

**TOWNSHIP OF DELANCO**

**ORDINANCE 2019-\_\_\_**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF DELANCO BY DELETING AND REPEALING CHAPTER 238 ENTITLED “SHADE TREES” AND REPLACING IT WITH A NEW CHAPTER 238 TO BE ENTITLED “SHADE TREES” WHICH CHAPTER PROVIDES FOR RULES, REGULATIONS AND PROCEDURES FOR DEALING WITH TOWNSHIP TREES AND PROVIDING FOR PENALTIES FOR VIOLATION OF THE CHAPTER.**

**WHEREAS**, the purpose of this ordinance is to promote the general welfare of the people of the Township of Delanco by: (I) providing for the regulation, planting, care, control, improvement, removal, preservation, and general protection of Township Trees in such a way as to protect and preserve the Township's environment with regard to Public Lands and Public Safety Interests: (II) incorporating a Community Forestry Management Plan (CFMP): (III) providing for standards and procedures in connection with Township Trees; and (IV) prescribing penalties for violations of this ordinance; and

**WHEREAS**, The Delanco Township owned Shade Tree canopy is recognized to be a living and constantly changing part of the Township with significant intrinsic and economic value; and

**WHEREAS**, it is recognized that it is not possible to completely control, predict or prevent all events related to planting, growth, maintenance, decline, and death of Trees; and

**WHEREAS**, the general objective of this ordinance is to establish a system for better managing this valuable resource through the Program established under the New Jersey Shade Tree and Community Forestry Assistance Act P.L. 1996, Chapter 135 and subsequent revisions thereto.

**NOW, THEREFORE, BE IT HEREBY ORDAINED** as follows:

**Section One.** The Code of the Township of Delanco is hereby amended by deleting and repealing Chapter 238 entitled “Shade Trees”.

**Section Two.** The Code of the Township of Delanco is hereby amended by adding thereto a new chapter, to replace Chapter 238 hereinabove repealed, to be Chapter 238 entitled “Shade Trees” to read as follows:

§ 238. SHADE TREES.

**§ 238-1. Definitions.**

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

**APPEAL:** The process by which decisions of the Delanco Shade Tree Commission are reviewed and resolved when a person requesting action with respect to a township tree wishes to dispute the decision.

**COMMISSION:** The Shade Tree Commission of the Township of Delanco including any of its agents, employees and duly appointed members. Also referred to herein as the DSTC.

**COMMUNITY FOREST:** Collectively, all the Trees in or upon Public Lands within the Township of Delanco.

**COMMUNITY FORESTRY MANAGEMENT PLAN (CFMP):** The Community Forestry Management Plan prepared from time to time by the Delanco Shade Tree Commission for the benefit of the Municipality, and as approved by the State of New Jersey, in keeping with the Community Forestry Program of the State of New Jersey.

**COMMUNITY STEWARDSHIP INCENTIVE PROGRAM (CSIP):** A program supervised by the Community Forestry Program of the State of New Jersey providing for a plan with specific practices recommended to be carried out by each local community to best manage the Community Forest. The CSIP practices are 1. Training; 2. Community Forestry Ordinance Establishment; 3. Public Education and Awareness; 4. Arbor Day Activities; 5. Tree Inventory; 6. Hazard Tree Assessment; 7. Storm Damage Assessment; 8. Tree Maintenance and Removal; 9. Insect and Disease Management; 10. Wildfire Protection; 11. Tree Planting; 12. Tree Recycling; 13. Sidewalk Maintenance Program; 14. Storm Water Management.

**DIAMETER BREAST HEIGHT ("or DBH"):** Measurement of the thickness of the tree trunk at a point on the tree, fifty-four inches (54") from ground level.

**DRIP LINE:** Tree drip line, the area defined by the outermost circumference of a **tree** canopy where water drips from and onto the ground.

