

**AN ORDINANCE REPEALING AND REPLACING GENERAL LEGISLATION,
CHAPTER 93 ENTITLED “TREE PRESERVATION” OF THE CODE OF THE
TOWNSHIP OF PLAINSBORO**

WHEREAS, the Township adopted an ordinance in October 2016 (formerly Chapter 36) instituting a process for landowners who wish to remove trees from their property by obtaining a Tree Removal Permit; and

WHEREAS, the Township is now being required by the New Jersey Department of Environmental Protection (the “NJDEP”) to adopt an ordinance that regulates the removal and replacement of trees on private property in accordance with a draft model ordinance prepared by the NJDEP entitled “Tree Removal-Replacement Ordinance;” and

WHEREAS, the intent of this ordinance is to repeal and replace the existing Tree Preservation Ordinance (Chapter 93) adopted by the Township on October 13, 2016 (Ord. 16-16), in order to comply with this requirement of the NJDEP.

NOW THEREFORE BE IT ORDAINED by the Township Committee of Plainsboro Township, County of Middlesex, State of New Jersey, as follows:

SECTION I

Chapter 93: Tree Preservation

§93.1 Purpose

To establish requirements for tree removal and replacement in the Township to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into soil, and protect the environment, public health, safety, and welfare.

§93.2 Definitions

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" means the requirement is always mandatory.

- A. Applicant -- means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.
- B. Certified Arborist – an individual who earned and currently maintains the Certification of Arborist for the International Society of Arboriculture.
- C. Critical Root Radius (CRR) – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6” DBH would have a CRR = 6”x1.5’ = 9’.
- D. Deciduous – trees that drop their leaves for part of the year.
- E. Diseased Tree – a tree that is irretrievably diseased or infested with insects that cannot

be treated at a reasonable cost.

F. Diameter at Breast Height (DBH) -- means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree.

G. Evergreen – trees that maintain their leaves throughout the year.

H. Hazard Tree -- means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

1. Has an infectious disease or insect infestation;
2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or LTE.

I. New Jersey Certified Tree Expert – an individual who earned and currently maintains the certification Certified Tree Expert (CTE) from the New Jersey Society of Tree Experts.

J. Person -- means any individual, resident, corporation, utility, company, partnership, firm, or association.

K. Planting strip -- means the part of a street right-of-way between the public right-of-way adjacent to the portion of the street reserved for vehicular traffic the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

L. Private Tree – any tree located on lands not owned by the Township of Plainsboro or any other governmental entity.

M. Resident -- means an individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

N. Street Tree -- means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

O. Tree -- means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

P. Tree Caliper -- means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

Q. Tree Destruction – means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, girdling, application of substances that are toxic to the tree, over-

mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

R. Tree Removal -- *Tree Removal*: the process of removing a tree, which includes the complete removal of the trunk, hauling away and properly disposing of all logs, branches and leaves associated with the removed tree and grinding of the stump six one-half (6 ½) inches below grade.

§93.3 Tree Removal Exceptions.

A. The following types of tree removal are exempt from the permit process however; the township should be consulted to verify the exemption:

1. Removal of limbs that poses a threat or risk to the general health.
2. Pruning and trimming to enhance the growth of a tree in conformance with industry standards.
3. Approved forestry activities covered under the guidance of a New Jersey approved Consulting Forester and adhering to State Approved Woodland Management or Forest Stewardship Plan.

§93.4 Regulated Activities.

Tree Removal and Replacement Application:

A. Any person planning to remove a street tree that is not located on the municipal right-of-way, with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property, or a Significant Tree, shall submit a Tree Removal Application to the Township Planner and Zoning Officer. No tree shall be removed until the Township has reviewed and approved the removal.

B. Any person desiring to remove a tree shall be prepared to complete the checklist below. The Township will either approve the tree(s) for removal, or indicate the tree should be preserved and list the reasons why. Only trees that fall into the category of "Hazard Tree" as defined herein may be removed without replacement.

1. Pay permit fee of \$15.00 (multiple trees must be shown on the survey).
2. Name and address of applicant.
3. Property address, block/lot, survey marked on Tax Map to show significant tree(s) location.
4. Reason for tree to be removed is because it is dead or dying.
5. Reason for tree to be removed is because it is diseased.
6. Reason for tree to be removed is because it is causing a hazard to the house, outbuilding, sidewalk, or driveway.
7. Reason tree to be removed is so other beneficial trees can flourish or be planted.

C. Tree Replacement Requirements

1. Any person who removes one or more street tree(s), not located within the municipal right-of-way, with a DBH of 2.5" or more, or a Significant Tree, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person, other than a resident, who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.
3. The species type and diversity of replacement trees shall be in accordance with the attached **Exhibit A: Replacement Tree List**.
4. Any person who intends to destroy areas of mature woodland by new construction shall follow the requirements as laid out in § 85-30.1.
5. Replacement tree(s) shall:
 - a. Be replaced in kind with a tree that has an equal or greater DBH than the tree removed or meet the Tree Replacement Criteria in the table below;
 - b. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
 - c. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
 - d. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

D. Replacement Alternatives:

1. If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
 - a. Plant replacement trees in a separate area(s) approved by the Township.
 - b. Pay a fee of \$500.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§93.5 Exceptions.

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the Township by all persons claiming an exemption. Such justification may include, but not be limited to photos or statements from NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist:

- A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period.
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;
- D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement.

§93.6 Appeals.

All applicants are hereby granted the right to appeal a denial to the Township Administrator within ten (10) business days of the Township's designated officials report. The Township Administrator shall have thirty (30) days to hear the matter after the filing of the appeal. The Township Administrator may affirm, reverse or modify the original decision and thus constitute the final administrative determination of the application.

§93.7 Violations and Penalties.

- A. Any person found guilty of violating any provision of this chapter shall be subject to the general provision of the Township Code.
- B. Each violation is considered a separate offense.

C. Any person found guilty of removing a tree(s) or implementing actions that cause substantial harm will be fined \$500.00 or three times the cost of a replacement tree of the same species at 2.5 inches DBH, whichever is greater.

SECTION II

In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged to be invalid, and the remaining portions of the Ordinance shall be deemed severable therefrom and shall not be affected.

SECTION III

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Introduced at a Meeting of the Township Committee of the Township of Plainsboro on October 11, 2023, and published on October 16, 2023. Adopted at a Meeting held on November 8, 2023 and published on November 9, 2023.