

ORDINANCE NO. 30-2011

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER REPEALING CHAPTER 258 ENTITLED, TREES, AND AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED, LAND USE AND DEVELOPMENT LEGISLATION, BY ADOPTING **REGULATIONS FOR THE PRESERVATION, REMOVAL AND PLANTING OF TREES**

WHEREAS, the Township Committee of the Township of Hanover desires to promote sustainable design and development practices in order to promote the public health, safety and general welfare; and

WHEREAS, the **environmental**, esthetic, **economic and social** benefits of trees are widely recognized; and

WHEREAS, indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees within the Township adversely affects the health, safety and general welfare of the inhabitants of the Township and the general public; and

WHEREAS, tree preservation and planting is one of many means of promoting sustainable design and development practices; and

WHEREAS, it is recognized that a certain amount of tree removal is often necessary for reasonable land use and development, and that a regulatory approach that balances appropriate environmental, economic and social objectives is desirable;

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 258 of the Code of the Township entitled, *Trees*, is hereby repealed in its entirety.

Section 2. Subsection A of Section 166-4., *Definitions and word usage*, is hereby amended by adding and inserting in alphabetical order the following definitions:

CALIPER - the diameter of a nursery tree measured at 6 inches above the natural soil grade (root collar) if the resulting measurement is no more than 4 inches. If the resulting measurement is more than 4 inches, the measurement is made at 12 inches above the root collar. Trees over 8 inches in diameter are measured with the DBH method.

DBH (DIAMETER AT BREAST HEIGHT) – The diameter of a tree trunk, measured at a height of 4.5 feet above the ground at the base of the tree, calculated as the circumference (or girth) of the tree divided by pi (3.1416). On sloping ground, the "above ground" reference point is the average between the highest and lowest points of ground at the base of the tree. If the DBH point falls on a swelling in the trunk, it is measured below the swelling at the point where the diameter is smallest.

DISTURBANCE - Any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion, and any removal of trees.

DRIP LINE: An imaginary line on the surface and subsurface of the ground defined by the outer limits of the branches of a tree and measured plumb from the branches to the ground. The drip line shall be presumed to be located one and one half feet from the center of the trunk of a tree for each inch of the trunk DBH; provided, however, that the reviewing authority may, in appropriate circumstances, deviate from the assumed dimension of the drip line based upon exceptional site conditions and/or the nature of the specific tree in question.

FRESHWATER WETLAND – An area defined, designated and regulated by the New Jersey Department of Environmental Protection at N.J.A.C. 7:7A.

FRESHWATER WETLAND TRANSITION AREA - An area of upland adjacent to a freshwater wetland defined, designated and regulated by the New Jersey Department of Environmental Protection at N.J.A.C. 7:7A.

REGULATED TREE – Any tree required to be preserved, protected or planted, and any tree to be removed that requires approval or notification, pursuant to this Chapter, including but not limited to trees having a DBH of 6 inches or more, trees of any size located within riparian zones, areas of tree slopes, required buffers, trees planted as replacements for trees removed, and any trees required to be planted in accordance with an approved site plan, subdivision or variance application.

RIPARIAN ZONE – The land and vegetation **within 50 feet of all lakes, ponds, rivers and streams**. In the case a river or stream, the riparian zone is measured landward of the feature's center line. In the case of lake or pond, the riparian zone is measured landward of the normal water surface limit.

STEEP SLOPE – Any contiguous area of at least 1,000 square feet having a slope equal to or greater than 20% as measured over any minimum run of 10 feet, excluding any such areas created as part of an approved development application and designed to be maintained without trees in accordance with such approval. Steep slopes are determined based on contour intervals of two feet or less. The percent of slope (i.e., the vertical rise per horizontal distance) shall be calculated by measurement of distance perpendicular to the contour of the slope. For example, any location where there is a two-foot rise over a ten-foot horizontal run constitutes a twenty-percent slope.

SUSTAINABLE DESIGN – The design of physical objects, the built environment and services **in order to comply with the principles of economic, social and ecological sustainability**.

