

CHAPTER XXIII TREE PRESERVATION CODE

23-1 TITLE.

This Chapter and its subordinate sections shall be known as the "Tree Preservation Ordinance of the Borough of West Long Branch." (Ord. #O-08-10, S 1)

23-2 PURPOSE.

The purpose of this Chapter is to preserve, protect, replace and properly maintain trees within the Borough and protect the public from trees which pose a threat or danger because trees:

- a. Are an important public resource;
- b. Preserve and enhance the Borough's physical and aesthetic environment, especially its natural and unique atmosphere;
- c. Protect and enhance the quality of life and the general welfare of the Borough;
- d. Enhance the air quality by filtering air pollutants;
- e. Reduce topsoil erosion by the holding effect of their roots;
- f. Reduce storm water runoff and replenish ground water supplies;
- g. Provide a buffer and screen against noise pollution;
- h. Reduce energy consumption by acting as a wind break and producing shade;
- i. Preserve and enhance nesting areas for birds and other wildlife which, in turn, assist in the control of insects;
- j. Protect and enhance property values.

(Ord. #O-08-10, S 2)

23-3 DEFINITIONS.

Appendix A tree shall mean any tree which is listed on Appendix A to this Chapter.*

Code Enforcement Officer shall mean an individual appointed or authorized by the Borough to enforce borough ordinances.

Conservancy area shall mean any area designated by the Borough, State agency or by Borough-approved subdivision or restriction to keep in a particular natural State or for special environmental preservation or control.

Development shall mean any proposed change in the use or character of land, including but not limited to the replacement of any structure or site improvements. When appropriate to the context, development may refer to the receipt or necessity of any building, or site work permit.

Diameter breast height (DBH) shall mean the diameter of the trunk of the tree measured in inches at a point four and one-half (4.5) feet above ground line. This point of measurement is used for established and mature trees and is referred to as "DBH." All references to diameter size shall be to the DBH.

Natural amenity exception shall mean a landscape and preservation plan intended as a substitute for the replacement requirements of this Chapter.

Parcel shall mean a single parcel shall mean any tax lot(s) of record, zoning lot or any grouping of adjacent lots under single ownership.

Shrub shall mean a self-supporting woody perennial plant together with its root system, having several stems arising from the base and lacking a single trunk. No shrub used in the replacement of trees shall have a root ball of less than twelve (12") inches in diameter or be contained in less than a 5-gallon container.

Site shall mean that parcel of land for which a tree removal is sought.

(6") Grouping of trees shall mean any group of two (2) or more trees that have a combined DBH of six (6") inches or greater. Every twenty-five (25") inches of such a group shall be the equivalent of a six (6") inch tree. For removal purposes, this grouping definition shall apply if two (2) or more trees are removed within twelve (12) months of each other.

Transplanting shall mean the removal of any tree for replanting elsewhere.

Tree shall mean any self-supporting, woody plant together with its root system, growing upon the earth, usually with one (1) trunk, or a multi-stemmed trunk system, supporting a definitively formed crown, which is not on public property.

Tree preservation plan shall mean a document which identifies, by common name, certain species of trees of a specified DBH within a particular area. The plan shall list, as required by the Shade Tree Commission, all existing and proposed trees and shall specifically state whether each tree is proposed to be destroyed, relocated, replaced, preserved at its present location, or introduced into the development from an off-site source. The Shade Tree Commission may provide that the tree preservation plan exclude those portions of the site which it determines will not be affected by the development activity.

Tree removal shall mean the cutting down, destruction, removal or relocation of any tree.

Viable tree shall mean a tree, which in the judgment of the Borough is capable of sustaining its own life processes, unaided by man, for a reasonable period of time.
(Ord. #O-08-10, S 3)

***Editor's Note:** Appendix A, referred to herein, may be found at the end of this Chapter.

23-4 RULES FOR TREE REMOVAL AND REPLACEMENT IN THE BOROUGH.

23-4.1 Rule 1. Borough Landscaping Requirements.

To the extent that this Chapter imposes greater planting requirements than any other regulations of the Borough, this Chapter shall take precedence, provided that any planting requirements of such other regulations shall be a credit against the requirements of this Chapter. (Ord. #O-08-10, S 4)

23-4.2 Rule 2. Removal for Transplanting.

Any tree removed from a parcel for transplanting elsewhere must be replaced according to Rules 1, 2, 3, and 4. (Ord. #O-08-10, S 4)

23-4.3 Rule 3. Tree Replacement.