**DSTC:** The Shade Tree Commission of the Township of Delanco.

**GUARD:** A device placed on or about a Tree with the purpose of preventing injury to such tree.

**HAZARD TREE;** A Township Tree that has structural defects in the roots, stem or branches and which may cause the Tree or part of the Tree to fail, and where such failure may cause property damage or personal injury. Risk levels are assessed at low, medium, or high in accordance with the USDA publication #NA-TP-03-03 entitled "Urban Tree Risk management"

**HISTORIC PRESERVATION ADVISORY BOARD: (HPAB)** – Group of Delanco residents appointed by the Delanco Township Committee per chapter 29 of the Delanco Municipal Code.

**HERITAGE/LIBERTY TREE:** Any Township Tree (I) with a DBH of at least (36"); or (II) of a particular historical significance as recommended by the HPAB and specifically designated by official action of the Township Committee or the DSTC; or (III) over 50 years of age.

**JOINT LAND USE BOARD (JLUB):** The Joint Land Use Board of the Township of Delanco

**LANDSCAPER:** Any Person engaged in the business of Landscaping as a primary occupation.

**LARGE TREES:** Tree species attaining a height of more than (50) feet at maturity.

**MEDIUM TREES:** Tree species attaining a height of (25) feet to (50) feet at maturity.

**SMALL TREES:** Trees species attaining a height of less than (25) feet at maturity.

**MEMBERS:** Duly appointed members of the DSTC.

**PERSON:** Any individual, association or individuals, partnership, corporation, developer, or entity other than the Municipality.

**PRIVATE TREE:** any Tree, as hereinafter defined, which is situated in land other than Municipal Land. Tree situation is evidenced by 50% or more of the root collar or base of the trunk at the entry point to the ground being upon private land, regardless of the location of the crown, roots, tilt of the trunk, or other part of the tree in relation to the property line.

**RIGHT OF WAY ("ROW"):** The public property in the Township of Delanco, which excludes private property, and is the jurisdiction of the Municipality, and is inclusive of all land in and along any street up to the private property lines as shown on the tax map of the Township of Delanco.

**ROOT BARRIER:** A mechanical barrier that is designed to redirect tree roots down and away from hardscapes when installed in accordance with the manufacturer's specifications.

**TOWNSHIP FORESTER:** An individual whose duties are to assist the DSTC in carrying out their responsibilities under this chapter.

**SPECIMEN TREE:** Any Township Tree, which, by singular nature, species, condition, size, or location, imparts particular value to a property or landscape specifically designated by the Township Committee, the DSTC.

**STREET:** Any road, avenue, street, or highway in the Township dedicated to the public use.

**TOWNSHIP:** The Governing Body (Township Committee) of the Township of Delanco.

**TOWNSHIP TREE:** Any Tree, as hereinafter defined, which is situated in or along any, public right of way, easement or encumbrance. Tree situation is evidenced by 50% or more of the root collar or base of the trunk at the entry point to the ground being upon Township land, regardless of the location of the crown, roots, tilt of the trunk, or other part of the Tree in relation to the property line.

**TREE:** Any living woody, deciduous or coniferous species, of any age after germination, which at maturity is expected to have a circumference of more than (10") inches, or three (3") inches diameter,

measured at DBH. Any species not qualifying as a "Tree", under this definition, shall be considered a "Stem" and shall not fall within the purview of this chapter.

**TREE GUARD:** A permanent enclosure used to protect the trunk of a township tree from injury.

**TREE PIT:** A specially prepared area of land, which is surrounded by paving, curbs, sidewalks, or other impervious surfacing, and with specific requirements for protection and pedestrian safety.

**TREE PERMIT:** A permit issued by the Shade Tree Professional (Technical Assistant), for the planting, maintenance or removal of a Township Tree or Trees.

**TREE PLANTING REQUIREMENT:** A requirement to plant new Township Trees when Township Trees are removed, or other conditions of this chapter.

**TREES FOR NEW JERSEY STREETS:** A publication by The New Jersey Shade Tree Federation.

**TREE TOPPING:** The severe cutting back of limbs to stubs larger than (3") inches in diameter within the tree's crown, to such a degree as to remove the normal canopy and disfigure the tree.

**URBAN TREE RISK MANAGEMENT:** A publication of the USDA Forest Service #NA-TP-03-03 of complete title: "Urban Tree Risk Management: A Community Guide to Program Design and Implementation".

