

**CITY OF LONG BRANCH
ORDINANCE NO. 7-22**

**AN ORDINANCE TO CREATE A TREE PRESERVATION ORDINANCE FOR THE
CITY OF LONG BRANCH**

WHEREAS, the City of Long Branch is a community which recognizes its trees as a valuable resource; and

WHEREAS, there are a great many benefits to having healthy, well-maintained trees, which include providing numerous benefits and overall beauty to our community; and

WHEREAS, trees improve the environment in which we live by moderating the climate, providing oxygen, conserving water, reducing erosion, and harboring wildlife within our setting; and

WHEREAS, the Mayor and City Council have determined that there is a need for an ordinance in order to strengthen the City's ability to ensure that these valuable resources are protected to the greatest extent possible, and

NOW, THEREFORE, BE IT RESOLVED, as follows:

CHAPTER 345. Article V, § 345- 47.3 - Tree Preservation, is created as follows:

§ 345- 47.3 - Tree Preservation

This chapter shall create the "Tree Preservation Ordinance of the City of Long Branch."

A. Purpose

- (1) Promote the general welfare. The governing body of the City of Long Branch finds and concludes that trees have many important roles within our community. Trees play an important role in contributing to the character and beauty of Long Branch. Trees also provide significant environmental and personal health benefits. It is the intent of this chapter to promote the general welfare of the people of the City by protecting, regulating, planting, and cutting trees in such a way as to preserve the environment. Trees that should be protected include, but are not limited to shade and ornamental trees and other trees that act as barriers to surface water flow and soil erosion, or that otherwise provide an environmental benefit to the City.

B. Definitions and word usage

Whenever used in this chapter, unless a different meaning clearly appears from the context, or unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms shall have the meaning indicated:

Administrative Officer. The official of the City charged with the responsibility of administering this chapter. This chapter shall be administered by anyone of the following: the Planning Director, Zoning Officer, City Engineer, Public Works Director, Code Enforcement, Police Department, or the City of Long Branch Planning and Zoning Boards.

Aesthetic improvement cut. The removal, to the extent possible, of the minimum number of the smallest and poorest specimens of trees so as to permit land development and the retention of the maximum number of the larger and better specimen of trees.

Caliper. Caliper measurement of a trunk shall be taken six-inches above the top of root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above the top of root flare. Seldom are trees perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic slot or pincer type caliper tools should be the average of the smallest and largest measurement.

City. The City of Long Branch.

City Code. The Code of the City of Long Branch.

City Tree. A tree located on land owned by the City or a tree whose base is located in whole or in part within the public right-of-way.

Diameter breast height or DBH. The diameter of a tree measured at a point on the tree four and one-half (4.5) feet from ground level.

Dripline: The circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the outermost branch of the tree.

Person. Any individual, firm, partnership, association, corporation, agency or other entity.

Replacement tree. The tree, including a description of the species and the minimum diameter and height, which is required pursuant to Section.

Root system. Those tree roots within the dripline perimeter.

Selective cutting. The removal of larger trees on an individual basis while leaving trees of lesser size for future harvest.

Shade tree. Any species of tree having characteristics which help provide shade, as determined by the Administrative Officer.

Site plan. A development plan as defined by the City Code.

Stop work order. An order issued by the Administrative Officer to stop any tree work or other activity which they believe is occurring in violation of any provision of this chapter.

Subdivision. The division of a lot, tract or parcel of land, including only major subdivisions.

Thinning. The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of the remaining trees on a lot.

Tree. Any deciduous or coniferous species which reaches a typical mature height of at least 25 feet and a typical mature DBH of four inches or greater.

Tree preservation plan or plan. The additional information required as part of the tree removal application where property is being developed and requires subdivision or site plan approval.

Tree removal application or application. The written form required to be completed in applying for a tree removal permit.

Tree removal permit or permit. The permit issued by the Administrative Officer authorizing removal of trees as regulated by this chapter.

