

ORDINANCE 2022-1

AN ORDINANCE OF THE TOWNSHIP OF CHERRY HILL AMENDING THE TOWNSHIP OF CHERRY HILL ORDINANCE REGULATING TREE PRESERVATION, REMOVAL, AND REPLANTING

WHEREAS, the Cherry Hill Township Council (“Township Council”) recognizes that trees are a natural resource that provides aesthetic, economic, ecological, environmental, and health benefits to the municipality and its inhabitants.

WHEREAS, the treatment of trees on individual properties can have significant impacts not only on those individual properties, but also on neighboring properties, the streetscape, and the entire municipality.

WHEREAS, according to the organization American Forests the Township of Cherry Hill (“Township”) has a Tree Equity Score of 87 out of 100, which indicates whether there are enough trees in specific neighborhoods or municipalities for everyone to experience the health, economic and climate benefits that trees provide.

WHEREAS, the indiscriminate, uncontrolled, and excess destruction, removal, and cutting of trees upon lots and tracts of land within the Township may result in increased municipal costs to control drainage, increased soil erosion and sedimentation, decreased fertility of the soil, decreased local groundwater recharge, increased seasonal temperatures, decreased air quality, increased dust, loss of wildlife habitat, and change in visual character.

WHEREAS, these impacts tend to adversely impact the overall quality of the Township, with the resulting deterioration of conditions affecting the health, safety, and general wellbeing of the inhabitants within the Township.

WHEREAS, Township Council desires to regulate the removal of trees within the community, to preserve the maximum amount of non-invasive trees in the community to the extent practical, and to cause reforestation of areas where trees have been removed.

NOW THEREFORE BE IT RESOLVED, by the Township of Council of the Township of Cherry Hill, County of Camden and State of New Jersey as follows:

SECTION 1. Ordinance 95-36 entitled “Revised General Ordinance, Township of Cherry Hill” Chapter XXI (Trees), and any and all subsequent amendments thereto, are hereby repealed in their entirety, and shall be replaced with the following regulations:

CHAPTER 21: REGULATION OF TREES

§ 21-1 FINDINGS

The Cherry Hill Township Council (“Township Council”) recognizes that trees are a natural resource that provides aesthetic, economic, ecological, environmental, and health benefits to the municipality and its inhabitants. It further finds that the treatment of trees on individual properties can have significant impacts not only on those

individual properties, but also on neighboring properties, the streetscape, and the entire municipality.

The Township Council finds that the indiscriminate, uncontrolled, and excess destruction, removal, and cutting of trees upon lots and tracts of land within the Township of Cherry Hill ("Township") may result in increased municipal costs to control drainage, increased soil erosion and sedimentation, decreased fertility of the soil, decreased local groundwater recharge, increased seasonal temperatures, decreased air quality, increased dust, loss of wildlife habitat, and change in visual character. These impacts tend to adversely impact the overall quality of the Township, with the resulting deterioration of conditions affecting the health, safety, and general wellbeing of the inhabitants within the Township.

Therefore, Township Council desires to regulate the removal of trees within the community, to preserve the maximum amount of non-invasive trees in the community to the extent practical, and to cause reforestation of areas where trees have been removed.

§ 21-2 DEFINITIONS

The below terms are defined as follows for the purposes of this Chapter:

Commercial Tree Removal Application. An application for tree removal on any improved or unimproved lot not otherwise encompassed by a "Residential Tree Removal Application" as defined herein.

Dead Tree. A tree that has unseasonable lack of foliage, over 90% brittle dry branches, or lack of any growth during the growing season.

Diameter at Breast Height ("DBH"). The diameter of the tree measured at 4 ½ feet above ground level.

Healthy Condition. A tree that is in good condition that has only very minor defects that could be corrected by pruning, no significant damage from diseases or pests, no significant mechanical damage, a full and balanced crown, and normal vigor for its species.

Imminent Threat. Immediate action is needed to undertake tree cutting and/or removal in order to protect the public health, safety, welfare, or property, and/or to prevent a significant degradation to the environment.

