

CRANBURY TOWNSHIP ORDINANCE 04-24-11

**AN ORDINANCE CREATING IN THE CODE OF THE TOWNSHIP OF CRANBURY,
MIDDLESEX COUNTY, NJ, CHAPTER 131 ENTITLED "TREE REMOVAL AND
REPLACEMENT"**

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Cranbury, Middlesex County, New Jersey, as follows:

SECTION 1. The recitals contained in the foregoing preamble are incorporated herein as if fully restated.

Chapter 131 in its entirety, of the Code of the Township of Cranbury ("Code"), shall be created as follows (additions are underlined; deletions are in [brackets]):

Chapter 131. TREE REMOVAL AND REPLACEMENT

§ 131-1 Purpose:

An ordinance to establish requirements for tree removal and replacement in Cranbury, with the exception of trees in conservation areas (see Chapter 150-58), to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§ 131-2 Definitions:

A. "Applicant" means any "person", as defined below, who applies to remove trees regulated under this ordinance.

B. "Critical Root Radius (CRR)" – means 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'.

C. "Diameter at Breast Height (DBH)" means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

D. "Hazard Tree" is 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 determined by a certified arborist or Licensed Tree Expert (LTE);
2. Is dead or dying determined by a certified arborist or Licensed Tree Expert (LTE);
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).

E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.

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

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

H. "Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

I. "Tree" means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

J. "Tree Caliper" means 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.

K. "Tree removal" means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

§ 131-3 Regulated Activities:

A. Application Process

1. Any person planning to remove a street tree, as defined as Tree Removal or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to the Shade Tree Commission.

B. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) shall be subject to the requirements of the Tree Replacement Requirements Table below.

2. Any person, who removes one or more non-street tree(s), as defined as Tree removal, with a DBH of 6" or more per acre unless otherwise exempt under Section 131-4, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity and the planting requirements of replacement trees shall be in accordance with Appendix A, B and C.

Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Required Tree Replacement Criteria in the table below;
2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
3. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

TREE REPLACEMENT REQUIREMENTS TABLE:

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

§ 131-4 Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption:

A. Residents who remove less than four (4) non-street trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period.

B. Tree farms in active operation (i.e. farmland assessed), nurseries, fruit orchards, and garden centers.

C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality.

D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.

E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;

F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.

G. Hazard trees may be removed with no fee or replacement requirement.

H. Farms in farmland preservation with a management plan – Agricultural operations are exempt from replacement requirements because such operations are governed by the Right to Farm Act 4:1C-1 to 10 which preempt local regulation)

§ 131-5 Enforcement:

This ordinance shall be enforced by a municipal official with enforcement power.

§ 131-6 Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance may be subject to a fine of \$350 per tree.

§ 131-7 Severability: If any section or subsection of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication shall apply only to the specific section(s) or subsection(s) so adjudged, and the remainder of the ordinance shall be deemed valid.

§ 131-7 Effective Date: This ordinance shall take effect upon its passage and publication as required by law.

APPENDIX A
APPROVED LIST OF REPLACEMENT TREES

SEE THE SHADE TREE WEBSITE

APPENDIX B
DO NOT PLANT LIST

SEE THE SHADE TREE WEBSITE

APPENDIX C
PLANTING and PRUNING GUIDELINES

SEE THE SHADE TREE WEBSITE

The ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the Township of Cranbury, in the County of Middlesex, State of New Jersey held on April 22, 2024. It will be further considered for final passage, after a public hearing thereon, at a meeting of the governing body to be held in the meeting room of Town Hall, 23-A North Main Street, in the Township of Cranbury on May 13, 2024 at 7:00 P.M. and during the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

Debra A Rubin, RMC
Municipal Clerk