

<b>Ordinance #:</b>	<b>24-3321</b>
Introduction Date:	6/5/24 (Wed.)
Hearing Date:	6/24/24 (Mon)
Passage Date:	6/24/24
Effective Date:	7/3/24

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SUMMIT REPEALING AND REPLACING CHAPTER 29 ENTITLED “PROTECTION OF TREE(S)”**

*Ordinance Summary: This ordinance repeals and replaces Chapter 29 “Protection of Trees” to provide for permitting requirements regarding private tree replacements at a tree diameter of 12” rather than 16.” It also clarifies the language exempting hazardous trees from fees or replacement requirements, updates the violations and penalties to reflect current tree care costs, adds prohibited species, and updates and clarifies language throughout the ordinance.*

**WHEREAS**, the Common Council of the City of Summit has determined that the preservation, protection, maintenance and controlled removal of certain trees is essential to the health, safety, economy and general welfare of the City; and

**WHEREAS**, the City of Summit staff, the Shade Tree Advisory Committee, **CITY FORESTER** and the State of New Jersey have recommended updates and revisions to the City’s tree protection ordinance; and

**WHEREAS**, the New Jersey Shade Tree and Community Forestry Assistance Act, N.J.S.A. 13:1L-17.1, et seq., provides that shade trees and forests are a necessary and important part of community and urban environments, and are critical to the environmental, social and economic welfare of the State; and

**WHEREAS**, the protection and preservation of trees has been found by the New Jersey Courts to unquestionably affect the public interest.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Summit, County of Union, State of New Jersey, as follows:

**SECTION 1.** The Code of the City of Summit is hereby amended so that Chapter 29 entitled “Protection of **TREE(S)**” is repealed and replaced in its entirety with Exhibit A to this Ordinance.

**SECTION 2.** The City Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the City of Summit Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the City Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance that are

inconsistent with the City Master Plan and recommendations concerning any inconsistencies and any other matter as deemed appropriate.

**SECTION 3.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 4.** All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 5.** This Ordinance shall take effect according to law.

Dated: June 24, 2024

I, Rosalia M. Licatase, City Clerk of the City of Summit, do hereby certify that the foregoing ordinance was duly passed by the Common Council of said City at regular meeting held on Monday evening, June 24, 2024.

Approved:

Dr. Elizabeth Fagan, Mayor

City Clerk

## **Chapter 29 PROTECTION OF TREE(S)**

**§ 29-1. PURPOSE.** An ordinance to establish requirements for **TREE** removal and replacement in the City of Summit to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare. The Governing Body of the City of Summit is in agreement with the New Jersey Courts and the New Jersey Shade Tree and Community Forestry Assistance Act that the protection and preservation of **TREE(S)** has been found to positively and unquestionably affect the public interest. The New Jersey Shade Tree and Community Forestry Assistance Act, N.J.S.A. 13:1L-17.1 et seq., provides that shade **TREE(S)** and forests are a necessary and important part of community and urban environments, and are critical to the environmental, social, and economic welfare of the State of New Jersey. The Governing Body has also determined that one of the City's characteristics that has made it an attractive and welcoming community are its Tree-lined streets and tree canopy. As the preservation, protection, maintenance, and controlled removal of certain **TREE(S)** is essential to the health, safety, economy, and general welfare of the City of Summit, it is essential to designate this Chapter for the regulation of **TREE** welfare on public and private lands.

## § 29-2. 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" mean the requirement is always mandatory and not merely directory.

**APPLICANT** - means any **PERSON**, as defined in this Chapter, who applies for approval to remove **TREE(S)** regulated under this ordinance.

**BUILDING** - Shall mean a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

**BUILDING ENVELOPE** – The area within the front-yard, rear-yard and side-yard setbacks where construction and site improvements may occur.

**CALIPER (TREE CALIPER)** - is the standard for the measurement of the balled and burlapped replacement **TREE(S)**. Caliper is the diameter of the replacement **TREE** trunk measured six inches (6”) above the ground level when it is dug at a nursery.

**CANOPY COVERAGE** - is the total foliar area of all living **TREE(S)** within a municipality expressed as a percentage of the total area of a municipality. It can also be used to describe the total foliar area of living **TREE(S)** within a property.

**CANOPY SPREAD** – is the area of foliage beneath the branches of a living **TREE**.

**CITY FORESTER** - shall mean the Administrative Officer of the Protection of **TREE(S)** Ordinance, duly appointed by the Governing Body who shall be N.J. **LICENSED TREE EXPERT** and shall have the following qualifications:

- (A) Bachelor's degree in forestry, arboriculture, horticulture or ecology from an accredited college or university; or
- (B) International Society of Arboriculture (ISA) certified arborist; and
- (C) A minimum of five years' experience in the planting, care, and maintenance of **TREE(S)**.

The **CITY FORESTER** shall supervise and ensure the conservation, protection, and care of **TREE(S)**, shrubs, and soil within the City, and having otherwise the scope of duties and authority provided for herein.

**CITY SHRUB** - Shall mean a shrub located on land owned by the City, the Board of Education, the Board of Recreation, or other municipal body, or which is otherwise located on a street, highway, right-of-way, or parkway.

**CITY TREE** - Shall mean a **TREE** located on any land owned by the City, the Board of Education, or other municipal body, or which is located within the public right-of-way on a street, highway, or parkway, or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic, excluding County and State right-of-way. This

also includes **TREE(S)** planted in planting strips within the roadway right-of-way, i.e., islands, medians, municipal parking lots, pedestrian refuges, or **TREE(S)** temporarily deemed a **CITY TREE** through temporary easement. The term can also be referred to as a **STREET TREE**.

**COMMUNITY FORESTRY MANAGEMENT PLAN** - A plan developed by municipalities/counties outlining the goals and objectives for managing **TREE(S)** on municipal property with the intent of minimizing liability to the municipality and maximizing the useful life of the **TREE** resource. The plan is to be approved by NJ Department of Environmental Protection, Division of Parks and Forestry, NJ Forest Service. The Plan encourages volunteer participation in the implementation of the Plan's goals and objectives.

**CRITICAL ROOT RADIUS (CRR)/ZONE** – means the area 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  $CRR = 6" \times 1.5' = 9'$ .

**DBH (DIAMETER AT BREAST HEIGHT)** – Shall mean the diameter of the trunk of a mature **TREE** generally measured at a point of four- and one-half feet (4.5') above ground level from the uphill side of the **TREE**. For species of **TREE(S)** where the main trunk divides below the 4.5-foot height, the DBH shall be measured at the highest point before any division.

**DRIPLINE** - Shall mean the circular area surrounding a **TREE**, the radius of which area shall be the distance from the trunk of the **TREE** to the outermost branches of the **TREE**.

**EMERGENCY** - Shall mean an event or events, disease or condition which has damaged or destroyed a **TREE** or **TREE(S)**, such that the continued presence of such damaged or destroyed **TREE** or **TREE(S)** imminently threatens life or property in proximity thereto.

**ENFORCEMENT OFFICER** - Shall mean the Director of Community Services, Parks and Shade Tree Foreperson, the **CITY FORESTER**, the Superintendent of Public Works, Code Enforcement Officer, or a representative duly authorized by the Director of Community Services or **CITY FORESTER**.

**EROSION** - The detachment and movement of soil or rock fragments by water, ice, wind, and gravity.

**EXEMPT AREA** - The lot area as provided in this Chapter for which **TREE** replacement shall not be required, such as a NJDEP designated wetlands area.

**HAZARD TREE** - Means a **TREE** or limbs thereof that meet one or more of the criteria below. **TREE(S)** that do not meet any of the criteria below and are proposed to be removed solely for development purposes are **not HAZARD TREE(S)**. A **LICENSED TREE EXPERT** is required to make all **HAZARD TREE** determinations.

1. Has an infectious disease or insect infestation; or
2. Is dead or dying and/or is determined to be a threat to public health, safety, and/or welfare by a **LICENSED TREE EXPERT (LTE)**; or

3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective; or
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is a **TREE** which receives an 11 or 12 rating under the International Society of Arboricultural rating method set forth in the ISA **TREE** Risk Assessment Manual as determined by an **LTE**; or
6. Is listed as an invasive or problematic species in **Appendix B**.

