

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 20-18

1st Reading 9-8-2020 Date to Mayor _____

2nd Reading & Public Hearing _____ Date Returned _____

Date Adopted: _____ Date Resubmitted to Council _____

Approved as to Form: _____

Effective Date: _____
Township Attorney _____

AN ORDINANCE OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING, TO ESTABLISH CHAPTER 425: TREE REMOVAL AND REPLACEMENT

MEMBER	First Reading					
	AYE	NAY	ABSENT	ABSTAIN	MOVE	SECOND
Baxter	X					
Schroth	X					
Steward	X					X
Wollert	X				X	
Keyes-Maloney	X					

MEMBER	AYE	NAY	ABSENT	ABSTAIN	MOVE	SECOND
	Baxter					
Schroth						
Steward						
Wollert						
Keyes-Maloney						

By _____ Date _____ Accepted _____ Rejected _____
Mayor

Reconsidered By Council _____ Override Vote YEA _____ NAY _____

President of the Council _____ Municipal Clerk

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 20-18

**AN ORDINANCE OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER,
AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF
THE TOWNSHIP OF EWING, TO ESTABLISH CHAPTER 425: TREE REMOVAL
AND REPLACEMENT**

WHEREAS, the Township of Ewing (“Township”) recognizes that trees are an important cultural, ecological, scenic and economic resource, and the indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within the Township can adversely impact the character of the Township, decrease property values, render the land unfit and unsuitable for its most appropriate use, and negatively affect the health, safety and general welfare of the Township’s residents; and

WHEREAS, the Township finds that the appropriate management of these resources is an important health, safety and general welfare concern, and otherwise in the best interests of the residents of the Township; and

WHEREAS, the Township desires to regulate and control the indiscriminate and excessive cutting of trees within the Township and to require appropriate tree replacement; and

WHEREAS, this ordinance is a valid exercise of the Township’s police power under N.J.S.A. 40:48-2; and

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1

Chapter 425: Tree Removal and Replacement

§ 425-1 Purpose and Intent.

- (A) The Township of Ewing has determined that the protection of trees within the Township is not only desirable, but also essential to the present and future health, safety and welfare of all citizens. Trees are valuable contributors to not only the Township’s environment and beauty, but as studies have shown, the local economy as well.
- (B) The protection of trees and the tree canopy serves the public interest because trees provide oxygen, stabilization of soil, prevention of erosion, shelter for wildlife, conservation of energy by providing shade, filtering air including carbon, and adds to the beauty of the Township of Ewing.
- (C) The indiscriminate, unmitigated and excess destruction, removal or cutting of trees causes increased drainage control costs, soil erosion, siltation of surface waters, flooding, enlarged flood plains, air, water and noise pollution, wind damage to property, elevated air temperatures in summer, a reduction in ground water recharge and soil fertility, and a reduction in aquatic and terrestrial native wildlife habitats.
- (D) Trees have been documented as having a positive impact on property values and increase the marketability of a community.
- (E) Mature trees contribute significantly to the aforementioned positive attributes through many years of growth and are not readily replaceable.
- (F) The singular or cumulative effect of any of the foregoing could adversely impact the character of the Township, decrease property values, render the land unfit and unsuitable for its most appropriate use, and negatively affect the health, safety and general welfare of the

Township's residents. Thus, the Township desires to regulate and control the indiscriminate and excessive cutting of trees within the Township and to require appropriate tree replacement.

(G) The enforcement of this chapter shall be the duty of the Department of Economic & Community Development, the Division of Code Enforcement, and the Division of Planning and Zoning, together with the Department of Public Works and the Health Department as needed. The standards and procedures established herein are intended to furnish guidelines for the Division of Code Enforcement and/or the Division of Planning and Zoning in connection with the regulating, planting, care and control of trees in the streets, highways, and public places of the Township, and tree removal on all lands within the Township.

(H) This ordinance is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for the continued use of forest resources which are compatible with the maintenance of the environment. This will be accomplished by ensuring management of forest and trees through the application of sound management practices. Managing the Township's tree resources is consistent with the Conservation Element of the Township Master Plan and/or the Township's Community Forestry Management Plan, which was submitted and approved pursuant to P.L. 1996, c. 135.