Tree trust fund. The fund created to collect money, pursuant to this chapter, for the purchase and planting of replacement trees. The tree trust fund shall be administered under the direction of the Administrative Officer in conjunction with the City Administrator, and it shall include funds provided by developers pursuant to this chapter as well as donations, grants or bequests made to the tree trust fund.

C. Tree removal permit & tree preservation plan required

Under the circumstances set forth in this section, no tree shall be cut or otherwise removed from qualifying lands located in the City unless a tree removal permit has been issued from the Administrative Officer. Tree removal permits are required when an application (as described in this chapter) has been approved by the Planning Board, the Board of Adjustment, or the Administrative Officer, whichever is applicable. A tree removal permit based thereon shall be required by the Administrative Officer under the following circumstances:

- (1) Where property is being developed and requires major subdivision or major site plan approval;
- (2) Where City street trees are to be removed (provided that applications for removal of such trees shall only be made by the adjacent property owner(s);

D. Exemptions

The following shall be exempt from the permit and fee requirements of this chapter:

- (1) The City of Long Branch.
- (2) Any tree on publicly owned land removed by a public agency or its representatives.
- (3) Trees that pose an imminent danger to the public health, safety and general welfare. Dead or diseased trees, upon certification by the Administrative Officer or a New Jersey licensed tree expert (LTE).

E. Tree removal applications and tree preservation plan

- (1) *Tree removal application.* A tree removal application shall be filed, which shall indicate: (i) the name and address of the owner of the premises, (ii) the name and address of the applicant if other than the owner (accompanied by the owner's consent to the application), and (iii) a description by the lot and block number(s) of the premises for which the permit is sought. The form of the application shall be determined by the Administrative Officer and shall be available from the Planning & Zoning Office. In the case of a subdivision where the final house footprint and related structures are not known at the time of the application, the Planning Board or Board of Adjustment, as the case may be, shall condition its approval upon submission of a tree preservation plan and proposed planting plan as part of the construction permit application. A survey shall be submitted along with the permit application.
- (2) *Time and place for filing tree removal applications.* When property is being developed, and requires major subdivision or site plan approval, a tree removal application shall be filed with the Planning Board or Board of Adjustment, with the Planning Board or Board of Adjustment application.
- (3) *Submission of tree preservation plan in certain circumstances.* When property is being developed and requires major subdivision or major site plan approval. A person developing property which requires subdivision or site plan approval shall submit, at the same time as his application for subdivision or site plan approval, a tree preservation plan indicating proposed locations of roads, lot improvements and existing trees.
- (4) *Contents of tree preservation plan.* The tree preservation plan shall contain the following information:
 - (a) A description of the premises upon which tree removal is to take place by street address and City Tax Map lot and block number;

- (b) The size of the lot upon which tree removal is to take place;
 - (c) A survey of the quantity of trees which are to be removed, setting forth the location and type of each tree having a DBH of eight (8) inches or more;
 - (d) Specific proposals for replanting. All replanting shall be done in a manner that gives the planted trees the ability to survive. Tree separation distances shall be based on the type and quantity of trees;
 - (e) A description of the type of tree removal project (i.e., thinning, selective cutting, clear cutting or aesthetic improvement cut and barrier devices to protect remaining trees);
 - (f) Location of streams, watercourses and wetland property;
 - (g) Identification of all tree protection measures that the applicant will take, including the erection of silt fencing, construction fencing and tree preservation fencing.
 - (h) Physical identification of the trees to be removed for inspection by the Administrative Officer. The trees should be identified with a ribbon. No markings or paint shall be permitted until a permit to remove such tree is issued.
- (5) *Submission of the tree preservation plan.*
- (a) The applicant shall submit 15 copies of the tree preservation plan to the Planning Board or the Board of Adjustment, as the case may be, in accordance with this chapter.
 - (b) *Conditions for issuance of building permit.* In circumstances in which a tree preservation plan is required, no building permit shall issue unless the applicant has erected, around protected trees, fencing or other protective barrier acceptable to the City Engineer. The protective barriers shall be placed at least five (5) feet from the trunk of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor. In those circumstances where the Planning Board or Board of Adjustment requires that a tree preservation plan be submitted as a condition to its approval of an application, the approval of the tree preservation plan by the shall be a condition precedent to the issuance of a building permit for any construction to occur on the property that is the subject of the tree preservation plan.

