

**ORDINANCE NO. 2381**

AN ORDINANCE AMENDING CHAPTER IX OF THE “REVISED GENERAL  
ORDINANCES OF THE TOWNSHIP OF OCEAN, 1965” ENTITLED  
“SOIL AND TREE REMOVAL”

BE IT ORDAINED by the Township Council of the Township of Ocean, County of Monmouth,  
State of New Jersey as follows:

**SECTION I**

1. Chapter 9, Soil and Tree Removal Ordinance of the Township of Ocean is hereby amended and supplemented to read as follows:

**SECTION II**

2. Section 9-2, Tree Removal is hereby amended in its entirety to read as follows:

***9-2 Tree Preservation***

**9-2.1 Purpose.**

The purpose of this Chapter is to ensure the protection and preservation of trees and their canopy and safeguard specimen, historic, and significant trees because trees are important economic, ecological, aesthetic, and cultural resources; ensure the replacement of removed or destroyed trees; prevent the indiscriminate and excessive removal and destruction of trees and their canopy; prevent conditions that cause an increase in stormwater run-off, sedimentation, and soil erosion; promote groundwater recharge; prevent loss of wildlife habitat; decrease air and noise pollution; preserve the aesthetic character, ambiance, and physical appearance of neighborhoods, historic landscapes, and streetscapes; and establish rules and regulations for the stewardship of trees on both public and private property in the Township of Ocean.

**9-2.2 Definitions.**

**CALIPER** — Shall mean to be the diameter of a tree measured at a specific height above ground level for field-grown stock and from the soil line for container-grown stock, which should be at or near the top of the root flare. Caliper measurement of the 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.

**CANOPY** – Shall mean the coverage by the upper and outermost part of a tree created by the tree’s crown. In the case of contiguous trees, the canopy is the coverage by the upper and outermost parts of all the trees’ crowns.

**CLEAR CUTTING** – Shall mean the removal of all the standing trees on a portion of over 75% of the site.

**CROWN** – Shall mean the upper mass or head of a tree created by its branches and leaves.

**DESTROY** – Shall mean the act of killing or irreparably damaging a tree. The act shall be deemed to include, but not be limited to: damage inflicted to the root system by machinery, storage of materials, soil compaction or change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; excessive

pruning or thinning not in conformance with American National Standards Institute (ANSI) standards, leading to a failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the tree; or application of any substance toxic to the tree or causing the tree to be exposed to any such substance.

**DIAMETER BREAST HEIGHT (DBH)** — Shall mean the diameter of a tree measured four and one-half (4.5) feet above grade on the uphill/highest side. If the tree has a branch or an abnormal swelling at four and one-half (4.5) feet, the measurement should be taken at a point below the intrusion where the trunk returns to normal size. Any diameter measurement that is not taken at four and one-half (4.5) feet should include the actual height where it was measured.

**DRIP LINE** – Shall mean the area directly located under the outer circumference of the tree branches or 15 feet from the trunk, whichever is greater. When the outer limits of the branches are indistinct or otherwise unclear, the drip line shall be presumed to be located one and one-half feet from the center of the trunk of a tree for each inch of the trunk DBH or 15 feet from the trunk, whichever is greater. In the case of trees with multiple trunks, the drip line of each trunk shall be measured separately.

**EMERGENCY** – Shall mean any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property.

**HISTORIC TREE** – Shall mean a tree that is of unique historical value to the Township of Ocean because of its age, type, size, or historic association, as determined by the Shade Tree Commission, Environmental Commission, or Department of Community Development, and therefore constitutes an important community resource. The designation of an Historic Tree shall be officially made and promulgated as part of the official records of the Township.

**PUBLIC RIGHT-OF-WAY** – Shall mean any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Township of Ocean.

**REMOVAL** – Shall mean the actual removal of trees, or direct or indirect actions resulting in the effective removal of trees through damage or poison, or similar actions directly or indirectly resulting in the death or significant degradation of the health or vigor of trees subject to the provisions of this ordinance. Moving a tree to a different location on the same property does not constitute removal.