(I) All projects must adhere to the American Standard for Nursery Stock by the American National Standards Institute (ANSI) upon planting, removing, and pruning trees in accordance with this ordinance.

(J) This chapter is a valid exercise of the Township's police power pursuant to N.J.S.A. 40:48-2 and may be cited as the "Ewing Township Shade Tree Ordinance."

§ 425-2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATIVE OFFICER

The Township of Economic and Community Development Director, or any designee thereof.

CALIPER

The diameter of a tree as measured by an approved forestry method or a nursery method, constituting the standard measure of tree size for trees to be newly planted or removed.

CLEAR CUTTING

The removal of all standing trees on a lot or portion of a lot.

CODE ENFORCEMENT OFFICE

The Ewing Township Division of Code Enforcement, including any designee thereof.
COMMISSION

The Ewing Township Environmental Commission.

CONIFEROUS TREE

A tree, most frequently evergreen, which bears cone fruits, such a junipers and pines.

DEAD TREE

A tree which has ceased to physiologically function. Dead trees typically are devoid of leaves and have loose bark.

DECIDUOUS TREE

A tree whose leaves drop off at the end of each growing season.

DIAMETER at Point of Measurement (DPM)

The diameter of a tree measured four and one half (4.5) feet (forestry method) above ground level, on the downhill side of existing trees. Trees used for the replacement of existing trees, or proposed in a landscape plan, shall be measured twelve (12) inches above ground level for trees over four (4) inches in caliper; the measurement shall be six (6) inches above ground level for trees up to four (4) inch caliper (nursery method)

DRIPLINE

An imaginary limiting line which connects the outermost branches of an existing tree projected vertically onto the ground in a circular area which must not be less than six (6) feet from the trunk.

EVERGREEN TREE

A tree whose foliage remains on the tree throughout the entire year.

EXEMPT AREA

The lot area as provided in this chapter for which tree replacement shall not be required.

HISTORIC/LANDMARK TREE

Any tree that has been found to be of notable historic importance or interest to the Township because of its age, type, size, or historic association, and which has been so designated by the Township and therefore constitutes an important community resource. This definition includes trees determined to be of unique historical value by the New Jersey Department of Environmental Protection.

INVASIVE TREES (JUNK TREES)

Species of tree, including but not limited to those species listed in Attachment 9 to Chapter 215, which is invasive to the Mid-Atlantic Region, grows aggressively, spreads and displaces other plants, and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Generally these trees do not require a permit for removal upon notice provided to the Township.

LAND USE BOARD

The Ewing Township Planning Board or Zoning Board of Adjustment

LIMIT OF DISTURBANCE LINE

A boundary, marked on a site plan and flagged on a property, beyond which no machinery can pass, no grading will be performed, and no vegetation will be cleared; nothing will be disturbed beyond that boundary.

MUNICIPAL LAND

Any property owned by the Township, including but not limited to public parks, public schools, public buildings and the surrounding property, and any lot or right of way for streets, sidewalks, walkways or municipal utilities except for sanitary sewers and storm sewers on developed lots. For the purpose of this chapter, a right-of-way for streets, sidewalks, walkways or municipal utility which is dedicated for public use on a subdivision plot approved by the Township shall be deemed to be property owned by the Township, County or State only upon and after the formal acceptance of such right-of-way by the same.

MUNICIPAL TREE PLANTING AND PRESERVATION FUND

A monetary fund established in accordance with the dedication by rider approval granted by the New Jersey Department of Community Affairs, to serve as the depository for all moneys which are received by the Township, either by way of contributions for purposes of preserving or reforesting trees within the Township and any and all fees and payments received pursuant to this chapter, including funds collected as contribution in lieu of tree replacement. This fund shall be separately maintained by the Township for the purpose of reestablishing and maintaining tree cover through the Township or for other purposes, in consultation with the Commission, not inconsistent with the purposes of this chapter.

OPEN SPACE

Any 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.

PARK TREES

Trees, shrubs, and all other woody vegetation in public parks having individual names and areas owned by the Township, or to which the public has free access as a park.

PERSON

Any individual, firm, partnership, corporation, company, association, or other legal entity other than the Township, including any trustee, receiver, assignee or other similar representative.

