



# Montgomery Tree Removal & Replacement Ordinance

April 4, 2024

# EXECUTIVE SUMMARY OF ORDINANCE PROVISIONS

- This ordinance mirrors the State model ordinance in most aspects. The State set minimum standards which towns can modify based on local goals and conditions.
- Smaller trees (less than 6" DBH – diameter at breast height) are not subject to the ordinance.
- However, regardless of size, all street trees or trees planted as part of a Planning Board or Zoning Board approval are subject to the ordinance.

## **EXEMPT TREES – Waiver Application Required; No Fee**

- Exemptions from replacement requirements are provided in the ordinance.
- To obtain official confirmation from the town, there will be a simple online form with no processing fee.
- Some examples of exempt trees include: dead/dying; impacting septic/sewer; invasive plant species; located within 50 feet of your home.

## **TREES SUBJECT TO REPLACEMENT ON YOUR PROPERTY**

- Trees larger than 6" DBH require replacement. To obtain approval, there will be an online application with a \$40 processing fee for up to 4 trees, and \$20 per additional tree thereafter.
- The number of replacement trees required to be planted increases as the size of the tree removed increases (e.g. a 6" DBH tree requires 2 trees to be planted).

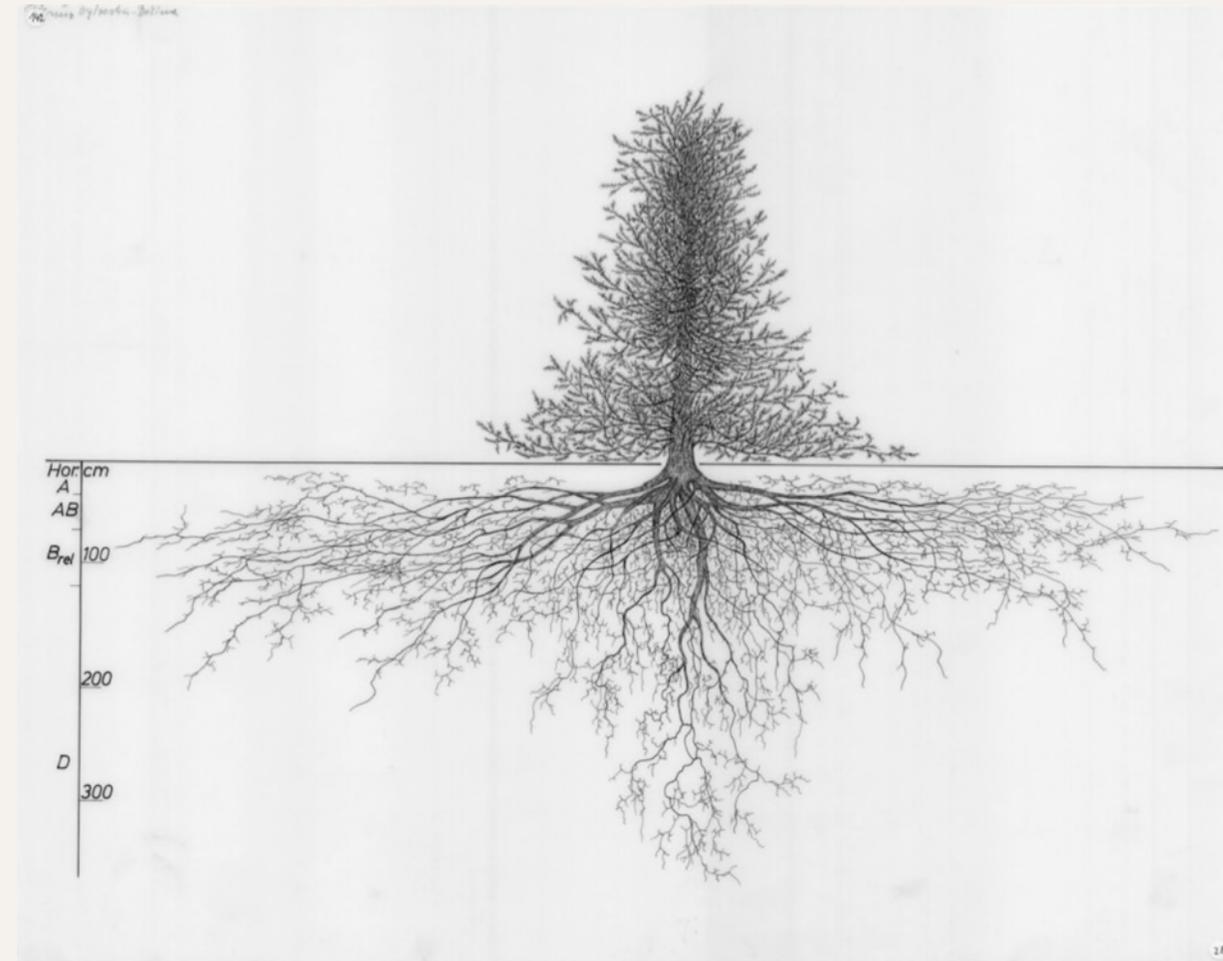
## **OPTIONAL PAYMENT IN LIEU OF PLANTING**

