

**BOROUGH OF TINTON FALLS
MONMOUTH COUNTY
NEW JERSEY**

ORDINANCE NO. 2022-1490

**AN ORDINANCE AMENDING CHAPTER 17 OF THE BOROUGH CODE ENTITLED
“TREES” TO AMEND THE REQUIREMENTS FOR TREE REMOVAL AND
REPLACEMENT**

BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls as follows:

SECTION 1. REPEAL. The current Chapter 17 of the Borough Code, entitled “Trees,” and including Sections 17-1 through 17-12, is hereby repealed in its entirety and replaced with the following provisions.

SECTION 2. NEW ORDINANCE PROVISIONS. The following provisions shall constitute the new Chapter 17 of the Borough Code:

CHAPTER 17: TREE REMOVAL AND REPLACEMENT

§17-1. Intent and Purpose.

- A. The indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within Tinton Falls will cause increased drainage control costs, increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon dioxide, the establishment of a heat island effect and increased dust and pollution. The singular or cumulative effect of any of the foregoing could adversely impact the character of Tinton Falls, decrease property values, render the land unfit and unsuitable for its most appropriate use, and negatively affect the health, safety and general welfare of the Borough's residents. Thus, the Borough governing body desires to regulate and control indiscriminate and excessive cutting of trees within the Borough and to require appropriate tree replacement.

- B. It is recognized that there is a strong interrelationship between the integrity of the Borough's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources. Fewer trees throughout the Borough also correlates with increased air pollution. Therefore, the governing body finds that the appropriate management of these resources is an important health, safety and general welfare concern. The appropriate management guidelines for tree preservation to be utilized are:

- (1) The American National Standard, ANSI A300 (Part 5) — Management;

(2) Trees and Development: A Technical Guide to Preservation of Trees During Land Development, Nelda Matheny and James R. Clark; and

(3) Protection and Care of the Urban Forest, NJDEP Division of Parks and Forestry.

- C. Trees are declared to be an important cultural, ecological, scenic and economic resource. Proper management of this resource will ensure its maintenance and result in economic returns. A forestry management program is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for the continued use of forest resources which are compatible with the maintenance of the environment. This will be accomplished by ensuring management of forest and trees through the application of sound management practices. To that end, it shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any trees covered by this chapter, except in accordance with the provisions of this chapter.
- D. The enforcement of this chapter shall be the duty of the Zoning Officer and the Shade Tree Commission of Tinton Falls and its agents, such as the Tree Specialist, through the regulation, planting, care and control of shade, ornamental and evergreen trees and shrubs in the streets, highways, public places of the Borough and tree removal on all lands within the Borough.

§17-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CALIPER: ANSI Z60 FOR NURSERY STOCK

“Caliper” is a type of diameter measurement used in the nursery industry. The height measurement shall be taken from 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. Seldom are tree trunks 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 measurements.

COMMUNITY FORESTRY MANAGEMENT PLAN

A plan developed by a municipality that outlines the goals and objectives for managing trees on municipal property with the intent of minimizing liability to the municipality and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forest Service. A Shade Tree Commission shall be formed to oversee the implementation of the community forestry management plan.

DIAMETER BREAST HEIGHT (DBH)

The diameter of a tree measured 4 1/2 feet above the uphill/highest side.

EROSION

The detachment and movement of soil or rock fragments by water, ice, wind and gravity.

EXEMPT AREA

The lot area as provided in this chapter for which tree replacement shall not be required.

FOREST MANAGEMENT PLAN

A plan for the management of timbered or forested lands approved by the New Jersey Department of Environmental Protection, New Jersey Forest Service, or similar state or federal agency.

HISTORIC TREE

A tree that has been found by the Shade Tree Commission to be of notable historic interest to Tinton Falls because of its age, type, size or historic association and which has been so designated and that designation has been officially made and promulgated as part of the official records of the Borough.

OPEN SPACE

Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use and enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces, provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designated to be incidental to the natural openness of the land.

SHADE TREE COMMISSION

Shade tree commissions can be formed by municipal ordinance, N.J.S.A. 40:64-1 et seq.