**REPLACEMENT TREE** — Shall mean a nursery-grown tree, properly balled or containerized, marked with a label indicating genus, species, and variety, and satisfying the standards established for nursery stock and installation thereof, set forth by the American Association of Nurserymen (ANSI Z60.1).

**SHADE TREE FUND** — Shall mean a fund established for the planting, maintenance, and removal of trees and shrubs on public property and for the administration and promotion of tree resource sustainability projects and practices.

**SHRUB** – Shall mean any woody plant with persistent stems protruding from grade level.

**SIGNIFICANT SPECIMEN TREES** – Shall mean any tree with a diameter at breast height (DBH) exceeding 60% of that of the largest similar tree listed in either the "Monmouth County's Largest Trees," prepared by the Monmouth County Shade Tree Commission or "New Jersey's Big Trees," prepared by the Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

**SITE** – Shall mean any lot, tract, parcel, or parcels of land within the Township.

TREE – Shall mean any living deciduous tree with a DBH of six inches or more or a coniferous tree with a height of ten feet or more measured from grade.

TREE PROTECTION ZONE – Shall mean the area within the drip line of a tree.

TREE REMOVAL APPLICATION – Shall mean the application form to be submitted by an applicant in connection with any proposed tree removal activity as described in this section.

TREE REMOVAL APPLICATION FEE – Shall mean the fee to be collected with each tree removal application submitted to the Township of Ocean.

TREE REMOVAL PERMIT – Shall mean a certificate issued by the Department of Community Development of the Township to remove trees as defined in this section.

TREE REPLACEMENT PLAN — Shall mean a specific plan for replacement of removed trees in accordance with the provision of this section.

TREE SPECIALIST — Shall mean an individual responsible for the inspection of sites for which applications are filed under this section as directed by the Department of Community Development or the Shade Tree Commission. The Tree Specialist shall be currently certified as a Licensed Tree Expert by the State of New Jersey.

UNDISTURBED AREA – Shall mean an area in which trees, shrubs, and understory will not be disturbed by filling, cutting or by any other means.

### **9-2.3 Tree Removal Prohibited.**

- a. No person shall remove, or cause to be removed, any deciduous tree with a DBH of six inches or greater or a coniferous tree with a height of ten feet or more upon any lands within the Township of Ocean except as follows:
  1. Trees that are to be removed as the direct result of a development application that has been approved by the Township of Ocean Planning Board or Zoning Board of Adjustment;
  2. Trees directed to be removed by municipal, county, State or Federal authority;
  3. Trees that are to be removed as the result of the issuance of a Tree Removal Permit.
- b. No person shall remove, trim, or cause harm to any tree growing on or over a public right of way or public land without the express written consent of a competent municipal authority (Director of Community Development, Township Engineer, or the Shade Tree Commission).

### **9-2.4 Tree Removal Permit.**

- a. A Tree Removal Permit shall be required for the removal of any deciduous tree with a DBH of six inches or more or a coniferous tree with a height of ten feet or more measured from grade, including:
  1. Trees that are dead or severely damaged by natural causes to the point that the natural habit of the tree cannot be restored as determined by a N.J. Licensed Tree Expert or a competent public authority (Director of Community Development, Township Engineer, Shade Tree Commission, or Environmental Commission); trees that are severely diseased and require removal as certified by a N.J. Licensed Tree Expert; or trees that pose an imminent public safety hazard as determined by a N.J. Licensed Tree Expert or a competent public authority (police, Director of Community Development, Township Engineer, Shade Tree Commission, or Environmental Commission).