Person. A natural or legal person, including but not limited to: a property owner, tenant, occupant, resident, contractor, or tree removal company, whether an individual, corporation, company, association, society, firm, partnership, joint stock company corporation, trust, and/or other legal entity, whether private or nonprofit, and any and all owners, officers, agents, and/or employees thereof.

Poor Condition. A tree that is in a degraded condition with irreversible problems, which may include dead branches representing 50% or more of the canopy, drastic

deformities, multiple trunk cavities, and/or severe insect, pathogen, or nutritional problems.

Residential Tree Removal Application. An application for tree removal for any existing improved lot used entirely for residential purposes with no more than two (2) dwelling units and which is not the subject of an application for development.

Tree. Any woody perennial plant, having a trunk or main stem with a DBH of five (5) inches or greater, or any woody perennial plant, regardless of size, that was planted pursuant to a Tree Replacement Plan subject to this Ordinance.

Tree Removal. Any action by, or at the direction of, a person including, but not limited to, destroying, cutting, removing, or trimming more than thirty (30%) percent of any "Tree," as defined herein, within the Township.

§ 21-3 AUTHORITY

The regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of the Township of Cherry Hill, except State highways, unless the State Highway Department shall assent thereto, and except County highways, parks and parkways, if a County Shade Tree Commission is operative and gives assent thereto, shall be exercised by the Department of Public Works. Additionally, the Department of Public Works has authority to issue permits for tree removal on private property, as set forth herein.

§ 21-4 TREE PLANTING ON PUBLIC PROPERTY OR IN THE PUBLIC RIGHT OF WAY (ROW)

§ 21-4.1 Permit Required

The Township may authorize the planting of trees in the Township public right of way ("ROW") if the trees will not block site visibility, nor interfere with above ground or underground utilities, at full growth. Any person desiring to plant a tree in the ROW must first file and obtain a Street Opening Permit from the Department of Engineering in accordance with Township General Ordinance § 20-1, et seq., as amended. The applicant shall identify the land upon which the tree will be located and shall disclose the name and address of the owner or duly authorized agent of the owner to perform the work, the location of the proposed tree on a property survey or scaled plot plan, the species of the proposed tree to be planted, a proposed watering schedule to be performed by that person or entity during the establishment period, as well as any additional information required by the Department of Engineering. No permit shall be required for tree plantings in the ROW when approved by the Cherry Hill Planning Board or Zoning Board of Adjustment. No permit shall be required for tree plantings if performed by, or on behalf of, the Township.

§ 21-4.2 Permitted Species

The varieties of trees that can be planted on public property or in the public ROW shall be non-invasive, native to New Jersey, and appropriate for the location where they are

to be planted. Permitted trees listed in §508.E.2 of the Cherry Hill Township Zoning Ordinance and/or in any ROW Replacement Tree List prepared by the Director of Public Works or his/her designee in consultation with the Cherry Hill Advisory Environmental Board, shall be used as a guide for the selection of trees, based upon on-site conditions and tree suitability for the specific location. Street trees shall not interfere with utilities at grown height.

§ 21-5 TREE CUTTING AND/OR REMOVAL ON PUBLIC OR PRIVATE PROPERTY

§ 21-5.1 Applicability

- a. Any person desiring to destroy, cut, remove, or trim more than thirty (30%) percent of any tree that is five (5) inches or greater DBH, upon any lands within the Township, whether in healthy condition, poor condition, or dead, as defined herein, shall comply with the provisions of this ordinance and apply to the Director of the Department of Public Works or his/her designee for a Tree Removal Permit prior to any tree removal.
- b. A Tree Removal Permit is not required for the removal of invasive tree species, as determined by the Director of Public Works or his/her designee in consultation with the Cherry Hill Advisory Environmental Board, the regular pruning and maintenance of trees, or for tree removal required as a precondition to the issuance of a Certificate of Continued Occupancy by the Township's Property Maintenance Officer.
- c. Any political subdivision of this State and/or any state, or interstate, any County, State, or Federal government, and any quasi-public entity, public utility authority, and/or other utility company, desiring to destroy, cut, remove, or trim more than thirty (30%) percent of, any tree on public property, within the public right of way, or otherwise within its jurisdiction, that is five (5) inches or greater DBH is encouraged to submit its tree removal/trimming plan to the Township and consult with the Township's designated officials to limit tree removal to the greatest extent possible and/or encourage replacement plantings elsewhere within the Township.