While the Township encourages and prefers for the replacement trees to be planted on your property, property owners have the choice of a “payment in lieu of planting” option. The cost per tree is \$500 based on 2024 nursery costs to purchase and install the tree. Township will use funds to plant trees in parks, open spaces and along streets.

# OUTLINE

- Why the ordinance is being updated
  - NJDEP stormwater regulations
- Background info on current forest canopy, role in stormwater management
- Proposed ordinance provisions
- Proposed timetable for adoption
- Q&A

**As of May 1, 2024, an application to the Township will be required prior to removal of any tree, per State requirements**



**MONTGOMERY**  
TOWNSHIP, NEW JERSEY

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# BACKGROUND INFO

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# NJDEP Stormwater Regulations

- USEPA adopted Clean Water Act (1972)
- NJ adopts Stormwater Management Act (1983)
- National Pollution Discharge Elimination System (NJPDES) establishes MS4 provisions (1990's)
- NJDEP creates the **MS4** permit (2004)

## Municipal **S**eparate **S**tormwater **S**ewer **S**ystem

- Regulates municipal discharge stormwater runoff into rivers & streams (surface water), and groundwater
  - Water from storm drains, ditches, pipes, detention basins
  - NOT from sewer treatment plants, industrial sites, pollutants
- Formerly, NJ towns were classified as
  - Tier A (larger population, more requirements), or
  - Tier B (smaller population, less requirements)
- Permit requirements: stormwater permitting & maintenance (building permit review, mowing), State basic requirements (education, ordinances, pollution prevention, outfall mapping, etc.), annual reporting

