

CLINTON TOWN COUNCIL

APRIL 24, 2024

7:00 PM

FLAG SALUTE

ROLL CALL

STATEMENT OF ADEQUATE NOTICE

1. APPROVAL OF MINUTES: Regular Council Meeting April 10, 2024
2. PUBLIC COMMENTS
3. MAYOR'S COMMENTS
4. INTRODUCTION OF ORDINANCE #24-05 – TREE REMOVAL AND REPLACEMENT (05-22)
5. PUBLIC HEARING OF ORDINANCE #24-02 – CAP ORDINANCE
6. PUBLIC HEARING – 2024 BUDGET
7. PUBLIC HEARING OF ORDINANCE #24-03 – CAPITAL IMPROVEMENT FOR PRELIMINARY PFAS
8. RESOLUTION #75-24 – LEAP CHALLENGE GRANT
9. RESOLUTION #76-24 – FUNDING FOR MUNICIPAL ALLIANCE
10. WATER REFUND – MERION MULTI FAMILY FUND
11. BANNER REQUEST – TOWN PICNIC
12. CORRESPONDENCE
13. REPORTS OF COUNCIL
14. STANDBY AND OVERTIME
15. PAYMENT OF BILLS
16. EXECUTIVE SESSION (If needed)
17. ADJOURNMENT

04-22-24

**TOWN OF CLINTON
HUNTERDON COUNTY, NEW JERSEY
ORDINANCE #24-05**

**ORDINANCE TO ESTABLISH REQUIREMENTS FOR
TREE REMOVAL AND REPLACEMENT**

WHEREAS, in order to prevent pollutants from being transported to local water bodies from Municipal Separate Storm Sewer Systems (MS4s), federal stormwater regulations require MS4 operators to obtain a National Pollutant Discharge Elimination System (NPDES) permit and implement a stormwater management program; and

WHEREAS, trees play a critical, often overlooked, role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects; and

WHEREAS, the 2024 Tier A MS4 permit renewal requires permittees (such as the Town) to, at a minimum, adopt and enforce a community-wide ordinance to control tree removal and replacement for all types of properties where the municipality has jurisdiction.

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Clinton, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1. Chapter 130 of the Code of the Town of Clinton (the “Code”), entitled “Trees and Shrubs” is hereby amended to add Article I, entitled “Removal of Trees and Shrubs within the public right-of-way or on public property” and place Sections 130-1 through 130-8 under such new Article.

SECTION 2. Chapter 130 of the Code of the Town of Clinton, entitled “Trees and Shrubs” is hereby amended to add Article II, entitled, “Removal and Replacement of Trees on Private Property,” as follows:

§130-9. Purpose.

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

§130-10. 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 ordinance 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 use of the word "shall" means the requirement is always mandatory and not merely directory.

A. “Applicant” means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

B. “Critical Root Radius (CRR)” means 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’.

C. “Diameter at Breast Height (DBH)” means the diameter of the trunk of a 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.

D. “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, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

E. “Person” means any individual, resident, corporation, utility, company, partnership, firm, or association.

F. “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.

G. “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.

H. “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.

I. “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.

J. “Tree Caliper” means 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.

K. “Tree removal” or “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.

L. “Tree Survey” means an aerial photograph or survey at a minimum scale of one inch equals 200 feet or a drawing to scale, which provides the following information: location of all trees or forested areas, the common name of all trees, the average diameter breast height, and indication of trees proposed to be removed, and the location of any proposed tree replacements.

§130-11. Regulated Activities.

A. Application Process.

1. Any person planning to remove a street tree with DBH of 2.5” or more, or any other tree with DBH of 6” or more on private property, shall submit a Tree Removal Application to the Town Zoning Officer. The Zoning Officer shall be empowered to consult with other municipal officials as needed, including the Town Engineer and / or Town Administrator. No tree shall be removed until the Zoning Officer has reviewed and approved the removal.

2. For the removal of five or more trees, a tree survey, as defined in §130-10 above, shall be submitted as part of the application.

3. Applicants will be subject to an application fee as follows:

One (1) to Five (5) Trees	\$50.00
Six (6) trees or more	\$10.00 per tree

B. Development Applications before the Land Use Board. In the case of an application for development for major or minor site plan, major or minor subdivision, or a variance that may involve tree removal regulated by this ordinance, no separate application shall be filed and no separate fee shall be required in addition to the fees charged for the application for development. The application for development shall include the following information at a scale sufficient to enable the determination of matters required under these regulations:

1. The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any.

2. Locations of all forest types which are subject to this chapter, identified by common or botanical name. (Trees proposed to remain, to be transplanted or to be removed shall be identified.)

3. A statement showing how trees not proposed for removal are to be protected during land clearing and construction, i.e., a protective barrier as defined herein.

4. Locations and dimensions of all setbacks and easements required by the Zoning Ordinances of the Town.

5. Statements as to grade changes proposed for the lot or parcel and how such changes will affect these regulations.

6. Any proposed tree replacement.

7. All trees to be retained shall also be identified by some method, such as painting, flagging, etc., prior to field inspection. (Where protective barriers are necessary to prevent damage to a tree that is not to be removed, such barriers shall be erected before work starts.)