**LANDMARK TREE** – A voluntary designation given to a **SIGNIFICANT TREE** by the **CITY FORESTER**, in each case pursuant to the standards set forth in this Chapter and affirmed by resolution of the Summit Common Council. To designate a **TREE** as a **LANDMARK TREE**, **PERSON(S)** must contact the **CITY FORESTER**.

**LICENSED TREE EXPERT (LTE)** – Individual who is certified by the State of New Jersey Board of **TREE** Experts, whose license is current and in good standing in the State of New Jersey, and is well-experienced in planting, care, and maintenance of **TREE(S)**.

**MANAGEMENT PLAN** – Shall mean a preservation plan for existing **TREE(S)**, prepared by a **LICENSED TREE EXPERT** specific to a property requesting a **TREE REMOVAL PERMIT**.

**MUNICIPAL AUTHORITY** – Personnel who work for the City of Summit.

**NON-STREET TREE** - Also known as a **PRIVATE TREE**, shall mean any **TREE** other than a **CITY TREE** as defined in this Chapter.

**OPEN SPACE** - Any preserved parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use and enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces, provided that such areas may be improved with only those **BUILDINGS**, structures, streets and off-street parking and other improvements that are designated to be incidental to the natural openness of the land.

**ORNAMENTAL TREE** – a small **TREE** growing to a maximum height of 25', planted mainly for its aesthetic value. Ornamental **TREE(S)** are typically flowering, non-fruit producing **TREE(S)** possessing interesting shapes, leaf color, fall color, or unusual bark patterns.

**PERIMETER** - Shall mean the area of an individual property that is outside the **BUILDING ENVELOPE** and outside the permitted areas for accessory structures as defined and regulated in the Development Regulation Ordinances of Summit currently in effect.

**PERSON** - means any individual, resident, corporation, utility, company, partnership, firm, or association.

**PLANTING STRIP** – typically means that part of public right-of-way between the paved road and the private abutting property line. If there is a sidewalk, the planting strip would refer to that portion of the land within a municipal right-of-way between the curb and the sidewalk.

**PRIVATE TREE** – Also known as a **NON-STREET TREE**, shall mean any **TREE** other than a **CITY TREE** as defined in this Chapter.

**PROTECTED ROOT ZONE** - is defined by either the **CRITICAL ROOT ZONE** or the area beneath the **DRIPLINE**, whichever is greater.

**PROTECTIVE BARRIER / BARRIER**- Shall mean restrictive fencing or barrier constructed to protect the root system or trunk of a **TREE** from damage or encroachment.

**REPLACEMENT TREE** - Shall mean a **TREE**, planted to comply with the condition of a **TREE REMOVAL PERMIT**, properly balled and burlapped, in compliance with the conditions of **APPENDIX A** and **PRIVATE/NON-STREET TREE REPLACEMENT REQUIREMENTS TABLE**, and deemed acceptable to the **CITY FORESTER**.

**RESIDENT** - means an individual who resides on the residential/commercial property, is the property owner of the residential/commercial property, or contractor hired by the individual who resides on, or is the property owner of, the residential/commercial property where a **TREE(S)** regulated by this ordinance is removed or proposed to be removed.

**ROOT SYSTEM** - Shall mean **TREE** roots within the **DRIPLINE** where no construction activity or re-grading may take place.

**SHADE TREE ADVISORY COMMITTEE (STAC)** – A Committee, composed of resident volunteers, which has been formed to advise the city on forestry-related matters.

**SHADE TREE** – A **TREE** that meets or exceeds the height of 50' at maturity.

**SIGNIFICANT TREE** - Shall mean (i) any woody perennial plant (species found commonly in Summit) having a six (6) inch **DBH** for non-street/private **TREE(S)** or two and one-half (2.5) inch for **STREET TREE(S)**; or (ii) any **LANDMARK TREE**. The diameter of **TREE(S)** composed of multiple stems or trunks, in most cases, shall be the sum of each individual stem or trunk at **DBH**.

**SPECIMEN TREE** - Shall mean a **TREE** that possesses distinctive form, size or age, and that has good aesthetic value, and including, without limitation, small hardwoods such as dogwood, and redbud. Any **TREE** in fair or better condition which is recommended by the **SHADE TREE ADVISORY COMMITTEE (STAC)** or **CITY FORESTER** based on considerations of whether the **TREE** is a rare species of specimen thereof: is unusual in height, trunk diameter or **DRIPLINE** circumference for a **TREE** of its species; has foliage of an unusual quality for a **TREE** of its species; occupies a location which confers special shade, fragrance, **EROSION** control, aesthetic, scenic enhancement, historic, preservation or cultural values to the community. For purposes of this definition, "in fair or better condition" shall mean that a **TREE** has a relatively sound and sated trunk with no evidence of extensive decay or visual evidence of being hollow and with no major insect or pathological problem and has an anticipated life space of 10 years or more.

**STREET TREE** – defined as a **CITY TREE** in the City of Summit.

**TREE** - Shall mean any deciduous or coniferous species which where the following can apply:

1. a woody perennial plant, and
2. typically having a single stem or trunk growing to a considerable height, reaching a typical mature height of twelve (12) feet or more, and/or
3. has a typical **DBH** of six (6) inches or greater, measured at four and one-half (4.5) feet above grade, and/or
4. Bearing lateral branches at some distance from the ground.

**TREE DAMAGE** – shall mean any purposeful or accidental actions which causes a **TREE(S)** harm which includes, but is not limited to, excessive pruning, application of substances that are toxic to the **TREE**, over-mulching or improper mulching, 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** and shall be treated the same as **TREE REMOVAL**.

**TREE DEDICATION FUND** – A fund established by the governing body for the administration and promotion of **TREE** and shrubbery resource sustainability projects and practices which are consistent with the City of Summit **COMMUNITY FORESTRY MANAGEMENT PLAN**.

**TREE PROTECTION AREA** – The area beneath the **DRIPLINE**.

**TREE REMOVAL** - Means to kill or to cause irreparable **TREE DAMAGE** that leads to the decline and/or death of a **TREE**. Removal does not include responsible pruning and maintenance of a **TREE**, or the prescribed application of treatments intended to manage invasive species, insects, or disease.

**TREE REMOVAL PERMIT** - Shall mean a license issued by the Department of Community Services to remove or destroy a **TREE** or **TREE(S)**.

**TREE REMOVAL PERMIT APPLICATION** – A form issued by the Department of Community Services requesting permission to remove a **TREE(S)** in the City of Summit which shall not be approved unless deemed complete by the **CITY FORESTER** or **ENFORCEMENT OFFICER**.

**TREE REMOVAL PLACARD** – A placard issued by the Department of Community Services designating an approved **TREE REMOVAL** pursuant to the conditions of this chapter.

**TREE REPLACEMENT FEE** – A fee calculated based on the average bid cost per tree, for all types of **TREE(S)** purchased by the City of Summit, in its two most recent contracted planting projects and updated accordingly, but no more than twice annually, on the **TREE REMOVAL PERMIT** application. If there is no bid within twelve (12) months, the fee is then calculated at the local nursery's average cost of a **TREE** multiplied by a factor of three (3).

**TREE REPLACEMENT REQUIREMENTS TABLE** – A chart outlining the number of **TREE REPLACEMENT(S)** and conditions.

**TREE REPLACEMENT PLAN** - A plan submitted by the applicant and approved by the **CITY FORESTER** for the required replacement of **TREE(S)** on a site to include the proposed location, quantities, and placement of **REPLACEMENT TREE(S)** on public or private property.

