

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 141-I

AN ORDINANCE AMENDING THE UPPER SAUCON TOWNSHIP ZONING ORDINANCE OF 2009, AS AMENDED, TO REVISE REGULATIONS RELATING TO NON-COMMERCIAL TREE CUTTING AND REMOVAL AND TO PROVIDE REGULATIONS RELATING TO THE EMERGENCY AND NON-EMERGENCY CUTTING AND REMOVAL OF TREES; RELATING TO THE CUTTING AND REMOVAL OF DEAD AND DISEASED TREES; LIMITING TREE CUTTING AND REMOVAL IN THE SMC ZONING DISTRICT; ELIMINATING ANY REQUIREMENT FOR INDIVIDUAL LOT GRADING PLANS IN CONNECTION WITH CERTAIN TREE CUTTING AND REMOVAL ACTIVITIES; MODIFYING CONSTRUCTION-RELATED TREE CUTTING AND REMOVAL REQUIREMENTS FOR LAND DEVELOPMENT AND CONSTRUCTION PERMITS; AND MODIFYING THE PENALTY PROVISIONS FOR UNAUTHORIZED TREE CUTTING TO MAKE SUCH ACTIVITY SUBJECT TO THE PENALTY PROVISIONS OF THE ORDINANCE AND WHERE FEASIBLE TO REQUIRE TREE REPLACEMENT SUBJECT TO SPECIFIC STANDARDS

SECTION 1: STATEMENT OF LEGISLATIVE FINDINGS

WHEREAS, on June 9, 2009, the Board of Supervisors of Upper Saucon Township (hereinafter, "Supervisors") enacted a comprehensive amendment to the Upper Saucon Township Zoning Ordinance; and

WHEREAS, the Supervisors have, from time to time, amended the Zoning Ordinance to, among other things, clarify and simplify terminology; and

WHEREAS, the Supervisors have determined that certain requirements of the Zoning Ordinance relating to non-commercial tree cutting and removal practices place unnecessary limitations and requirements on Township citizens; and

WHEREAS, the Supervisors find that the current, non-commercial tree cutting regulations, in some circumstances, create a potential for an overly restrictive impact on property owners and others who maintain property; and

WHEREAS, the Supervisors desire to modify certain provisions of the Zoning Ordinance to address these concerns in a manner consistent with these findings.

NOW, THEREFORE, the Board of Supervisors of Upper Saucon Township does hereby enact and ordain the following amendments to the Upper Saucon Township Zoning Ordinance of 2009, as amended.

SECTION 2: ZONING ORDINANCE TEXT AMENDMENTS

1. Section 516, titled "Tree Cutting," is deleted in its entirety and the following is substituted therefore:

"Section 516 Tree Cutting and Removal

516.A. TREE CUTTING AND REMOVAL, PURPOSE AND SCOPE.

Recognizing that the presence of trees in our surroundings is important and desirable from ecological, environmental and aesthetic standpoints; this Section imposes restrictions upon the non-commercial cutting down of mature trees upon private property, subject to other requirements of this Ordinance which address, among other things, the planting and maintenance of trees and other landscape materials and activities on, in or impacting wetlands, riparian buffers and other natural features and areas. This Section does not apply to commercial tree cutting and forestry uses addressed in other Sections of this Ordinance.

516.B. EMERGENCY TREE CUTTING AND REMOVAL.

1. A landowner may cut down any tree at any time provided that the condition and location of the tree creates an immediate threat of bodily injury or harm to the public health and safety or presents an imminent and substantial threat to property. Examples of authorized, emergency tree cutting include, but are not limited to, partially uprooted trees that threaten nearby structures, property, roads or sidewalks; damaged trees with split trunks due to lightning strike or wind loads; trees blocking emergency vehicle access during times of natural disaster, civil defense or rescue and partially damaged or fallen trees which threaten to cause an immediate rise in floodwaters. A zoning permit shall be obtained prior to conducting the tree cutting and removal activities authorized by this sub-section.