PLANNING AND ZONING OFFICE

The Ewing Township Division of Planning and Zoning, including any designee thereof.

REPLACEMENT TREE

A nursery-grown certified tree, properly balled and burlapped, container grown or bare root, and marked with a durable label indicating genus, species and variety, satisfying the standards established for nursery stock and installation thereof, set forth by the most recent publications of the American Association of Nurserymen.

RESIDENTIAL TREE PLANTING PROGRAM

A program that shall provide replacement trees to individual residents and community groups to be planted on private property, utilizing funds from the Municipal Tree Planting and Preservation Fund.

SILVICULTURE

The management of any forested tract of land to insure its continued survival and welfare, whether for commercial or noncommercial purposes, pursuant to a plan approved by the New Jersey Department of Environmental Protection, New Jersey Forest Service.

SITE PLAN

A development plan of one or more lots, as defined under § 215-8.

SLASH

The forest debris remaining after a tree removal operation.

SPECIMEN TREE

A tree of unique ecological value that constitutes an important community resource, and which has been so designated by the Township, including an especially old or large tree of a diameter DPM of 30" or greater; a coniferous tree greater than 100 feet in height; a tree of any size listed as a rare, threatened or endangered species by the New Jersey Department of Environmental Protection; a dogwood (Cornus florida) greater than 4" DPM; a tree of 100 or more years of age; a tree with foliage of an unusual quality for a tree of its species; or a tree that occupies a location which confers special shade tree, fragrance, erosion control, aesthetic, scenic enhancement, historic, preservation or cultural values to the community.

STREET LINE

The edge of an existing or future right-of-way, as defined under § 215-8.

STREET TREES

Street Trees are shade trees on lands lining both or either side of all streets, avenues or ways within the Township planted within the right-of-way or adjacent to the right-of-way on private property comprising a "complete street" design intention creating uniformity along the street edge (5-10' off the sidewalk).

SUBDIVISION

The division of a lot, tract or parcel of land, as defined under § 215-8.

THINNING

The removal of undesirable, invasive, diseased or damaged trees so as to cultivate and improve the quality of a tree stand or the development of remaining trees on a lot.

TOPPING

The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

TREE

Any deciduous or coniferous species which reaches a mature height of twelve (12) feet or more and has a DPM of four (4) inches or greater.

TREE REMOVAL

In addition to cutting down a tree in its entirety, "removal" shall include damage inflicted to a tree which will result in its death, such as damage inflicted to the root system by machinery, storage of materials and soil compaction, change of natural grade above or below the root system, excessive pruning or thinning, paving over the root system, application of poisons or herbicides, and damage to the bark. Stumps must always be removed, unless circumstances prohibit, and be disposed of properly and not buried on the property.

TREE REMOVAL PERMIT

A permit to remove trees, issued by the Administrative Officer after review and approval of an application for removal and replacement of trees in accordance with the provisions of this chapter.

TREE REPLACEMENT PLAN

A plan for replacement of removed trees in accordance with the provisions of this chapter.

TREE PROFESSIONAL

Any person who is a Licensed Tree Expert (LTE) and/or arborist trained to perform expert tree services including pruning, repairing or removal, tree establishment, fertilization, consulting, diagnosis, and treatment of tree problems or diseases, management during site planning and development, tree assessment and risk management, and application of pesticides or any other form of tree maintenance.

TREE STAND

A large or small group of mixed trees including canopy and understory with a surrounding shrub and herbaceous layer.

TREE OF VALUE

Generally, any deciduous tree of a diameter of six (6") inches or greater, and/or conifer with a height of twelve (12') feet or greater. However, trees whose canopies are part of an established street tree network, and/or; trees recognized/designated as significant within the Conservation Element of the Township Master Plan based on historical importance, rarity, centennial or heritage status, and/or; trees whose canopies are within twenty-five (25') feet of New Jersey Department of Environmental Protection ("NJDEP") designated Critical Habitat, wetlands, or other environmental sensitivity, and/or trees that are part of a stand of trees serving as habitat, and/or; trees whose canopies are greater than thirty (30') feet in diameter, may also be considered trees of value because of their environmental benefit.

ZONING OFFICER

The Ewing Township Zoning Officer

§ 425-3 Applicability.