**UTILITY AND CABLE COMPANY:** Public utility, water or sewer utility or cable television companies entering the Municipality for the purpose of erecting, installing, moving, removing, altering, or maintaining any structures of fixtures necessary for the supply of electric, light, heat, water, sewage disposal or power, communication, or cable television, cellular communications, or internet services.

## **§ 238-2. Community Stewardship Incentive Program.**

- A. Governing by Community Stewardship Incentive Program (CSIP). The regulation, planting and care of the Township's trees shall be governed by the practices developed and expounded by the Community Forestry Program of the State of New Jersey known as the Community Stewardship Incentive Program (CSIP) as provided for in this chapter.
- B. Exemptions: The following shall be exempt from the requirements of this chapter:(a) Trees along Burlington County Roads located in the municipality, under the jurisdiction of one of the following: The Burlington County Highway Department, Burlington County Bridge Commission, Burlington County Parks Division and or their Engineers; (b) any living woody, deciduous or coniferous species which does not qualify as a tree under the definitions of this chapter; (c) Utility and Cable Companies undertaking emergency tree work to restore service or spot work to prevent interruption of electrical, telephone, telegraph, cable TV, internet or other wire or cellular services provided that such Utility or Cable Company has complied with notice provisions; and (d) Delanco Department of Public Works, Township Forester, Delanco Fire Department or Delanco Construction Department undertaking or directing emergency or imminent hazard work requiring the removal or altering a tree which is deemed an immediate risk to the health, safety and/or welfare of the residents of the Township or their property. The DSTC shall be notified in writing of such action as soon as practicable.

### **§ 238-3. Community Forestry Management Plan**

- A. Adoption of Community Forestry Management Plan (CFMP). The Community Forestry Management Plan (CFMP) prepared by the Delanco Shade Tree Commission (DSTC), dated February 2018 is hereby adopted and the policies and procedures contained therein are incorporated by reference. Including, by way of example and not limitation, the provisions should follow CSIP Practices. To the extent there shall be any inconsistencies between this chapter and the Community Forestry Management Plan, this chapter shall govern.
- B. Updating the Community Forestry Management Plan. The CFMP shall be periodically updated by the Delanco Shade Tree Commission for submission and approval, upon the timetable established or required by the State of New Jersey, for compliance with the New Jersey Community Forestry Program under the New Jersey Shade Tree and Community Forestry Assistance Act P.L. 1996, Chapter 135, or as amended. A revised CFMP as prepared by the DSTC shall be adopted by the Township prior to submission to the State of New Jersey, subject only to modifications required by the State for approval.
- C. Township Expenses: The Township shall bear the cost of following the Community Forestry Management Program (CFMP) goals as provided for in the annual municipal budget.

### **§ 238-4. PROTECTION REQUIREMENTS RELATED TO TOWNSHIP TREES**

- A. Construction. All persons who shall conduct, or cause to be constructed, any erection, repair, alteration, construction, or other similar act near any Township Tree, shall use best efforts to protect and preserve the Trees in and about the area of such conduct.
- B. Sewer Service Mains. The maintenance and repair of all sewer service lateral lines from private improvements to the point of connection at the public sewer main are the responsibility of the property owner to maintain regardless of any negative impact from any Township Tree roots or other Township Tree related problem.
  - (1) The Township shall not be responsible for clearance of Tree roots, or replacement of sewer piping, or any other affiliated expense of sewer service lines.
  - (2) In the event that the repair or replacement of the sewer lateral pipe would destabilize a Township Tree and cause it (them) to become a Hazard Tree(s), then the Property Owner must remove and replace the Township Tree(s) at the property Owner's expense.
  - (3) The replacement Tree must comply with the Planting Requirements of this chapter.
- C. Sidewalk Repairs and Replacements. Refer to Chapter 240 of the Delanco Township Code.
- D. Prohibited Actions: The following practices impacting on Township Trees are prohibited and shall constitute a Violation.

