

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

ORDINANCE NO. 5 -00

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY
OF MORRIS, STATE OF NEW JERSEY, TO ESTABLISH
REGULATIONS FOR TREE CONSERVATION AND
PROTECTION**

BE IT ORDAINED by the Council of the Borough of Mendham, County of Morris,
State of New Jersey, as follows:

SECTION 1. The Code of the Borough of Mendham, is hereby amended and
supplemented by the addition of Chapter 202, to read as follows:

"CHAPTER 202

TREE CONSERVATION AND PROTECTION

202-1 Purpose. The Mayor and Council of the Borough of Mendham has found
that tree conservation will help secure safety from flood, promote a desirable visual environment,
promote conservation of valuable natural resources, and prevent degradation of the environment.
Therefore, the Borough desires in this Article to regulate and control indiscriminate and excessive
cutting of trees within the Borough. In conjunction with an application for site plan approval or
major or minor subdivision approval, the ordinance further intends to preserve the maximum
possible number of trees in the course of development of a site, to protect older specimen trees,
and to encourage careful site design and grading to promote the preservation of existing trees.

202-2 Definitions.

Board – The municipal agency, either the Planning Board or Zoning Board of
Adjustment.

Clear Cutting – The removal of all standing trees on a lot or portion of a lot.

Diameter at Point of Measure – The diameter of a tree measured four and one-half
(4½) feet above the ground level for existing trees to be surveyed in the field. On sloped terrain
such measurement shall be made on the downhill side. Diameter at Point of Measurement may
appear in this section as the abbreviation 'DPM.'

Drip Line – An imaginary ground line around a tree that defines the limits of the
tree canopy.

Homestead Lot – A pre-existing lot located within a zone permitting single-family
detached dwellings or two-family detached dwellings upon which is constructed a single-family

detached dwelling or two-family detached dwelling or upon which it is proposed to construct one single-family detached dwelling or one two-family detached dwelling, and which property as a result of zoning restrictions could not be further subdivided.

Silviculture – The management of any wooded tract of land to ensure its continued survival and welfare, whether for commercial or non-commercial purposes pursuant to a plan approved by the New Jersey Bureau of Forestry.

Specimen Tree – Any tree which has a DPM of twenty-four (24) inches or greater.

Tree – Any tree species which has a DPM of eight (8) inches or greater.

202-3 Cutting or Removal Prohibited. No person shall cut down or remove or permit, suffer or allow the cutting down or removal of any tree or specimen tree without first having complied with this Article.

202-4 Exceptions. The following shall be exempt from the provisions of this Article:

- A. Commercial nurseries and fruit tree orchards.
- B. Christmas tree plantations.
- C. Removal of trees which are dead, dying or diseased, or trees or specimen trees which have suffered severe damage, or any tree or specimen tree whose angle of growth or location make them a hazard to structures or human life.
- D. Pruning or removal of any tree or specimen tree growing on or over a public right-of-way or public property by an appropriate authority or authorized utility company for maintenance of utility wires or pipe lines.
- E. Homestead lots.
- F. Projects which, prior to the effective date of this Article, have received preliminary or final major subdivision, minor subdivision or site plan approval. Amendments to said approvals subsequent to the effective date of this ordinance shall be subject to the provisions of this Article.
- G. Silviculture.

202-5 Permit required.

A. Prior to the cutting down or removal of any tree or specimen tree, which is subject to this Article, a permit shall be obtained from the Borough Administrator. The application for a permit shall include a completed application form as prescribed by the Borough Administrator which contains:

- (1) Name, address and phone number of property owner.
- (2) Name, address and phone number of applicant if different from owner.
- (3) Consent in writing of owner if applicant is different than owner.
- (4) Street address and tax lot and block numbers of premises.
- (5) A mapped inventory of all trees and specimen trees by size and species within the area subject to tree removal and cutting and within a transition area ten (10) feet from the perimeter thereof. Any significant tree canopy shall be delineated at the drip line.
- (6) All review fees and escrows as established by Ordinance.

202-6 Tree removal standards.