2. Trees required to be removed subject to a construction permit as issued by the Construction Official for construction of new residences, additions to residences, or the construction of swimming pools or other accessory buildings or structures that are not the subject of Planning Board or Zoning Board of Adjustment application approvals. Such trees shall clearly be shown on the construction plans and identified by size and the removal of same shall, in the opinion of the Construction Official or his designee, clearly be necessary for the construction of the subject building or structure.
3. Living trees on individual residential lots with a dwelling located on the lot.
4. Living trees on private golf courses.

**9-2.5 Tree Removal Permit Requirements.**

a. Application Form:

An application form can be obtained from the Department of Community Development or their designee and shall include the following information:

1. Name and address of the owner of the premises and status of legal entity (individual, partnership, corporation).
2. Description of the premises where removal is to take place, including lot and block numbers, and street address as assigned if different than the address of the owner.
3. Purpose of tree removal.
4. Schedule for the work to be performed.
5. In addition to the application form, a survey showing the approximate locations and sizes of all deciduous trees with a DBH of six inches or more and coniferous trees with a height of ten feet or more measured from grade that exist on the lot and identifying those trees to be removed. At the discretion of the Director of Community Development or his/her designee, other appropriate documents may be substituted if a survey is not available.

b. Tree Replacement:

1. If a tree is removed under the requirements of subsection 9-2.4 paragraph a.2, a.3, or a.4 above, a mitigation plan must be submitted which will provide for the replacement of all removed trees except those removed under Permit by Right as stipulated in subsection 9-2.7 paragraph a below. The mitigation plan shall be in accordance with the following Schedule:

Tree Removed/Destroyed	Required Replacement Tree	Tree Replacement Fee
Deciduous tree with DBH of 6" to 11.99"	One (1) Deciduous Replacement Tree	\$ 750.00
Deciduous tree with DBH of 12" to 17.99"	Two (2) Deciduous Replacement Trees	\$ 1,500.00

<b>Tree Removed/Destroyed</b>	<b>Required Replacement Tree</b>	<b>Tree Replacement Fee</b>
Deciduous tree with DBH of 18" to 29.99"	Three (3) Deciduous Replacement Trees	\$ 2,250.00
Deciduous tree with DBH of 30" to 39.99"	Four (4) Deciduous Replacement Trees	\$ 3,000.00
Deciduous tree with DBH of 40" or greater	Five (5) Deciduous Replacement Trees	\$ 3,750.00
Coniferous tree with a height of ten feet or more	One (1) Coniferous Replacement Tree	\$ 750.00

2. A Deciduous Replacement Tree shall be either one tree that measures at least three inches in caliper or two trees that measure at least two inches in caliper.
3. A Coniferous Replacement Tree shall be at least six feet in height, measured from grade.
4. All replacement trees shall be of species and sizes appropriate for the premises on which they will be planted and shall be of a type listed in the trees approved for planting by the Director of Community Development, Shade Tree Commission, or Environmental Commission.
5. In lieu of planting trees, the replacement may be accomplished by a contribution of the monetary value of non-replaced trees to the Township of Ocean Shade Tree Fund in accordance with the above Schedule.
6. All replacement trees shall be maintained in healthy condition for no less than two (2) years from the date of planting.

**9-2.6 Fees.**

Upon the filing of an application with the Department of Community Development for a tree removal permit under the terms of this section, the applicant shall pay an application fee of \$100 plus \$100 for each tree to be removed.

**9-2.7 Permit Approval.**

a. Permit by Right.

No permit shall be denied under this section for the removal of up to three living trees per five-year period per individual residential lots with a dwelling located on the lot, regardless of ownership transfer, subject to the following conditions:

1. Trees removed as a result of subsection 9-2.4 paragraph a.1 or a.2 above shall not be counted towards these three trees. If trees are damaged due to activities within the dripline of the tree, e.g., the piling of soil, placement of large equipment, or over-pruning, those trees will be counted toward this total;
2. The trees that are to remain are healthy;
3. The trees do not have canopies that extend over the public right-of-way;

