

BOROUGH OF CLOSTER
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO. 2023-1325

**ORDINANCE AMENDING CHAPTER 181 ENTITLED TREE PRESERVATION AND
REMOVAL**

WHEREAS, Chapter 181 of the Borough of Closter Code addresses tree preservation and removal; and

WHEREAS, the Governing Body of the Borough of Closter seeks to amend Section 181-6(D) entitled Mitigation to Provide for Adequate Mitigation plans and the replacement of trees to provide for proper mitigation, drainage and soil stabilization, and other benefits attributed to certain species of trees.

NOW, THEREFORE BE IT ORDAINED by the Governing Body of the Borough of Closter, County of Bergen, State of New Jersey that Chapter 181-6(D) is hereby amended to include the following size and species of trees to be incorporated in any tree replacement plan in conjunction with the review and consultation of the Borough Arborists:

181-6 D.

Mitigation. The Code Enforcement Official - Trees shall have the authority to determine and approve, modify, or deny the mitigation plan. In reviewing the applicant's proposed mitigation plan, the Code Enforcement Official – Trees shall endeavor to maintain the canopy of the site when the trees proposed to be planted reach their natural height. When feasible, deciduous trees shall be replaced with deciduous trees and evergreen trees shall be replaced with evergreen trees.

Mitigation for tree removal shall be required as follows:
[Amended 6-22-2011 by Ord. No. 2011:1094

(1)

Mitigation shall consist of planting trees with a minimum caliper (DBH) of 2 1/2 inches or a sum of money equal to the approximate cost of such planting [see § **181-6D(4)(c)**] or a combination of both. Mitigation shall require the applicant to provide a two-year survival guarantee for all replacement tree(s), after the completion of any project or planting. During the guarantee period, any dead or dying replacement tree(s) shall be replaced by the applicant within six months. Mitigation shall be decided upon prior to removal of any trees, and the trees proposed to be planted are to be done in consultation with the Borough's Code Enforcement Official - Trees. In reviewing the mitigation plans submitted by the applicant, the Code Enforcement Official - Trees is to approve trees that will be allowed to grow to their natural height at maturity rather than being kept artificially small.

[Amended 12-11-2019 by Ord. No. 2019:1266]

(2)

The species allowed to be planted as part of an approved mitigation plan shall be set by resolution of the Shade Tree Commission and readily available on Closter's website. The version on the website shall be the official list of allowed species.

Renumber following subsections

Mitigation shall be required in the event of tree removal pursuant to § **181-6A(3), (5), (6)** and **(7)**.

(3)

In the event of tree removal pursuant to § **181-6A(4)**, no mitigation shall be required if the tree has been planted for a least five years; there has been no damage to the tree by construction or otherwise by any person; and there has been no soil moving within 15 feet of such tree within five years; otherwise, mitigation shall be required pursuant to § **181-6D**.

(4)

For each tree for which mitigation is required, the following shall apply:

(a)

For each tree removed pursuant to the standards of this section, the applicant shall plant on the property in question:

Caliper of Tree Removed*

(inches)

Less than 6

6 to no more than 15

15 to less than 25

25 and greater

Number Required for Mitigation

No mitigation required

1 for each removed

2 for each removed

3 for each removed

* No mitigation is required for the first two trees; limit: two trees in a twenty-four-month period.

The twenty-four-month time period begins from the date the tree removal permit is issued.

(b)

The caliper of trees with multiple trunks shall be calculated by multiplying the caliper of the larger trunk by 1.5 times.

(c)

In the event the applicant asserts the planting of trees on the property in question would be inappropriate and the official in charge of enforcement and administration of this section agrees, the applicant may, in lieu of planting trees, provide to the municipality a sum of money equal to the approximate cost of such tree planting. The total amount shall be determined by the Code Enforcement Official - Trees, based on the market value and planting costs of the trees to be planted. Funds collected pursuant to this section shall be deposited in the Borough's Shade Tree Fund for use by the Borough's Shade Tree Commission to plant and maintain trees elsewhere in the Borough. In no event shall the sum of such monetary contribution be less than ~~\$650~~ \$700 per required replacement.

[Amended 12-11-2019 by Ord. No. 2019:1266]

(5)

In the event that tree removal occurs in an area other than permitted in Subsection **A** this section, mitigation shall be required at a rate two times the number of trees required pursuant to Subsection **D(4)(a)** hereinabove.

(6)

In the event that it is unknown how many trees were removed from any given site and removal took place without a tree removal permit issued pursuant to this chapter, the number of trees requiring mitigation shall be computed by assuming trees over six inches in caliper existed 30 feet on center and plotting the maximum number of those trees as circles of a fifteen-foot radius without having the circles overlap or extend beyond the property lines or driplines of existing trees.

(7)

In connection with tree removal pursuant to Subsection **A(3)** of this section, it shall be required that the applicant plant trees on center a minimum distance of 30 feet as street trees between the curb line and the edge of the right-of-way in a location determined by the municipal official administering this section or beyond if agreed to by the homeowner.

(8)

Mitigation in any instance is not to be considered a penalty, rather an implementation of the purposes of this section. Mitigation shall not be a substitute for, but shall be in addition to, any penalty imposed for violation of the provisions of this section.

(9)

Upon the approval of the Mayor and Council, the mitigation requirements pursuant to this paragraph may be satisfied by the applicant by donating the tree to be removed to the Borough of Closter to be planted elsewhere in the Borough of Closter at the expense of the applicant. The qualified tree specialist shall inspect any such trees and submit a recommendation to the Mayor and Council as to whether to accept such donation.

BE IT FURTHER ORDAINED by the Governing Body of the Borough of Closter that the remaining Sections of Chapter 181 shall remain in full force and affect.

This Ordinance shall take effect upon final passage and publication in accordance with law.

Councilperson	Motion	Second	Yes	No	Absent	Abstain
Councilwoman Amitai						
Councilwoman Chung						
Councilman Devlin						
Councilwoman Latner						
Councilwoman Witko						
Councilman Yammario						

Introduced: September 27, 2023

Adopted: October 11, 2023

ATTEST:

APPROVED BY:

Stephanie Evans, Borough Clerk

John C. Glidden, Mayor

Certified to be a true copy of Ordinance adopted by the Mayor and Council of Borough of Closter at the Regular Meeting held on October 11, 2023.

Stephanie Evans, Borough Clerk