SUSTAINABLE DEVELOPMENT – Development that is intended to meet human needs while preserving the environment for both present and future generations.

TREE – Any deciduous or coniferous woody plant species which typically reaches a mature height of at least 20 feet and a DBH of six inches or greater, in the case of a single stem tree, or an average DBH of 6 inches for each trunk, in the case of a clump form tree.

TREE PROTECTION ZONE (TPZ) - A space above and below the ground within which trees are to be retained and protected in order to prevent or minimize potential injury to designated trees, especially during construction or development.

Section 3. Chapter 166 of the Code of the Township, *Land Use and Development*, is hereby amended by adding and inserting a new Subsection M to Section 166-48., *Schedule of fees and deposits*, to read as follows:

M. Tree removal permit fees and deposits.

(1) Tree removal as part of a site plan, subdivision or variance application.

(a) No additional application fee above that required by this Chapter shall be required for tree removal requested as part of a site plan, subdivision, variance or other development application or appeal submitted to the Planning Board or Board of Adjustment.

(b) An additional **escrow deposit** above that otherwise required shall be required for site plans, subdivisions, variances or other applications that propose removal of regulated trees. The amount of such additional deposit shall be \$100 for up to three (3) regulated trees to be removed, plus \$25 for each additional regulated tree to be removed; provided, however, that the additional initial deposit shall not be required to exceed \$3,000.

(2) Tree removal for development that does not require Planning Board or Board of Adjustment approval.

(a) The application fee shall be \$100 for up to three (3) regulated trees to be removed, plus \$25 for each additional regulated tree to be removed; provided, however, that the application fee shall not exceed \$1,000.

(b) No escrow deposit shall be required for such applications.

Section 4. Article XVIIIA, *Checklists for Applications for Development*, in Chapter 166 of the Code of the Township, *Land Use and Development*, is hereby amended by adding to each the checklists for the various categories of development applications the following:

Applications for development that propose to remove regulated trees shall provide the information required by § 166-110.1B.

Section 5. Article XIX, *General Provisions*, in Chapter 166 of the Code of the Township, *Land Use and Development*, is hereby amended by adding and inserting a new Section 166-110.1., entitled *Tree removal permits*, to read as follows:

§ 166-110.1. Tree removal permits.

Applications for tree removal permits required by §166-131. shall comply with the following procedures:

A. The applicant shall submit a completed application form, a plan depicting the proposed tree protection, removal and replanting, and an application fee as set forth in § 166-48M. Application forms shall be available from the Township Engineering Department.

B. **The tree protection, removal and replanting plan shall be prepared by an individual with sufficient expertise in the subject matter**, as the circumstances in each case may require. If deemed necessary, the Township Engineer may require that the plan be prepared by and/or certified by a surveyor, engineer, landscape architect, architect, arborist, certified wetland

delineator or other appropriate professional. **The plan shall contain** the following information, unless waived by the Township Engineer:

- (1) Name of property owner and applicant.
- (2) The street address of the property.
- (3) The block and lot number(s) of the property as set forth on the current Township's tax maps.
- (4) The original date of the plan and any revision dates.
- (5) The boundaries of the subject property.
- (6) The location of any abutting streets.
- (7) The nature and location of any easements on the property.
- (8) If removal of regulated trees is proposed in or near such areas, the nature and location of any riparian zones, freshwater wetlands, freshwater wetland transition areas and steep slopes on the property, all as delineated by a qualified firm or individual.
- (9) The nature and location of existing buildings, paved areas and other structures as needed to evaluate the permit application.
- (10) The nature and location of proposed buildings, pavement and other structures to be developed on the property.
- (11) The proposed limits of disturbance for the development.
- (12) The location and size of regulated trees that are proposed to be preserved on the subject property, and the size and location of trees on adjacent property within 10 feet of the boundaries of the subject property if the trunks or drip lines of such trees are located within the limits of disturbance. The location of off-site trees may be estimated when access to the off-site location is not permitted.
- (13) The location and size of any trees which are proposed to receive credit against the minimum preservation obligations in § 166-131.G(3).
- (14) The location and size of regulated trees that are proposed to be removed.
- (15) The existing and proposed topography within the limits of disturbance and on the property as a whole.
- (16) When determined necessary for reference purposes by the Township Engineer, individual labels (i.e., letters or numbers) for each regulated tree identified on the plan to be preserved or removed.