SPECIMEN TREE

Any tree or ornamental tree with a diameter at breast height (DBH) exceeding 60% of that of the largest similar tree listed in either of these references: Monmouth County's Largest Trees, prepared and updated annually by the Monmouth County Shade Tree Commission or New Jersey's Big Trees, prepared and updated biannually by the Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

TREE

Any deciduous or coniferous species which has a DBH of six inches or greater.

TREE ESCROW FUND

A fund established by the governing body for the administration and promotion of tree and shrubbery resource sustainability projects and practices which may be consistent with the Community Stewardship Incentive Program as outlined within the New Jersey Shade Tree and Community Forestry Assistance Act, P.L. 1996, c. 135.

TREE PLANTING PLAN

A specific plan adopted by Tinton Falls for the location and placement of trees on public property.

TREE PRESERVATION AND REMOVAL PLAN (TREE SAVE PLAN)

A specific plan that contains tree locations and other information in accordance with §17-5 herein.

TREE REMOVAL PERMIT

The permit issued by the Zoning Officer or its designee to remove or destroy a tree or trees.

TREE REPLACEMENT PLAN

A specific plan for replacement of removed trees in accordance with the provision of this chapter.

TREE SPECIALIST

- A. The Mayor, with approval of the Council, shall appoint a Tree Specialist. This individual shall be responsible for assisting the Zoning Officer and Shade Tree Commission with the administration of this chapter for applications on properties greater than one acre in size.
- B. The Tree Specialist shall be one of the following:
 - (1) A forester who shall have a bachelor's degree in forestry or arboriculture from a college or university, shall be certified as a certified tree expert by the State of New Jersey and shall have a minimum of three years' experience in planting, care and maintenance of trees. The forester shall have the responsibility of reviewing an approved forest management plan and inspecting the forested site for plan compliance if requested by the Tax Assessor.
 - (2) A professional who shall be certified as either a certified tree expert (CTE) or a licensed landscape architect (LLA) by the State of New Jersey and shall have a minimum of three years' experience in planting, care and maintenance of trees.
- C. The Tree Specialist shall be paid from the Tree Escrow Fund, which is established herein, and shall be paid in accordance with a fee schedule established by contract with the municipality.

§ 17-3. Applicability.

The terms and provisions of this chapter shall apply as follows:

- A. Unless specifically excepted in Subsection C below, it shall be unlawful for any person to remove or cause to remove trees with a DBH of six inches or more, on any property within the Borough, without first having obtained a tree removal permit as provided herein.
- B. Specimen and historic trees.

- (1) Trees that have been designated as specimen or historic under the provisions of this chapter shall be maintained in a living condition, and it shall be unlawful for any person to remove such tree without an approved tree removal permit. No specimen or historic tree shall be removed unless the applicant has obtained approval from the governing body with consideration of the Shade Tree Commission's recommendations.
- (2) The condition of trees proposed to be saved shall be evaluated by use of guides such as follows:
 - a. Evaluation of Hazard Trees in Urban Areas, ISA Books, Nelda Matheny and James R. Clark.
 - b. Urban Tree Risk Management, USDA Forest Service, Northeastern Area.
 - c. The Guide for Plant Appraisal, the Council of Tree and Landscape Appraisers.

C. Exceptions. The provisions of this chapter shall not apply to the following:

- (1) Any property upon which no trees are located, as confirmed by a statement of no tree verification.
- (2) Any tree of less than six inches DBH.
- (3) Any tree or trees removed or cut in accordance with a forest management plan, provided that such plan is filed with the Tree Specialist, Shade Tree Commission and Tax Assessor.
- (4) Any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District, provided that such plan has been filed with the Shade Tree Commission and Tax Assessor.
- (5) Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantation or tree orchard.
- (6) Any tree growing in a utility right-of-way or fire trail subject to the approval of the Shade Tree Commission.

§ 17-4. Tree removal permits.

- A. Any person wishing to obtain a tree removal permit shall make application to the Zoning Department by filing a written application and paying such fees as are set forth in § 17-8. For any non-single family property greater than one acre, no permit shall be issued until a tree preservation and removal plan for the lot or parcel has been reviewed and approved as compliant with § 17-5 by the Tree Specialist.