2. If the nature of the emergency does not allow for the prior acquisition of a zoning permit, the same shall be obtained within 72 hours after the cutting down of such tree(s). Under such circumstances, at the time of permit application, the landowner shall present documentation to the Township (which may include digital photographs or other information) evidencing the existence of an emergency as required by sub-section 1, above.

3. There shall be no fee for a zoning permit under this sub-section.

516.C. NON-EMERGENCY TREE CUTTING AND REMOVAL.

1. Except for lots that are subject to a forest regeneration plan under section 517.B.1.A of this Ordinance; lots located in the SMC Zoning District; wetlands; areas governed by the riparian buffer provisions of this Ordinance and other areas subject to federal and State regulation, a landowner shall cut down and remove trees from a lot only as follows:

- A. A landowner may at any time and for any reason cut down and remove without the need for a zoning permit any tree that is less than 6 inches in diameter at a point 4.5 feet above ground level.
- B. A landowner may at any time and for any reason cut down and remove without the need for a zoning permit up to 3 trees per lot, per calendar year.
- C. In addition to the tree cutting and removal authorized in sub-sections 516.B, 516.C.1.A and B and 516.D and subject to the prior receipt of a zoning permit; a landowner may cut down and remove 1 additional tree per calendar year for every 2 acres per lot, or fraction thereof, not to exceed a maximum of 7 additional trees per lot. For example in a single calendar year a landowner with a 2 acre lot may remove up to 4 trees upon receipt of a permit, and a landowner owning a lot comprised of more than 2, but less than 4, acres may remove up to 5 trees upon receipt of a permit.

516.D. CUTTING AND REMOVAL OF DEAD AND DISEASED TREES.

Upon receipt of a zoning permit, a landowner may cut down and remove any tree which is an invasive species; dead; afflicted with a contagious disease, blight or infection or damaged as a result of natural causes such that it is unlikely to recover. Unless the condition necessitating cutting and removal is obvious to the Zoning Officer issuing the permit, the permit application shall be supported by an ISA certified arborist as a prerequisite to the permit issuance.

516.E. TREE CUTTING AND REMOVAL IN THE SMC ZONE.

In addition to the tree cutting and removal authorized in sub-sections 516.B, 516.C.1.A and 516.D; a landowner may, without obtaining a zoning permit, cut down and remove one tree which is 6 inches or more in diameter measured at a point 4.5 feet above ground level per calendar year per lot located in the SMC Zoning District. No further tree cutting shall be permitted on any such lot.

516.F. STATE AND MUNICIPAL RIGHTS-OF-WAY.

A landowner shall not cut down or remove any tree(s) located within a State or municipal right-of-way without first obtaining a Zoning Permit.

516.G. TREE AND DEBRIS REMOVAL.

Provided that the landowner is in compliance with this Section, and restoration work is performed to reasonably return a disturbed area to its prior condition; the removal of any tree and related debris, including tree stumps and roots, shall not be considered an "area of disturbance" for the purpose of determining whether an individual lot grading plan is required.

516.H. CONSTRUCTION-RELATED TREE CUTTING AND REMOVAL.

1. This sub-section shall apply only to tree removal performed in the course of site preparation for land development or when a zoning permit is issued for the construction of a building or other structure or use. The application of this sub-section shall not preclude tree cutting authorized by sub-sections A through G, above.

2. When a land development plan is approved, and the applicant has successfully completed the pre-construction conference with the LCCD and the Township; trees may be removed as part of the site preparation for land development limited to the following areas:

- A. Ten feet (10') on either side of any street right-of-way;
- B. Utility rights-of-way;
- C. Stormwater conveyance facilities, areas and/or easements;
- D. Ten feet (10') surrounding any stormwater basin;
- E. Parklands devoted to active recreation use as approved by the Township; and
- F. Any other area or improvement as approved by the Township on the plan.

