

**ORDINANCE 42-2018**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 45 OF THE MADISON BOROUGH CODE ENTITLED "SHADE TREE MANAGEMENT BOARD" TO CLARIFY AND PROVIDE NECESSARY AMENDMENTS TO PROTECT BOROUGH TREES ON CONSTRUCTION SITES**

**WHEREAS**, the Borough Administrator has recommended that the Borough amend Chapter 45, Section 8H of the Madison Borough Code entitled "Permission for Certain Actions" to clarify, update and amend same to protect Borough trees on active construction sites; and

**WHEREAS**, the Shade Tree Management Board (STMB) and Zoning Officer have recommended to the Mayor and Council that such further amendments be considered as now proposed herein.

**NOW THEREFORE, BE IT ORDAINED**, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey as follows:

SECTION 1: Chapter 45-8H of the Borough Code currently entitled "Permission for Certain Actions" is hereby supplemented as follows:

**§ 45-8H Permission for Certain Actions**

- H. No person shall operate, place or maintain, within the drip line of any Borough tree, any machinery, equipment, heavy object, stone, rocks, cement, earth, soil or other substance which may harmfully affect such Borough trees by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such tree or excavate around to remove earth or soil from or cause any water to flow upon the roots of any tree. The Borough Engineer may waive, in whole or in part, such provisions, but only to the extent absolutely necessary to alleviate undue hardship in the appropriate use and enjoyment of property.

New Section: "The Shade Tree Management Board" shall have the primary jurisdiction and responsibility to identify any violations hereunder and to refer those locations in writing to the Borough Zoning Officer for enforcement action pursuant to Section 45-15 (Violations and Penalties).

SECTION 2: This Ordinance shall take effect as provided by law.

ADOPTED AND APPROVED

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ROBERT H. CONLEY, Mayor

Attest:

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ELIZABETH OSBORNE, Borough Clerk