It is suggested that trees replaced come from Appendix A, but this is not mandatory. (Ord. #O-08-10, S 4)

23-4.4 Rule 4. Size of Replacement Trees.

Unless otherwise stated in these rules, the removal of any six (6") inch tree or six (6") inch grouping of trees must be replaced with trees the total diameter at breast height (DBH) of which is equal to at least thirty percent (30%) of the total diameter at breast height (DBH) inches removed. No replacement tree shall have a diameter breast height less than two (2") inches. If the removal of one (1) tree necessitates a replacement of more than three (3) trees, DBH may be satisfied by planting three (3) trees and thereafter substituting shrubs for trees at a rate of one (1) shrub per one (1") inch of DBH. (Ord. #O-08-10, S 4)

23-4.5 Rule 5. Tree Removal.

- a. No replacement is required when the tree, due to natural circumstances, is dead or irreversibly declining, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, or constitutes a health or safety hazard.
- b. No tree which meets the requirements of this Chapter may be removed without it being replaced in accordance with the terms of this Chapter. The only exceptions thereto shall be those set forth in Rule 5a above.
- c. Neither this nor any other Rule or regulation of this Chapter shall be deemed to prohibit any owner of residential property in the Borough of West Long Branch from removing a tree, as long as the tree is replaced in a manner which is compliant with Rules 1, 2, 3, 4 and 5. (Ord. #O-08-10, S 4)

23-4.6 Rule 6. Property Development.

When a property is being developed such that there is a requirement or an application before the Zoning or Planning Board and the development would require the removal or transplanting of trees on the property, a tree preservation plan shall be filed together with the application which is consistent with the requirements of this Chapter. The tree preservation plan shall satisfy the requirements of this Chapter in terms of the replacement of the trees consistent with the DBH. (Ord. #O-08-10, S 4)

23-4.7 Rule 7. Exemption.

- a. If the removal of trees is necessary to erect a building, home or other structure, and these trees exist within the footprint of the structure, there shall be no requirement that these trees be replaced.
- b. One (1) tree per parcel, even if healthy and non-dangerous, may be removed every three (3) years, without the requirement of replacement.

(Ord. #O-08-10, S 4)

23-5 PLANNING AND ZONING APPLICATION REQUIREMENTS.

Any development application, whether to the Planning Board or Zoning Board of Adjustment of the Borough of West Long Branch or not, must be accompanied by a tree preservation plan which is consistent with this Chapter, unless a variance is obtained for the same. (Ord. #O-08-10, S 5)

23-6 PENALTY.

Any person found guilty of violating any provision of this Chapter shall be subject to a fine of not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000.00) dollars and replacement of the tree, consistent with the Chapter requirements. Each tree intentionally cut down, destroyed, damaged, or removed, without being replaced, shall constitute a separate offense. (Ord. #O-08-10, S 6)

23-7 CIVIL REMEDIES.

In addition to any other remedies provided by this Chapter, the Borough shall have the following judicial remedies available for violations of this Chapter or any permit condition promulgated under this Chapter:

a. The Borough may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury caused by the removal of trees in contravention of the terms of this Chapter.

b. The Borough may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Chapter to enjoin any violation, and to seek injunctive relief to prevent irreparable injury to the trees or properties encompassed by the terms of this Chapter. (Ord. #O-08-10, S 7)

23-8 LAND USE ORDINANCES.

The requirements of this Chapter regarding applications to the Zoning and Planning Boards shall be deemed to be amendments to the Borough's current land use ordinances. (Ord. #O-08-10, S 8)

APPENDIX A

SIGNIFICANT TREES OF NEW JERSEY and the Mid-Atlantic States

<i>Common Name</i>	<i>Scientific Name</i>
Green Ash	<i>Fraxinus pennsylvanica</i>
Tulip Tree	<i>Liriodendron tulipifera</i>
Beech Plum	<i>Prunus Martima</i>
Norway Spruce	<i>Picea Abies</i>
Silky Dogwood	<i>Cornus Amomum</i>
American Sweetgum	<i>Liquidambar styraciflua</i>
Willow Oak	<i>Quercus phellos</i>
Red Oak	<i>Quercus rubra</i>
Eastern White Pine	<i>Pinus strobes</i>
Buttonbush	<i>Cephalanthus occidentalis</i>

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