C. The application shall be reviewed for completeness by the Township Engineer or his designee. Such review may include inspection of the subject property. If the application is incomplete, the Township Engineer shall notify the applicant of the deficient information within 10 business days of the application submission; otherwise, the application shall be deemed to be complete. If determined incomplete, no further action shall be taken unless and until the deficiencies are addressed.

D. Unless determined incomplete, the Township Engineer shall issue or deny a tree removal permit within ten (10) business days of submission of the application. Failure of the Township Engineer to act within the prescribed period shall be deemed to be an approval of the

application. The Township Engineer shall grant or deny the application based upon the criteria in § 166-131 and shall inform the applicant of the decision.

E. If the application is approved, the holder of a tree removal permit shall notify the Township Engineer or the Township Engineering Department in person, by telephone or in writing at least 48 hours prior to the commencement of tree removal activities.

F. Appeals of the issuance or denial of a tree removal permit shall be made in accordance with the procedures for appeals of decisions of the Zoning Officer set forth in § 166-21. through § 166-24.

G. **Tree removal permits shall expire and be null and void if the approved tree removal does not occur within one year** of the date of the permit approval. The Township Engineer may grant extensions of the permit approval for good cause shown.

Section 6. Section 166-131., *Removal of trees*, in Chapter 166 of the Code of the Township, *Land Use and Development*, is hereby amended and retitled to read as follows:

§ 166-131. Tree preservation, removal and replanting.

A. **Purpose and objectives.** The purposes and objectives of this Section are to regulate the use and development of land in order to protect existing trees, and to provide for appropriate removal and the planting of trees. More specifically, this Section is intended to:

- (1) **encourage and promote sustainable design and development;**
- (2) provide, maintain and enhance the environmental and other benefits provided by trees, including but not limited to those benefits related to air, water and soil quality; wildlife habitat preservation and restoration; stormwater control and esthetic qualities;
- (3) avoid the environmental and other detriments resulting from the excessive and inappropriate removal of and damage to trees and the inadequate and improper planting of trees;
- (4) promote the planting of trees on sites that have formerly been cleared of trees; and
- (5) allow and encourage the reasonable and appropriate use and development of land.

B. Applicability; **exceptions.** This Section shall apply to all use and development of land in the Township unless superseded by other law; provided, however that the following shall be exempt from this Section:

- (1) **Use and development by the Township of Hanover and other governmental agencies which are generally exempted from municipal zoning regulations, including but not limited to the Board of Education.**
- (2) Pruning or removal of trees by utility companies related to the maintenance of utility wires, pipelines and related structures.

C. Applicability to prior approvals. The following provisions shall govern development applications involving tree removal that were filed or approved prior to the effective date of Ordinance 30-2011:

(1) Development activities and approvals for which tree removal has occurred and/or for which the required payment in lieu of replanting has been made prior to the effective date of Ordinance 30-2011 shall continue to be subject to regulations in effect at the time of the approval.

(2) Developers who have received approvals for tree removal and/or planting prior to the effective date of Ordinance 30-2011, but who have not performed any tree removal or payment in lieu of replanting, shall have the option to comply with the terms of the prior approval or to comply with the regulations of this Section, subject to the following:

(a) The developer shall be required to comply completely with the requirements of either the prior approval or of this Section.

(b) If the developer chooses to comply with this Section, and such option results in different tree removals, plantings and/or payments in lieu than under the prior approval, the developer shall be required to obtain amended approval.