- B. Where an application for any non-single family property greater than one acre, as required by this chapter, has been submitted, no permit shall be issued until a tree save plan for the lot or parcel, if necessary, has been reviewed and approved as compliant with § 17-5 by the Tree Specialist, and until the filing of a written report of an on-site inspection by the Tree Specialist has been submitted. Where an application is made in connection with the construction of a building or other improvement, no building permit shall be issued until the tree removal permit has been issued.
- C. All required escrow and bond fees for any application, including required tree replacements or fees, shall be verified as paid prior to the issuance of the tree removal permit.
- D. Tree removal permit applications shall be filed at the Zoning Office and shall be completed in full. The application must be deemed complete and all required fees, as set forth in § 17-5, be paid prior to review.
- E. Inspections. After the application is complete and reviewed, the Shade Tree Commission and/or the Tree Specialist (for non-single family properties greater than one acre) shall inspect the trees and property which are the subject of the permit application within 30 days.
- F. Permit approval or denial. The Zoning Officer shall approve or deny the tree removal permit within 10 business days after completion of the inspection. The Zoning Officer shall notify the applicant in writing of the factual basis and criteria for any denial. The final decision of the Zoning Officer may be appealed to the governing body by filing written notice within 10 days of the final decision. The governing body shall hold a public hearing and issue its decision within 60 days after notice of appeal is filed, unless the applicant requests and the governing body consents to an extension of time. The governing body may delegate its appeal responsibilities to the Shade Tree Commission.

§17-5. Tree preservation and removal plan.

A tree preservation and removal plan shall be submitted to the Zoning Officer and Tree Specialist for any non-single family property greater than one acre in size . Applications that require Planning Board or Zoning Board approval shall have tree preservation and removal plans as part of the submittal to the Planning Board or Zoning Board and said plans provided to the Tree Specialist for review and approval in accordance with this chapter. Tree preservation and removal plans shall contain the following:

- A. The name and address of the applicant.
- B. The name and address of the owner of the property from which the trees are to be removed.
- C. The lot and block of the property.

D. The shape and dimensions of the lot or parcel, including the location of all existing and proposed easements. The plan shall include a survey prepared by a licensed land surveyor that contains tree locations. The survey shall contain, at a scale of no less than one inch equals 50 feet, the following information:

- (1) The existing and proposed tree preservation limits.
- (2) The proposed limit of the clearing and all individual trees to be retained outside the tree clearing identified by some approved method as determined by the Tree Specialist, such as flagging, prior to the field inspection. For any clearing greater than or equal to three acres, a representative 5% of the wooded areas proposed to be cleared shall be inventoried. The representative 5% shall be determined by agreement between the Tree Specialist and the applicant. Where less than three acres is proposed to be cleared, all trees to be removed shall be inventoried.
- (3) The installation and limits of a temporary existing tree protection fence along the limits of the proposed tree removal shall be in compliance with § 17-10.
- (4) Locations of all forest types shall be identified by common and botanical names of dominant tree species.
- (5) All specimen and historic trees to be removed shall be indicated on the plan. All reasonable efforts shall be made to preserve such trees, including, but not limited to, if feasible, relocation of infrastructure, roadways and buildings. Removal of such trees shall require specific written approval of the governing body, with consideration of the Shade Tree Commission's recommendations.
- (6) A proposed tree replacement plan in accordance with this chapter. A tree replacement plan shall be considered the proposed landscaping plan required for all subdivision and site plan approvals.
- (7) A North arrow.
- (8) The location of existing and proposed structures and improvements, if any.

§ 17-6. Term of permit.

Any and all permits approved by the Borough shall be declared null and void if the tree removal is not completed within a reasonable time, not to exceed 12 months after permit issuance. In no case will the permit be valid for more than 12 months. Permits not used within this period will require a new application and the payment of new fees. For purposes of this section, a permit shall no longer be valid when the work authorized by the permit is completed.

§ 17-7. Criteria for issuance of permits.

- A. Upon completion of the field inspection report, if necessary, and review of any requested recommendations, the Zoning Officer shall approve a permit if:
- (1) The tree preservation and removal plan is compliant with § 17-5;
 - (2) The tree replacement plan is approved by the Tree Specialist;
 - (3) None of the conditions set forth below in Subsection B exists;
 - (4) At least one of the criteria as follows has been satisfied:
 - a. The tree is located in an area where a structure or improvements will be placed in accordance with the approval of Planning/Zoning Boards or the

Zoning Officer and the tree cannot be relocated on the site because of age, type or size of the tree.

