**OLDMANS TOWNSHIP**

**ORDINANCE 2024-03**

**An Ordinance Amending Oldmans Township Code Chapter 110**

**“Land Use” Tree Removal-Replacement**

**BE IT ORDAINED** by the Township Committee of the Township of Oldmans that the following section be added to Chapter 110, Land Use, of the Code of the Township of Oldmans:

**TREE REMOVAL/REPLACEMENT**

**SECTION I. Purpose:**

An ordinance to establish requirements for tree removal and replacement in the Township of Oldmans, Salem County,to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**SECTION II. Definitions:**

1. “Applicant” means any “person”, as defined below, who applies for approval

 to remove trees regulated under this ordinance.

1. “Diameter at Breast Height (DBH)” means 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. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

1. “Hazard Tree” means 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.

1. Has an infectious disease or insect infestation;
2. Is dead or dying;

3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles~~,~~

4. Is causing obvious damage to structures (such as building foundations, sidewalks); or

1. Is determined to be a threat to public health, safety, and/or welfare by a Municipal Housing Officer and/or Public Works.
2. “Person” means any individual, resident, corporation, utility, company, partnership, firm, or association.

1. “Planting strip” means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

1. “Resident” means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

1. “Street Tree” means 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.

1. “Tree” means 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.

1. “Tree removal” means 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.

**SECTION III. Regulated Activities:**

**A. Tree Replacement Requirements**

1. Land use applications for a Grading Plan, Preliminary Major Subdivision, Minor Site Plan or Preliminary Major Site Plan shall include a tree location plan in areas of disturbance. The plan should include the number of trees to be removed and a planting plan with the required tree replacement.
2. Any person, who removes ten or more tree(s), as defined as tree removal, with a DBH of 8” or more per acre, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.
3. An application or permit is not required for the removal or cutting of trees.

The species type and diversity of replacement trees shall be in accordance with Appendix A.

Replacement tree(s) shall:

1. Be replaced in kind with a tree that meets 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 8” or greater | Replant 1 tree with a minimum tree caliper of 1.5” for exceeding ten (10) trees removed in course of one year |

**B. Replacement Alternatives:**

1. 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.
	2. Pay a fee of $100.00 for exceeding ten (10) trees removed in course of one year. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of trees within Oldmans Township.

**SECTION IV. Exemptions:**

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below**~~:~~**

1. Residents and homeowners are permissible to cut ten (10) trees per acre every year before requiring tree replacement.
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, and land used for Agriculture purposes;
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.
8. Trees removed as part of an ongoing active agricultural use needed to support and maintain the agriculture activities.
9. Agriculture/Farmland is exempt.
10. Trees grown for timbering activities.

**SECTION V. Enforcement:**

This ordinance shall be enforced by the Honor System. Oldmans Township will notify property owners of the Tree Ordinance and provide the property owners with the tree replacement policy. Oldmans Township Public Works will conduct spot checks to review exemptions and compliance with the Tree Ordinance.

**SECTION VI. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a warning/summons, community service or fine of $500.00 as such court in its discretion may impose per tree, of the cost of planting the required replacement tree if same is determined to be a greater amount. The planting of additional trees may be permitted in lieu of a fine at the discretion of the Zoning Official. The removal of a tree of significance is not subject to a fine limit.

**SECTION VIII. Severability:**

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

**SECTION VIII. Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduction: April 10, 2024

Adoption: May 8, 2024

ATTESTED BY: OLDMANS TOWNSHIP

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Melinda Taylor, Municipal Clerk David Murphy, Mayor

**Appendix A**

**OLDMANS TOWNSHIP**

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| **Category** | **Tree Removed (DBH)** | **Tree Replacement Criteria (See Appendix A)** |
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