- (1) Violation Type 1 – Unauthorized Removal: Unauthorized removal of a Township Tree.
- (2) Violation Type 2 – Vandalism or Severe Preventable Damage:
  - (a) Malicious vandalism of any Township Tree.
  - (b) Cutting, breaking, injuring, disturbing, installing nails or other metal objects into, or interfering in any material manner with any Township tree.
  - (c) Cutting roots from a Township Tree in such a manner to destabilize the Township Tree and cutting any roots from a Township Tree without prior approval of the DSTC or Shade Tree Professional (Technical Assistant).
  - (d) Conducting any excavation without a permit within a four (4ft) feet of any Township Tree
  - (e) Engaging in any Tree Topping of a Township Tree as defined in this chapter except where other pruning practices are impracticable or impossible with respect to Township Trees severely damaged or causing obstructions to wires or cables subject to Cable and Utility Company exemption.
  - (f) Intentionally spraying any Township Tree or near any Township Tree, any chemical which may cause injury or death to said Township Tree, or placing salt, brine, oil, or any other substance which is or may be injurious to plant growth on the ground, sidewalk or street area within 30 feet of the Township Tree for the purpose of injuring the tree.
- (3) Violations Type 3- Other:
  - (a) Installing mulch more than 4 inches deep at the base of the Township Tree and in a way that touches the base of the trunk.
  - (b) Utilizing motorized trimmers and lawn mowers in such a way to damage the bark or cambium layer of Township tree.
  - (c) Applying soil in excess of 6 inches deep on top of the soil at the area under the drip line of a Township Tree.
  - (d) Removing or damaging any guard or device placed to protect any Township Tree.
  - (e) Placing salt or other substances injurious to plant growth in any street and public place in such a manner that may injure any Township Tree.
  - (f) Fastening any rope, wire, sign, or other device to any Township Tree or to any guard about such Township tree.
  - (g) Closing or obstructing any open space about the base of any Township Tree which would prevent the access of air, water, and fertilizer to the roots of such Tree

- (h) Failing to maintain utility lines in the street or public place and/or maintaining such lines in a manner that does not safeguard the Township Tree against damage and failing to make periodic adjustments whenever necessary to prevent damage to Municipal Trees.
  - (i) Placing or maintaining in any street or ROW, any stone, wood, cement, asphalt or other sidewalk material or other substance which may impede the free access of air and water to the roots of the Township Tree, and, where any Township Tree is surrounded by pavement or stone, placement of cement or asphalt or other substance tending to impede the free access of air and water to the roots of any Township Tree.
  - (j) Building fires or stationing any kettle, road roller, fuel oil dispensing truck, or other engine in any street or public place in such a manner that the heat, vapors, fuel or fumes may injure the Township Tree.
- (4) Violation Type 4-Liberty Tree or Specimen Tree
- (a) Violations, as listed above, against a Liberty Tree.
  - (b) Violations, as listed above, against a Specimen Tree.
- (5) Notice of Violation Procedure
- (a) A Notice for Type 3 Violations shall be issued requiring the violator to desist and comply within seven (7) calendar days, after which the violator shall be subject to the issuance of a court summons if the condition remains or continues.
  - (b) Second Violations of the same type by the same violator shall result in a court summons immediately issued with no notice required.
  - (c) Type 1, 2 and 4 Violations shall result in a court summons immediately issued with no notice required.

E. Interference with Township or Commission

It shall be unlawful for any person to prevent, delay, interfere or impair the Township, the DSTC, or any of its agents, while engaging in any act to affect the purpose of this chapter.

**§ 238-5. PLANTING REQUIREMENTS**

- A. Approval Required. No person shall plant any tree in any Street, or in the ROW, without a permit or written direction from the DSTC.
- (1) Planting on Private land is not governed by or regulated by this article.
  - (2) Planting of trees in municipal parks shall be under the jurisdiction of the Delanco

Recreation Commission per section 216-4 of the Code.

- (3) The planting of trees in public places or in the ROW shall comply with the provisions of this section.
- (4) The DSTC may waive or modify required planting locations if field conditions or mitigating circumstances exist. Such waiver or modification must be in writing.

**B. DSTC Approved Tree Lists:**

The DSTC shall be guided by the lists of Small, Medium, and Large Trees for planting in the ROW in the Township as shown in the publication “TREES FOR NEW JERSEY STREETS”, Sixth Revision, 2016, by the New Jersey Shade Tree Federation.