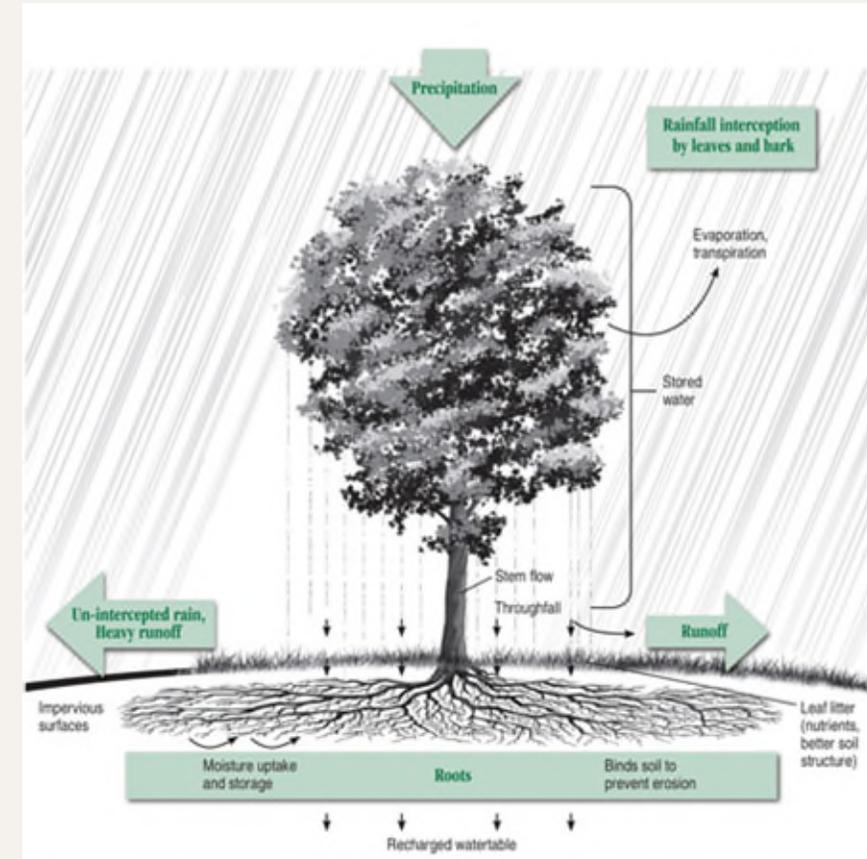


# NJDEP Stormwater Regulations, 2023 update

- NJDEP updated MS4 requirements in 2023
  - All NJ municipalities now classified as Tier A
- New requirements for each municipality to adopt:
  - Privately owned salt storage ordinance
  - **Tree removal / replacement ordinance**
  - Street sweeping requirements
  - System-wide mapping
  - Watershed Improvement Plan

New 2023 NJDEP regulations require municipalities to adopt & enforce a community-wide ordinance to control tree removal and replacement for all properties where the municipality has jurisdiction

- Montgomery tree ordinance last updated 2008



# Trees & their role in stormwater management

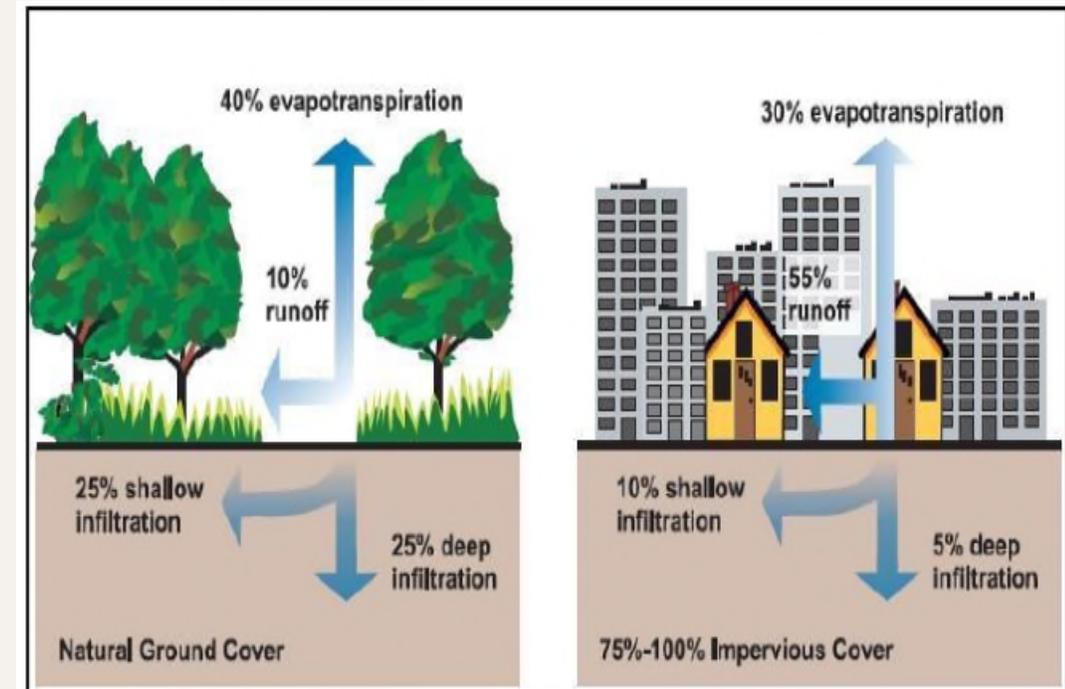
- Trees play a critical, often overlooked role in the water cycle and mitigation of stormwater runoff issues such as:
  - Soil erosion
  - Pollutant reduction
  - Infiltration
  - Flooding
- Mature trees can hold an estimated 4,000-10,000 gallons of water per year
- New required State ordinance is intended to ensure permittees are considering these undervalued assets in their stormwater management efforts
- State model ordinance sets minimum requirements that must be adopted by municipalities
  - Municipalities can modify to meet their specific community needs