- b. The tree is dead, diseased, injured, in danger of falling, is too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision or clearance or conflicts with other ordinances or regulations.
 - c. The tree is to be removed for harvesting as a commercial product or for the purpose of making land available for farming or other agricultural activity, or is to be removed in furtherance of a forest management plan or soil conservation plan, or to serve some other purpose which is consistent with the purposes of this chapter.
- B. The Zoning Officer may deny a permit if the removal will contribute to extra runoff of surface water onto adjacent properties, erosion or silting, and such conditions are not otherwise satisfactorily abated, or if the tree removal causes:
- (1) Impairment to the growth or development of remaining trees on the applicant's property or upon adjacent properties;
 - (2) Soil instability;
 - (3) Dust;
 - (4) Drainage problems;
 - (5) Dangerous or hazardous conditions; or
 - (6) Depression of the value of adjacent properties.

§17-8. Fees.

A. Application.

- (1) The applicant, at time of filing the application with the Zoning Officer, shall pay the application fee of \$5 per tree for single-family residential lots, with a maximum fee of \$100 per lot. For all other applications, the fee shall be \$150 for the removal of five or fewer trees or \$150, plus \$25 for each tree removed over five trees. No application shall be considered without the payment of the required fees.
- (2) The replacement fee will be in accordance with § 17-9.

B. Tree Escrow Fund.

- (1) A Tree Escrow Fund shall be established and maintained by the Chief Financial Officer of Tinton Falls to receive and disburse replacement tree contributions. Appropriations from the Tree Fund shall be authorized by the governing body with consideration of the Shade Tree Commission and Green Team recommendations.
- (2) The primary purpose of said fund is to provide for the planting and maintenance of trees and shrubs on public property. The fund will also cover administrative costs to implement the provisions of this chapter, including but not limited to site inspections, processing of permits and supervision of tree replacements. Administrative costs imposed in accordance with this chapter shall not exceed 30% of the fund, as determined on an annual basis.

§17-9. Replacement trees.

A. Tree replacement schedule.

(1) For any non-single family property greater than one acre in size, any tree removed pursuant to this chapter, unless exempt under § 17-3C, shall be replaced based on the following:

Number of Trees to be Removed	Size/Diameter (inches)	Number of Replacement Trees	Size of Replacement Trees	Or Dollar Amount
1	Greater than 6 up to 10	1	2" to 2 ½"	\$240
2	Greater than 6 up to 10	1	3"	\$420
1	Greater than 10 up to 16	2	2" to 2 ½"	\$480
1	Greater than 16 up to 23	2	3"	\$840
1	Greater than 23 up to 30	4	3"	\$1,680
1	Greater than 30	5	3"	\$2,100

B. The applicant will receive a one-for-one replacement tree credit should stands of 10 or more trees greater than four inches in diameter be preserved within the limit of the disturbance line.

C. All replacement trees shall be planted on site in accordance with the foregoing. However, if one or more of the following conditions exist, some or all of the replacement trees may be planted off site:

- (1) The site in question cannot physically accommodate the total replacement amount of trees, and the applicant contributes an amount equal to the calculated monetary value of nonreplaced trees to the Tree Escrow Fund; or
- (2) The Tree Specialist and applicant agree in writing that the applicant shall make payment to the Tree Escrow Fund based upon the chart provided; or
- (3) The Tree Specialist and applicant agree in writing that the applicant shall plant replacement trees off site on municipally owned property pursuant to recommendations from the Shade Tree Commission and Green Team.

§ 17-10. Protection of existing trees during construction.