(A) The terms and provisions of this chapter shall apply to all public, private and commercial property owners in the Township or their designates, including unimproved properties under separate block and lot from those that may be improved under common ownership and adjacent to said lot, Township-owned land and public rights-of-way, utility, drainage and/or conservation easements, wetlands restricted areas, flood plains, or wetland buffer areas within the Township of Ewing, with the following exceptions to be verified through a Zoning Permit:

- (1) Any property upon which no trees are located, as confirmed by a statement of no tree verification;
- (2) Any tree of less than four (4) inches DPM;
- (3) Parcels of land one acre or less in size, on which a private single-family dwelling has been erected and occupied, provided that the tree removal is authorized in writing by the owner of such property and no more than four (4) trees are removed from said property within a given twelve (12) month period not including street trees and/or shade trees planted along a street edge.
- (4) Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantation or tree orchard;
- (5) Any tree which is part of a cemetery;
- (6) Parcels of land subject to a forestry management plan approved by the New Jersey Department of Environmental Protection, New Jersey Forest Service, or similar state or federal agency;
- (7) Trees which are verified as dead, dying or diseased or trees which suffered severe damage or any tree or trees whose angle or growth makes them a hazard to structures or human life. Removal of tree along the street edge requires verification by a Tree Professional;
- (8) Trees directed to be removed by the Township, County, State or Federal authority, which are deemed an immediate threat to the health, safety, or welfare of the general public;
- (9) Trees removed in conjunction with the Right to Farm Act, on qualifying farms;
- (10) Approved game management practice and habitat programs as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife, National Resource Commission or similar agency;

- (11) Invasive Tree Species as defined in the invasive tree species list; and
- (12) All properties operated as municipal or county golf courses, and properties operated by state, county, or municipal governments for parks, recreation or open space.

§ 425-4 Environmental Commission.

The Environmental Commission is intended to be a resource to, and not a replacement for, the authority of the Administrative Officer under this Chapter or the inspection duties and responsibilities of the Code Enforcement Office. In connection with this Chapter, the Commission may:

- (A) Provide advice upon request by to the Code Enforcement Office, Department of Public Works, Health Department, Planning Board, or Zoning Board.
- (B) Inspect trees on municipal land and recommend to the Township action for their care and treatment and removal when in its opinion removal is necessary.
- (C) Provide reports and/or notification to the Township any known or reported cases of disease and/or pest infestations, and otherwise hazardous conditions within the Township, which in its opinion require action for the protection and preservation of trees and shrubs on that site and elsewhere in the Township, including private property for disease and hazards to the general public.
- (D) Formulate, review, and/or provide recommendations to the Township, plans and programs for the planting, care and treatment of trees and shrubs, including street rights-of-way, walkways, and other easements and rights-of-way of other entities. Such efforts may be presented to the Township Planning Board, and upon their acceptance and approval, and contribute to the official Township of Ewing Master Plan, which may from time to time facilitate ordinance recommendations consistent with such plans as allowed for in the Municipal Land Use Law.
- (E) Develop and distribute to citizens educational information for the planting, care and maintenance of trees and shrubs through such means as the Township website, community fest, community kiosks, etc.
- (F) Consult with a tree professional (or such person certified within the Department of Public Works) as needed during the development application review process. Payment for which shall be taken from the Commission budget, grant, developer escrow when related to a development application, and/or any environmental improvement funds the Township wishes to consider. Payment guidelines must be with the consent of the Township Administration.

(G) When requested by the Township Council, Mayor, or Planning Board, may consider, investigate, make findings of fact, and make recommendations upon any special matter and/or questions coming within the scope of its expertise.

(H) The Environmental Commission is encouraged to pursue and submit applications for funding and programs consistent with the objectives set forth herein with consent of the Township Administration and/or Township Council as may be required.

§ 425-5 Tree Protection.

(A) Unless specifically excluded herein or otherwise authorized, no person shall cut or remove, or cause to be cut or removed, any tree or trees upon any lands in the Township without first having obtained a tree removal permit in accordance with the provisions of this chapter.