*Rock Brook, south of Camp Meeting Avenue*

# Trees & Stormwater in Montgomery

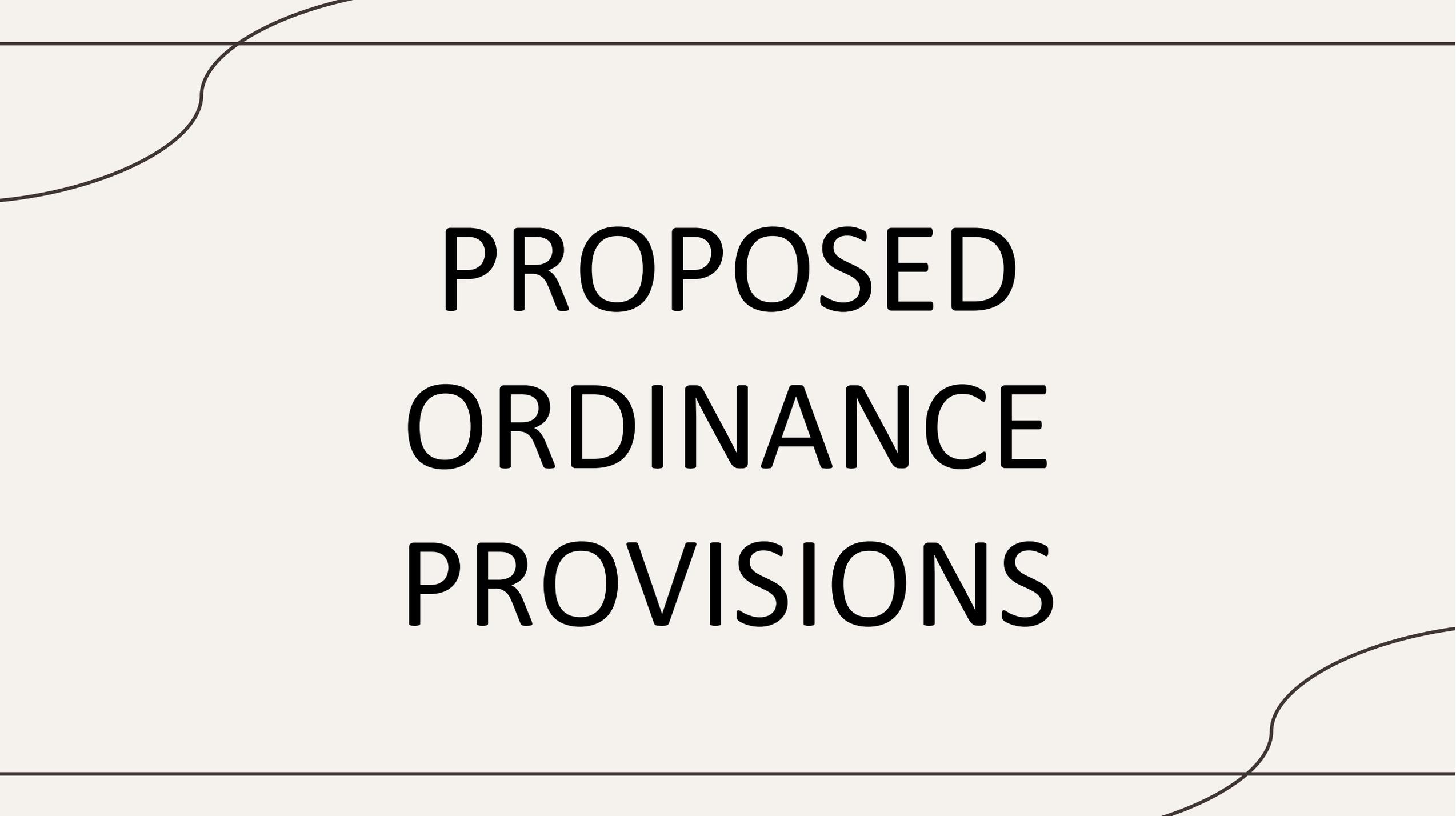
- According to data from NJDEP, Montgomery has lost **1,489 acres** of forested land since 1972 (~22.5% loss), leaving our community with ~5,140 acres of forest remaining
- A December 2020 study by The Watershed Institute found **8.13%** of the Township is covered with impervious surfaces (e.g. buildings, pavement)
  - A watershed is considered impaired when impervious coverage > 10%
  - 8.13% impervious coverage = 1,675.05 acres = 72,965,178 square feet
  - Total stormwater runoff from Montgomery = **2.1 billion gallons / year** (equiv. to approx. 3,500 Olympic-sized swimming pools)



