHT-OF-WAY

Any street or road shown upon a map or plan filed in the Morris County Clerk's office or on the Official Map of the Borough.

SHRUB

Mountain laurel (*Kalmia latifolia*) having a root crown of three inches or greater measured at the soil or surface level.

TREE

A woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground. ~~Any living deciduous tree having a trunk of a diameter greater than three inches dbh (diameter at breast height); any living coniferous tree having a trunk of a diameter greater than four inches dbh; or any living dogwood (*Cornus florida*) or American holly (*Ilex opaca*) tree having a diameter of one inch or greater dbh.~~

§ 297-4. Permits.

A. Required. No person shall remove or destroy or cause to be removed or destroyed any tree or shrub growing in the Borough without having obtained a permit as provided in this section.

B. Application for permit with building permit.

(1) Plot plan required. Upon application for a building permit for any construction which would cause the removal or destruction, wholly or partially, of any tree or shrub, the applicant shall indicate upon a plot plan which shall accompany such application the location of all trees and shrubs and shall designate which trees, if any, are to be removed or destroyed.

(2) Review by Environmental Commission. A copy of such plot plan shall be filed by the applicant with the Housing and Zoning Officer and the Wharton Borough Environmental Commission, which shall review the same and notify the Housing and Zoning Officer of its recommendations.

(3) Time limit. Such recommendations shall be forwarded to the Housing and Zoning Officer within 15 days of receipt of same by the Environmental Commission; failing in which, the Housing and Zoning Officer may grant or deny a permit without further delay.

C. Application for permit without building permit.

(1) Application contents. An application for a permit for the removal or destruction of trees or shrubs as required under this chapter, where a building permit is not immediately involved, shall be made directly to the Housing and Zoning Officer and shall contain the name of the applicant, location of the property and the lot plan as

provided in Subsection B and, in addition thereto, the purposes for which the application is being made, including but not limited to the following:

- (a) Clearing of land for agricultural use.
- (b) Harvesting timber.
- (c) Fire protection.
- (d) Industrial use.
- (e) Private parks.
- (f) Scenic improvement.
- (g) Hardship or danger to adjacent properties.
- (h) Removal of diseased or damaged trees.
- (i) Transplanting or removal, in a growing condition, to other locations.
- (j) Installation of utilities.
- (k) Drainage of surface water.

(2) Housing and Zoning Officer to grant or deny permits. A copy of the plot plan shall be filed with the Environmental Commission, which shall act upon the application as stated in Subsection B within 15 days of the date of receipt and, if the Commission shall not have acted upon the application within such period, the Housing and Zoning Officer may grant or deny a permit without further delay.

D. Standards prior to issuance of permit.

(1) Inspection by Housing and Zoning Officer. Prior to the issuance of a permit by the Housing and Zoning Officer, the lands covered by each application shall be viewed by the Housing and Zoning Officer, who shall inspect the same as to the trees and shrubs which are the subject of the application as well as the drainage and other physical conditions existing on the property and adjacent property.

(2) Conditions for issuance of permit.

(a) Conditions. The Housing and Zoning Officer shall issue the permit upon finding that the destruction or removal to be permitted would not:

- [1] Impair the growth and development of the remaining trees and shrubs on the property of the applicant or any adjacent properties.
- [2] Cause soil erosion.
- [3] Impair existing drainage patterns.
- [4] Lessen property values in the neighborhood.
- [5] Impair substantially the aesthetic values of the area.

(b) Authority of Housing and Zoning Officer. The Housing and Zoning Officer shall have the authority to affix reasonable conditions to the grant of a permit hereunder.

§ 297-5. Protection of trees.

No material or temporary soil deposits shall be placed within six feet of any tree or shrub.

§ 297-6. Exceptions.

Excepted from this chapter shall be such trees as set forth in the following subsections.

A. Tree for firewood. Any tree to be cut for use solely for firewood by the owner shall be excepted, provided that this exception shall not apply to any tree to be cut in connection with the issuance of any permit for soil disturbance or building.

B. Dangerous tree. Any dead, diseased or other tree that is likely to endanger life or property shall be excepted.

C. Limited number of trees. If the applicant discloses that no more than five trees in excess of the size referred to aforesaid in this chapter are to be removed, cut or destroyed or have been cut, removed or destroyed from any lot or tract of land identified in the application, then and in that event the duly appointed officer may issue a permit for the removal of such tree or trees.

D. Horticultural purposes. Any tree growing on land actually being used as a nursery, garden center, tree farm or orchard shall be excepted.

E. Surface mining. Any tree growing on land being used for surface mining shall be excepted.

F. Public right-of-way. Any tree growing on a public right-of-way shall be excepted.

G. Management plan. Any tree cut or removed in accordance with a management plan shall be excepted.

§ 297-7. Fees.

A. Upon the issuance of a permit, the applicant shall pay the following fees to the Borough:

(1) Ten dollars per vacant building lot.

(2) Twenty-five dollars per acre or part thereof for lands other than vacant building lots.

B. No fee shall be charged for the removing and transplanting of trees or shrubs in living condition to other locations and the removal of diseased or damaged trees or shrubs.

§ 297-8. Appeals.

Appeals from decisions under this chapter may be made to the Borough Council in writing within 10 days from the date of such decision. Such appeal shall be by written notice to the

Borough Clerk. The applicant shall be entitled to a hearing before the Mayor and Council of the Borough within 30 days from the date of appeal. The Borough Council may thereafter reverse, modify or affirm the aforesaid decision.

§ 297-9. Violations and penalties.

Violation of any of the provisions of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty. Each tree or shrub destroyed or damaged in violation of this chapter shall be considered a separate violation.

§ 297-10. Inspection.

Activities conducted under a permit pursuant to this chapter shall be open to inspection at any time by any agency or agent of the Borough.

**Date: First Reading: October 7, 2024
Second Reading: October 21, 2024**

ATTEST:

BOROUGH OF WHARTON

**Gabrielle Evangelista,
Municipal Clerk**

**WILLIAM J. CHEGWIDDEN,
MAYOR**