(6) *Replacement Tree Quantities.*

Existing Tree to be Removed - DBH (inches)	Number of Trees to be Replaced with Trees of Minimum Size 2.5 Inch Caliper
8" to 15"	2
15.01" to 20"	3
20.01" to 25"	4
25.01" to 30"	5
30.01" to 35"	6
35.01" +	7

(7) *Replacement Tree Species.* Replacement trees shall be replaced with a species native to Monmouth County.

F. Fees.

- (1) In the event that the total required number of plantings as specified in § 345-47.3-E.(7) are not provided for, a fee of two hundred fifty dollars (\$250.00) per tree not provided shall be required. Fees will be deposited into the City Tree Fund, which will be utilized to plant trees in other locations of the City.

G. Processing of tree removal applications.

- (1) Reviewing applications when the property is being developed and requires major subdivision or major site plan approval. The Planning Board or the Board of Adjustment, as the case may be, shall review all applications for tree removal where the property is being developed and requires subdivision or site plan approval. The Planning Board or Board of Adjustment shall act on such application in connection with the related development application at the public meeting concerning the application or within such additional time as is consented to by the applicant.

H Enforcement; violations and penalties.

- (1). This article shall be enforced by the Administrative Officer, who is hereby empowered to cause any and all lands subject to this article to be inspected and examined to determine compliance with this article and to order, in writing, the correction of any condition found to exist therein or thereat in violation of any provision of this article. The Administrative Officer is hereby further authorized to cause an appropriate action or proceeding to be instituted in a court of proper jurisdiction to prevent and enjoin any threatened, existing or continuing violation of this article or any provision or section thereof or any standard adopted by the City.
- (2). Any person, firm, corporation or entity found to have violated any provision of

this article or any condition imposed in accordance with this article or any specification adopted by the City or any permit granted pursuant to this article shall be subject to revocation of that permit and any certificate of occupancy or building permit issued in reliance thereon and shall be further subject to the order of the City or its designee which may direct such person, firm, corporation or entity to cease such violation and to take appropriate corrective action within such time as may be specified by the City or its designee, or a stop work order will be issued. Any person, firm, corporation or entity found to be in violation of any provision of this article or any condition imposed in accordance with this article or any permit granted pursuant thereto or any specification adopted by the City be subject to the penalties of the Code. The removal of each individual tree in violation of this article shall be considered a separate offense. Furthermore, the court shall order restitution of all applicable replacement trees or replacement tree fees as specified in this chapter in addition to any imposed violation fee.

- (3). Whenever under the Administrative Code or any other ordinance of the City, or any rule, regulation or order, duly promulgated by any officer or agency of the City by authority of law, any act or forbearance is prohibited or declared to be unlawful or an offense or the doing of any act is required, and no specific penalty is provided with respect thereto, the violation of any such provisions of the ordinance, rule, regulation or order shall be punishable by one or more of the following: imprisonment in the county jail or in any place provided by the City for the detention of prisoners for any term not exceeding 90 days or by a fine not exceeding \$2,000 or a period of community service not to exceed 90 days. In case of a continuing violation, each day of the violation shall constitute a separate offense. In the case of a fine imposed upon a corporation, the fine and costs may be collected in a civil action in such manner as may be prescribed by law.
- (4). An approved tree removal permit shall be valid for the duration of the applicable Board approval or New jersey Municipal Land Use Law timeframes.
- (5) The health and vitality of the trees shall be considered in the fees established for the performance and maintenance bond for the project.

Introduced: March 23, 2022

Adopted: April 13, 2022

Date: _____

Date: _____

Heather Capone, RMC
City Clerk

John Pallone
Mayor