§ 21-5.2 Cutting or Removal of Trees

- a. A Tree Removal Permit shall expire six (6) months after its issuance, may be issued with reasonable conditions as deemed appropriate by the Director of Public Works or his/her designee, and shall be required prior to the removal any tree, whether the tree is in healthy condition, poor condition, or dead, that is five (5) inches or greater DBH within the Township.
- b. A maximum of three (3) trees in healthy and/or poor condition may be removed by a Residential Tree Removal Applicant from a property within a twelve (12) month period, except that trees located within the ROW and/or within three (3)

feet of a public road may only be removed pursuant to § 21-5.2(c) below.

- c. Additional trees may only be removed under the following circumstances:
 - i. Any trees determined to be dead by the Director of Public Works or his/her designee;
 - ii. Any trees within a distance of fifteen feet (15') around the perimeter of a proposed location to be occupied by a new building, structure, driveway, sidewalk, recreation area, and/or utilities, as shown on a plan approved by the Planning Board or Zoning Board of Adjustment, or approved by way of a Zoning Permit in accordance with the Cherry Hill Township Zoning Ordinance;
 - iii. Any trees that have damaged, or will likely cause damage to, any building, structure, driveway, sidewalk, recreation area, and/or utilities, or for other good cause as determined by the Director of Public Works or his/her designee;
 - iv. Any trees in conflict with a Grading Plan approved by the Township Planning Board, Zoning Board of Adjustment, and/or the Department of Engineering; and
 - v. Any trees approved for removal by the Planning Board or Zoning Board of Adjustment.
- d. Removal of all trees in healthy and/or poor condition pursuant to § 21-5.2(b) and (c) shall be reviewed in accordance with § 21-5.6.
- e. On-site tree replacement or a contribution to the Cherry Hill Tree Fund shall be required for all trees removed, in accordance with § 21-5.8, except for dead trees, trees that posed an Imminent Threat, and trees removed because they were deemed an invasive species..

§ 21-5.3. Cutting or Removal of Trees that Pose an Imminent Threat

The only exception to requiring a Tree Removal Permit prior to substantial cutting or removal of a tree is if a tree poses an "Imminent Threat," as defined herein. No on-site replacement or contribution to the Cherry Hill Tree Fund is required for tree removal due to an "Imminent Threat."

§ 21-5.4. Cutting or Removal of Trees in Wetlands Areas

Trees and all vegetation in freshwater wetlands areas are protected by N.J.S.A. 13:9B-1, et seq., Freshwater Wetlands Protection Act Rules, Chapter 7A; enforced by the New Jersey Department of Environmental Protection. Neither the Department of Public Works nor the Planning Board will authorize the removal of trees in any wetlands area until a permit has been issued by the Department of Environmental Protection.

§ 21-5.5 Permit Application Contents

Prior to any person conducting "Tree Removal," as defined herein, a Residential Tree Removal Application or Commercial Tree Removal Application shall be submitted to the Department of Public Works identifying and including the following, if applicable and/or as deemed necessary by the Director of Public Works or his/her designee:

- a. The owner of the land upon which the trees are to be removed. If the applicant is a party other than the owner a Consent of Owner form must be submitted;
- b. A property survey or scaled plot plan showing the land upon which the tree is located. This plan shall show the location of all structures existing on the property;
- c. The location of the tree sought to be removed, cut, or destroyed and the distance of the tree(s) from existing structures and improvements;
- d. The person conducting the tree work and their contact information;
- e. The species and diameter of the tree(s) sought to be removed or trimmed measured at 4 ½ feet above grade; if the site is larger than three (3) acres, a representative sample of 20% of the trees may be provided;
- f. Identification of any other trees that have been removed from the property in the previous twelve (12) months;
- g. The reason or purpose for the tree removal;
- h. A tree replacement plan or submission of a tree replacement contribution in accordance with §21-5.8 herein;
- i. Any additional information deemed to be necessary by the Department of Public Works or his/her designee; and
- j. Commercial Tree Removal Applications, as defined herein, shall also submit a copy of the most recent landscape plan approved by the Cherry Hill Planning Board or Zoning Board of Adjustment, if applicable. If no landscape plan is available, a property survey or scaled plot plan which details the location of all parking areas, landscape islands, and landscaped areas shall be submitted.

§ 21-5.6 Permit Application Review

For the proposed removal of trees in healthy/poor condition and dead trees pursuant to § 21-5.2 the Director of Public Works or his/her designee shall review the submitted documents and/or the property to determine whether the proposed tree removal complies with the provisions of this Ordinance. Prior to submitting an application for tree removal, the applicant must identify the trees to be removed with a ribbon or other similar marking. The Department of Public Works or his/her designee will review previous files to confirm that no trees in excess of what is permitted by this Ordinance have been removed from the property in the previous twelve (12) months.

§ 21-5.7 Tree Removal Permit Application Fees

- a. An application fee shall be submitted for the tree removal application subject to these regulations. The fee will cover processing and administrative costs to the Township, such as review and evaluation of the application and submitted documents, requisite site inspections, and communications with the applicant relating to issuance or denial of a Tree Removal Permit.

- b. Residential Tree Removal Application Fees. None.
- c. Commercial Tree Removal Application Fees. The application fee shall be ONE HUNDRED DOLLARS (\$100.00), non-refundable.

§ 21-5.8. Tree Replacement Plan and Contributions

- a. Residential Tree Removal Applications. A Tree Replacement Plan shall be required when an excess of three (3) trees are proposed for removal, whether in healthy or poor condition. Replacement trees shall be located on the same property where tree removal is proposed. In lieu of a Tree Replacement Plan, the applicant may pay a contribution to the Cherry Hill Tree Fund established under § 21-6, in accordance within § 21-5.8.
- b. For Commercial Tree Removal Applications. A Tree Replacement Plan shall be required for the proposed removal of any trees, whether in healthy or poor condition. Replacement trees shall be located on the same property where tree removal is proposed. In lieu of a Tree Replacement Plan, the applicant may pay a contribution to the Cherry Hill Tree Fund established under § 21-6 below, in accordance within § 21-5.8.
- c. Replacement Schedule. Each applicable removed or destroyed tree shall be replaced based on the following schedule:

<i>Tree Replacement Schedule</i>				
<i>Diameter (measured 4 ½ feet from grade)</i>	<i>Circumference (measured 4 ½' from grade)</i>	<i>Replacement Requirement</i>	<i>Replacement Contribution for Residential Tree Removal Applications</i>	<i>Replacement Contribution for Commercial Tree Removal Applications</i>
<i>5" or greater</i>	<i>15.7" or greater</i>	<i>One (1) Replacement Tree</i>	<i>\$175.00</i>	<i>\$300.00</i>

- d. Tree Replacement Plan. The tree replacement plan shall identify the species, mature size, and quantity of replacement trees. Replacement of trees onsite shall be approved by the Director of Public Works or his/her designee, shall be generally consistent with the type of tree removed, unless the removed tree was an inappropriate species, and shall be replaced with trees that will grow to be of similar mature size and shape, except that, deciduous trees may replace evergreen trees. The Director of Public Works or his/her designee, in consultation with the Cherry Hill Advisory Environmental Board, may prepare reasonable standards in this regard, including but not limited to, the appropriate replacement tree species, size, location, and timing of planting.
- e. Tree Replacement Contribution. If a tree replacement contribution is being proposed in lieu of onsite tree replacement, the applicant shall submit payment of the contribution to the Cherry Hill Tree Fund prior to receiving the Tree Removal Permit.