(c) If the developer chooses to comply with this Section, the developer shall not be entitled to a refund of application fees or other payments made under any prior approvals or to a waiver of any fees or other payments required for any amended approvals.

D. Prohibited activities; exemptions.

(1) The following activities shall be prohibited unless exempted by this Chapter or other applicable law:

(a) **Removal of trees within any riparian zone**, as defined by this Chapter.

(b) **Removal of trees within an area of steep slopes**, as defined by this Chapter.

(c) **Removal of trees within any freshwater wetland** or freshwater wetland transition area, except as permitted by the N.J. Department of Environmental Protection rules governing freshwater wetlands.

(d) Removal of trees within buffer areas required by § 166-125. or other applicable law or trees approved as part of a site plan, subdivision or variance application.

(e) Removal of trees required to be planted as replacement trees or as new trees pursuant to this Chapter or any other applicable rule or regulation, unless prior approval is obtained from the board or agency having jurisdiction.

(f) **Except for single-family or two-family residential development**, removal of trees with a DBH of at least 6 inches located outside of the net disturbed area as defined by §166-131.G(3).

(g) **Direct or indirect damage to the trunks, branches, leaves and roots** of trees that are required to be preserved by this Section or by any approval granted pursuant to this

Chapter, if such damage causes or is likely to cause the death or significant deterioration in the health of the tree.

(2) **Exemptions** from prohibited activities. The following activities shall be exempted from the prohibitions in § 166-131.D(1):

(a) Removal of dead, dying, diseased or hazardous trees, unless prohibited by NJDEP regulations or other law, and subject to compliance with § 166-131.E(3).

(b) In riparian zones and areas of steep slopes, the following tree removal shall be permitted without the need for a variance, in accordance with an approved tree removal plan:

[1] Tree removal necessary to protect the public health, safety or welfare, such as but not limited to necessary linear development for access or utilities when no feasible alternative exists to such disturbance.

[2] Tree removal that provides an environmental benefit, such as but not limited to remediation of a contaminated site.

E. Approval required for tree removal; exemptions. Prior approval shall be required for permitted tree removal activities in accordance with the procedures set forth in this Section; provided, however, that approval shall not be required for the following permitted tree removal activities, except as may be indicated below:

(1) Removal of trees with a DBH of less than six (6) inches, except when such removal is prohibited by 166-131.D.

(2) On each lot, **the removal of one tree per calendar year** with a DBH of at least six (6) inches but less than 18 inches; provided, however:

(a) No such removal shall be permitted when such removal is prohibited by 166-131.D.

(b) **No such removal shall be permitted when the removal would reduce the remaining number of trees to less than the preservation/planting requirements** of § 166-131.G(3).

(c) **The owner of the property shall be required to notify the Township Engineer at least seven (7) days prior to such removal.**

(3) Removal of any number of regulated trees which are dead, dying, critically diseased and/or hazardous to human life or property, subject to the following:

(a) **Prior to removal, the property owner shall be required to request and obtain certification of the Township Engineer or his designee that the trees to be removed meet the foregoing criteria;** provided, however, that in the case of an emergency situation requiring immediate removal of the tree(s) in order to avoid or remedy an imminent or clear and present danger to life or property, such trees may be removed without prior approval, subject to Paragraph (b) below.

(b) In the case of emergency removal, the Township Engineer or his designee shall be notified within seven (7) days after such removal. The notification shall provide

documentation of the need for the removal and the emergency conditions that required the immediate removal.

(c) No application or review fee shall be required for such removals.

F. Tree removal application, review and appeal procedures. The following procedures shall apply to development applications seeking approval to remove regulated trees:

(1) Developments that require site plan, subdivision, variance or related approvals from the Planning Board or Board of Adjustment. Applicants proposing tree removal for developments that require site plan, subdivision, variance or other approvals from the Planning Board or Board of Adjustment as required by this Chapter, the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or other applicable law shall be required to obtain the prior approval of the board having jurisdiction over the application. The review and decision on the requested tree removal shall be processed as part of the overall development application. All of the laws, rules and regulations applicable to such development applications shall also apply to the tree removal application.