# Threats to Trees / Forest

- Overpopulation of deer
  - no next generation of trees
- Invasive insects
  - Emerald Ash Borer
- Disease
  - Bacterial Leaf Scorch (oaks)
  - Beech Leaf Disease



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# PROPOSED ORDINANCE PROVISIONS

# PROPOSED ORDINANCE PROVISIONS - APPLICABILITY

## ALL PROPERTIES:

- Tree removal
  - Application for tree removal or waiver
  - Option 1: Tree Replacement
  - Option 2: contributions to Tree Replacement Fund

## MAJOR DEVELOPMENT / REDEVELOPMENT

(e.g. site plans, subdivisions, redevelopment, new homes on vacant lots)

- Tree removal
  - Application for tree removal or waiver
  - Option 1: Tree Replacement
  - Option 2: contributions to Tree Replacement Fund
- Shade trees
- Street trees
- Buffer screening
- Parking lot trees

# TREE REMOVAL / CLEARING

## Current Ordinance

- Critical Areas (16-6.4d): No tree removal permitted in critical areas (wetlands, stream corridor)
  - *No change*
- Clearing (14-3): prohibits removal of public trees, clearing of forested areas (defined as area >20,000SF)
  - *Section deleted*

*\*DBH or diameter at breast height: measurement of the diameter of a tree's trunk, as measured 4.5' from ground level*

## Proposed Ordinance

- Submit application prior to removal of ANY tree
- Replacement trees required for removal of:
  - Any tree greater than 6" DBH\* (diameter breast height)
  - Trees between 1.5" – 6" DBH required as a condition of Planning Board or Zoning approval (subdivisions, site plans, variances, etc.)
  - Any tree planted as required replacement in accordance with this new ordinance
- Replacement plantings required within one year
  - Quantity determined by size of tree removed (see next slide)
- Removal of street trees prohibited

# TREE REMOVAL / REPLACEMENT SCHEDULE

## *Option 1: plant replacement trees on your property*

Size of Tree to be Removed (DBH)	Required # of Replacement Trees (1.5" minimum caliper*)
DBH of 1.5" to less than 6" required as condition of Planning Board or Zoning Board approval, street tree, or required replacement trees under this section	1
Street Tree DBH more than 6"	2
DBH of 6" to less than 18"	2
DBH of 18" to less than 30"	3
DBH of 30" or greater, or Tree of Significance	4



A 6" diameter tree is similar in size to a dessert plate

*\*Caliper is a term used in the nursery industry to measure the size of young trees; measurement of diameter of trunk as measured 6" from the ground*

# TREE REMOVAL / REPLACEMENT SCHEDULE

## *Option 2: monetary contribution in lieu of replanting*



Size of Tree to be Removed (DBH)	Replacement fee per removed tree in lieu of planting (1.5" minimum caliper)
DBH of 1.5" to less than 6" required as condition of Planning Board or Zoning Board approval, street tree, or required replacement trees under this section	\$500
Street Tree DBH more than 6"	\$1,000
DBH of 6" to less than 18"	\$1,000
DBH of 18" to less than 30"	\$1,500
DBH of 30" or greater, or Tree of Significance	\$2,000

**March 2024 quotes for Township tree planting (cost of 2" caliper tree + planting):**

**Contractor A: \$583/tree**

**Contractor B: \$675/tree**

# TREE REMOVAL / REPLACEMENT SCHEDULE

## STATE MODEL

Tree Removed (DBH)	Tree Replacement Criteria (1.5" minimum caliper)
DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	1
DBH of 13" to 22.99"	2
DBH of 23" to 32.99"	3
DBH of 33" or greater	4