### **§ 29-3. APPOINTMENT & DUTIES OF CITY FORESTER.**

A **CITY FORESTER** shall be appointed by the Department of Community Services, through an annual Request for Services process, with services commencing January 1 and ending December 31, or a specified twelve (12) month period. The **CITY FORESTER** shall possess the qualifications defined in § 29-2 and shall be paid for any services authorized on behalf of the City in accordance with an annual fee schedule established with the City. The **CITY FORESTER** shall be prohibited from taking any action on or representing any Summit private clients while under contract with the City. After the selection of the **CITY FORESTER**, the City shall enter into a contract with the **CITY FORESTER**, which shall set forth the fees charged by the **CITY FORESTER** for providing services to the City.

The **CITY FORESTER** shall perform the following duties set forth in this Chapter and shall be responsible for the provisions of this Chapter, including:

- A. Perform any necessary inspections, administration and enforcement of **TREE** removal and replacement, and is further authorized.
- B. Issue violation notices and, shall sign complaints, and provide testimony in the Municipal Court for violations of this Chapter.
- C. Enter onto private property whereon there is located a **TREE**, **TREE** part, shrub, or plant part, that is suspected to be a public nuisance, and to order its removal if necessary. The **CITY FORESTER** or **ENFORCEMENT OFFICER** shall have the authority to require the removal of any **TREE** or plant with an infectious disease or insect problem; dead or dying **TREE(S)**; a defective **TREE** limb(s) or **TREE** root(s) that obstruct streetlights, traffic signs, free passage of pedestrians or vehicles; a **TREE** that poses a threat to safety, etc.
- D. The **CITY FORESTER** is expressly authorized to deny **TREE REMOVAL PERMIT(S)** in accordance with the provisions of this Chapter, for reasons which include, but are not limited to existing **TREE CANOPY/SPREAD**, blight circumstances, among other factors.
- E. Prepare an annual report to the Common Council as to the **TREE REMOVAL PERMITS** approved or denied by said **FORESTER** in each calendar year pursuant to this Chapter. Such report shall be supplied on or before March 31 of each year as to the preceding year via the Community Forestry Annual Accomplishment Report submitted to the State of New Jersey.
- F. The **CITY FORESTER** shall attend meetings of the **SHADE TREE ADVISORY COMMITTEE**.



G. The **CITY FORESTER** may designate **LANDMARK** and/or **SPECIMEN TREE(S)**. Any removal of a **LANDMARK TREE** or **SPECIMEN TREE** within the City of Summit.

1. The **CITY FORESTER**, upon request or judgement, shall determine whether any **TREE**, in fair or better condition, qualifies as a **LANDMARK** and/or **SPECIMEN TREE**.
2. A **TREE** may qualify as a **LANDMARK** and/or **SPECIMEN TREE** if it meets one (1) or more of the following criteria:
  - i. The **TREE** species is rare; or
  - ii. The **TREE** is more than one hundred (100) years of age, or is of a distinctive age, or of notable historic interest to the City of Summit; or
  - iii. The **TREE** is of an unusual height or has an unusual trunk diameter or **DRIPLINE** diameter for a **TREE** of its species; or
  - iv. The quality of the **TREE** foliage is unusual for a **TREE** of its species; or
  - v. The location, shade value, fragrance, **EROSION** control, aesthetic, features, or scenic enhancement of such **TREE** is of special importance to the City; or
  - vi. The **TREE** possesses distinctive form or size, has good aesthetic value, and including, without limitation, small hardwoods such as dogwood and redbud; or
  - vii. Any **TREE** that occupies a location which confers special shade, fragrance, **EROSION** control, aesthetic, scenic enhancement, historic, preservation or cultural values to the community; or
  - viii. For purposes of this designation, "in fair or better condition" can mean that a **TREE** has a relatively sound and solid trunk with no evidence of extensive decay or visual evidence of being hollow and with no major insect or pathological problem and has an anticipated life space of 10 years or more.
3. All **TREE(S)** designated as **LANDMARK** and/or **SPECIMEN TREE(S)** by the **CITY FORESTER** shall be documented in the City records for periodic monitoring. Records may include appropriate code marks signifying each **TREE'S** designation, number, species, age, size, and other distinguishing characteristics.
4. If the owner or owners of the property on which a **LANDMARK** and/or **SPECIMEN TREE** is located consents thereto, the City may identify such **TREE** as a **LANDMARK** and/or **SPECIMEN TREE** by the placement of a suitable marker thereon.
5. If, and when, any **LANDMARK** and/or **SPECIMEN TREE** is removed, the **CITY FORESTER** shall arrange for the necessary changes to be made to the official **LANDMARK** and/or **SPECIMEN TREE** inventory records.

#### § 29-4. REMOVAL RESTRICTIONS.

Subject to the exemptions set forth herein, no person shall remove or damage, or cause to be removed or damaged, any **TREE(S)** located on land within the City without the express approval of the **CITY FORESTER**, and in compliance with this Chapter, unless such action is specifically exempted by the provisions of this Chapter. All provisions of this Chapter shall apply to any person removing **TREE(S)** on behalf of any other person, including all **TREE** removal or construction companies or persons in the business of removing **TREE(S)** or construction. It shall be unlawful for any person or company to remove or cause to be removed any **TREE** unless a valid **TREE REMOVAL PERMIT** is in effect and a **TREE REMOVAL PLACARD** is displayed in accordance with the provisions set forth in Section 29-7; such removal or work shall constitute a violation of this section and shall subject the person or company violating this section to all penalties provided herein.

#### § 29-5. TREE REMOVAL PERMITS.

When a **TREE REMOVAL PERMIT** is required, it shall be reviewed by the **CITY FORESTER** or **ENFORCEMENT OFFICER**.

**A. TREE REMOVAL PERMIT Required.** A **TREE REMOVAL PERMIT** shall be required for any of the following actions:

1. **PRIVATE/NON-STREET TREE(S)**. Any removal of a **PRIVATE TREE** that is within the City of Summit.
2. **Removals Under Planning and Zoning Board Applications**. All proposed **TREE** removals submitted as part of a Planning or Zoning Board application shall be reviewed by the **CITY FORESTER** or **ENFORCEMENT OFFICER** as a condition of application completeness and prior to being heard by either Boards. Any removal of **TREE(S)** proposed as part of a Planning or Zoning Board approval must obtain a **TREE REMOVAL PERMIT**, pursuant to this Chapter.
3. **LANDMARK and/or SPECIMEN TREE(S)**. Any removal of a **LANDMARK TREE** or **SPECIMEN TREE** within the City of Summit.
4. **CITY TREE(S) and/or STREET TREE(S)**. No **CITY TREE** shall be removed or caused to be removed except by the Department of Community Services or by express written permission of the City to the adjacent property owner who has received a valid **TREE REMOVAL PERMIT** issued by the Department of Community Services.
  - i. To the extent that any **CITY TREE** is located on land not owned or owned in fee by the City, unless specifically exempted in subparagraph B, it shall be unlawful for any person to remove, or cause to be removed, any **TREE(S)**, unless the Department of Community Services issues a **TREE REMOVAL PERMIT** for the removal if, but only if:

- a. Such **TREE** is so diseased or so infested as to be a danger to other **TREE(S)** in the City or surrounding communities, or;
  - b. Such **TREE** is dead, meets the definition of a **HAZARD TREE**, or its presence would cause hardship or endanger the public, the property owner, or an adjoining property owner, or;
  - c. Such **TREE** does not contribute to the health, safety, economy or general welfare of the City.
- ii. The Department of Community Services may remove a **TREE** that is located on land not owned in fee by the City only after providing thirty (30) days' notice of such intended removal to the owner of such land (or if such owner cannot be found within the City, then within thirty-five (35) days after the mailing of such notice, postage prepaid, to the post office address of such owner or owners if the same can be ascertained). If within thirty (30) days (or thirty-five (35) days thereafter), such landowner objects and requests a hearing before the Department of Community Services as to such removal, a hearing shall be held before such **TREE** is removed. Such **TREE** may thereafter be removed by the Department of Community Services provided that the **CITY FORESTER** finds:
- a. Such **TREE** is so diseased or so infested as to be a danger to other **TREE(S)** in the City or surrounding communities, or
  - b. Such **TREE** is dead, meets the definition of a **HAZARD TREE**, or its presence would cause hardship or endanger the public, the property owner, or an adjoining property owner, existing or proposed structures, or utilities/utility service.
- iii. The **CITY FORESTER** shall not plant a **TREE** on any street, highway, right-of-way, or parkway, where the land on which the **TREE** is to be planted is not owned/in fee by the City, without the consent of the owner of such land.