(2) Other developments. Applicants proposing to remove regulated trees either as part of or separately from developments that do not require site plan, subdivision, variance or other approvals from the Planning Board or Board of Adjustment shall be required to obtain a tree removal permit in accordance with § 166-110.1.

G. Tree preservation, removal and planting requirements. Except where tree removal is prohibited under any circumstances, or as provided otherwise by this Chapter or other applicable law, tree preservation, removal and planting shall be required to comply with the following provisions:

(1) Tree preservation and/or replacement required. The use and development of land shall ensure that a minimum number of trees having a DBH of at least 6 inches shall be preserved, and/or new trees shall be planted in order to establish or reestablish the minimum number of trees required by §166-131.G(3).

(2) Tree planting required. If the property in question contains fewer trees having a DBH of at least 6 inches in the pre-development condition than required by §166-131.G(3), then new trees shall be planted based upon the net disturbed area of any development as required by §166-131.G(3).

(3) Tree preservation, replacement and planting ratios. The combined number of trees to be preserved and planted pursuant to §166-131.G(1) and (2), excluding those trees set forth in §166-131.G(4), shall not be less than set forth in the following table:

Land Use Category	Minimum Tree Preservation/Planting Ratio
Single-family detached or two-family residential	Preservation/replacement per G(1) above: 1 tree per 3,500 sq. ft. lot area New tree planting per G(2) above: 1 tree per 3,000 sq. ft. net disturbed area
Townhouses, multi-family residential	1 tree per 1,000 sq. ft. net disturbed area*

Retail sales, banks, etc.	1 tree per 2,500 sq. ft. net disturbed area*
Office, industry, labs, etc.	1 tree per 1,250 sq. ft. net disturbed area*
Institutional – houses of worship, schools, nursing homes, child care centers, etc.	1 tree per 1,500 sq. ft. net disturbed area*
Other	1 tree per 1,250 sq. ft. net disturbed area*
Mixture of above use categories	A proportional ratio shall be used, to be calculated as the gross floor area for each use divided by the total gross floor area, then multiplied by the total net disturbed area*, and summed for all uses

*For purposes of administering the ratios in the above table, “net disturbed area” means: a) the horizontal area of soil disturbed by a development, plus b) the area within the drip line of any trees having a DBH of at least 6 inches to be removed, which area is located outside of the area of soil disturbance, provided, however, that the following areas shall be excluded from the calculation of net disturbed area:

- (a) The actual building coverage, as defined by this Chapter, located within the limits of disturbance.
 - (b) The area of contaminated soils or groundwater where tree planting is prohibited, located within the limits of disturbance.
 - (c) The area of vehicular storage areas for automobile sales establishments located within the limits of disturbance, where no planting is required by this Chapter, provided that parking and loading areas shall not be excluded.
 - (d) Buffer areas located within the limits of disturbance containing trees in accordance with this Chapter or shown on an approved plan to contain trees.
 - (e) Areas located within the limits of disturbance needed to provide exposure to the sun for photovoltaic panels used to produce electricity, where trees would unreasonably interfere with such exposure as determined by the board having jurisdiction or the Township Engineer, as applicable.
- (4) In determining compliance with the requirements in Paragraph G(3) above, no credit shall be given for trees required to be preserved or planted by other regulations, , and certain existing trees as set forth below:
- (a) Existing trees to be preserved in riparian zones, steep slopes, wetlands and wetland transition areas, buffer areas and locations where removal is prohibited by § 166-131.D(1).
 - (b) Existing or proposed street trees.

(c) Existing trees to be preserved having a DBH of less than 6 inches, unless such trees were required as replacement trees for prior tree removal activities.

(e) Existing trees that are dead, dying, diseased or hazardous.

(f) Existing trees located within utility or drainage easements.

(5) In determining the number of trees required to be preserved and planted in accordance with Paragraph G(3) above, fractions of trees below 0.5 shall be rounded down, and fractions of 0.5 or greater shall be rounded up.