§ 21-6 Cherry Hill Tree Fund

The Township shall hereby establish a "Cherry Hill Tree Fund" separate from all other funds held by the Township. Funds deposited into the Cherry Hill Tree Fund shall be used exclusively for the administration and execution of tree planting projects within the Township including, but not limited to, purchasing, distributing, and/or planting trees. The Cherry Hill Advisory Environmental Board may propose to the Township tree planting projects funded through the Cherry Hill Tree Fund for review and consideration.

§ 21-7 Prohibitions

No debris, limbs or other materials may be dropped upon any paved street, sidewalk or curb while in the course of cutting or removing any tree within the Township.

§ 21-8 Waste Disposal

Waste generated as a result of any person removing trees must be removed and disposed of at that person's cost at the time the trees are removed. Anyone receiving permission to remove a tree in the right-of-way must also remove the tree stump.

§ 21-9 Enforcement

The provisions of Chapter 21 will be enforced by the Zoning Officer or his/her designee. Any person who wishes to report what he or she believes to be unauthorized removal of trees should file a report with the Zoning Officer. The Zoning Officer and/or his/her designee will determine if a Tree Removal Permit was granted, and if not, will inspect the site, document his/her findings, and if warranted issue a violation to any responsible "person," as defined herein, including but not limited to the property owner, tenant, occupant, and/or tree removal company. The Zoning Officer may consult with an arborist or other appropriate tree professional retained by the Township to assist with the enforcement of this Ordinance.

§ 21-10 Penalty

The provisions of Chapter 21 will be enforced by the Zoning Officer or his/her designee. Any "person," as defined herein, convicted of a violation of a provision of this section shall be liable to the penalty stated in Chapter 1, Section 1-5, for each offense (minimum one hundred (\$100.00) dollars not to exceed one thousand two hundred fifty (\$1,250.00) dollars). The cutting or removal of each tree covered by this section, without a Tree Removal Permit, shall be considered a separate offense. In addition to any monetary fine, any person convicted of a violation of this Ordinance shall be required to submit a Tree Replacement Plan for each tree removed without a Tree Removal Permit to the Director of Public Works of the Township or his/her designee for review and approval of onsite replanting, or in the alternative pay a contribution of \$300.00 to the Cherry Hill Tree Fund for each tree removed without a Tree Removal Permit.

§ 21-11 Powers Granted to the Director of the Department of Public Works.

- a. The Director of the Department of Public Works may at his/her discretion remove or require the removal of any tree, or part thereof, deemed dangerous to public safety.

- b. The Director of the Department of Public Works may administer treatment to remove, or require removal of, any tree situated on private property at the property owner's expense which is believed to harbor disease or insects readily communicable to neighboring healthy trees in the care of the municipality and enter upon private property for that purpose with the consent of the owner thereof, provided the suspected condition is first confirmed by certificate issued by and on behalf of the New Jersey Department of Agriculture.
- c. The private property owner is responsible for the care of all trees on its property up to and including the curb line. Should a tree interfere with utility lines or sight lines or the flow of traffic, the Director of Public Works, other government agencies, and/or utility agency shall have the authority to trim or otherwise alleviate the interference at the property owner's expense.
- d. The Director of Public Works, or his/her designee, may consult with an arborist or other appropriate tree professional retained by the Township to assist with the administration of this Ordinance.

SECTION 2. Any ordinance or parts of ordinances inconsistent with this amending ordinance is hereby repealed to the extent of such inconsistencies only; and

SECTION 3. This ordinance shall take effect twenty (20) days after final publication as required by law.

INTRODUCED: MARCH 14, 2022

ADOPTED:

MAYOR

COUNCIL RESIDENT

ATTEST:

**PATTI CHACKER, RMC
TOWNSHIP CLERK**