**C. Planting Technical Criteria and Requirements:**

- (1) **Minimum Spacing Between Trees:** The spacing for planting of street trees shall be in accordance with the three (3) size classes listed under Definitions, as follows:

|                                     | Small Tree | Medium Tree | Large Tree |
|-------------------------------------|------------|-------------|------------|
| Small Tree distance to the nearest  | 15'        | 15'         | 15'        |
| Medium Tree distance to the nearest | 15'        | 30'         | 30'        |
| Large Tree distance to the nearest  | 15'        | 30'         | 40'        |

- (2) **Confining Elements:** The planting distance from curb line and sidewalks or other paved areas shall be in accordance the guideline as published in above referenced publication “TREES FOR NEW JERSEY STREETS”. Sixth Revision 2016 by the New Jersey Shade Tree Federation

- (3) **Distance from Utilities:** The distance from the center of the tree to the vertical plane through a utility line, pipe, cable, conduit, wire or pole, shall be as follows:

|  | Small Tree | Medium Tree | Large Tree |
|--|------------|-------------|------------|
| Underground water, gas or sewage mains, or oil fill pipes, or similar. | 6'         | 12'         | 16'        |
| Overhead electric, telephone and cable wires or similar.               | 0'         | 4'          | 4'         |

- (4) **Tree Collar Damage Prevention:** There shall be kept clear of lawn/grass, vegetation and weeds an area of a minimum of one (1) foot around the base of newly planted trees. The intent of this section is to prevent injury to newly planted trees from lawn mowers and trimmers.

- (5) **Fire Safety:** Planting and maintenance of Township Trees or other woody plant material planted after the adoption of this chapter shall be comply with the following:

- a. No Township Street tree shall be planted, or anticipated to branch into the ROW, within Twenty (20') feet of a fire hydrant or any other Fire Department



Connection (FDC), stand pipe connections, or any other water source connection point for Fire Department use (Dry Hydrant or Draft points).

- b. Any trees or other woody plant planted next to or near an Emergency Right of Way must be kept trimmed back year round so as not to impede access for Emergency Vehicles.
- c. The area directly in front of any means of Ingress or Egress to any dwelling for building which is set back from the edge of the street less than 15 feet, shall be kept clear of trees and other woody plants from center point of the doorway 15 feet of either side of same.
- d. Any new construction with an Emergency Exit for Emergency Equipment, i.e., Fire Apparatus, Ambulance and/or Police Vehicles, needs to be clear of any Tree or other woody plants that may impede the flow of said vehicles.

(6) Traffic and Pedestrian Safety: No new Township Trees, or other woody plant material planted as of the adoption of this code chapter shall be planted, or anticipated to branch into the ROW:

- (a) within Twenty (20') feet of the mid-point of the curb corner at any intersection and or the current guide lines by the Joint Land Use Board with regards to sight triangle;
- (b) within Seven (7') feet of a curb cut;
- (c) within Twenty-five (25') of a street light;
- (d) within Thirty (30') feet of a stop sign or traffic light;
- (e) within Six (6') feet of other traffic signs;
- (f) within five (5') feet of the curb at bus stops, for the full length of the bus in the stopped position;
- (g) at a location where a roadbed curves, in such a manner that would block the views of drivers exiting any curb cut;
- (h) at a location where such tree or woody plant material does not allow a clear three (3') foot wide pedestrian walkway to be maintained.

(7) Other Planting Requirements:

- (a) Tree species must be selected from the "TREES FOR NEW JERSEY STREETS", Sixth Revision, 2016, by the New Jersey Shade Tree Federation Lists of Small, Medium or Large Trees, and shall be reviewed by the DSTC on a case by case basis for authorization to plant.
- (b) Multiple trees of the same species may not be planted in immediate

sequence proximity to each other unless there is a specific reason. The purpose of this is to encourage biodiversity.