(6) **Credits for sustainable development.** In order to encourage development of sustainable buildings, credit against tree planting obligations shall be given for buildings that achieve various LEED ratings, as follows:

LEED Rating Tree Planting Credit

Certified	15% of requirement
Silver	25% of requirement
Gold	35% of requirement
Platinum	50% of requirement

(a) The requirement against which credit is calculated shall be only that tree planting requirement related to the construction of a LEED-rated building or buildings. Thus, in a development with one LEED-rated building and one non-LEED-rated building, the credit will be calculated as the LEED-rated building's portion of the total site gross floor area multiplied by the tree planting credit.

(b) Applicants seeking to obtain tree planting credits for LEED certified buildings shall be **required to deposit a cash amount** with the Township equal to the cost of any trees for which credit is sought, at a cost of \$400 per tree. The cash amount shall be deposited prior to the issuance of building permits. Thereafter, if the projected LEED certification is achieved, the Township shall refund all or a portion of the deposit, depending upon the level of LEED certification actually achieved. No refund of such deposit shall be made for LEED certifications obtained more than two years after issuance of any certificate of occupancy for the building.

(7) Payments in lieu of required tree planting. If the developer demonstrates to the reviewing authority that the subject property is not reasonably able to preserve and/or plant the number of trees required by this Section, then the developer shall be required to make a payment in lieu of planting the number of trees to address the deficiency, subject to the following:

(a) The amount of such payment shall be **\$400 per tree**; provided, however, that no payment in lieu of planting trees shall be required in excess of five percent (5%) percent of the total cost of site improvements for the development, excluding building costs, soft costs and land acquisition costs.

(b) Notwithstanding the payment limitation in Paragraph (7)(a) above, the combined number of trees preserved, planted and addressed by payments in lieu shall not be less than seventy-five percent (75%) of the required number of trees to be preserved and planted on the site, less credits for LEED buildings pursuant to Paragraph (6) above.

H. Design guidelines and construction specifications.

(1) Tree preservation and removal. The following requirements shall apply to tree preservation and removal activities:

(a) When determined necessary by the Township Engineer, the tree protection zones (TPZ) shown on the replacement plan shall be fully established prior to the permitted removal of trees and shall be defined by snow fencing or other appropriate barrier firmly secured along the drip line but not less than ten (10) feet from the trunk of trees to be preserved; provided, however, that the Township Engineer may modify the TPZ from these limits when warranted by site conditions.

(b) The grade of the land located within the drip line limits shall not be raised or lowered more than six (6) inches unless compensated by welling, retaining wall or other methods approved by the Township Engineer; provided that no welling or retaining wall methods shall be permitted within the TPZ except when warranted by site conditions and approved by the Township Engineer.

(c) No soil stockpiling, storage of building materials or equipment operation shall be permitted within the drip line or within ten (10) feet, whichever is greater, of any trees to remain; provided, however, that the Township Engineer may modify the TPZ from these limits when warranted by site conditions.

(d) Any clearing within the drip line or within ten (10) feet of a remaining tree must be done by hand or with hand-operated equipment unless specifically approved by the Township Engineer.

(e) When site development results in accidental removal or severe damage which will eventually result in the death or significant deterioration in the health of any tree shown on the replacement/planting plan to remain, such dead or damaged tree shall be replaced on a one-for-one basis, based upon the guidelines in Paragraph (2) below.

(f) All stumps, trunks, branches and similar tree parts shall be appropriately removed and disposed in accordance with the law. Such tree parts shall not be burned or buried within the Township.

(2) Tree planting. The following requirements shall apply to the planting of trees required pursuant to this Section:

(a) At least one third (1/3) of all trees required to be planted by this Section, but not less than one tree, shall be required to be of species native to northern or central New Jersey and suitable for their intended purpose(s). A list of approved native trees is available from the Township Engineering Department.