(B) No person shall, unless otherwise authorized:

- (1) Injure, deface, poison or damage any healthy, non-invasive tree;

(2) Excavate around, remove earth or soil from, or cause or allow water to flow upon the roots of any tree of value in any manner, which may harmfully affect such tree;

(3) Place any material, temporary soil deposit, large machinery or equipment within the drip line of any trees determined or required to be left standing and no paving of any impervious nature shall be placed within the drip-line of any tree. Compaction of the ground by mechanical or vehicular means is prohibited. A protection barrier must be installed to protect all trees to be saved, or in the case of groups of trees, a tree protection zone must be established (See Detail Sheet in the Landscape Section of Township Land Development Ordinances);

(4) Use any tree or trees for roping, cabling, signs, or fencing. Nails and other fastening devices shall not be driven into or attached to a tree.

(5) Fell, push or pull into a tree protection area any trees being removed under the allowances of this chapter.

(6) Top any street tree, park tree or other tree on public property.

(a) Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the discretion of the Administrative Officer in consultation with the Commission.

(b) If an obstructive tree cannot be corrected without “topping” it should be removed and stump ground (removed if diseased) and replaced with a more appropriate species of tree. Utilize ANSI A300 standards for pruning.

(7) Plant trees on municipal land, open space property and public rights-of-way within the Township.

(8) Plant trees within ten (10) feet of the street line.

(D) Specimen and Historic Trees. In no case shall any trees which have been designated as specimen or historic under the provisions of this chapter be cut or removed, or caused to be cut or removed, from any location within the Township, unless otherwise approved.

(F) Timber and Silviculture. Plans for the harvesting of timber and or silviculture shall be in accordance with the standards and recommendations of the New Jersey Department of Environmental Protection, New Jersey Forest Service.

§ 425-6 Tree Removal Permit.

(A) For the removal of trees not in conjunction with an application for development of property involving minor or major subdivision or site plan, or in any other form of development where the approval of the Land Use Board is not required, an application in a form to be established shall be submitted in duplicate to the Administrative Officer with the application fee and providing the following information:

(1) Required information:

(a) Street address of property with block and lot identified;

(b) Name of owner of property, phone number and name of occupant of premises and phone number, if applicable;

(c) Total acreage of the tract;

(d) Location of all proposed trees having a DPM of four (4) inches or greater to be cut, removed or damaged in such a way as to cause a need for their removal, noting each tree by its species, size and general health condition;

- (e) The applicant shall identify the land upon which the tree(s) are located, preferably on a survey, plot plan, or hand drawing to scale; and
- (f) Reason for the removal, including a description of the type of tree removal.
- (g) Identification of any Tree Professional involved in the project.

(2) Where an application is made in connection with the construction of a building or other improvement, a land use permit and a tree removal permit must be issued prior to the clearing of trees and the construction of a new dwelling. No building permit shall be issued until the tree removal permit has been granted.

(3) Upon receipt of the application for tree removal permit, the Administrative Officer, in conjunction with the Commission and the Township Planner, may field inspect the lot to determine if the removal, clearing or relocation of the trees does not violate the below-listed criteria:

- (a) The tree(s) to be removed is not located within a conservation area, environmentally sensitive area, wetland area or buffer area designated by state, county or Township ordinance, or as delineated and/or specified on a previously approved site plan or subdivision plan for the property in question.
- (b) The tree(s) to be removed was not required to be planted by a previously approved application and/or landscape plan to provide screening or buffering for a building or structure located on the property in question or on an adjacent parcel of land.
- (c) An increase of surface water runoff.
- (d) Soil instability and erosion.
- (e) A negative impact on the adjacent properties.
- (f) Removal or disturbance of historic or landmark tree(s).

(4) The Administrative Officer, in conjunction with the Commission and the Township Planner, shall also consider the following as a basis for determining permitted tree removal:

- (a) The impact on existing trees.
- (b) Inherent value of the tree(s) as a specimen or historic tree.
- (c) Inherent value from stands of trees.
- (d) Clearance for proposed road, sight easements, utility rights of way, or approved driveway right of way.
- (e) Clearance of trees for the construction of a building plus a twenty- five (25') foot wide area surrounding such buildings.
- (f) Clearance of trees for the construction of septic tanks, leaching fields, sewer plants and other utilities shall be considered if the plan is approved by the County Health Department or Township Health Officer.
- (g) Clearance of any dead, dying, diseased, damaged, or infested tree, or trees whose angle or growth makes them a hazard to structures, utilities, or human life as verified by the Zoning Official in consultation if necessary with the Commission or Department of Public Works.
- (h) Grading changes must be noted on all applications.

