

ORDINANCE NO. 2023-22

AN ORDINANCE OF THE TOWNSHIP OF PLUMSTED, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 15 OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF PLUMSTED, ENTITLED "ZONING," SECTION 5, ENTITLED "GENERAL REGULATIONS," SO AS TO CREATE A NEW SUBSECTION 25, ENTITLED "TREE REMOVAL-REPLACEMENT"

BE IT ORDAINED by the Township Committee of the Township of Plumsted, County of Ocean and State of New Jersey, as follows:

SECTION 1. That Chapter 15 of the General Ordinances of the Township of Plumsted entitled "Zoning," Section 5, entitled "General Regulations," shall be amended and supplemented so as to create a new Subsection 25, entitled "Tree Removal-Replacement," which shall read in its entirety as follows:

§ 15-5.25. Tree Removal-Replacement.

- a. Purpose. To establish requirements for tree removal and replacement in the Township of Plumsted to reduce soil erosion and pollutant runoff, promote infiltration of rainwater in the soil, and protect the environment, public health, safety, and welfare.
- b. Definitions. For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this subsection clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number; and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
 1. APPLICANT – Any "person," as defined below, who applies for approval to remove trees regulated under this ordinance.
 2. CRITICAL ROOT RADIUS (CRR) – 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'.
 3. DIAMETER AT BREAST HEIGHT (DBH) – 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.
 4. HAZARD TREE – 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.
 - (a) Has an infectious disease or insect infestation;
 - (b) Is dead or dying;

- (c) Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
 - (d) Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
 - (e) Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or LTE.
5. PERSON – Any individual, resident, corporation, utility, company, partnership, firm, or association.
 6. PLANTING STRIP – The part of a street right-of-way between the public right-of-way adjacent to the portion of the street reserved for vehicular traffic the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.
 7. RESIDENT – An individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.
 8. STREET TREE – 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.
 9. TREE – 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.
 10. TREE CALIPER – 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.
 11. TREE REMOVAL – 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.

c. Regulated Activities.

1. Tree Replacement Requirements.

- (a) Any person who removes one or more street trees with a DBH of 2.5” or more, unless exempt under Subsection d., shall be subject to the requirements of the Tree Replacement Requirements Table below.

- (b) Any person, other than a resident, who removes one or more trees(s) with a DBH of 6” or more per acre, unless exempt under Subsection d., shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with Appendix A (the municipality provided tree list).

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 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:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 2.5” (for street trees) or 6’ (for non-street trees) to 12.99”	Replant 1 tree with a minimum tree caliper of 1.5” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 1.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree calipers of 1.5” for each tree removed
4	DBH of 33” or greater	Replant 4 trees with minimum tree calipers of 1.5” for each tree removed

2. Replacement Alternatives:

- (a) If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

- (1) Plant replacement trees in a separate area(s) approved by the municipality.
- d. 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 (the municipality shall define what “proper justification” is such as photos or statements from NJ licensed tree expert as per NJ Statute 4:15C-11 or arborist):
1. Residents who remove less than four (4) trees per acre that fall into category 1, 2 or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the ‘count’ resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025, the first tree will come off the count in July 2028 and second in July 2030.]
 2. Tree farms in active operation, nurseries, fruit orchards, and garden centers.
 3. 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.
 4. 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;
 5. 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;
 6. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
 7. Hazard trees may be removed with no fee or replacement requirement.
- e. Enforcement. This ordinance shall be enforced by the Police Department, the Construction Code Official or the Code Enforcement Officer of the Township of Plumsted during the course of ordinary enforcement duties.
- f. Penalties. Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of not less than \$100 nor more than one thousand dollars (\$1,000), by imprisonment for a term not to exceed ninety (90) days or by community service of not more than ninety (90) days, or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. Since this ordinance is legislative in nature, there shall be the codification of same in the General Ordinance Book of the Township of Plumsted.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law.

NAME	CUOZZO	GRILLETTO	HAMMERSTONE	MARINARI	BOWEN
AYES	11/2/23 12/7/23	11/2/23 12/7/23	11/2/23 12/7/23		11/2/23 12/7/23
ABSTAIN				12/7/23	
NAYS					
ABSENT				11/2/23	

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Plumsted held on the **2nd** day of **November, 2023** and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the **7th** day of **December, 2023** at 7:00 PM, at the Municipal Building, 121 Evergreen Road, New Egypt, NJ 08533, at which time and place any person desiring to be heard upon the same will be given the opportunity to be so heard.

Pursuant to N.J.S.A. 40:49-2, as amended, further notice is hereby given that the purpose of the forgoing ordinance is to establish requirements for tree removal and replacement in the Township of Plumsted to reduce soil erosion and pollutant runoff, promote infiltration of rainwater in the soil and protect the environment, public health, safety and welfare, and to provide penalties for violation of the same.

Members of the general public may obtain a copy of the ordinance without cost during normal business hours from the Municipal Clerk's Office, 121 Evergreen Road, New Egypt, New Jersey.

**JENNIFER WITHAM, RMC, CMR
MUNICIPAL CLERK**

APPENDIX A

**Approved list of Replacement Tree Species and Planting Standards for the
Township of Plumsted**

[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. The list shall include approved planting times/seasons and proper planting standard procedures.]

Tree Species	Planting Season	Planting Procedure <i>(soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc.)</i>