A. Protective barriers.

(1) Prior to construction and any tree removals, suitable tree protective barriers shall be erected, and this protection, where required, shall remain until such time as the protection is authorized to be removed by the Tree Specialist or after issuance of a

- final certificate of occupancy. In addition, during construction, no attachments or wires shall be attached to any of said trees so protected. Where some grading must take place within the dripline of trees in the protection zone, appropriate measures shall be taken to minimize impact to the trees. Any trees seriously damaged during construction must be professionally treated by a New Jersey certified tree expert or replaced if the damage is beyond treatment.
- (2) A detail of the existing tree self-supported protective barrier shall be provided on all applications. The protective barrier shall be a minimum of four feet high.
 - (3) The self-supported protective barrier shall be placed, as determined by the Tree Specialist, at the dripline of any tree along the limit of clearing and around the entire dripline for trees to remain undisturbed within the limit of clearing.
 - (4) It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery or temporary soil deposits within the dripline.
- B. Street right-of-way and utility easements may be delineated by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape, rope, etc., from stake to stake along the outside perimeters of such areas to be cleared.
- C. Large property areas separate from construction and land clearing areas into which no equipment will venture may also be delineated as set forth above in § 17-10B, as determined by the Tree Specialist following a field evaluation.

§17-11. Tree replacement.

Any required tree replacement per § 17-9 shall be completed in accordance with the standards set forth in ANSI Z60.1, American Standard for Nursery Stock. Tree replacement shall be in accordance with either Subsection A, B, C or D below or a combination of Subsections A, B, C and D.

- A. One-to-one tree replacement. For each tree six inches in DBH or greater that is removed, the applicant shall prepare a replanting plan for other areas of the property. The replacement plan or landscape plan shall reflect a one-to-one tree replacement for each tree six inches or greater to be removed. All proposed replacement trees shall be in accordance with § 17-9 and selections from Trees For New Jersey Streets, published by the New Jersey Shade Tree Federation, or Street Tree Factsheets, a publication of the Municipal Tree Restoration Program, and submitted for review and approval prior to the issuance of a tree removal permit.
- B. Tree area replacement/reforestation. For each square foot of tree area to be removed, the applicant shall prepare a reforestation scheme on other treeless open space areas of the property to compensate for the tree removals. The reforestation plan shall be based on a twenty-foot-by-twenty-foot grid. Of this number of trees, 10% shall be balled and burlaped, two-inch to two-and-one-half-inch caliper; 20% shall be balled and burlaped, one-and-three-fourths-inch to two-inch caliper; 30% shall be bare root one-and-one-fourth-inch to one-and-one-half-inch caliper; and 40% shall be bare root six-foot- to eight-foot-tall whips. A mixture of trees, indigenous to the area and site, shall be utilized.

Proposed trees shall be planted in natural groves and may be spaced five feet to 20 feet on center. The ground shall be seeded with a grass mixture approved by the Shade Tree Commission. The reforestation formula shall follow the guidelines as set forth in the New Jersey No Net Loss Reforestation Act, P.L. 1993, c. 106 (N.J.S.A. 13:1L-14.2).

C. Credits. The permit applicant will receive a one-to-one replacement tree credit:

- (1) For stands of 10 or more trees with a DBH of six inches or greater preserved within the limit of the disturbance line; or
- (2) Forested areas of one acre or greater, which are left natural and conveyed to the Borough with a deed restriction that they will remain forested and undeveloped. This conveyance excludes all previous dedicated easements.

D. All replacement trees shall be planted on site, unless all of the replacement trees cannot be physically accommodated. In such instance, the applicant shall pay the tree replacement fee in accordance with the schedule in § 17-9.

E. Exempt areas.

- (1) Agricultural operations are exempt from replacement requirements because such operations are governed by the Right to Farm Act, N.J.S.A. 4:1C-1 to 4:1C-10, which preempts local regulation. Property owners claiming exemption under this subsection must continue to farm the property in question as described on the tree removal permit for a minimum of five consecutive years after the date of clearing or date of commencement of the prescribed farming activity that is deemed compliant by the Tree Specialist. An approved permit must be submitted prior to clearing. If the property is not farmed as prescribed on the tree removal permit within three years of the tree removal or is developed for any other use before the five years expires, the reforestation replacement obligation in accordance with § 17-11B will be enforced according to the new use of the property.
- (2) Utility line clearance operations, provided that such plan is filed with the Tree Specialist and work performed in accordance with ANSI A300 Part 7: BMP Utility Pruning of Trees, and Board of Tree Experts Pruning Standards for Shade Trees, Section 5.5.

§17-12. Emergencies.