(5) A tree removal permit issued by the Administrative Officer under this subsection shall be valid for one (1) year from the date of issuance. Any and all permits approved 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. 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.

(6) If the proposed removal violates one of the listed criteria, the matter shall be referred to the board which had or would have jurisdiction.

B. For the removal of trees in conjunction with an application for development of property as either a minor or major subdivision or site plan, or in any other form of development where the approval of the Land Use Board will be required, the applicant shall submit a tree removal permit application to the Board as part of the proposed construction development in a form and manner which complies with the Township Land Use Regulation.

(1) Landscape Plan Required. An applicant shall also submit, as required pursuant to § 215-57, a landscape plan prepared by a licensed landscape architect (LLA), horticulturist, or certified professional landscaping designer, and a tree replacement plan prepared by the LLA or a certified forester. The plans shall:

(a) Identify existing and proposed trees, shrubs, bushes, plant material, ground cover and natural features.

[1] Such a plan shall be to scale.

[2] When existing natural growth is proposed to remain, the applicant shall include in the plans proposed methods to maintain and protect the existing trees and growth during and after construction.

[3] These shall include fences, berms, curbing tree wells and similar devices.

(b) Show the locations and genus and species of all individual trees or groups of trees having a DPM of four (4) inches or more and these trees shall also be written on a list attached to the plan.

(c) Show the limits of disturbance.

(d) Show the areas reserved for the stockpiling of soil and storage of equipment and temporary fencing, which shall not be within ten (10) feet from the dripline of any tree; and

(e) Show the structures on the property, utility lines, waste lines, septic fields and storage tanks.

(2) The Land Use Board shall refer the application to the Commission for its report and nonbinding recommendations. The Board may rely on the report and recommendations of the Commission in reaching its decision to approve the management plan, disapprove the management plan, or approve the management plan subject to such conditions as have been recommended by the Commission in accordance with the terms of this chapter.

(3) All trees subject to board approval must be recorded by deed within the subdivision and/or site plan.

§ 425-7 Fees; Municipal Tree Planting and Preservation Fund

A. Application. The applicant, at the time of filing the application with the Administrative Officer, the Planning and Zoning Office, and/or the Land Use Board, shall pay the application fee of \$10 for each new or existing lot. No application shall be considered without payment of the required fees. An inspection fee of \$25 will be applied to all applications requiring an on-site verification.

B. Payment in Lieu of Planting. The required contribution for payment in lieu of planting replacement trees will be in accordance with § 425-9.

C. Municipal Tree Planting and Preservation Fund.

(1) The Township shall establish a Municipal Tree Planting and Preservation Fund, in accordance with the dedication by rider approval granted by the New Jersey Department of Community Affairs, to serve as the depository for all moneys which are received by the Township, either by way of contributions for the purpose of preserving or reforesting trees within the Township and any and all fees and payments received pursuant this chapter, including funds collected as contribution in lieu of replanting.

(2) The Municipal Tree Planting and Preservation Fund shall be administered by the Chief Financial Officer, in accordance with applicable local government finance laws and be used solely for the functions and purposes established in this chapter. The Chief Financial Officer shall report to the Business Administrator, the Commission, the Code Enforcement Office, the Township Council and the Land Use Board, on a quarterly basis, the amount in the Fund as of the end of each quarter, the amount deposited by each development application or other contribution, and all amounts dedicated from the Fund for the current and subsequent quarter, including the total cost, location and size of all plantings to be paid therefrom.

(3) Any and all appropriations from the Municipal Tree Planting and Preservation Fund shall be made by the Business Administrator, upon recommendation and report from the Commission, the Code Enforcement Office and/or the Land Use Board.