**B. TREE REMOVAL PERMIT Exemptions.** A **TREE REMOVAL PERMIT** shall not be required prior to removal for the following:

1. **TREE(S)** that are growing on property being used and zoned as a nursery, **TREE** farm, garden center or fruit orchard; or
2. **TREE(S)** removed in accordance with a plan developed by a recognized State or Federal environmental protection authority, provided that a copy of such plan is filed with the Department of Community Services; or
3. Any **TREE** located on publicly owned land and removed by the public agency or its representatives; or
4. **EMERGENCY** removal of dead, diseased, or **HAZARDOUS TREE(S)** upon certification by a **LICENSED TREE EXPERT**, provided that a **TREE REMOVAL PERMIT**

**APPLICATION** is filed, with photos and with stumps remaining, within five (5) business days of the **EMERGENCY TREE** removal; or

5. **TREE(S)** subject to the **EMERGENCY** removal process described in this Chapter.

Additional exemptions may be provided by the **CITY FORESTER** which can include issues with screening, stormwater runoff, **EROSION**, **TREE** health, specific solar needs, among other concerns, as deemed by the **CITY FORESTER**. Proper justification shall be provided, in writing, to **CITY FORESTER** by all persons claiming an exemption; this can include photos and/or statements from a **LICENSED TREE EXPERT**.

**C. TREE REMOVAL PERMIT Application.** Applications for a **TREE REMOVAL PERMIT** shall be submitted to the Department of Community Services. Forms are located on the municipal website and at the Department of Community Services in City Hall.

1. The application shall contain the following information at minimum:
  - i. The contact information of the owner of the property where **TREE(S)** are proposed to be removed including, but not limited to, name, address, phone number, and electronic mail.
  - ii. The contact information of the applicant including, but not limited to, name, address, phone number, and electronic email. Where the applicant is not the property owner, written consent of the property owner is required.
  - iii. State of New Jersey six-digit Business Registration Number of proposed contractor, and any applicable subcontractor(s), performing the tree removal work.
  - iv. At the discretion of the **CITY FORESTER** or **ENFORCEMENT OFFICER**, a **TREE** survey must be submitted as part of the application to determine number, sizes, locations, and exemptions of **TREE(S)** for the assessment of fees and to evaluate **TREE REMOVAL** appropriateness given the following conditions:
    - a. A development plan of the property or diagram that shall contain the following information:
      1. A description of the premises where removal is to take place, including lot and block numbers and street addresses as assigned.
      2. A statement detailing the purpose for which the **TREE(S)** are being removed.
      3. An indication of all **TREE(S)** proposed to be removed, specifically by an assigned number, the species and diameter of each **TREE** with a diameter of six inches or more.
      4. An indication of all **TREE(S)** to remain and proposed replacement **TREE(S)**, if any as required, including their size and species specifically by an assigned number if necessary. All

trees to be removed shall be clearly marked with at least one-inch wide colored tape tied around the trunk.

5. Any other information which may reasonably be required to enable the application to be properly evaluated including, but not limited to, a description of the purpose for which this application is to be made, e.g., scenic improvements, hardship, danger to adjacent properties, removal of diseased or damaged **TREE(S)**, transplanting or removal in a growing condition to other locations, installation of utilities, drainage of surface water, or other pertinent information.
2. The **CITY FORESTER** or **ENFORCEMENT OFFICER** may require **PERSON(S)** to notify adjacent property owners for **SIGNIFICANT TREE(S)** removals that are near the property line and send proof of communications to **CITY FORESTER**.

**D. Standards for Review; Denial; and Issuing TREE REMOVAL PERMIT.** The following standards for review of a **TREE REMOVAL PERMIT APPLICATION** and issuance of such permit by the **CITY FORESTER** or **ENFORCEMENT OFFICER** shall apply.

1. Permitted removal. No **TREE(S)** shall be permitted to be removed unless, at a minimum, the **TREE** is:
  - i. Located within the **BUILDING** footprint of a proposed principal **BUILDING**;
  - ii. Dead, meets the definition of a **HAZARD TREE**, or poses a safety hazard;
  - iii. Located within the area of, or close proximity to, a proposed driveway, walkway, utility line, accessory **BUILDING**, swimming pool, or any other structure and the applicant has a permit from the Construction Office for that purpose;
  - iv. Located in a front-yard area proposed to be landscaped provided that a professionally prepared landscape plan is attached to the application and is approved by the **CITY FORESTER**;
  - v. Specifically permitted to be removed in a site plan approved pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.).
2. No **TREE REMOVAL PERMIT** shall be issued for the removal of a healthy **LANDMARK** and/or **SPECIMEN TREE(S)** that can be preserved through pruning, feeding, cabling, spraying, or other such means as the **CITY FORESTER** determines may be reasonably undertaken. All avenues to preserve a **LANDMARK** and/or **SPECIMEN TREE(S)** must be exercised including, but not limited to, coordinating with the **CITY FORESTER** to work around the **LANDMARK** and/or **SPECIMEN TREE(S)**.
3. Non-Emergency Removal. Within fifteen (15) business days after the submission of an application for a **TREE REMOVAL PERMIT** for the removal of a **TREE** or **TREE(S)**, which has been deemed complete, the **CITY FORESTER** and/or designee shall review the site and the application and either grant or deny the **TREE REMOVAL PERMIT**, or extend

for an additional ten (10) business days the period for review by the end of which s/he shall grant or deny the **TREE REMOVAL PERMIT**.

4. Emergency Removal. All **EMERGENCY** removals must leave **TREE** stumps until the **CITY FORESTER** or **ENFORCEMENT OFFICER** inspects the removal. Within five (5) business days following an **EMERGENCY**, requiring immediate removal of a **TREE** or **TREE(S)** for which a **TREE REMOVAL PERMIT** from the **CITY FORESTER** is required under this section, written notice shall be given to the **CITY FORESTER** by the property owner, supported by sufficient evidence demonstrating in form and content satisfactory to the **CITY FORESTER** that the removal meets the criteria of an **EMERGENCY** removal.
  - i. If such removal is determined to be an **EMERGENCY** by a **LICENSED TREE EXPERT**, the property owner removing, or causing the removal of, the **SIGNIFICANT TREE(S)** shall apply for a **TREE REMOVAL PERMIT** within five (5) business days of initiating **EMERGENCY TREE** removal and provide a notarized statement from the **LICENSED TREE EXPERT** that the removal was an **EMERGENCY**.
  - ii. Should any **PRIVATE TREE** need to be removed on an **EMERGENCY** or imminent **EMERGENCY** basis after due notice and non-compliance by property owner or person/party responsible, a lien may be placed on the property for the expense of said **TREE** removal and be subject to additional penalties in this Chapter.

**E. Reasons for Denials.** **CITY FORESTER** or **ENFORCEMENT OFFICER** can deny a **TREE REMOVAL PERMIT APPLICATION** should the requested removal cause or contribute to the below conditions if such conditions are not otherwise satisfactorily abated as determined by the **CITY FORESTER** or **ENFORCEMENT OFFICER**:

1. Additional runoff of surface water onto adjacent properties;
2. **EROSION**, silting, excessive dust, or anything that may contribute to soil or property instability;
3. Significant and adverse environmental impact;
4. Impairment to the growth or development of remaining **TREE(S)** on the applicant's property or upon adjacent properties;
5. Drainage or sewerage problems;
6. Dangerous or hazardous conditions;
7. Acutely depresses the value of adjacent properties;
8. Acute, adverse impact on screening for neighboring property as determined by **MUNICIPAL AUTHORITY**;
9. **CITY FORESTER'S** denial is in agreement/conjunction with a utility company when said company is cited as a reason for removal; or
10. Such removal is contrary to the mission and protections of Chapter 29.

