



ORDINANCE 2021-8

Amending and Supplementing Chapter 118, Vegetation, Regarding the Determination of Fees to be Paid in Lieu of Planting Replacement Trees On-Site

WHEREAS, the Township of South Brunswick maintains Chapter 118, Vegetation, which includes Article IV, Trees; and

WHEREAS, Section 118-121, et seq., regulates the removal and cutting of trees within the Township; and

WHEREAS, Section 118-126 requires applicants for major subdivision or site plan approval to include in the application a tree replacement plan for trees removed as part of the development, which includes the ability to pay a fee in lieu of planting trees on site; and

WHEREAS, as part of a recent Builder's Remedy development application, the court-appointed Special Hearing Officer declined to enforce Section 118-126, finding that the ordinance contains arbitrary standards for determining the fees to be paid and as such is unenforceable; and

WHEREAS, it is in the best interests of the Township of South Brunswick to amend Section 118-126 in order to provide a definitive standard for the determination of fees in order to promote and protect the health, safety and welfare of the public;

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

- I. Chapter 118, Vegetation, of the South Brunswick Township Code is hereby amended as follows, with deletions in strikethrough and additions in underline:

Sec. 118-126. - Replacement plan.

(b)(3) In lieu of planting all of the replacement trees on site, the planning department may permit the applicant to contribute an amount equal to the current cost of each replacement tree not planted, as determined by the ~~planning department~~ most recent prices contained in the New Jersey Department of Transportation Bid Price Report, to a fund established by the township for tree preservation and tree plantings on any publicly owned property. The developer may apply this option to up to 40 percent of the required number of replacement trees; all requests to make contributions in lieu of planting replacement trees in excess of 40 percent of the required number of replacement trees must be approved by the planning department. Payment of the cash portion of the tree removal obligation is required prior to:

- a. The final plan or deed sign off by the board secretary; or,
- b. The issuance of a building permit; or,
- c. The disturbance of land;

Whichever of these conditions are earliest.

- II. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

- III. This ordinance shall become effective twenty (20) days after its final passage.

The above ordinance was introduced and passed on first reading at a meeting of the Township Council of the Township of South Brunswick held on February 23, 2021. It will be considered on second reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on March 23, 2021. If the meeting is held via video conference, an electronic link to the meeting will be made available to the public at www.sbtnj.net no later than noon on the day of the meeting. In either case, at the time of second reading and final passage any person having an interest therein will be given an opportunity to be heard.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Camarota, Deputy Mayor
SECONDER:	Josephine "Jo" Hochman, Councilwoman
AYES:	Joseph Camarota, Archana "Ann" Grover, Josephine "Jo" Hochman, Charlie Carley
ABSENT:	Ken Bierman

This is to certify that the foregoing is a true copy of a Ordinance Adopted at the South Brunswick Township Council meeting held on March 23, 2021.


Barbara Nyitrai, Township Clerk