(4) Funds deposited in the Tree Planting and Preservation Fund shall be used by the Township, by the Business Administrator in consultation with the Administrative Officer to advance environmental programs such as tree planting, tree maintenance, tree preservation, park development or landscaping and other comparable projects, including but not limited to:

- (i) Providing for the caring, pruning and maintenance of trees on municipal land, open space property and public rights-of-way within the Township.
- (ii) Planting of trees and/or shrubbery on municipal land, open space property and public rights-of-way within the Township.
- (iii) Reforestation and beautification of municipal land, open space property and public rights-of-way within the Township; and
- (iv) Preserving or maintaining historic/landmark or specimen trees; and
- (v) Providing for trees under the Residential Tree Planting Program.

(5) If the Township does not establish the Municipal Tree Planting and Preservation Fund, all sections of this chapter providing for contributions or the payment of penalties to such a fund shall not apply.

§ 425-8 Removal of Trees.

- A. Provisions must be made for the removal of stumps and branches from the property.
- B. Tree removal must include stump grinding to a depth of 18”.
- C. Removed trees, trunks and stumps may be processed into chips or mulch and applied to the site. Removed trees, trunks and stumps that are diseased shall not be processed into chips or mulch and applied to the site, but disposed of in a manner that does not spread disease or pests if applicable.

§ 425-9 Tree replacement.

A. Any tree removed pursuant to this chapter shall be replaced as provided below, unless said tree is located in an exempt area under §425-3, is dead or fatally diseased as determined by a certified tree expert, is excluded pursuant to subsection (J) herein, or tree replacement payment is made pursuant to subsection (J) herein:

# TO BE REMOVED	CALIPER OF TREE REMOVED	NUMBER OF REPLACEMENT TREES	TREE REPLACEMENT VALUE*
1	Between 6 to 10 inches	B&B or Containerized 1 (2" to 2-1/2")	TBD*
2	Between 6 to 10 inches	1 (3-1/2" to 4")	TBD*
1	Between 10 to 16 inches	2 (2" to 2-1/2")	TBD*
1	Between 16 to 23 inches	2 (3")	TBD*
1	Between 23 to 30 inches	4 (3-1/2" to 4") or 6 (2" to 2-1/2")	TBD*
1	30 inches or greater	5 (3-1/2" to 4") or 7 (3-1/2" to 4")	TBD*

* *Tree Replacement Value - The value of the in lieu of replacement fee will be determined by current wholesale values posted annually by the Township for the current year.*
 ** *All street tree replacements are a 1 for 1 replacement value and requires coordination with the Landscape Ordinance. The Township will work with tree wholesalers and provide residents with access to trees at its wholesale cost.*

B. In addition to an application for tree removal permit, a tree replacement plan must be submitted to the Administrative Officer and/or the Land Use Board. Any tree replacement plan must be compatible with the location's zoning and land use ordinances, approved site plans or subdivisions, and with the Township's Master Plan. The tree replacement plan shall show where the replacement trees will be located and the proposed planting details and specifications, including a schedule and plan for watering new plantings to insure their continued growth, shall be prepared by a licensed landscape architect (LLA), horticulturist, or certified professional landscaping designer. All bareroot trees must adhere to known industry standards upon planting – notice to the Administrative Officer and/or Zoning Officer and verification of adherence is required.

C. Replacement tree(s) shall be located on the site in question. If replacement trees cannot be accommodated on site, then the Administrative Officer and/or the Land Use Board, shall be notified for approval and consideration of alternate planting sites such as public property and rights-of way, parks, schools and public buildings; if no such site is available, an equivalent cash payment of the value of the tree shall be placed in the Municipal Tree Planting and Preservation Fund.

D. Replacement trees shall have a minimum of 2-2½" caliper, balled and burlapped, and according to the standards as established by the latest publication of the American Association of Nurserymen. 1¼" Bare Root and 1½ to 2" Containerized trees may be utilized as well, but must be checked if root bound and, if so, remedied before planting upon inspection by the Administrative Officer, Township Planner, Zoning Officer, Environmental Commissioner, or Township Engineer. Utilization of Bare Root must strictly follow industry standards upon planting. Generally bare root specimens when utilized shall be calculated by multiplying the number of required 2 to 2 1/2" trees by 1.5 and the number of required 3-1/2" to 4" trees by 2.5.

E. The genus and species of replacement tree(s) shall be the same as the species removed, provided the species was appropriate to the location, unless it is classified as an invasive tree, non-native species, or prone to diseases and pests; the species of replacement tree(s) must be approved during tree replacement plan review with the Administrative Officer and/or Board of jurisdiction, in collaboration with the Commission.