- F. Issuance of Permit. No **TREE REMOVAL PERMIT** shall be issued without first being approved by the **CITY FORESTER** or **ENFORCEMENT OFFICER**.
1. Satisfactory review and inspection by the **CITY FORESTER** of the application and associated documents.
  2. A **TREE REPLACEMENT PLAN** may be required, to be approved by the **CITY FORESTER** or **ENFORCEMENT OFFICER**, for more than five (5) **TREES** being removed and/or proposed to be removed. **CITY FORESTER** may require a **TREE REPLACEMENT PLAN** at any time or for any **TREE(S)** proposed for removal.
  3. Any and all permits approved by the Department of Community Services shall be declared null and void if the **TREE** removal is not completed within a reasonable time, not to exceed twelve (12) months after permit issuance. In no situation will the permit be valid for more than twelve (12) months. Permits not used within this period will require a new application and the payment of new fees. For purposes of this section, a permit shall no longer be valid when the work authorized by the permit is completed.
  4. The **APPLICANT** shall prominently display on the site the **TREE REMOVAL PLACARD** issued. Such **TREE REMOVAL PLACARD** shall be displayed continuously prior to and while **TREE(S)** are being removed or work done as authorized on the **TREE REMOVAL PERMIT** and for ten (10) calendar days thereafter. In addition, the **PERSON(S)** cutting or removing **TREE(S)**, if other than the **APPLICANT**, shall carry with them their authorization from the owner or **APPLICANT** authorizing such person to cut or remove **TREE(S)**.

§ 29-6. **TREE REPLACEMENT**. All persons shall comply with the **TREE** replacement standard in this Chapter unless an exception applies.

- A. Any **TREE** removed pursuant to a **TREE REMOVAL PERMIT** shall be replaced as provided below, unless said **TREE** is located in an **EXEMPT AREA**, or is dead, or meets the definition of a **HAZARD TREE**, or fatally diseased as determined by a **LICENSED TREE EXPERT** and confirmed by the **CITY FORESTER**. **TREE** replacement shall be required in accordance with the standards set forth in ANSI 260.1, American Standard for Nursery Stock and shall be in accordance with the below.
- B. Any **PERSON** who removes one or more viable or living **PRIVATE/NON-STREET TREE(S)**, as defined as **TREE REMOVAL**, with a DBH of 12” or more, per property, unless otherwise detailed under this Chapter, shall be subject to the requirements of the **TREE REPLACEMENT REQUIREMENTS TABLE** (§29-6.F) and comply with the specifications set forth in all Appendices.
- C. The species type and diversity of replacement **TREE(S)** shall be in accordance with **Appendix A**. Should a **PERSON** want an exception to **Appendix A**, prior approval must be given in writing by the **CITY FORESTER**.
- D. Before **TREE(S)** are approved for removal, **CITY FORESTER** or **ENFORCEMENT OFFICER** may require remedies which include but are not limited to, pruning, deep root feeding, cabling of structurally weak crotches, etc.
- E. Approved **REPLACEMENT TREE(S)** shall:

1. Be planted on site unless all of the **REPLACEMENT TREE(S)** cannot be physically accommodated in agreement with **CITY FORESTER**;
2. At a minimum, all deciduous **REPLACEMENT TREE(S)** shall be 2-2.5” **CALIPER** balled and burlapped. If planting an evergreen, it should be 7-8’ in height.
3. Be replaced in kind with a **TREE** that, at full maturity, will possess an equal or greater **DBH** than the **TREE(S)** removed to the greatest extent possible as determined by the **CITY FORESTER**. Further the **CANOPY SPREAD**, as determined by the **CITY FORESTER**, shall meet the criteria in the **TREE REPLACEMENT REQUIREMENTS TABLE** (§29-6.F);
4. 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;
5. Be monitored and guaranteed by the **APPLICANT**, with periodic compliance action by **MUNICIPAL AUTHORITY**, for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months;
6. Shall not be planted in temporary containers or pots, as these do not count towards **TREE** replacement requirements;
7. At a minimum, **SHADE TREE(S)** shall be replaced with **SHADE TREE(S)** and **ORNAMENTAL TREE(S)** can be replaced with either **SHADE TREE(S)** to the greatest extent possible or **ORNAMENTAL TREE(S)**; and
8. Exceptions may be granted by the **CITY FORESTER**

**F. RESIDENT’S PRIVATE/NON-STREET TREE REPLACEMENT REQUIREMENTS TABLE:**

<i>Category</i>	<i>TREE Removed (DBH)</i>	<i>TREE Replacement Criteria (See Appendix A)</i>	<i>Application Fee</i>
1	DBH of 12” or greater	Replant 1 <b>TREE</b> with a minimum <b>TREE</b> caliper of 2-2.5” for each <b>TREE</b> removed.	Standard application fee is a flat processing fee of \$50.00 per approved <b>TREE REMOVAL PERMIT</b> application, plus a \$25 evaluation fee per approved living <b>TREE</b> removed, unless the approved removal(s) is due to an exempted reason. See <b>29-8 - FEES AND ADMINISTRATIVE CONDITIONS</b> .

***TREE REPLACEMENT(S) are in kind with a TREE that, at full maturity, will possess an equal or greater DBH than TREE removed to the greatest extent possible as determined by the CITY FORESTER.***



**G. Replacement Alternatives:**

1. If the municipality determines that some or all required replacement **TREE(S)** cannot be planted on the property where the **TREE** removal activity occurred, then the applicant shall do one of the following:
  - i. Plant **REPLACEMENT TREE(S)** in a separate area(s) approved by the municipality using a licensed landscape contractor.
  - ii. Pay the **TREE REPLACEMENT FEE** per **TREE** removed in accordance with the schedule in Section 29-8. This fee(s) shall be placed into a fund dedicated to **TREE** planting and continued maintenance of the **TREE(S)**.

**H. TREE REPLACEMENT** genus, species, variety, and locations must comply with all Appendices and be approved in writing by the **CITY FORESTER** prior to planting. Replacement **TREE(S)** shall be guaranteed by property owner for two years and subject to periodic compliance inspections.

**I.** Invasive species are prohibited as **REPLACEMENT TREE(S)** and as newly planted **TREE(S)**/shrubs, etc. in the City of Summit. See **Appendix B** for a prohibited species list.

**J. Exemptions/Exceptions to TREE Replacement.** The following are exempt from the **TREE** Replacement Requirements:

1. **TREE** farms in active operation, nurseries, fruit orchards, and garden centers; or
2. 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; or
3. Any **TREE(S)** removed as part of a municipal, county, or state decommissioning plan. This exemption only includes **TREE(S)** planted as part of the construction and predetermined to be removed in the decommissioning plan; or
4. Any **TREE(S)** 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; or
5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife; or
6. **HAZARD TREE(S)** may be removed with no evaluation fee or replacement requirement subject to the provisions of this Chapter.

Proper justification shall be provided, in writing, to the **CITY FORESTER** by all persons claiming an exemption; this can include photos or statements from **LICENSED TREE EXPERT**.

Exemptions to the above can be granted by the **CITY FORESTER** which can include issues with screening, stormwater runoff, **EROSION**, **TREE** health, specific solar needs, etc. as deemed by the **CITY FORESTER**. Proper justification shall be provided, in writing, to **CITY FORESTER** by all persons claiming an exemption; this can include photos and/or statements from **LICENSED TREE EXPERT** as per N.J.S.A. 45:15C-11.

**§ 29-7. PROTECTION OF ALL TREE(S).**

**A. No person shall**

1. operate, place, or maintain within the **DRIPLINE** of any **TREE** any machinery, equipment, heavy object, stone, rocks, cement, earth, soil, or other substance which may harmfully affect such **TREE** by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such **TREE**, or
2. excavate around or remove earth or soil from, or cause any water to flow upon, the roots of any **TREE**, except that if provisions of this section create any undue hardship in the appropriate use and enjoyment of property, the **CITY FORESTER** may waive in whole or part such provisions, but only to the extent necessary to alleviate such undue hardship. Additional precautionary practices may be required by the **CITY FORESTER**.

