

**ORDINANCE 2024-15**

**AN ORDINANCE OF THE TOWNSHIP OF MULLICA, COUNTY OF ATLANTIC,  
STATE OF NEW JERSEY, ESTABLISHING REQUIREMENTS FOR  
TREE REMOVAL AND REPLACEMENT**

**WHEREAS**, the New Jersey Department of Environmental Protection 2023 Tier A MS4 Permit Renewal requires municipal permittees to adopt and enforce a municipal wide Tree Removal and Replacement Ordinance where the municipality has jurisdiction; and

**WHEREAS**, the Township of Mullica is approximately fifty-six and one half (56 ½) square miles and located entirely within the New Jersey Pinelands, subject to the Rules and Regulations of the New Jersey Pinelands Comprehensive Management Plan and includes land areas under State conservation ownership and preservation which limits where development may occur, and already prohibits substantial clear-cutting of trees; and

**WHEREAS**, Mullica Township is a small residential municipality which is rural in character with a natural environment with areas being heavily wooded; and

**WHEREAS**, while tree removal may be an issue where a tree canopy is limited or a municipality is not already burdened with these land restrictions, nevertheless, the Township is required to adopt a Tree Removal and Replacement Ordinance to comply with State mandates.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Township Committee of the Township of Mullica, County of Atlantic, State of New Jersey, as follows:

**SECTION 1. Purpose:**

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

**SECTION 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 use of the word "shall" means the requirement is always mandatory and not merely directory.

- A. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.
- B. "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. For species of trees where the main trunk divides below the 4 ½ foot height, above ground level from the downhill side of the tree.

- C. “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 welfare or by inspection by a certified arborist or Licensed Tree Expert (LTE) determining the tree(s) should be removed.
- D. “Person” means any individual, resident, corporation, utility, company, partnership, firm, or association.
- E. “Planting strip” means 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.
- F. “Homeowner” means an individual who resides on the residential property.
- G. “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.
- H. “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.
- I. “Tree removal” 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, 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.

- J. “Tree of significance” means any tree that is recognized by the Township or local County or State Historical Society as being of significance due to its size, age or aesthetic, botanical and historic value.

**SECTION 3. Regulated Activities:**

**A. Application Process:**

- 1. Any person planning to remove a street tree, as defined herein, with a DBH of 4” or more or any non-street tree as defined herein, with a DBH of 8” or more on their property shall submit a Tree Removal Application to the Township of Mullica Code Enforcement Official. No tree shall be removed until municipal officials have reviewed and approved the removal in accordance with this Ordinance.

All Site Plans filed with the Township Planning/Zoning Board shall comply with the requirements of this Ordinance as part of its application filed with the Board.

**B. Tree Replacement Requirements:**

- 1. Within a five-year period, any person who removes one or more street tree(s) as defined herein, with a DBH of 4” or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 2. For applicants other than “Homeowner”, within a five-year period, any person, who removes one or more tree(s), as defined herein, with a DBH of 8” or more, unless otherwise exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 3. Homeowner Applicants: Within a five-year period, any person that removes more than three (3) trees per acre with a DBH of between 8” and 32.99” or one (1) tree with a DBH of 33” or more or a tree of significance unless exempt under Section IV shall be subject to the requirement of the Tree Replacement Table below.

The species type and diversity of replacement trees shall be in accordance with Appendix A attached hereto and incorporated by reference herein.

Replacement tree(s) shall:

- 1. 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;
- 2. 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;
- 3. 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

4. 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 4” (for street trees) or 8” (for non-street trees) up to 12.99”	Replant 1 tree with a minimum DBH of 1.5” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees with a minimum DBH of 1.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with a minimum DBH of 1.5” for each tree removed
4	DBH of 33” or greater	Replant 4 trees with a minimum DBH of 1.5” for each tree removed
5	Tree of Significance	Replant 5 trees with minimum DBH of 1.5” for each tree removed (All trees of significance shall be approved by the Township Code Enforcement Official prior to removal together with an approved replacement tree)

**C. 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 municipality.
  - b. Pay a fee representing the cost to replace the removed or destroyed tree(s) including administration and labor costs, per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

**SECTION 4. Exemptions:**

All persons shall comply with the tree replacement standards outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption including photographs and/or statements or other documentation, which can include any report from a licensed tree expert or an arborist.

- A. Tree farms in active operation, nurseries, fruit orchards, and garden centers.

- B. 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.
- C. 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.
- D. 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.
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.
- F. Hazard trees may be removed with no fee or replacement requirement.
- G. Trees that are damaged as a result of storms and or other naturally occurring calamities, that if not immediately removed, pose an imminent threat or danger to life and/or property.
- H. Hazard trees.
- I. Any tree located on publicly owned land and removed by the public agency or its representatives.
- J. Any trees removed within 100 feet of any structure for the purposes of fire safety.
- K. Any tree, excluding street trees, with a DHB less than 8”.
- L. Any tree(s) removed on property zoned agriculture (AG) for cultivation or crop growth purposes.
- M. Any trees removed within one quarter (1/4) acre surrounding a residential dwelling.

**SECTION 5. Enforcement:**

This ordinance shall be enforced by the Township Code Enforcement Officer or designee in consultation with the Township Planner or Township Engineer.

**SECTION 6. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine not to exceed \$2,000.00 or imprisonment in the County Jail of a term not to exceed ninety (90) days, or both in the discretion of the Judge of the Municipal Court before whom such violation is heard and conviction made. Each day that a violation occurs shall be deemed a separate and distinct violation subject to the penalty provisions of this

Ordinance. This does not apply to Municipal employees that authorize removal of a tree by permit or otherwise in the ordinary course of business.

**SECTION 7.** All Ordinances or parts of Ordinances that are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

**SECTION 8.** If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a Court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance.

**SECTION 9.** This Ordinance shall only take effect after final adoption and publication as required by law.

**INTRODUCTION:** May 21, 2024

**PUBLICATION:** May 29, 2024

**ADOPTION:** June 25, 2024

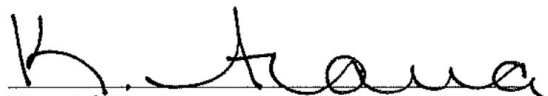
**PUBLICATION:** June 26, 2024

**EFFECTIVE:** June 26, 2024

  
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Edward Hagaman  
Mayor

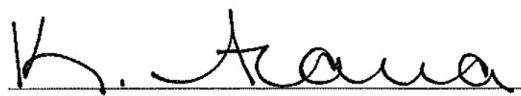
**CERTIFICATION**

I, Krystel M. Arana, Municipal Clerk of the Township of Mullica, County of Atlantic, State of New Jersey, do hereby certify that the foregoing Ordinance 2024-15 was introduced by the Mayor and Committee of the Township of Mullica at a Regular Meeting held on Tuesday, May 21, 2024.

  
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Krystel M. Arana  
Municipal Clerk

**CERTIFICATION**

I, Krystel M. Arana, Municipal Clerk of the Township of Mullica, County of Atlantic, State of New Jersey, do hereby certify that the foregoing Ordinance 2024-15 was adopted by the Mayor and Committee of the Township of Mullica at a Regular Meeting held on Tuesday, June 25, 2024.

  
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Krystel M. Arana  
Municipal Clerk