F. It is of vital importance in the selection of the genus and species of replacement trees to consider using appropriate species native to the mid-Atlantic region, and

- (1) The size and shape of the tree at maturity;
- (2) The degree, type and cost of care;

- (3) Possible sidewalk heaving;
- (4) Inter-branching from incorrect spacing;
- (5) Susceptibility to weather, parasites and diseases;
- (6) Effects on pedestrians, vehicles, structures and aesthetics;
- (7) Safety and repairs over the lifetime of the tree;
- (8) Presence or absence of overhead utility wires; and
- (9) Contribution of the trees based on the ecosystem.

F. Large-growing conifers (Abies, Picea, Pinus) may be substituted for the above-required deciduous trees at a ratio of three (3) conifers for every one (1) deciduous tree required. No more than 40% of the required plantings, however, may be conifers due to their reduced environmental contributions. Conifers must be a minimum of five (5) feet at time of planting. Conifer genus, species, and number must be approved by the Administrative Officer and/or Township Engineer.

G. Replacement trees must be warranted by the nursery supplier for one year after installation.

H. When all replacement trees are planted a final inspection by the Administrative Officer shall be requested; successful passing of the final inspection is a prerequisite for the issuance of a Certificate of Occupancy.

I. The following shall be excluded from these requirements:

- (1) Any tree requiring removal due to the Emerald Ash Borer epidemic.
- (2) Invasive tree species due to unchecked maintenance.

J. When a site cannot reasonably accommodate the requirements set forth in this chapter and §215-57, or the number of trees to be removed is greater than the number of trees to be replaced under the landscaping and tree replacement plan due to limited available planting area, the applicant shall make a contribution to be deposited into the Tree Planting and Preservation Fund, as established herein. The contribution in lieu of planting or preserving trees shall be \$300 per tree, representing the entire cost of establishing a new tree including materials and labor necessary to plant and maintain the tree for two (2) years. The contribution amount will be reviewed annually and, if necessary, adjusted to reflect current costs.

§ 425-10 Residential Tree Planting Program.

- (1) There is hereby established the Residential Tree Planting Program, which shall provide replacement trees to individuals and community groups to be planted on private property.
- (2) Applications to the Residential Tree Planting Program are limited to property owners planting trees on private property. Those eligible to apply for and receive trees include:
 - (a) Civic and homeowner associations
 - (b) Community nonprofit organizations
 - (c) Civic service clubs
 - (d) School-related groups planting on private property
 - (e) Ad hoc neighborhood groups
 - (f) Individuals

(g) Places of worship

- (3) Applications will be accepted and approved on a first-come, first-served basis, and subject to the availability of funds and trees. Applications are limited to one tree per property. All properties for which applications have been submitted are subject to a site evaluation by the Administrative Officer or the Township Engineer, to determine whether the property is conducive to new tree planting and growth.
- (4) Trees will be delivered to a resident's property in a container. All of the species shall be native trees sourced from within New Jersey. Trees will generally be 2" in caliper size, and 7' in height.
- (5) Once delivered, the tree shall be the sole responsibility of the property owner. The property owner shall be responsible for maintaining and caring for the tree, including watering or feeding, trimming, pruning and spraying, and removal of the tree in the event of its death.
- (6) All trees shall be planted within fourteen (14) days of delivery, weather permitting, and in accordance with the requirements set forth in this chapter and § 215-57. The property owner shall notify the Township upon planting the tree, which shall be subject to inspection by the Township.

§ 425-11 Liability.

Nothing contained in this section shall be deemed to impose any liability upon the Township, its officers or employees, or members of the Land Use Board or Commission, nor to relieve the owner of any property from the duty to keep any tree, shrub or plant on Township-owned land areas on his property or under his control, including the public right-of-way, utility, drainage and/or conservation easements, wetlands restricted areas, flood plains, or wetland buffer in such condition or to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, playground, alley or public place within the Township.

§ 425-12 Violations and penalties.

Penalties for non-compliance with these will be subject to fines and violations as detailed in the Township General Ordinances § 1-17, General Provisions.

Section 2 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 3 Repealer. All prior ordinances or parts of the same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.