4. The trees to be removed are not located on any portion of the lot having a slope greater than fifteen (15%) percent;
5. The trees to be removed are not located in a wetland, a wetland transition area, a stream buffer as defined by the NJDEP, or in a 50-foot buffer of the shoreline of a lake; and
6. The trees are neither specimen, historic, nor significant trees.

b. Evaluation of Permit Application

The Township of Ocean Tree Specialist or his/her designee shall evaluate the Application for a Tree Removal Permit and take one of the following actions:

1. If the Tree Specialist or his/her designee determines that the permit application is incomplete, unclear, inaccurate or otherwise deficient, he or she shall so advise the applicant and return the permit application within 10 business days of the date of application. The applicant may revise, supplement and/or resubmit the application, which will then be treated as a new application with a new schedule if necessary, except no additional fee is required.
2. The Tree Specialist or his/her designee shall determine that the proposed tree removal is either permitted or prohibited by the standards set forth in this section and shall notify the Director of Community Development or his/her designee.
3. The Tree Specialist or his/her designee may impose reasonable permit conditions necessary to effectuate the purposes of this section.

c. Time limits for approval of Tree Removal Permits.

1. The Director of Community Development or his/her designee shall act on an Application for Tree Removal Permit within 30 days of the receipt of a complete Application. Failure to act within 30 days shall be deemed to be an approval of the Application and thereafter, a Tree Removal Permit shall be issued.

d. Duration of Tree Removal Permits.

1. If granted for a lot or parcel of land for which no building permit is required, the Tree Removal Permit expires three months from the date of issuance.
2. If granted for a lot or parcel of land for which a building permit is required but for which no variance, subdivision, or site plan approval is required or has been approved by the Planning Board or Zoning Board of Adjustment, the Tree Removal Permit is valid until the expiration of building permit granted with such Tree Removal Permit.

e. Display of Tree Removal Permits

1. Each Tree Removal Permit issued under this section shall be prominently displayed on the premises from which the trees are being removed until all the work is completed.

**9-2.8 Significant Specimen Trees.**

It is presumed that Significant Specimen Trees should only be removed in the most compelling and extraordinary circumstances. Removal will be permitted only after approval by a Hearing Panel, as described in subsection 9-2.10 of this section. The loss of lot yield, building area, or profitability of developmental layout shall be deemed neither compelling nor extraordinary.

### **9-2.9 Completion.**

The holder of a Tree Removal Permit shall notify the Director of Community Development or his/her designee when the tree removal has been completed.

### **9-2.10 Appeals.**

Whenever any Application for a Tree Removal Permit shall be denied by the Director of Community Development or his/her designee, the applicant may appeal the denial to the Township Manager by filing a written notice of appeal with the Township Clerk within 10 days after receiving notice of the denial. Upon receipt of the notice of appeal, the Township Manager shall appoint a hearing panel consisting of three members: A member of the Environmental Commission, an employee of the Department of Community Development, and any other designee of the Township Manager. This panel shall proceed to hear the appeal upon notice to the applicant within 30 days of the filing of such notice of appeal. This panel shall have the discretion, after interviewing both the applicant and the Director of Community Development or his/her designee, to reverse, affirm, or modify the aforesaid decision.

### **9-2.11 Protection of Existing Trees.**

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Township Engineer, shall be placed around trees that are not to be removed. The protective barriers shall be placed at the dripline or canopy line 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.

### **9-2.12 Emergency Action.**

In the event of an emergency, any person otherwise subject to this section, having responsibility, jurisdiction and/or authority to cure, remedy or mitigate dangerous, hazardous, inconvenient, or unhealthy conditions resulting from the emergency, may, without first applying for and obtaining a permit under this section, take any lawful action which is otherwise a regulated activity. However, such person or the agent or designee of such person, shall apply for a Tree Removal Permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration, until a permit is obtained.