(c) Tree(s) may be planted in a tree pit where there is no grassy area at the curb line of a sidewalk, where the sidewalk extends to the curb, provided that the remaining sidewalk is not less than three (3') feet clear, and provided that the tree pit is paved with a porous surface, such as cobbles or pavers set in sand, and that the tree pit is of the following sizes:

| Tree Size:  | Minimum Tree Pit Size: |
|-------------|------------------------|
| Small tree  | 3' x 4'                |
| Medium Tree | 5' x 10'               |
| Large Tree  | 10' x 10'              |

(d) Root barriers shall be installed between the tree and the sidewalk to minimize the potential negative impact of growing roots on the structural integrity of the adjoining sidewalk, unless this requirement is waived in writing by the DSTC.

(e) Irrigation pipes and heads shall not be installed or permitted within the public right of way (ROW).

**§ 238-6. MAINTENANCE AND IMPROVEMENTS**

A. Maintenance of Township Trees. The DSTC shall be responsible for planting, pruning, maintaining and removing Township trees, plants and shrubs within the Township ROW as may be necessary to:

- (1) insure public safety,
- (2) preserve or enhance the beauty or symmetry of the public ROW, or
- (3) effectuate the intent and purpose of this chapter.
- (4) This includes removing or causing to be removed any Township Tree or part thereof in the Township ROW which is in an unsafe condition or which may be injurious to sewers, electric lines, gas lines, water lines, or public improvements, or which is or may be infected with any fungus, insect, or pests.

B. Township Forester. There is hereby created the position of Township Forester whose duties are to assist the DSTC in carrying out their responsibilities under this chapter.

- (1) This individual, who shall be recommended by the DSTC, shall be appointed by the Delanco Township Committee who shall set the compensation and hours, and may be an employee or a contractor;
- (2) The individual shall be a Licensed Tree Expert or a Registered Consulting Arborist, and shall have a minimum of seven (7) years of experience.

C. Permits.

The DSTC shall set up a process and procedure to authorize the issuance of permits for certain actions involving Township Trees, including requests by property owners and other persons for Township trees to be trimmed, removed or have roots cut, to be administered through the Township Forester or DSTC Secretary on behalf of the DSTC.

- (1) The following actions may be approved by permit issued by the Township Forester under provisions and guidelines issued by the DSTC, without prior review and approval by the DSTC for the following:
  - a. Removing, trimming or root cutting of a Township Tree necessary for the repair or replacement of sidewalk;
  - b. Removing, trimming or otherwise maintaining a Township Tree by a licensed and insured tree contractor or landscape company or by the Township Public Works Dept;
  
- (2) The following actions may be approved by permit only after review and approval by the DSTC for the following:
  - a. Planting a tree or trees in the ROW;
  - b. Any other removal, trimming or maintenance of a Township tree that the Township Forester has not agreed to issue a permit for.
  
- (3) Tree Permit Fees, if determined necessary to fund the costs of the permit issuance program, shall be set by resolution of the Township Committee. All such fees shall be paid prior to issuance of the Tree Permit in accordance with the Fee Schedule and shall be deposited into the general fund of the Township.
  
- (4) Fee Schedule:  
 The DSTC shall review and propose to the Township Committee updates to the Fee Schedule (if any) for Tree Permits, and/or Licensing at no more than 24 month intervals. Such fees shall not exceed the maximum amounts allowed by the NJ DEP Community Forestry Program.
  
- (5) Tree Permit Revocation:  
 The DSTC, through the Township Forester, may revoke a Tree Permit where there has been a false or misleading representation, or where the Certificate of Insurance of a Landscaper or Tree Contractor has been revoked or expired.
  
- D. Voluntary Planting, Removal and Maintenance Expenses:  
 Private Property Owners may apply to the DSTC to voluntarily remove, plant or maintain a Tree or Trees in the ROW abutting the Private Property per the permit process provided above.
  - (1) Permission shall be granted for planting, provided the planting complies with this chapter and other policies as approved by the DSTC.
  - (2) Permission shall be granted for removals and trimming, provided the work is done by a licensed and insured tree contractor or landscape company;
  - (3) Voluntary removals, plantings or maintenance costs may be borne by the Property Owner at one point in time, but this event does not obligate the

property owner to bear future costs of maintenance or removal.

- (4) No permit or permission is required for the voluntary removal of tree stumps or stalks of dead trees.