**B. PRIVATE TREE(S).** The following additional provisions shall apply to **PRIVATE TREE(S)**:

1. **TREE** protection measures and the limit of disturbance line shown on the site plan or grading plan shall be provided in the field with snow fencing or other durable material and verified by the **CITY FORESTER** prior to soil disturbance.
2. **PROTECTIVE BARRIERS** shall not be supported by the plants/**TREE(S)** they are protecting but shall be self-supporting. **BARRIERS** shall be four (4) feet high and shall last until construction is complete.
3. Chain link fence may be required for **TREE** protection if warranted by site conditions and relative rarity of the plant.
4. Snow fencing or other substantial fencing used for **TREE** protection shall be firmly secured along the **DRIPLINE** but shall be no less than twelve (12) feet from the trunk and a minimum of 3' in height.
5. There shall be no temporary or permanent grade changes or encroachment within the **DRIPLINE** or **CRITICAL ROOT RADIUS (CRR)/ZONE**, whichever is greater, of a **TREE** without a city-approved preservation plan prepared by a **LICENSED TREE EXPERT** and approved by the **CITY FORESTER** prior to any work commencing.
6. Any excavation within the **DRIPLINE**, or within twelve (12) feet of the trunk of an affected **TREE(S)**, whichever is greater, shall be done by airspade or hand-operated equipment.

7. Where a **TREE** that has been noted for preservation is severely damaged and unable to survive, **TREE** replacement shall occur as provided in the **TREE REMOVAL PERMIT**.
8. Prior to construction and any **TREE** removals, suitable **TREE PROTECTIVE BARRIERS** shall be erected and this protection, where required by the **CITY FORESTER**, shall remain until such time as the protection is authorized to be removed by the **CITY FORESTER** or **ENFORCEMENT OFFICER**. In addition, during construction no attachments or wires shall be attached to any of said **TREE(S)** so protected. Where some grading must take place within the **DRIPLINE** of **TREE(S)** in the protection zone, appropriate measures shall be taken to minimize impact to the **TREE(S)**. Any **TREE(S)** seriously damaged during construction must be professionally treated by a **LICENSED TREE EXPERT** or replaced if the damage is beyond treatment.
  - i. A detail of the existing **TREE** self-supported **PROTECTIVE BARRIER** shall be provided on all applications. The **PROTECTIVE BARRIER** shall be a minimum of four (4') feet high.
  - ii. The self-supported **PROTECTIVE BARRIER** shall be placed, as determined by the **CITY FORESTER** or designee, at the **DRIPLINE** of any **TREE** along the limit of clearing and around the entire **DRIPLINE** for **TREE(S)** to remain undisturbed within the limit of clearing as defined by **CITY FORESTER**.
  - iii. It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery or temporary soil deposits within the **DRIPLINE**.
  - iv. Street right-of-way and utility easements should be delineated by placing stakes a minimum of fifty (50') feet apart and tying ribbon, plastic tape, rope, etc., from stake-to-stake along the outside **PERIMETERS** of such areas to be cleared.
  - v. Large **TREE PROTECTION AREAS** separate from construction and land-clearing areas into which no equipment will venture may also be delineated as determined by the **CITY FORESTER** or designee following a field evaluation.

#### C. Maintenance of **CITY TREE(S)** and **CITY SHRUBS**.

1. All **CITY TREE(S)** and **CITY SHRUBS** located on property owned by the City shall be maintained solely by the Department of Community Services or contracted services designated by the Department of Community Services, with certain actions handled by previous, mutual agreement by specific designees, such as the **SHADE TREE ADVISORY COMMITTEE** volunteers under direction of the **CITY FORESTER**.
2. All **CITY TREE(S)** and **CITY SHRUBS** located on property not owned by the City, including **TREE(S)** and shrubs located on a street, highway, right-of-way, or parkway, shall be maintained by the owner of the property on which the **TREE(S)** or shrubs are located; provided, however, that the **CITY FORESTER** may cause such **CITY TREE(S)** and **CITY**

**SHRUBS** to be trimmed or removed as part of any on-going program of **TREE** and shrub maintenance in any area of the City where such program is being conducted for the health, safety, economy or general welfare of the City.

3. All **CITY TREE(S)** and **CITY SHRUBS** not included within the provisions of paragraphs 1. and 2. hereof and not located on property owned by the City, but which property is owned by some other person including, but not limited to, the Board of Education, or some other municipal body, may be maintained by the Department of Community Services as is required for the public welfare.
4. If any **CITY TREE** and **CITY SHRUB** requires trimming in order not to constitute a danger to the public or adjoining property owners, the owner of the land upon which such **CITY TREE** and **CITY SHRUB** is located shall, upon being notified in writing by the **CITY FORESTER**, trim or cause to be trimmed, such **TREE** or shrub within thirty (30) calendar days after such notification, or if such owner cannot be found within the City, then within thirty-five (35) calendar days after the mailing of such notice, postage prepaid, to the post office address of such owner or owners, if the same can be ascertained, unless owner is the City of Summit.
5. It shall be unlawful to commit any of the following acts with respect to **CITY TREE(S)** without the prior written permission of the **CITY FORESTER** or **ENFORCEMENT OFFICER**.
  - i. Cut, prune, break, injure, alter, or remove any **CITY TREE**; or cut, unduly disturb, or interfere in any way with any roots of a **CITY TREE(S)**.
  - ii. Spray any **CITY TREE** with a chemical.
  - iii. Fasten any rope, wire, sign, or other device to a **CITY TREE(S)** or to any guard about such a **CITY TREE(S)**.
  - iv. Install, remove, or injure, any guard or device placed to protect any **CITY TREE(S)**.
  - v. Close or obstruct any open spaces provided about the base of a **CITY TREE(S)**, which permit the access of air, water, and fertilizer to the roots of such **CITY TREE(S)**.
  - vi. String any wires or lines through a public park.

The **CITY FORESTER** shall grant such written permission if the activity for which such permission is requested is in the public interest and is not likely to materially injure any **CITY TREE**.

6. Any person having or maintaining any electric, telephone, telegraph, cable TV or other wires, or lines running through a public street or park, shall securely fasten and maintain such wires and lines in such a manner as will safeguard **CITY TREE(S)** against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to **CITY TREE(S)** and **CITY SHRUBS**. No electric, telephone, telegraph, cable TV or other wires may be attached to **CITY TREE(S)**.
7. When necessary to prune or remove any **CITY TREE(S)**, along a public street, any person having any wires or lines running through or along the public street shall temporarily remove,

- or cause to be removed, such wires or lines within five (5) business days after the serving upon the owner of the wires or lines or owner's agent, of a written notice from the **CITY FORESTER**.
8. Any person performing line clearance operations (**TREE** trimming) or having line clearance operations performed by any other person or persons shall first obtain the written approval of the **CITY FORESTER**.
  9. Any person or persons who cause damage to any **CITY TREE(S)** by machines, autos, etc. shall be held liable for damages to the **TREE** or **TREE(S)**. Damages shall be corrected or repaired by the City and the liable person or persons billed for the cost of corrections and/or repair.
  10. Whenever it shall become the duty of any such owner or owners to cut, trim, remove, or destroy any **CITY TREE** or **CITY SHRUB** and the work as directed by the **CITY FORESTER** shall not have been done at the expiration of the time provided herein, or satisfactory explanation shall not have been presented for such failure, then the Department of Community Services Director or designee, upon presentation of a report in writing by the **CITY FORESTER**, may authorize such work to be performed under the direction of the **CITY FORESTER** and paid for out of the monies of the City for the City's monthly compensation of the **CITY FORESTER**. The cost of this work shall be certified by the **CITY FORESTER** to the person having charge of the collection of assessments in the City. Upon filing the certificate, the amount of the cost of such work shall be paid to the City by the property owner and may be collected by the City in the manner provided by law.
  11. No planting is permitted in the City's right-of-way or City property by any person unless explicitly approved by the **CITY FORESTER** in writing prior to planting.