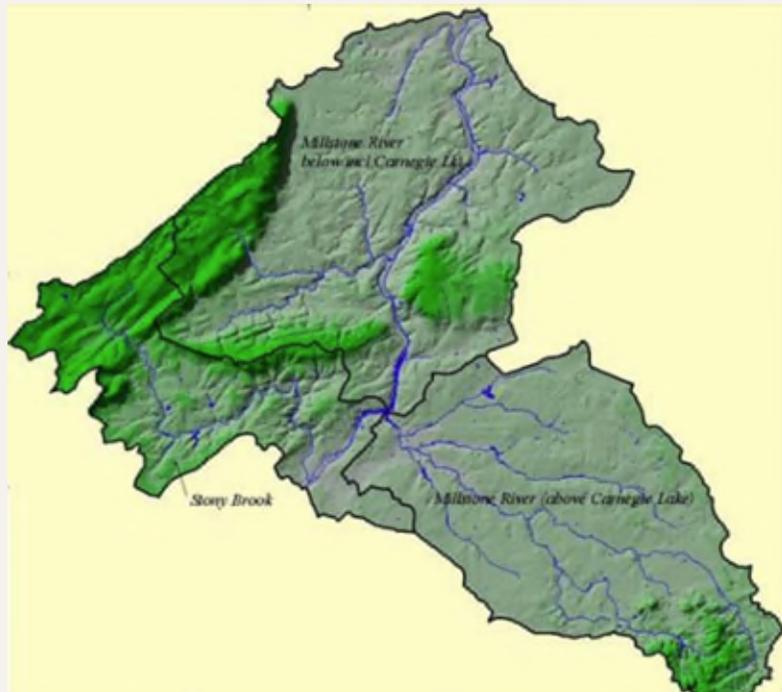
*State model does not require or specify minimum replacement fees*

## MONTGOMERY (*proposed*)

	OPTION #1	OPTION #2
DBH of Tree(s) to be Removed	Required # of Replacement Trees (1.5" minimum caliper)	Replacement Fee per Removed Tree in Lieu of Planting
DBH of 1.5" to less than 6" as required by a Board approval, street tree, or tree replacement under this section	1	\$500.00
Street Tree DBH more than 6"	2	\$1,000.00
DBH of 6" to less than 18"	2	\$1,000.00
DBH of 18" to less than 30"	3	\$1,500.00
DBH of 30" or greater, or Tree of Significance	4	\$2,000.00

# NEIGHBOR COMPARISON – REPLANTING REQUIREMENTS

## -replacement tree quantity



- GENERALLY EQUIVALENT:
  - East Windsor
  - Hillsborough
  - Hopewell Twp
  - Princeton
- MORE STRINGENT:
  - Bernards
  - Branchburg
  - East Amwell
  - Franklin Twp

# EXEMPTIONS FROM REPLANTING REQUIREMENTS



- Exemptions for:
  - Dead, diseased (e.g. EAB)
  - Trees within 50' of primary building
  - Invasive species
  - Trees posing public health/safety concern (e.g. leaning over a road)
  - Trees interfering with septic, growing in sewer easement
  - Nurseries
  - Farms with approved woodland management plan
  - Airport Hazard Area

# WAIVER APPLICATION FOR EXEMPTION

- Waiver application:
  - Contact details (name, address, phone #)
  - Description of category(-ies) of exemption(s) sought (e.g. dead/dying, sewer/septic, within 50' of structure)
  - Aerial map (e.g. Google map), survey, plan, or sketch
    - Locations & species to be removed
    - If applicable, locations of property lines, easements, sewer/septic, etc.
  - Photos (if applicable)
  - If applicable, copy of Woodland Management Plan (if not already on file with Twp. Tax Assessor's Office)

**NO FEE**  
for  
exemptions

**As of May 1, 2024, an  
application to the  
Township will be  
required prior to  
removal of any tree, per  
State requirements**



# TREE REMOVAL APPLICATION & FEES

- Application:
  - Contact details (name, address, phone #)
  - Submit aerial map (e.g. Google map), survey, plan, sketch showing locations, sizes, species
  - Narrative of purpose
  - Replacement plan with locations, caliper, species
- Application fees:
  - \$40 for removal of 1-4 trees  
\$20 per each additional tree
  - \$800 for tree removal resulting in land disturbance > ½ acre



The image features a white background with a thin horizontal line near the top and another near the bottom. In the top-left and bottom-right corners, there are decorative curved lines that sweep inward towards the center. The main text is centered and consists of three lines: 'MAJOR', 'DEVELOPMENT &', and 'REDEVELOPMENT', all in a bold, black, sans-serif font.

