



Tree Protection Ordinance

10 Points

Updated February 2012

Natural Resource Protection Ordinances are designed to provide municipalities with the ability to protect various resources within the community from possible harmful effects caused by development. Municipalities with a Natural Resource Inventory (NRI), or an Environmental Resource Inventory (ERI) should implement ordinances to protect vulnerable resources outlined in their inventories. Ordinances are the body of public law that implement the goals of the local Master Plan and protect public assets such as special environmental features identified in an NRI or ERI (ANJEC's Smart Growth Survival Kit - http://www.anjec.org/pdfs/SG_Ordinances.pdf).

Protecting trees within a community can have a multitude of benefits for the environment as well as for the health and safety of residents. Trees help to prevent flooding, sequester carbon, improve water quality, and provide timber. They also contribute to climate control and reduce soil erosion and sedimentation. Indiscriminate, uncontrolled and excessive destruction, removal, and cutting of trees on lots and tracts of land within the community can cause increased drainage control costs, increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon, and increased dust. (Ordinance 15-48 "Tree Removal and Protection", Randolph Township, Morris County)

In order for a municipality to adopt a Woodland Protection/Tree Protection Ordinance, there needs to be a clear connection between the town's Master Plan Goals and mapping. Master Plans should identify wooded areas as areas in need of protection. Additionally, the Master Plan mapping should be included as part of the municipality's overall vision and land-use goals. Clustering, easements, identification of trees of significance, and open space acquisition, among other tools, can be a part of a municipality's plan to preserve wooded areas. These tools can then be translated into a Woodland Protection Ordinance. Whenever possible, municipalities should aim to protect large, contiguous areas of wooded areas as much as possible, as these unbroken areas provide the largest benefit to the environment and society.

Why is it important?

Adopting municipal tree protection ordinances provides for legal protection of critical natural resources. The long-term health of the municipality's and the state's ecosystems will be more sustainable in the future as a result. These natural resource protection ordinances preserve not only the quality of drinking water, soils, and habitat, but also the overall quality of life for New Jersey's municipalities and citizens.

Who should lead and be involved with this action?

Ultimately these ordinances must be approved by the municipal governing body, but other commissions or boards, such as the Planning Board, sustainability committee, or Environmental Commission, can take the lead in developing and moving these ordinances forward.

Timeframe

The time varies as the time required to approve ordinances is a function of local processes. The more support there is for an ordinance, the faster it is likely to move through the process, since there will be less resistance. Early public involvement and adequate research is needed to gain public support and ease the adoption process.

Project costs and resource needs

Depending upon who is taking the lead, researching and drafting the ordinance can be conducted by municipal staff, the Environmental Commission, the Planning Board, the governing body or by volunteers, as well as by private consultants.

What to do, and how to do it (“How to”)

Below we have listed the requirements for earning points for this action.

1) Adoption of the Tree Protection Ordinance is required by the year in which you are applying for certification for Sustainable Jersey points for this action. The ordinance must meet the standards outlined under the Standards and Applicability heading of the “What to Do” section.

We have provided extensive guidance and recommendations for implementing the action. You do not need to follow this guidance exactly as long as your final product meets the requirements.

I. DEVELOPING AND ADOPTING A NATURAL RESOURCE PROTECTION ORDINANCE

Guidance is derived from ANJEC’s Smart Growth Survival Kit (http://www.anjec.org/pdfs/SG_Ordinances.pdf):

Follow [this](#) link for guidance about developing and adopting a Natural Resource Protection Ordinance.

The following describes the general structure for the Tree Protection Ordinance as well as the minimum requirements to receive Sustainable Jersey points for this action. While some ordinances will be slightly different in structure, the intent of the requirements listed shall be met.

II. ORDINANCE STRUCTURE:

The following describes the general structure for the Ordinance as well as the minimum requirements to receive Sustainable Jersey points for this action. While some ordinances will be slightly different in structure, the intent of the requirements listed shall be met.

- **Title** - legal name by which an ordinance can be cited.

Requirement: The title should distinguish it from other requirements of the land-use code. Variations in title may include: Tree Conservation Ordinance, Tree Removal and Replacement Ordinance, or Tree and Landscape Ordinance.

- **Purpose** - describes the main objectives of the ordinance, including the reason(s) why the ordinance should be adopted.

Requirement: This section shall establish that the purpose of the ordinance is to identify trees for protection and provide guidance for their protection and/or replacement. Examples of goals listed for the purpose may include, but are not limited to:

- a. Reduce tree loss during development
- b. Reduce damage to standing trees during construction
- c. Provide for the replacement of trees lost
- d. Provide for the replanting of trees in places where there are not currently trees
- e. Maintain preserved trees
- f. Preserve historically or environmentally significant trees or woodlands.

