

ORD-1744-24

**AN ORDINANCE AMENDING CHAPTER 181 (DEVELOPMENT REVIEW ORDINANCE) OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF HAZLET TO AMEND CERTAIN PROVISIONS REGARDING TREE REMOVAL AND TREE CUTTING.**

BE IT ORDAINED by the Township Committee of the Township of Hazlet, County of Monmouth, and State of New Jersey that Chapter 181 (Development Review Ordinance) of the General Ordinances of the Township of Hazlet is hereby amended or supplemented as follows:

PURPOSE

The purpose of this ordinance is to amend or add certain definitions, general provisions, design standards and general zoning provisions to incorporate changes to clarify the requirement for Tree removal and Tree Cutting as recommended by the New Jersey State Environmental Protection Agency.

*Chapter 181 (Development Review Ordinance) of the General Ordinances of the Township of Hazlet is hereby amended or supplemented in its entirety as follows (new text is double underlined, text to be deleted is struck through and notations to the reader and changes in subparagraph designations either with or without changes to content are italicized):*

**Chapter 181 (Development Review Ordinance), Section 523 shall be amended as follows:**

§ 181-523. TREE REMOVAL AND TREE CUTTING.

- A. Purpose. Indiscriminate, uncontrolled, and excessive destruction, as well as the removal and cutting of trees on lots and tracts of land within the Township, may cause:
- Increased drainage control cost;
  - Increased soil erosion and sedimentation;
  - Decreased fertility of the soil;
  - Degradation of water resources;
  - Decreased groundwater-recharge;
  - Increased buildup of atmospheric carbon;
  - The establishment of a heat island effect;
  - Increased dust and pollution;

The singular or cumulative effect of any of the foregoing could adversely impact the character of the Township, decrease property values, render the land unfit and unsuitable for its most appropriate use and negatively affect the health, safety and general welfare of the inhabitants of the Township. The Township desires to regulate and control indiscriminate and excessive cutting

of trees within the Township. The Township strives to preserve the maximum possible number of trees in the course of development of a site as well as protect larger, older specimens of trees. Additionally, the Township seeks to encourage innovative design and grading, promote the preservation of existing trees and provide a plan for the replacement of trees. It is recognized that there is a strong relationship between the integrity of the Township's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of land resources. Therefore, the Township finds that the appropriate management of these resources is an important health, safety and general welfare concern.

- B. Establishment of Conservation Officer. There shall be appointed and designated, an official whose formal title shall be that of Conservation Officer of the Township of Hazlet. This official shall be charged with the inspection of sites upon which there is an application for site plan approval or for subdivision approval in regard to the provisions of this section, and with inspection and enforcement of the tree removal and protection requirements of this Ordinance.
- C. Cutting or Removal Restricted. Subject to the exemptions set forth, no person shall cut or remove, or cause to be cut or removed, any tree with a diameter at point of measurement (DPM) of ~~four inches~~ two and one half inches for street trees and four inches for non-street trees or greater upon any lands within the Township, unless the cutting or removal is accomplished in accordance with the provisions of the ordinance.
- D. Tree Removal; Permit Required. No person shall remove or destroy or cause to be or allow to be removed or destroyed any tree without first obtaining a tree removal permit. Tree removal permits shall be issued by the Conservation Officer. A permit is required for the removal of all trees of four-inch caliper or larger.

Existing single family residential property shall be exempt from the requirements of this Ordinance, provided that said homeowner is ~~clearing one acre or less of area~~ removing a street tree with a DBH of less than two- and one-half inches and any non-street tree with a DBH of less than four inches.

- E. Permit Application. Applications for a permit shall be made to the Zoning Officer and shall contain the following information:

The name and address of the applicant.

The name and address of the owner of the property from which the tree(s) are to be removed.

Location on the property of the tree(s) to be removed, indicated on a plan as follows:

The plan shall indicate all tree(s) to be removed, specifically by an assigned number, and the caliper of each tree.

The plan shall indicate all tree(s) to be removed, specifically by an assigned number, and the caliper of each tree.

The plan shall indicate all tree(s) to remain, specifically by an assigned number.

The plan shall indicate a limit of disturbance line (i.e., where the four-foot high standard wood snow fence will be erected if required by the Conservation Officer).

For any clearing greater than three acres, a representative 5% of the wooded areas proposed to be cleared shall be inventoried. The representative 5% shall be determined by agreement between the Conservation Officer and the applicant. Where less than three acres is proposed to be cleared, all trees to be removed shall be inventoried.

All trees greater than 20 inches in caliper or any specimen trees (i.e. any unique or remarkable tree or species) to be removed shall be indicated on the plan. All reasonable efforts shall be made to preserve such trees, including but not limited to, if feasible, relocation of infrastructure, roadways, and buildings. Removal of such trees shall require the specific written approval of the Conservation Officer.

Any other information that may reasonably be required to enable the application to be properly evaluated.

- F. Inspection Required. The Conservation Officer or designee shall inspect the trees that are the subject of the application, the drainage incidental thereto, other physical conditions existing on the property, and the impact upon adjacent properties.
- G. Zoning Permit Requirements. Where an application is made in connection with the construction of a building or other land use improvement, no zoning permit shall be issued until the tree removal permit has been granted, or an exemption granted.
- H. Replacement Tree Requirements.
  - 1. Existing Residential Property. If the application is on behalf of an existing homeowner's association and it is disclosed that the total number of trees to be removed or destroyed on the property or open space area in question, which are the subject of the application, is 10 or less, the permit shall be issued without replacement trees required. ~~Within a one-year period, permits may be used for removal of no more than 10 trees on the same property without replacement trees being required~~ subject to the Tree Replacement requirement Table below. Any tree removal occurring where a homeowners association exists must obtain formal approval by the ruling body-of the association prior to obtaining a tree removal permit.
  - 2. New Residential Development. If the application is for a new residential development (subdivisions or site plans), up to 50% of the trees may be removed for the sole purpose of clearing for the building envelope, driveways and yard space for said building lots only without replacement trees required.

