

TOWNSHIP OF CLINTON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY

ORDINANCE #1196-2024

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON REGULATING TREE REMOVAL AND REPLACEMENT AND ADOPTING A NEW CHAPTER OF THE “CODE OF THE TOWNSHIP OF CLINTON” ENTITLED “TREE REMOVAL AND REPLACEMENT”**

**WHEREAS**, the New Jersey Department of Environmental Protection has designated the Township of Clinton as Stormwater Tier A for purposes its municipal stormwater permit; and

**WHEREAS**, in order to help better manage stormwater discharges and resulting pollutant and nutrient impacts to waterways, the NJDEP requires Tier A municipalities to initiate a variety of municipal stormwater compliance activities before May 1, 2024, including but not limited to revising and/or adopting provisions by ordinance to regulate tree removal and replacement in the Township to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety and welfare; and

**WHEREAS**, to that end, at this time the Mayor and Council seek to add a new chapter to the “Code of the Township of Clinton” entitled “Tree Removal and Replacement”;

**NOW, THEREFORE, BE IT ORDAINED** the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey, as follows:

**SECTION 1.** Preamble incorporated. The statements and findings set forth in the preamble above are hereby incorporated as if fully restated herein.

**SECTION 2.** New chapter added to the “Code of the Township of Clinton” regulating the removal and replacement of trees. The “Code of the Township of Clinton” is hereby amended and supplemented by adding thereto new Chapter 246 entitled “Tree Removal and Replacement,” the provisions of which shall read as follows:

**Chapter 246**

**TREE REMOVAL AND REPLACEMENT**

**§246-1. Purpose.**

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

## **§246-2. Definitions.**

For the purpose of this chapter, 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 use of the word "shall" means the requirement is always mandatory and not merely directory.

### **APPLICANT**

Any "person", as defined below, who applies for approval to remove trees regulated under this chapter.

### **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 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 chapter 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 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 or 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.

### **§246-3. Regulated Activities:**

#### **A. Application Process:**

- (1) Any person planning to remove a street tree with DBH of 2.5" or more, or any other tree with DBH of 6" or more on private property, shall submit a Tree Removal Application to the Township Zoning Officer. No tree shall be removed until municipal officials have reviewed and approved the removal.
- (2) The Township shall make available a Tree Removal Application form for applicants to complete, which shall include the information necessary for the Zoning Officer to review and consider the application.
- (3) Applicants shall pay an application fee of \$20.00 or \$10.00 per tree, whichever is higher.

#### **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 246-4, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- (2) Any person who removes one or more of any other tree(s) with a DBH of 6" or more per acre, unless otherwise exempt under 246-4, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- (3) The species type and diversity of replacement trees shall be in accordance with a list of the types of permitted trees created by the Township and maintained in the office of the Township Clerk, which may be updated as necessary from time to time.
- (4) Replacement tree(s) shall:
  - (a) Be nursery grade and 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 in accordance with industry standards and within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Township;

(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) Not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

**Tree Replacement Requirements Table:**

<b>Category</b>	<b>Tree Removed (DBH)</b>	<b>Tree Replacement Criteria</b>	<b>Tree Replacement Fee</b>
1	DBH of 2.5" (for street trees) or 6" to 12.99" (for other trees)	Replant 1 tree in with minimum caliper of 1.5" for each tree removed	\$250
2	DBH of 13" to 22.99"	Replant 2 trees with minimum caliper of 1.5" for each tree removed	\$500
3	DBH of 23" to 32.99"	Replant 3 trees with minimum caliper of 1.5" for each tree removed	\$750
4	DBH of 33" or greater	Replant 4 trees with minimum caliper of 1.5" for each tree removed	\$1,000

**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 Township.

(b) Pay a replacement fee for each tree removed in accordance with the foregoing Table. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of trees by the Township in the public right-of-ways and on public property, including open space.

#### **§246-4. Exemptions.**

Except as specifically provided below, all persons shall comply with the permit and fee requirement and tree replacement standard outlined above. While the following categories are exempt from the requirements above, the person removing the trees shall submit sufficient documentary evidence (such as photographs or written advice from an arborist or LTE) demonstrating the exemption prior to the tree removal:

- A. Residents who remove fewer than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. Note: 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, when removal is undertaken as part of existing operations;
- 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 Township;
- D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan;
- E. 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; and
- H. Trees subject to a plan consistent with the requirements of section 165-77 of the Land Use Regulations of the Township of Clinton, and included as part of a development application that has been approved by the appropriate board of jurisdiction.

**§246-5. Enforcement.**

This ordinance shall be enforced by the Zoning Officer during the course of ordinary enforcement duties.

**§246-6. Violations and Penalties.**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a minimum fine of \$100.00 and maximum fine of \$1,000 per violation.

**SECTION 3. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

**SECTION 4. Severability.** If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding and shall not affect the validity of the remaining paragraphs or sections hereof.

**SECTION 5. Effective date.** This ordinance shall take effect 20 days after final passage in accordance with N.J.S.A. 40:69A-181.

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Lindsay Heller, Acting Township Clerk

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Hon. Brian Mullay, Mayor

Introduced: April 10, 2024  
Public hearing: April 24, 2024  
Adopted: \_\_\_\_\_, 2024

The foregoing ordinance was introduced on first reading at the April 10, 2024, meeting of the Mayor and Council of the Township of Clinton. It will be further considered for final passage following a public hearing thereon to be held on **April 24, 2024, at 7:00 p.m.**, on the third floor of the Clinton Township Public Safety Building, 1370 Route 31 North, Annandale, NJ 08801, at which time and place anyone from the public wishing to be heard will be permitted to ask questions or offer comments regarding the ordinance. During the week prior to and up to and including the date of such meeting and public hearing, copies of the full ordinance will be available at no cost during regular business hours in the Office of the Township Clerk for members of the public who

shall request a copy of same. The ordinance will also be available on the Township's website at <https://clintontwpnj.gov>.

The purpose of the ordinance is to regulate tree removal and replacement in the Township in order to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety and welfare, all as required by the New Jersey Department of Environmental Protection.