### **9-2.13 Contractor Registration.**

- a. No person, firm, partnership, corporation, association or other legal entity shall engage in tree pruning, removal and/or repair in the Township for hire without first registering with the enforcement officer, on forms to be supplied by said enforcement officer. Completed registration forms shall become public records.
- b. The purpose of this registration requirement is to ensure that persons, firms, partnerships, corporations, and other legal entities engaged in tree pruning, removal and/or repair in the Township for hire are:
  1. Licensed Tree Care Operators as established by the New Jersey Board of Tree Experts in the Department of Environmental Protection, and

2. Cognizant of the Township's tree ordinances and other applicable ordinances, laws and regulations.
- c. At the time of registration, applicants shall certify that they have received a copy of and will comply with the Township's tree ordinances.
- d. The Township makes no guarantee or representation regarding the fitness, knowledge or qualification of any person, firm, partnership, corporation, association or other legal entity that is registered by the Township to engage in tree pruning, removal and/or repair for hire.
- e. Every registration shall be issued and renewed on an annual basis, effective January 1 of each year. There shall be no fee for registration.
- f. Every registrant will be issued one or more vehicle tags, which must be displayed for inspection from all vehicles working in the Township of Ocean.
- g. The Township Manager or his/her designee, after notice and an opportunity for a hearing, may suspend or revoke any registration for violation of law (including but not limited to wage theft laws) or related municipal ordinances, or for good cause, which is shown to be prejudicial to the public health, safety or welfare.
- h. Any person, firm, partnership, corporation, association or other legal entity who violates this section shall be subject to the penalties set forth in subsection 9-2.14 below.

**9-2.14 Penalties.**

- a. When regulated trees are removed without a tree removal permit, the affected areas shall be replanted as required by the Director of Community Development or his/her designee. Any such replanting shall be in accordance with the requirements of subsection 9-2.5. In addition to any replanting as required by subsection 9-2.5, any person found guilty of violating any of the provisions of this section shall be subject to a fine of up to \$2000 or an imprisonment for a term of 90 days or both. Each and every day that such violation continues shall be considered a separate violation. Each tree removed or destroyed in violation of this section shall be considered a separate violation.
- b. Any contractor, whether registered with the Township or not, found guilty of violating any of the provisions of this section shall be subject to a fine of up to \$2,000 or an imprisonment for a term of 90 days or both. Each and every day that such violation continues shall be considered a separate violation. Each tree removed or destroyed in violation of this section shall be considered a separate violation.

**9-2.15 Shade Tree Fund.**

- a. A Shade Tree Fund shall be established and maintained by the Director of Finance of the Township of Ocean to receive and disburse replacement tree contributions. Appropriations from the Shade Tree Fund shall be authorized by the Township Manager, with consideration of recommendations by the Director of Community Development or his/her designee, the Shade Tree Commission, and the Environmental Commission.
- b. The primary purpose of said fund is to provide for the planting and maintenance of trees and shrubs to maintain and increase the tree canopy of the Township of Ocean.
- c. The Director of Finance of the Township shall make an annual report to the Mayor and Council and the Shade Tree commission, showing fees and assessments collected and



disbursements from the Shade Tree Fund. Such report shall be submitted by February 1 of each year as to the preceding year's activities.

**SECTION III**

3. All other ordinances or parts of ordinances inconsistent hereof are hereby repealed to the extent of such inconsistencies.

**SECTION IV**

4. If any section, paragraph, subparagraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

**SECTION V**

5. This Ordinance shall take effect upon its final passage and publication as provided by law.

Record of Vote	Deputy Mayor Napolitani	Councilman Acerra	Councilwoman Donlon	Councilman Fisher	Mayor Siciliano
Motion to Approve		X			
Motion to Second				X	
Approved	X	X	X	X	
Opposed					X
Not Voting/Recused					
Absent/Excused					

**CERTIFICATION**

*I hereby certify that this is a true copy of an Ordinance adopted by the Township of Ocean Governing Body at their meeting held on **April 14, 2022.***

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Jessie M. Joseph, RMC/CMC  
Township Clerk