#### **§ 29-8. FEES AND ADMINISTRATIVE CONDITIONS.**

- A. **CITY TREE(S)**. There shall be no fee charged for the issuance of a **TREE REMOVAL PERMIT** for the removal of a **CITY TREE** by **MUNICIPAL AUTHORITY**.
- B. **PRIVATE / NON-STREET TREE(S)**. In connection with the application for a **TREE REMOVAL PERMIT**, the applicant shall pay the fee(s) and abide by the conditions identified below.
  1. When a permit has been approved by the **CITY FORESTER** for the removal of a **PRIVATE TREE** that is a **SIGNIFICANT TREE**, the following fees will be assessed:
    - i. A non-refundable application processing fee of fifty (\$50.00) dollars per **TREE REMOVAL PERMIT** application will be charged unless exempt under this Chapter.
    - ii. An additional twenty-five (\$25.00) dollar evaluation fee will be charged per approved **TREE REMOVAL TREE(S)** which are exempt under this Chapter are exempt from the \$25.00 evaluation fee per approved exempted **TREE**.

2. **TREE REMOVAL PERMIT** fees collected under this subsection shall be used to subsidize City salary funds for the **CITY FORESTER'S**, or **ENFORCEMENT OFFICER**, hourly fee to inspect **TREE(S)** to be cut, or removed, to render official endorsement, or rejection, of a **TREE REMOVAL PERMIT**.
3. **TREE REPLACEMENT FEES**, as defined in this Chapter and referenced on the applicant's **TREE REMOVAL** application, are collected under this subsection shall be deposited into the **TREE DEDICATION FUND** of the City of Summit and shall be used to purchase replacement **CITY TREE(S)** within the City of Summit.
4. Field **TREE REPLACEMENT** conditions are found under § 29-6. **TREE REPLACEMENT**.

#### § 29-9. APPEAL.

Any person aggrieved by a decision of the **CITY FORESTER** shall have the right to appeal such decision to the Department of Community Services Director. Such appeal shall be by written notice stating the reason(s) upon which the appeal is based and filed with the Department of Community Services within fourteen (14) business days of the decision of the **CITY FORESTER**.

The Director shall hear the matter, upon notice to the applicant, within forty-five (45) days after filing of the notice of appeal. Upon complete review of the application and after hearing the testimony of the **CITY FORESTER**, the applicant, and such other experts as may be appropriate, the Director may reverse, modify, or affirm the aforesaid decision.

#### § 29-10. ENFORCEMENT.

- A. The requirements of this Chapter shall be enforced by the **CITY FORESTER** or **ENFORCEMENT OFFICER** who shall seek such penalties as are provided in this Chapter. All these named personnel can issue stop-work orders at any time when there is no **TREE REMOVAL PLACARD** displayed onsite.
- B. **MUNICIPAL AUTHORITY** may order to be stopped forthwith any **TREE** work or other activity which they believe is carried on in violation of any provision of this Chapter. The order shall be issued in writing and a copy served upon any person engaged in such **TREE** work or such other activity. If no such person is present upon the property, then the order shall be served upon the owner of the property in question. Thereafter, any further work shall comply with the terms and conditions of any **TREE REMOVAL PERMIT** issued by the **CITY FORESTER** with respect to such property and the provisions of this Chapter.
- C. Additionally, as a condition for the issuance of the **TREE REMOVAL PERMIT**, or in any situation where a **TREE**, shrub, or plant part is suspected to be a public nuisance, the

applicant/property owner shall agree to the entry onto location premises by representatives of the City of Summit and all law enforcement officers as necessary to effectuate the provisions of this Chapter and such entries shall be deemed lawful. Failure to allow such entry shall be unlawful and shall constitute a violation of this Chapter and shall constitute failure to display permit as required herein.

## § 29-11. VIOLATIONS AND PENALTIES.

- A. A **PERSON**, firm, partnership, corporation, association or other legal entity violating, or causing to be violated, any of the provisions of this Chapter including, but not limited to, any **PERSON** cutting down or removing a **CITY TREE** or a **PRIVATE TREE** without obtaining a valid **TREE REMOVAL PERMIT** or permitting such removal of the **TREE** in accordance with this Chapter, are subject to the below conditions, with each **TREE REMOVAL** a single violation/offense:
1. Be required to apply retroactively for a **TREE REMOVAL PERMIT**, for the City's records, for the **TREE(S)** already removed and to pay any fees or **TREE REPLACEMENT COSTS** as required in Section 29-8.B. and plant **REPLACEMENT TREE(S)** as required in Section 29-6; and
  2. Can be issued a summons at the discretion of the **CITY FORESTER** or designee, and
  3. Can be subject to a fine, to be deposited in the City of Summit **TREE DEDICATION FUND**, in an amount equal to:
    - i. The per **TREE REPLACEMENT COST** based on the **DBH** as applied to the number of **TREE(S)** specified in the **RESIDENT'S PRIVATE/NON-STREET TREE REPLACEMENT REQUIREMENTS TABLE**, multiplied by the number of **TREE(S)** improperly removed;
    - ii. And the total fine as calculated multiplied by two;
    - iii. In addition, the court may order restitution and/or appraised value, whichever is greater, and/or replacement of the **TREE(S)** illegally removed.
- A. A contractor illegally removing **TREE(S)** at the direction of **PERSON**, firm, partnership, corporation, association or other legal entity associated with the property of the violation(s), shall be subject to a fine of the **TREE REPLACEMENT COST(S)** as based on the **DBH** as applied to the number of **TREE(S)** specified in the **RESIDENT'S PRIVATE/NON-STREET TREE REPLACEMENT REQUIREMENTS TABLE**, multiplied by the number of **TREE(S)** improperly removed. Fines are to be deposited in the **TREE DEDICATION FUND**. Repeated infractions may result in suspension of future work in the City of Summit.
- B. The **CITY FORESTER** or other authorized official may institute any appropriate legal action to prevent a continuing and/or gross violation of the terms of the Chapter or failure to comply with financial penalties. Upon conviction of such violation be punished by a fine of up to two-thousand dollars (\$2,000.00) for each offense or to imprisonment for a term not to exceed ninety (90) days, or both, in the discretion of the Judge before whom conviction may be had.

- C. It shall be unlawful and considered a violation of this Chapter for any **PERSON** to engage in the business of **TREE** removal or **TREE** maintenance within the City of Summit and without the applicable certification or license from the N.J. Board of **TREE** Experts for the designated work. All contractors offering **TREE** care services for hire within the City of Summit shall be registered annually with the State of New Jersey and provide their six-digit business number on **TREE REMOVAL PERMIT** documentation. Contractors suspected of violations shall provide proof of State of New Jersey business registration, upon request by **MUNICIPAL AUTHORITY**, and a current certificate of insurance showing evidence of employer liability and workers' compensation coverage for the work to be performed. All contractors shall comply with applicable OSHA regulations, ANSI A13.1 Safety Standards, New Jersey Board of **TREE** Experts Pruning Standards for **SHADE TREE(S)** and ANSI A300 Practice Standards. All work to be performed for the City of Summit shall be by or under the direction of a **LICENSED TREE EXPERT** and in compliance with industry standards for **TREE** pruning, ANSI 2133.1 Safety Standards and ANSI A300 practice standards otherwise directed by or approved by the **CITY FORESTER**.
- D. **PERSON(S)** failing to replace a **TREE(S)** which did not survive the two-year guarantee period will be issued a summons and will be subject to a fine and/or the requirement to replace the **TREE(S)** and/or contribute to the **TREE DEDICATION FUND**.

#### § 29-12. EMERGENCIES.

In case of emergencies such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disasters, or in the case of dead, meets the definition of a **HAZARD TREE**, or diseased **TREE(S)** that are a hazard to persons or property, the requirements of the regulations set forth in this Chapter may be waived by City personnel upon a finding that such waiver is necessary so that the public or private work to restore order on the property in the City of Summit will not be impeded.