3. When a zoning permit is issued for a building, structure or use, trees may be removed as part of lot development limited to the following areas:

- A. The "area of disturbance" as defined herein;
- B. Any space to be occupied by clear sight triangles as required by this Ordinance and the SALDO;
- C. Any space to be occupied by, and all space within ten (10) feet of, all sides of any drive-ways, access drives, parking area, on-lot water system or on-lot sewage disposal system or structures constituting permitted accessory uses; and
- D. Any feature listed in Section 516.H.1.A. - F.

4. Tree removal under sub-sections 1 and 2 above shall require a zoning permit. Prior to issuance of the permit and tree removal, the zoning officer shall conduct an inspection of the site to determine compliance with these subsections. In order to facilitate the inspection, all trees to be removed shall be marked in a manner that enables a clear determination of compliance with this Ordinance. Only those trees which are six (6) inches or more in diameter measured at a point four and one-half (4.5) feet above ground level need be marked. Only after inspection and upon issuance of the zoning permit, shall the applicant proceed with tree cutting.

5. The stockpiling, storage or disposal of materials which would pollute the watercourse or be injurious to human, animal or plant life, if released; shall not be permitted within the drip line areas of trees which are not to be removed. Examples of such materials include but are not limited to timber harvesting slash; herbicides; pesticides; domestic or industrial waste; petroleum or other flammable materials; explosives and radioactive and poisonous substances. In addition and with respect to areas within the drip line, no grading, storage or movement of tree cutting or other machinery shall be permitted that would result in soil compaction.

516.I. VIOLATIONS AND TREE REPLACEMENT STANDARDS.

1. Any landowner or other person who removes or destroys trees in excess of those permitted by this Section shall be subject to penalties for violation of this Ordinance as set forth in Article 9. In addition to the penalties set forth in Article 9, and where feasible, a landowner or other person who violates the requirements of this Section shall be subject to the tree replacement requirements set forth herein.

2. Upon a determination by the Zoning Officer that replacement is feasible such replacement shall be performed in accordance with the following minimum standards:

- A. Replacement shall be done on a tree-for-tree basis as specified by the Zoning Officer;
- B. Replacement trees shall be deciduous, noninvasive, native species, nursery stock grown within a locale with similar climatic conditions as found within the Township, well branched, and free of disease;
- C. Replacement trees shall not be less than two (2) inches in diameter as measured four and one-half feet (4.5') above grade, shall be at least ten (10) feet tall after planting and trimming and shall have branching starting not less than six (6) feet from the top of the root ball and
- D. Replacement trees may be placed on the lot at any location selected by the landowner subject to Zoning Officer approval and provided that the location does not violate any other provision of this Ordinance or State law.

3. Replacement trees shall not count as credits to meet other planting requirements of this Ordinance relative to street tree plantings or landscape buffer, unless the original trees would have satisfied such requirements. Any replacement trees that are to be counted as required screening shall comply with the standards listed in Section 321.D. of this Ordinance.

4. Any tree that is replaced pursuant to this Section shall be properly maintained, and any such tree that dies shall be promptly replaced in accordance with the specifications of this subsection."

SECTION 3: PROTANTO REPEAL

Unless otherwise specifically stated in this Ordinance, all ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4: EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

SECTION 5: SAVINGS CLAUSE

To the extent that any word, portion or provision of the text hereof is found by any court of competent jurisdiction to be invalid or void on constitutional or other grounds, such word, phrase, portion or provision shall, if possible, be deemed to be repealed and those remaining valid portions of the text shall remain in full force and effect if same can be accomplished without the structure of the Ordinance having been destroyed by the elimination of that word, phrase, portion or provision found to be invalid or void.

DULY ENACTED AND ORDAINED this 13th day of October, 2014, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

**TOWNSHIP OF UPPER SAUCON
BOARD OF SUPERVISORS**

CHAIRMAN



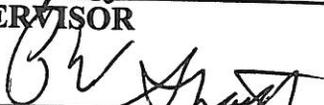
VICE CHAIRMAN



SUPERVISOR



SUPERVISOR



SUPERVISOR

ATTEST:



SECRETARY