- **Definitions** - key terms used within the ordinance.

Requirement: The ordinance shall define any terms not already part of the land-use code of the municipality. Many tree protection ordinances will define “specimen trees,” “replacement trees” and/or “tree replacement plan.”

- **Standards and Applicability** - specific details to guide local officers and agencies as they implement and enforce the ordinance. Describe precisely “who” and “what” the ordinance will govern

Requirement: The ordinance must set clear standards regarding the desired outcome of the tree protection ordinance relating to the purpose/goals that have been established. The standard can be different for various zoning areas, but should seek to achieve the purpose established in the ordinance. In order to receive points in Sustainable Jersey for this action, the ordinance shall apply, at a minimum, to trees on all public lands and some portion of lands in private ownership.

Some examples include:

- a. For all trees except those within lots of single family homes, removing fewer than “x” trees depending on local need.
- b. For all trees except those involving the development of less than “x” square feet as determined by local conditions. (Municipalities with larger woodland areas may have a larger threshold than municipalities with smaller woodlands areas).
- c. For all developments involving more than “x” acres, major subdivisions, or within “x” zone.

Additionally, tree protection ordinances shall establish the types, size and amount of trees that can be removed, filled, or replaced.

- **Submittal** - sets out the information and plans required of anyone proposing a project or development covered by the ordinance.

Requirement: The ordinance should establish what is required by the applicant for developments that are impacted by the provisions of the ordinance. For example, the ordinance may require that the applicant provide an assessment of the trees onsite, determine the amount to be removed, and then prepare a replacement plan to be submitted for review by the planning board or other authorized board.

- **Fees and Penalties** – will be specified either as a general condition of the municipality’s Land Use Regulations, or, if not, each ordinance should specify the fees required of applicants, as well as the penalties that may result from the violation of an ordinance.

Requirements: Indicate if there are fees and/or penalties related to the tree protection ordinance; however, general conditions that apply to all applications would suffice for this part of the ordinance. Please indicate where and how this portion of the ordinance is carried out by your municipality.

What to submit to earn points for this action

In order to earn points, your submission must meet the following standards:

1) Adoption of the Tree Protection Ordinance is required by the year in which you are applying for certification for Sustainable Jersey points for this action. The ordinance must meet the standards outlined under the Standards and Applicability heading of the “What to Do” section.

Submit the following documentation to verify that the action was completed to the above standards. (Log in to the password protected webpage where you submit your online application for certification to write in the text box and upload documents).

In the text box, please provide a short narrative (300 word max) to summarize what was accomplished and the general steps taken to accomplish it.

- Upload: Tree Protection Ordinance. Provide the link to the ordinance in the web-based codes, a certified copy of the resolution adopting the ordinance, or a copy of the adopted ordinance that is certified by your municipal clerk. Please include all referenced sections to the greatest extent possible.

- Upload: Description of the standards that relate to those listed in section II. of the “What to Do” section if you have not done so already in the text box.

Spotlight: What NJ municipalities are doing

Several municipalities are currently involved in the Plan Endorsement process and many have adopted these ordinances. As these plans and ordinances become available and are approved by the State agencies, they will be available online at the Office of Smart Growth’s website, <http://nj.gov/state/planning/smart.html>.

Resources

Association of New Jersey Environmental Commissions:

<http://www.anjec.org/Ordinances.htm>

<http://www.anjec.org/pdfs/Ord-TreeProtection.pdf>

Highlands Council Forest Resources Ordinance

<http://www.highlands.state.nj.us/njhighlands/planconformance/>

Jackson Township, NJ Tree Ordinance

To see Jackson Township’s Tree Ordinance, click [here](#).

Jackson Township Tree Ordinance Litigation

The NJ Supreme Court held that the Township of Jackson’s tree removal ordinance is a valid exercise of police power because the details of the ordinance, including the tree replacement fee, the escrow fund, and the planting of trees and shrubs on public property when replanting at the original location is not feasible, are rationally related to the broad environmental goals that inform the ordinance. Click [here](#) to view the pdf..

Laws for NJ Trees, NJ Shade Tree Federation

publication includes examples of NJ Tree ordinances as well as tree related laws and regulations. <http://www.njstf.org/>

NJDEP Office of Planning and Sustainable Communities:

<http://nj.gov/dep/opsc/envcbp.html#model>

Ten Towns Great Swamp:

<http://www.tentowns.org/10t/ordtreer.htm>

Tree Protection- Randolph Township (Morris County)

<http://www.anjec.org/html/Sustainability-TreeProtection.htm>

Woodlands Conservation Model Ordinance, Hunterdon County Planning Board Tool Box,

(click [here](#) for Model Ordinance)