A. When the application for a tree removal permit is submitted in conjunction with an application for major subdivision or site plan approval or minor subdivision approval, the following standards, in addition to the above application requirements, shall apply:

- (1) Diagram of lot or parcel of land specifically showing the size, location and species of all trees and specimen trees within the disturbed area and a transition area ten (10) feet from the perimeter thereof shall be submitted to the Board. Any significant tree canopy shall be shown and shall be delineated at the drip line.
- (2) The location of all streams, watercourses and freshwater wetlands shall be shown. No trees or specimen trees within twenty-five (25) feet from the center line of a stream or watercourse shall be removed, except as may be necessary to construct a driveway, roadway or utility, in which case the Board may issue a waiver of this requirement.
- (3) The location of all slopes of greater than ten (10%) percent, as measured between ten (10) foot contour lines, where any tree removal is proposed shall be shown.

(4) Removal of any specimen tree shall require specific approval by the Board. All efforts shall be made by the applicant to preserve specimen trees, including, if necessary, plan changes to relocate utilities, driveways, roadways, buildings and other site improvements.

(5) In the event that the development of a property requires the removal of an excessive number of trees or specimen trees due to unique site characteristics or natural features, or, in the event that there is removal of trees through error, the Board shall have the authority to require the replacement of trees in accordance with the following schedule:

REPLACEMENT OF TREES	
PERCENTAGE OF TREES REMOVED	PERCENTAGE OF TREES REMOVED TO BE REPLACED WITH REPLACEMENT TREES
80 to 100	70
60 to 79	50
40 to 59	30
20 to 39	20
Less than 20	10
REPLACEMENT OF SPECIMEN TREES	
EXISTING SPECIMEN TREE TO BE REMOVED	NUMBER OF REPLACEMENT TREES
24" to 30"	5
31" to 36"	6
37" to 40"	9
41" or greater	10

All replacement trees shall be of No. 1 nursery grade quality, northern grown, balled and burlapped and not less than 3" – 3½" DPM. Replacement trees shall be consistent with the type and species removed from the site and shall be planted in accordance with accepted nursery practices. In the event that replacement of trees is required, and the tree replacement is not included in a Performance Bond for a subdivision or site plan, the developer shall be required to post a cash bond or Letter of Credit in a form approved by the Borough Attorney, and in an amount, which shall be 120% of the replacement cost of the trees, as determined by the Borough Engineer. The bond shall require the tree replacement to be accomplished within a certain period of time and authorize the Borough to take any of the money and make the replacement, should the developer fail to make the replacement within the time specified. The bond shall continue in effect for at least two (2)

years after the replacement to assure that the replacement tree(s) shall survive the initial growing season.

(6) Prior to any site clearing, grading or disturbance for premises subject to the provisions of this section, the applicant shall delineate, with snow fence, all areas which are to remain undisturbed and shall individually flag or mark to the satisfaction of the Borough Engineer all trees or specimen trees which are to remain within the area of disturbance as approved by the Board. The clear cutting of trees is disfavored by this Chapter and shall only be permitted if there is no practical alternative and only if such cutting is specifically approved by the Board.

(7) The applicant shall provide evidence to the Board that the method of disposal of removed trees, stumps, topplings and slash is consistent with all applicable laws and Borough ordinances.

(8) The applicant shall demonstrate compliance in all tree removal applications with the provisions of the Mendham Borough Code, Article XI, Section 195-44H, Environmental Considerations.

(9) During major or minor subdivision review the Board shall be authorized to require a tree removal plan for each individual lot which will result from the proposed subdivision. Any tree removal restrictions shall remain in effect until a certificate of occupancy is issued."

SECTION 2. Ordinances, resolutions, and regulations or parts of ordinances, resolutions, and regulations inconsistent herewith, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a Court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

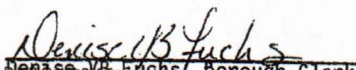
SECTION 4. This Ordinance shall take effect upon passage and publication according to law.

INTRODUCED: April 3, 2000

ADOPTED: April 17, 2000

ATTEST:


Richard G. Kraft, Mayor


Denise B. Luchs, Borough Clerk