

**CITY OF LONG BRANCH
COUNTY OF MONMOUTH**

ORDINANCE NO. O-16-24

AN ORDINANCE AMENDING CHAPTER 319, "TREES," OF THE CODE OF THE CITY OF LONG BRANCH BY CREATING ARTICLE II, "TREE REMOVAL-REPLACEMENT" AND AMENDING CHAPTER 345, "ZONING," ARTICLE V, "SPECIAL REGULATIONS," SECTION §345-47.3, "TREE PRESERVATION."

WHEREAS, trees play a critical role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects; and

WHEREAS, the City of Long Branch (hereinafter referred to as the "City") wishes to ensure that permittees are considering these assets in their stormwater management efforts by amending City Code Chapter 319, "Trees" by creating Article II, "Tree Removal-Replacement."

WHEREAS, the City also wishes to amend City Code Chapter 345, "Zoning," Article V, "Special Regulations," Section §345-47.3, "Tree Preservation" to update the tree replacement requirements.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Long Branch that Chapter 319, "Trees" of the City Code is hereby amended to read as follows:

Deletions are noted by ~~strikethroughs~~.

Additions are indicated in **bold underline**.

Language that remains unchanged is not highlighted in anyway.

SECTION I

Chapter 319 Trees

The following shall be inserted after §319-9 "Violations and Penalties"

ARTICLE II TREE REMOVAL -REPLACEMENT

§319-10 Purpose

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

§319-11 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 Chapter 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” is always mandatory and not merely directory.

Applicant

Any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

Critical Root Radius (CRR)

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’.

Diameter at Breast Height (DBH)

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. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

Hazard Tree

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 Licensed Tree Expert (LTE).

Person

Any individual, resident, corporation, utility, company, partnership, firm, or association.

Planting strip

The part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

Resident

An individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

Street Tree

A tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) 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.

Tree

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.

Tree Caliper

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.

Tree removal

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, 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.

§319-12 Regulated Activities

A. Removal of Trees: Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to the Council of the City of Long Branch or its designee. No tree shall be removed until municipal officials have reviewed and approved the removal.

B. Tree Replacement Requirements:

1. Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.

2. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under Section IV, "Exemptions" 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 Appendix A.
4. Replacement tree(s) shall:
 - a. Be replaced in kind with a tree that has an equal or greater DBH than 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 City.
 - 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.

C. Tree Replacement Requirements Table:

<u>Category</u>	<u>Tree Removed (DBH)</u>	<u>Tree Replacement Criteria (See Appendix A)</u>	<u>Application Fee</u>
<u>1</u>	<u>DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"</u>	<u>Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed</u>	<u>\$25.00</u>
<u>2</u>	<u>DBH of 13" to 22.99"</u>	<u>Replant 2 trees with minimum tree calipers of 1.5" for each tree removed</u>	<u>\$25.00</u>
<u>3</u>	<u>DBH of 23" to 32.99"</u>	<u>Replant 3 trees with minimum tree calipers of 1.5" for each tree removed</u>	<u>\$25.00</u>
<u>4</u>	<u>DBH of 33" or greater</u>	<u>Replant 4 trees with minimum tree calipers of 1.5" for each tree removed</u>	<u>\$25.00</u>

D. Replacement Alternatives:

1. If the City 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 City.
 - b. Pay a fee of \$100.00 per tree to be removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§319-13 Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases as detailed below.

- 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(5) year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]
- 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.

§319-14 Enforcement

This ordinance shall be enforced by the Police Department of the City of Long Branch during the course of ordinary enforcement duties.

§319-15 Violations and Penalties

Any person who is found to be in violation of the provisions of this Ordinance shall be subject to a minimum fine of \$100 up to \$1,000 per tree. In addition to these penalties, each person who removes a tree or otherwise destroy a tree in violation of this Ordinance shall be required to replace the tree(s) with another of like or superior species as defined herein at their own expense.

SECTION II

[No Changes to Paragraphs A, B, C, and D]

E. Tree removal applications and tree preservation plan.

[No changes to subparagraphs (1) through (5)]

~~Replacement tree quantities~~ **Tree Replacement Requirements Table:**

Existing Tree to Be Removed, DBH (inches)	Number of Trees to Be Replaced with Trees of Minimum Size 2.5-Inch Caliper
8 to 15	2
15.01 to 20	3
20.01 to 25	4
25.01 to 30	5
30.01 to 35	6
35.01+	7

<u>Category</u>	<u>Tree Removed (DBH)</u>	<u>Tree Replacement Criteria (See Appendix A)</u>	<u>Application Fee</u>
<u>1</u>	<u>DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"</u>	<u>Replant 1 tree with a minimum tree caliper of 2.5" for each tree removed</u>	<u>\$25.00</u>
<u>2</u>	<u>DBH of 13" to 22.99"</u>	<u>Replant 2 trees with minimum tree calipers of 2.5" for each tree removed</u>	<u>\$25.00</u>
<u>3</u>	<u>DBH of 23" to 32.99"</u>	<u>Replant 3 trees with minimum tree calipers of 2.5" for each tree removed</u>	<u>\$25.00</u>
<u>4</u>	<u>DBH of 33" or greater</u>	<u>Replant 4 trees with minimum tree calipers of 2.5" for each tree removed</u>	<u>\$25.00</u>

[No Changes to Paragraphs F, G, and H]

SECTION III

If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudications shall apply to the section, paragraph, subsection, clause, or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid in effect.

SECTION IV

Any ordinance or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION V

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

Introduced: June 26, 2024

Adopted: July 10, 2024

MOVED: Voogt
SECONDED: Widdis

AYES: 3
NAYS: 0
ABSENT: 2 (Celli & Dangler)
ABSTAIN: 0

Date: 7/11/2024

Amanda Caldwell
Amanda Caldwell

Date: 7/11/2024

John Pallone
John Pallone