(b) Trees required to be planted by this Section shall have a minimum trunk caliper of 2½ to 3 inches for deciduous trees and a minimum height of 7 feet for evergreen trees; provided, however, that smaller trees may be permitted by the Township Engineer or the board having jurisdiction, as applicable, on a case by case basis where it is demonstrated that preferred native plant species for the situation are not reasonably available at the required size in the nursery trade.

(c) At least two thirds (2/3) of the number of trees planted shall be deciduous.

(d) Trees required to be planted shall be hardy for the area, well-adapted to the soil PH, soil moisture, solar and wind exposure, and other environmental factors present at the planting location, and shall not be highly susceptible to damage from insects, disease or deer browsing.

(e) Trees required to be planted shall be properly planted and maintained to ensure their survival for at least two years after issuance of any certificate of occupancy or, in cases where no certificate of occupancy is required, by other final approval of the site improvements. Any such trees that do not survive or which exhibit poor growth or plant stress shall be required to be replaced.

I. Tree fund account; purpose and use.

(1) In accordance with the dedication by rider approval granted by the New Jersey Department of Community Affairs, Division of Local Government Services, on June 17, 1999, the Tree Fund Account shall serve as the depository for all moneys which are received by the Township, either by way of contributions for the purpose of preserving or reforesting trees within the Township and any and all fees and payments received pursuant to Ordinance No. 30-2011.

(2) Funds deposited in the Tree Fund Account shall be used by the Township for the following functions and purposes: to advance environmental programs such as tree planting, tree maintenance, tree preservation, park development or landscaping and other comparable projects, including but not limited to providing for the caring, pruning and maintenance of trees, the replanting of trees, the reforestation of Township-owned parks and open space property, the replacement of shade trees, the beautification of municipally owned lands with trees and the purchase of lands which are already forested. Therefore, the moneys received and deposited into the Tree Fund Account as set forth in Paragraph I(1) above can and shall be utilized for the purposes set forth in this Paragraph I(2) at the discretion and the determination of the Township Committee and/or upon the recommendation of the Business Administrator/ Township Clerk.

J. Enforcement.

For the purpose of enforcing the provisions of this Section, the Township Engineer shall be considered the designee of the Zoning Officer and shall have the same responsibilities and powers as the Zoning Officer set forth in § 166-218. and § 166-219.

Section 7. Subsection D in Section 166-180.24, *Other requirements*, of Article XXIXE, *AH-1 Affordable Housing Overlay District*, in Chapter 166, *Land Use and Development*, is hereby amended to read as follow:

D. Exemption from tree removal replacement requirements. Notwithstanding the provisions of § 166-131., Tree preservation, removal and planting, **developments containing one-hundred-percent affordable housing in the AH-1 Zone shall be exempt** from the requirement to replace trees that must be removed as part of the development process, subject to review and approval of the tree removal by the Planning Board or Board of Adjustment, as applicable. The foregoing shall not be construed to exempt such developments from all other requirements to provide landscaping, including the planting of trees, on portions of the site not developed with buildings, pavement or other structures.

Section 8. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

Section 9. In case, for any reason, any section or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this Ordinance, except so far as the section or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 10. This ordinance shall take effect in accordance with the law.

TOWNSHIP COMMITTEE
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY

DATE OF INTRODUCTION: November 21, 2011

DATE OF ADOPTION: December 19, 2011

NOTICE OF INTRODUCTION

NOTICE IS HEREBY GIVEN, That the foregoing Ordinance was submitted in writing at a meeting of the Township Committee of the Township of Hanover, in the County of Morris and State of New Jersey, held on the 21st day of November, 2011, introduced and read by title and passed on first reading and the Governing Body will further consider the same for second reading and final passage thereof at a meeting to be held on the 19th day of December, 2011, at 8:30 o'clock in the evening prevailing time, at the Municipal Building, 1000 Route 10, Whippany, in said Township of Hanover, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens in interest shall have an opportunity to be heard concerning same.

JOSEPH A. GIORGIO, TOWNSHIP CLERK
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY

DATED: December 1, 2011