**MAJOR  
DEVELOPMENT &  
REDEVELOPMENT**

# PROPOSED ORDINANCE PROVISIONS - APPLICABILITY

## ALL PROPERTIES:

- Tree removal
  - Application for tree removal or waiver
  - Option 1: Tree Replacement
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## MAJOR DEVELOPMENT / REDEVELOPMENT

(e.g. site plans, subdivisions, redevelopment, new homes on vacant lots)

- Tree removal
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- Shade trees
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# MAJOR DEVELOPMENT/REDEVELOPMENT STREET TREES

## Current Requirements

- 50' maximum spacing



## Proposed Requirements

- 50' maximum spacing for trees with expected mature height of 40'+
- 40' maximum spacing for trees with expected mature height of 30'-40'
- 30' maximum spacing for trees with expected mature height <30'
- 8' offset from sidewalk; no more than 25' offset from road edge
- <8' from sidewalk requires root barrier

# MAJOR DEVELOPMENT/REDEVELOPMENT BUFFER SCREENING & PARKING

## Current Requirements

- Widths established by zoning district (16-4, 16-6)
- Required along all property lines of a nonresidential lot where it abuts residential uses or a residential zoning district
- Required to screen parking, loading areas
- 1 tree per 30 parking spaces

## Proposed Requirements

- Widths established by zoning district (16-4, 16-6)
- **Selected plants must provide buffer year-round**
- Required along all property lines of a nonresidential lot where it abuts residential uses or a residential zoning district
- Required to screen parking, loading areas
- **1 tree per 5 parking spaces**