E. Township Projects Approved by the Township.

In the event that the Township Engineer has determined that one (1) or more Township Tree(s), must be removed for the benefit of the Township Project, the project plan shall be submitted to the DSTC for their review and approval, if there is sufficient time to meet necessary deadlines, and must comply with the following:

- (1) All stumps must also be removed, and
- (2) New tree(s) shall be replanted within the project scope or elsewhere in the Township on a one (1) for one (1) basis, and in accordance with the Planting Requirements of this chapter, and,
- (3) The cost of the removal(s) and replanting must be part of the Project Cost.
- (4) If there is not sufficient time between the design of the project and the necessary deadlines for a DSTC review, or during the project one (1) or more Township tree(s) becomes a Hazardous Tree due to the project, then the Township Forester shall be authorized to permit the tree(s) to be removed without the prior authorization of the DSTC as long as the above requirements are met.
- (5) Specimen or Heritage/Liberty Trees may not be removed at any time unless authorized by the DSTC under the procedures in this chapter.

**§ 238-7. APPEAL PROCEDURES**

A. Appeal

Applicants for decisions under this chapter may appeal decisions of the Shade Tree Professional or the Shade Tree Commission involving requests for trimming, removal or root cutting of Township trees, under the following procedure:

- (1) If an Applicant wishes to request that the DSTC reconsiders the decision of the Shade Tree professional or their decision, the Applicant must submit a Request in writing to the DSTC including their reasons and third party evidence upon which the appeal will be based. Examples of third party evidence are photographs, surveys, authoritative documents, expert reports or other evidence in support of the Request.
- (2) By the date of the DSTC's next scheduled meeting which is at least 30 days following the date of receipt of the written documents to review the information, the DSTC may respond with (i) a reasonable request for additional information; (ii) acceptance of the Applicant's request; or (iii) rejection of the Applicant's Request with reasons stated. If additional information is subsequently submitted, then the DSTC shall have until their next scheduled meeting which is at least 30 days from the date of submission of the additional information, to either accept or reject the Applicant's Request, with reasons stated.

- (3) In the event that the above conditions are met, and the DSTC has continued to reject the Applicant's request, the Applicant may appeal to the Township Committee by presenting to the Township Administrator the same request and the same information provided to the DSTC. The Township Administrator shall, within 30 days from the date of the receipt of the written documents, review the information and may make a reasonable request for additional information. If all of the additional information requested is subsequently submitted, the Township Administrator shall have an additional 30 days to present the Request to the Township Committee who will decide to either accept or reject the Applicant's request, with reasons.
- (4) In the event that the above conditions are met, and the Township Committee has rejected the Applicant's Request, then and only then, will all administrative remedies be considered exhausted, and the Applicant may pursue other legal options.
- (5) The cost of obtaining and submitting any reasonable requested information shall be at the expense of the Applicant regardless of the outcome of the appeal.

#### **§ 238-8. NO LIABILITY**

Nothing in this chapter shall be construed to make the Township or the Delanco Shade Tree Commission nor any Member responsible for the death or injury of any person, or for injury to any property or Tree. Liability for any such death or injury shall be governed by relevant provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1).

#### **§ 238-9. VIOLATIONS AND PENALTIES**

Any person who shall violate any of the provisions of this chapter or who fails to comply with the terms and provisions of this section shall, upon conviction in municipal court thereof, be subject to the penalties set forth in section 1-14 of the Delanco Township Code.

#### **Section Three. SEVERABILITY**

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof, is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

#### **Section Four. EFFECTIVE DATE**

This ordinance shall take effect immediately upon publication thereof.

The above entitled ordinance is scheduled to be introduced on first reading at a meeting of the Township Committee of the Township of Delanco on April 15, 2019. It will be further considered for final passage after a public hearing at the regularly scheduled meeting to be held on May 6, 2019 at the Municipal Building, 770 Coopertown Road, Delanco, NJ at 7:00PM at which time and place any persons desiring to be heard upon the same will be given the opportunity to be heard. Copies of this ordinance will be made available at the Municipal Clerk's office to members of the general public who shall request them.

Janice Lohr, RMC, Municipal Clerk