In case of emergencies, such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster, or in the case of dead or diseased trees which are a hazard to persons or property, the requirements of the regulations set forth in this chapter may be waived by the Tree Specialist upon a finding that such waiver is necessary so that the public or private work to restore order on the property in the Borough will not be impeded.

§17-13. Stop work orders.

- A. The Borough is hereby authorized to issue stop-work orders to the holder of the tree removal permit, and the Tree Specialist is authorized to recommend the issuance of stop-work orders in the event that there is:
 - (1) A failure to comply with the approved plan, such as a site plan, forest management plan or soil conservation plan;
 - (2) Noncompliance with the tree removal permit granted pursuant to this chapter; or
 - (3) Noncompliance with the provisions of this chapter.

- B. The stop-work order shall remain in effect until the Borough, upon recommendation of the Shade Tree Commission and/or Tree Specialist, has determined that the resumption of work will not violate the plans, permit or the provisions of this chapter.

§17-14. Enforcement.

The Zoning Officer and Shade Tree Commission, in conjunction with the Tree Specialist, shall oversee all tree removals pursuant to an issued tree removal permit. Upon the ascertainment of a violation of this chapter, the Zoning Officer, Tree Specialist or Shade Tree Commission shall refer enforcement actions to the Code Enforcement Officer.

§17-15. Applicability to tree removal construction companies; permit required.

All provisions of this chapter shall apply to any person removing trees on behalf of any other person, including all tree removal construction companies or persons in the business of removing trees or construction. It shall be unlawful for any person or company to remove or cause to be removed any tree or undertake any work for which a permit is required pursuant to this chapter unless a valid permit therefor is in effect and is displayed in accordance with the provisions set forth in § 17-16; such removal or work shall constitute a violation of this section and shall subject the person or company violating this section to all penalties provided herein.

§17-16. Display of permit; carrying of plan or authorization; right of entry.

- A. The applicant shall prominently display on the site the tree removal permit issued. Such permit shall be displayed continuously while trees are being removed or replaced or work done as authorized on the permit and for 10 days thereafter. In addition, the person or persons cutting or removing trees, if other than the applicant, shall carry with him/her authorization from the owner or applicant authorizing such person to cut or remove trees. In the event that the trees are being cut or removed in accordance with a forest management plan or a soil conservation plan, a copy of the plan shall be in the possession of the person cutting or removing such trees.

- B. As a condition for the issuance of the permit, the applicant shall agree in writing to the entry onto his/her premises by the Tree Specialist and all law enforcement officers as necessary to effectuate the provisions of this chapter, and such entries shall be deemed lawful. Failure to allow such entry shall be unlawful and shall constitute a violation of this chapter and shall constitute failure to display the permit as required herein. It shall be unlawful and considered a violation of this chapter for any person to engage in the business of plant cutting, trimming, removal, spraying or otherwise treating trees, shrubs or vines within the Borough and without the applicable certification or license for the

designated work. All contractors offering tree care services for hire within Tinton Falls shall register annually with the Tree Specialist, provide a current certificate of insurance showing evidence of employer liability and workers' compensation coverage for the work to be performed, and shall comply with applicable OSHA regulations, ANSI Z133.1 Safety Standards, New Jersey Board of Tree Experts Pruning Standards for Shade Trees and ANSI A300 Practice Standards.

§17-17. Violations and penalties.

- A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation, be punished by a fine of up to \$2,000 for each offense, in the discretion of the Judge before whom conviction may be had. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this chapter and each day the same is violated shall be defined and taken to be a separate and distinct offense. In addition, the court may order restitution (fine and/or appraised value, whichever is greater) and/or replacement of the tree illegally removed.

- B. In addition to other remedies, the Shade Tree Commission, Tree Specialist or other authorized official may institute any appropriate legal action to prevent a continuing violation of the terms of this chapter

SECTION 3. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

SECTION 4. This Ordinance shall take effective immediately upon final passage and publication as provided by law.

Introduced: June 14, 2022

Adopted:

TRACY BUCKLEY
COUNCIL PRESIDENT

VITO PERILLO
MAYOR

ATTEST:

MICHELLE HUTCHINSON
BOROUGH CLERK

APPROVED AS TO FORM:

KEVIN N. STARKEY, ESQ.
DIRECTOR OF LAW