# MAJOR DEVELOPMENT/REDEVELOPMENT

## SHADE TREES: when disturbance = $\frac{1}{2}$ acre or more

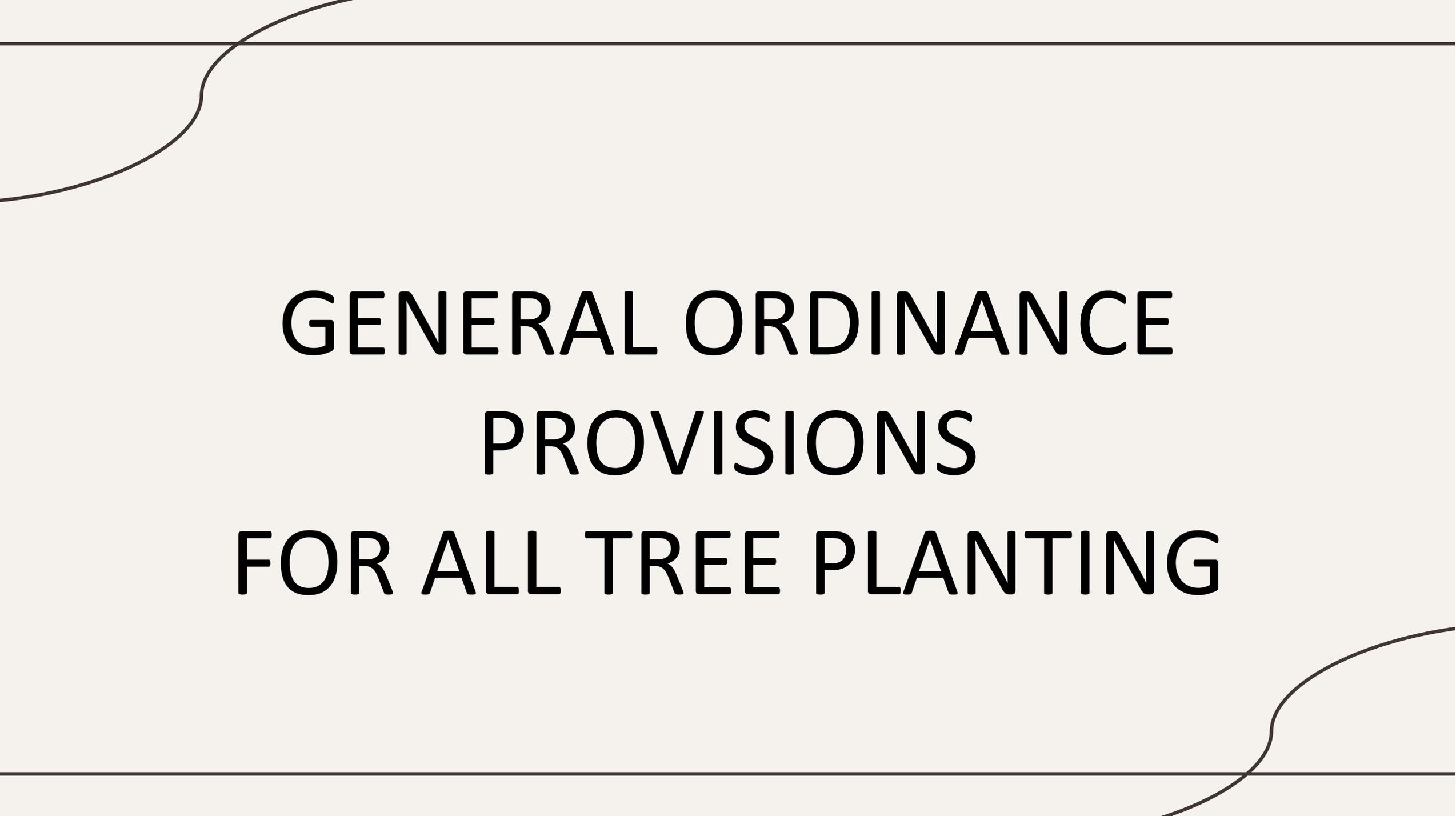
### Current Requirements

- 14 trees per acre
  - Waiver may be requested to calculate requirement based on disturbed area, rather than total lot area
- Street trees & buffering do NOT count toward shade tree requirement

### Proposed Requirements

- **20 trees per disturbed acre**
  - **Threshold: disturbance =  $\frac{1}{2}$  acre +**
- Street trees & buffering do NOT count toward shade tree requirement





**GENERAL ORDINANCE  
PROVISIONS  
FOR ALL TREE PLANTING**

# DESIGN STANDARDS

## Current Ordinance

- Natives required / invasives prohibited
- Tree & soil protection zone to be delineated at dripline with fencing to protect existing vegetation



## Proposed Ordinance

- Natives required / invasives prohibited
  - **Allowance for non-natives for buffering**
- Tree & soil protection zone to be delineated at dripline with fencing to protect existing vegetation
- **Deer protection required for all new plantings for at least 2 year maintenance guarantee period**

# TREE REPLACEMENT FUND (est. 2008)

## Current Provisions

- Depository for funds contributed in lieu of planting required 14 trees/ac



*Volunteers planting trees along Rock Brook; plant material and deer protection funded by Tree Replacement Fund*

## Proposed Provisions

- Depository for permit fees, replacement tree fees in lieu of planting, violations
- Permit fees will pay for admin. costs for permit review
- Replacement tree fees made in lieu of planting, and fines collected can be used for:
  - Installation of trees, shrubs, green infrastructure on public property, in public rights-of-way
  - Maintenance of trees, shrubs, green infrastructure on public property, in public rights-of-way
  - Max 30% to offset administrative costs (processing/review of permit applications, site inspections, consultants)

# VIOLATIONS & PENALTIES

## INTRODUCTORY PERIOD 5/1/2024 – 10/31/2024

- Replacement trees required
  - per chart
  - Planted within 3 months
- OR pay replacement fee in lieu of planting

## FIRST OFFENSE ON/AFTER 11/1/2024

- Replacement trees required
  - per chart + 25% (rounded up to nearest whole #)
  - Planted within 3 months
- OR pay replacement fee in lieu of planting + 25%

## SECOND & ADD'L. OFFENSE(S) ON/AFTER 11/1/2024

- Replacement trees required
  - per chart + 50% (rounded up to nearest whole #)
  - Planted within 3 months
- OR pay replacement fee in lieu of planting + 50%



**As of May 1, 2024,  
an application to  
the Township will  
be required prior to  
removal of any tree,  
per State  
requirements**

## NEXT STEPS



**As of May 1, 2024, an application to the Township will be required prior to removal of any tree, per State requirements**

- Proposed schedule of adoption:
  - Town Hall: 3/27/2024
  - TC Introduction: 4/4/2024
  - Planning Board: 4/8/2024
  - TC Public Hearing & Adoption: 4/18/2024
- Ordinance takes effect: 5/1/2024
- NJDEP-mandated deadline for adoption: 5/1/2024