#### § 29-13. STOP-WORK ORDERS.

**ENFORCEMENT OFFICER** is hereby authorized to issue stop-work orders to the holder of the **TREE REMOVAL PERMIT** and the **CITY FORESTER** is authorized to recommend the issuance of stop-work orders to the City of Summit officials if there is:

- A. A failure to comply with the approved plan such as a site plan, forest management plan or soil conservation plan;
- B. Non-compliance with the **TREE REMOVAL PERMIT** granted pursuant to this Chapter;  
or
- C. Non-compliance with the provisions of this Chapter.
- D. No display of approved **TREE REMOVAL PLACARD**.

The stop-work order shall remain in effect until the **CITY FORESTER** or **ENFORCEMENT OFFICER** has determined that the resumption of work will not violate the plans, permit or the provisions of this Chapter.



**29-14. Severability:**

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

**29-15. Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

**Appendix A****Approved List of Replacement TREE Species and Planting Standards for City of Summit**

**PERSON(S)** must comply with the recent **TREE** Replacement list on the City of Summit website at [www.cityofsummit.org](http://www.cityofsummit.org).

See Appendix C for planting requirements and procedure.

Species/Common Name	Recommended Varieties	Description	Native / Native Cultivar	Fall Digging Hazard
Acer freemanii x - Freman Maple	Autumn Fantasy, Armstrong, Armstrong Gold	Upward Branching Structure. A cross between Red Maple and Sugar Maple.	X	
Acer rubrum - Red Maple	Brandywine, Red Sunset, Redpointe	Sturdy Branching resists storm damage	X	Y
Acer saccharum - Sugar Maple	Fall Fiesta, Green Mountain, Legacy	Dense Shade, Excellent Fall Color	X	
Amalanchier grandiflora - Service Berry (Shadblow)	'Robin Hill'	Light Pink	X	
Amalanchier laevis - Service Berry (Shadblow)	'Spring Flurry'	Reddish Leaves, Bright White Flowers	X	
Betula nigra - River Birch	Duraheat, Heritage, Little King	Compact	X	Y
Carpinus caroliniana - American Hornbeam	'Ball of Fire'	Reddish Fall Color	X	
Carpinus caroliniana - American Hornbeam	'Native Flame'	Red/Orange Fall Color	X	Y
Carpinus caroliniana - American Hornbeam	'Palisade'	Upright Oval Growth, Yellow to Orange Fall Color	X	Y
Carpinus caroliniana American Hornbeam	'Rising Fire'	Orange Fall Color	X	Y
Celtis occidentalis - Hackberry	Prairie Pride, Windy City	Dark Green Foliage, Interesting Bark Pattern	X	Y
Cercis canadensis - American Redbud	'Summers Tower,' 'Cotton Candy'	Lavender Pink or Pink Flowers	X	
Cercis Canadensis var. texensis - American Redbud	'Oklahoma'	Smaller, Glossy, Tougher Leaves; Heat	X	
Cladrastis lutea - American Yellowwood		Showy White Flowers in Spring, Yellow/Orange Fall Color	X	Y
Cornus rutgerensis - Rutgers Dogwood	'Constellation,' 'Celestial'	White	X	Y
Cornus rutgerensis - Rutgers Dogwood	'Stellar Pink'	Light Pink	X	Y
Cornus x kousa 'venus' - Venus Dogwood		Large, Pure White Flowers	X	Y
Ginkgo biloba - Ginkgo	Autumn Gold, Goldspire (use male only)	Excellent Summer Foliage, Autumn Gold Foliage		
Gymnocladus dioicus - Kentucky Coffee Tree	'Espresso'	Hardy	X	
Ilex opaca - American Holly	'Jersey Knight,' 'Jersey Princess' (male and female)	Dark Foliage, Excellent Fruit Set, Evergreen	X	

Species/Common Name	Recommended Varieties	Description	Native / Native Cultivar	Fall Digging Hazard
Liquidambar styraciflua - Sweetgum	'Slender Silhouette'	Narrow, Great Fall Color	X	
Magnolia virginiana - Sweetbay Magnolia	Emerald Tower, Green Mile, Green Shadow, Northern Belle	Semi-Evergreen, Fragrant Summer Flowers	X	
Malus spp - Flowering Crabapple	'Brandywine'	Grows to 30' in height		
Malus spp - Flowering Crabapple	'Redpointe'	Pest and Disease Resistant		
Malus spp - Flowering Crabapple	'Royal Raindrops'	Vibrant Pink to Red Flowers		
Malus spp - Flowering Crabapple	'Showtime'	Fuchsia Red Flowers, Fiery Orange Fall Color		
Nyssa sylvatica - Black Gum		Crimson Fall Color	X	
Nyssa sylvatica cultivar - Black Gum	'Green Gables'	Tolerates Wet Sites	X	Y
Ostrya virginiana - American Hop-Hornbeam	'Autumn Treasure'	Shade/Sun/Drought-Tolerant, Brilliant Fall Color	X	Y
Parrotia subaequalis - Persian Ironwood		Crimson Red Fall Color, Tolerant of Heat and Cold, Pest Resistant		
Picea abies - Norway Spruce		Tolerant Evergreen		
Prunus spp - Flowering Cherry	'First Blush'	Oval Shape, Pink Flowers, Orange Fall Color		Y
Prunus spp - Flowering Cherry	'Royal Burgundy'	Vase Shaped, Prefers Well-Drained Soils		Y
Prunus sargentii - Flowering Cherry	'Pink Flair'	Narrow, Upright Form		Y
Prunus sargentii - Flowering Cherry	'Pink Myst'	Dark Pink Flowers, Orange/Red Fall Color		
Prunus serrulate - Flowering Cherry	'Kwanzan'	Double Blossom, prominent in Washington, DC		Y
Quercus alba - White Oak		Incredible Longevity	X	Y
Quercus bicolor - Swamp White Oak		A Low-Maintenance Shade Tree	X	Y
Quercus warei - Ware's Oak	'Kindred Spirit'	Columnar Form		Y
Quercus x warei - Ware's Oak	'Regal Prince'	Columnar, Resistant to Powdery Mildew		Y
Taxodium distichum - Bald Cypress	Emerald Shadow, Green Whisper, Shawnee Brave	Deciduous Conifer	X	
Thuja plicata - Western Red Cedar	'Green Giant' Arborvitae	Evergreen, Deer Resistant		Y
Tilia americana - American Linden	'Redmond'	Beautiful Heart-Shaped Leaves, a Favorite Pollinator Species	X	
Tilia cordata - Linden	'Greenspire,' 'Littleleaf'	Pyramidal Shape, Dark Green Glossy Foliage	X	
Ulmus davidiana var. japonica 'Morton' - Accolade Elm		Resistant to Dutch Elm Disease		Y

**Appendix B****List of Invasive or Problematic Species in the City of Summit**

The following is a list of **TREE(S)** and plants shall not be used as replacement **TREE(S)** or be planted in the City of Summit due to their invasive and damaging nature. This list has been established in order to protect and promote the public health, safety and welfare and protect public and private properties and indigenous and other plant material through the restriction and prohibition of new plantings of invasive plants, and the cultivating, and/or maintenance and/or growing of existing plantings of invasive plants. Evidence of invasive species on a property can be considered violations of this Chapter and will be pursued accordingly. *All **PERSON(S)** must comply with the most recent Invasive-Problematic Species list on the City of Summit website at [www.cityofsummit.org](http://www.cityofsummit.org).*

1. Acer platanoides (Norway Maple)
2. Ailanthus altissima (Tree of Heaven)
3. Albizia julibrissin (Mimosa)
4. Bamboo
5. Fraxinus (Ash)
6. Invasive plants resembling or having the characteristics of Running Bamboo
7. Pinus nigra (Austrian Pine)
8. Prunus cerasifera (Purple Leaf Plum)
9. Prunus padus (Purple Leaf Bird Cherry ‘Summer Glow’)
10. Pyrus calleryana (Bradford Pear/Callery Pear)
11. Sorbus americana (Mountain Ash)
12. Tsuga canadensis (Hemlock)

Appendix C – Tree Planting Details