For new residential development where tree removal is to occur within public or private roadways or right-of-ways, drainage facilities, parking areas or proposed open space, all trees are subject to replacement in accordance with this Ordinance.

- I. Agricultural Operations. Agricultural operations are exempt from replacement requirements providing the property in question is farmed for a minimum of five years after the date of clearing. An application must be submitted prior to clearing. If the property is developed for any other use before the five years expire, the replacement obligation shall be enforced according to the new use of the property.
- J. Nonresidential Development. All commercial and industrial developments are required to replace all trees removed in accordance with this Ordinance.
- K. Sparse Land/Major Subdivisions and Site Plans. In regard to major subdivisions and site plans, lots with tree cover less than 30% shall be required to plant a minimum of 1.5 trees per 10,000 square feet or less of open field. The owner/applicant shall have a qualified professional calculate the total required trees to be distributed in accordance with a landscape plan of the entire project, which shall be approved by the Conservation Officer.
- L. Tree Escrow Fund Established. Tree Escrow Fund shall be established by the Township to promote environmental enhancement programs such as tree planting, tree preservation, park development, landscaping and/or other related projects on or within municipally owned properties or facilities. A separate trust account shall be established for this purpose under the supervision of the Township Treasurer. Appropriations from the Tree Escrow Fund shall be authorized by the Mayor and Committee and shall be used for a municipal purpose pursuant to the recommendations of the Zoning Officer, the-Conservation Officer, the Township Planner and/or the Shade Tree Commission.
- M. Replacement Tree Value Calculations.
  1. The replacement value of all trees to be removed where replacement trees are required by this Ordinance shall be calculated as follows:

Replacement Tree Calculations			
	Replacement Trees		
Trees to be removed: Caliper	Number	Caliper	Dollar Amount
Greater than 6 inches & up to 12 inches	1	2-2-1/2 inches	\$240
Greater than 12 inches & up to 18 inches	2	2-2-1/2 inches	\$440
Greater than 18 inches & up to 24 inches	2	3 inches	\$840
Greater than 24 inches	4	4 inches	\$1,860

2. Dead and diseased trees are not counted as trees to be replaced.
3. The applicant will receive a one for one replacement tree credit should stands of 10 or more trees greater than four inches in caliper be preserved within tree removal areas.

4. All replacement trees shall be planted onsite unless one or more of the following conditions exist: a. The site in question cannot physically accommodate the total replacement amount of trees. The applicant shall contribute an amount equal to the calculated monetary value of the removed trees to the Township Tree Escrow Funds, as required herein; b. The Conservation Officer and applicant agree in writing that the applicant shall make payment to the Township Tree Escrow Fund based upon the above chart.
5. Trees replaced according to the foregoing calculations shall not be construed to satisfy other street tree and landscaping quantity requirements contained elsewhere in this Ordinance.

N. Exemptions.

- A. Residents who remove less than four (4) trees per acre that fall into the category C or D above and H of the Tree Replacement Requirements, 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 forest stewardship or woodland management plan that is active and on file with the township.
  - 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. Ant tree removed pursuant to a New Jersey Department of Environmental Protection (NJDEP), or Environmental Protection Agency (EPA) approved environmental cleanup, 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.
- O. Fees. Upon application for a tree removal permit, the applicant shall be charged the following fees:
1. For new resident building lots: \$15 per tree, up to a maximum of \$300 per lot.
  2. For all other properties: \$15 per tree up to a maximum of \$600 for each acre.
- P. Time Limit. All tree removal permits shall be limited to one year from date of issuance. If the approved tree removal has not occurred within one year, a new permit must be applied for and is subject to the payment of new fees.
- Q. Criteria for Tree Removal. The Conservation Officer may approve the removal of a tree if any of the following criteria apply:
1. The tree is located in a parcel for which preliminary or final subdivision approval has been obtained, and it unreasonably restricts the economic enjoyment of the property and cannot be relocated on the site because of its age, type or size.

2. The tree is dead, diseased, injured, in danger of falling, interferes with existing utility service, created an unsafe condition, or conflicts with any other ordinances or regulations.

R. Enforcement. The requirements of this Ordinance shall be enforced by the Conservation Officer, who shall inspect or require adequate inspection of all sites upon which there is an application for site plan or subdivision, all applicable tree removal or destruction and soil removal incidental thereto, and for compliance with other pertinent conditions of approval from the Planning Board/Zoning Board. Upon ascertaining a violation of this Ordinance, the Conservation officer shall refer charges in the Municipal Court. In addition to other remedies, the Director of Code Enforcement and Construction, Zoning Officer or other proper municipal official may institute any appropriate legal action to prevent a continuing violation of the terms of this Ordinance.

**BE IT FURTHER ORDAINED**, that if any provisions, paragraph, section or subsection of this be found unconstitutional or invalid by a court of competent jurisdiction, the remain provisions of this chapter shall remain in full force and effect and shall have continuing validity; and,

**BE IT FURTHER ORDAINED**, that all sections of the ordinance remain in full force and effect: and,

**BE IT FURTHER ORDAINED**, that this ordinance shall take effect immediately upon final adoption in accordance with law.

#### PUBLIC NOTICE

PUBLIC NOTICE IS HEREBY GIVEN that at a meeting of the Township Committee of Hazlet Township held on the 23<sup>rd</sup> day of April, 2024, the above-entitled ordinance was adopted on final passage and becomes effective with the publication of this notice.

ATTEST:        Mary L. Lynch  
                         Municipal Clerk