C. Tree Replacement Requirements.

1. Any person who removes one or more street tree(s) with a DBH of 2.5” or more, unless exempt under §130-12, shall be subject to the requirements of the Tree Replacement Requirements Table below.

2. Any person who removes one or more any other tree(s) with a DBH of 6” or more per acre, unless otherwise exempt under §130-12 shall be subject to the requirements of the Tree Replacement Requirements Table below.

3. The species type and diversity of replacement trees shall be in accordance with a list of the types of permitted trees created by the Town and maintained in the office of the Town Clerk, which may be updated as necessary from time to time.

4. Replacement tree(s) shall:

a. 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;

b. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Town;

c. 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

d. 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	Replacement Alternative Fee
1	DBH of 2.5” (for street trees) or 6” to 12.99” (for other trees)	Replant 1 tree in with minimum caliper of 1.5” for each tree removed	\$250 per tree
2	DBH of 13” to 22.99”	Replant 2 trees with minimum caliper of 1.5” for each tree removed	\$500 per tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum caliper of 1.5” for each tree removed	\$750 per tree removed

4	DBH of 33" or greater	Replant 4 trees with minimum caliper of 1.5" for each tree removed	\$1,000 per tree removed
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C. 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:
 - a. Plant replacement trees in a separate area(s) approved by the Town.
 - b. Pay a fee per tree removed as set forth in the "Tree Replacement Requirements Table." This fee shall be placed into a fund dedicated to tree planting and continued maintenance of trees.

§130-12. **Exemptions.**

Except as specifically provided below, all persons shall comply with the permit and fee requirement and tree replacement standard outlined above. While the following categories are exempt from the requirements above, the person removing the trees shall submit sufficient documentary evidence (such as photographs or written advice from an arborist or LTE) demonstrating the exemption prior to the tree removal:

- A. 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;
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the Town;
- D. 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.
- E. 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;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife; and
- G. Hazard trees.
- H. Any street trees or trees located within a sight easement required to be removed pursuant to §130-7.

§130-13. **Enforcement.** This ordinance shall be enforced by the Zoning Officer during the course of ordinary enforcement duties.

§130-14. **Violations and Penalties.** Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a minimum fine of \$50.00 and maximum fine of \$1,000 per violation.

SECTION 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any 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 thereof.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.



TOWN OF CLINTON
43 Leigh Street
PO Box 5194
Clinton, NJ 08809
(908) 735-8616 (Main Number)
(908) 735-8082 (Fax)

RESOLUTION #75-24
LEAP CHALLENGE GRANT

WHEREAS, the State of New Jersey has allocated \$150,000 within each county for a statewide total of \$3.15 million in Local Efficiency Achievement Program (LEAP) funds to promote innovation among peer local units across New Jersey; and

WHEREAS, the Department of Community Affairs, Division of Local Government Services (DLGS) administers the LEAP grant program; and

WHEREAS, the LEAP Challenge Grant exists to challenge municipalities and counties to collaborate on more extensive partnership and collaborations to produce efficiencies through shared services; and

WHEREAS, the Town of Clinton and the Township of Clinton, have determined to apply for a LEAP Challenge Grant through the State of New Jersey Local Efficiency Achievement Program in the amount of \$72,500; and

WHEREAS, the Township of Clinton has agreed to be the lead agency in this program; and

WHEREAS, the State of New Jersey has made LEAP Grants available to assist local units to study, develop and implement new shared services initiatives; and

WHEREAS, the purpose of the project submitted in this grant application is intended to provide benefits to the participant local units residents through the sharing of Clinton Township and Town of Clinton Fire Department Feasibility Study.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Town of Clinton that the Town of Clinton does hereby join with the Township of Clinton in applying for a LEAP challenge grant to support undertaking this endeavor.

CERTIFICATION

I, Nancy Burgess, Deputy Town Clerk of the Town of Clinton in the County of Hunterdon, and the State of New Jersey do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority full membership of the Town of Clinton at its meeting of April 24, 2024.

ATTEST:

Nancy Burgess, Deputy Town Clerk

Mayor Janice Kovach

TOWN OF CLINTON

RESOLUTION #76-24

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Town Council of the Town of Clinton, County of Hunterdon, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, the Town Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Town Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Hunterdon;

NOW, THEREFORE, BE IT RESOLVED by the Town of Clinton, County of Hunterdon, State of New Jersey hereby recognizes the following:

1. The Town Council does hereby authorize submission of a strategic plan for the North Hunterdon Municipal Alliance grant for fiscal year 2025 in the amount of:

DEDR	\$ <u>10,070.00</u>
Cash Match	\$ <u>2,517.50</u>
In-Kind	\$ <u>7,552.50</u>

2. The Town Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

APPROVED: _____
Janice Kovach, *Mayor*

CERTIFICATION

I, Nancy Burgess, Municipal Deputy Clerk of the Town of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and exact copy of a resolution duly authorized by the Town Council on this 24 day of April, 2024.

Nancy Burgess, Deputy Clerk