

ORDINANCE NO. 2024-14

**AN ORDINANCE OF THE TOWNSHIP OF
BARNEGAT, COUNTY OF OCEAN, STATE OF
NEW JERSEY AMENDING AND SUPPLEMENTING
CHAPTER 55 OF THE TOWNSHIP CODE
ENTITLED “LAND USE” AND SPECIFICALLY
SECTION 191 ENTITLED “TREES AND SHRUBS”**

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, and State of New Jersey that Chapter 55 of the Township Code entitled “Land Use” Article VII thereof entitled “Supplementary Design and Performance Standards” and specifically Section 191 entitled “Trees and Shrubs” shall read as follows:

SECTION 1.

§55-191. Trees and Shrubs.

1. Division 1: Pinelands – West of Parkway

A. Unchanged.

B. Definitions. As used in this section, the following words shall

have the following meanings:

BUILDING LOT: Unchanged.

HOMESTEAD: Unchanged.

MANAGEMENT PLAN: Unchanged.

NURSERY, GARDEN CENTER, ORCHARD or TREE FARM: Deleted.

NURSERY, ORCHARD or TREE FARM: shall mean only land within the municipality used for horticultural purposes under controlled agricultural conditions.

PERMIT: Unchanged.

PUBLIC RIGHT OF WAY: Unchanged.

SHRUB: Unchanged.

TREE: Unchanged.

C. Unchanged.

D. Protection of trees.

No soil material, permanent or temporary, shall be placed within three (3) feet of any trees or shrubs. Where grading may be required, trees shall be walled in an extension tile to the outer crown of the tree.

On any wooded lot within the Township, the maximum permitted removal of trees shall be limited in accordance with the table set forth below. In no case, however, shall the removal of trees exceed that which is necessary to accommodate the proposed activity, use or structure in accordance with the requirements of §55-295.

Zoning District	Maximum Removal Allowed
RH Residential High Density	85%
RM Residential Moderate Density	50%
RL Residential Low Density	40%
RL/AC* Residential Low/Adult*	40%
*PAC (Planned Adult Communities)	85%
PV Pinelands Village	40%
PA Preservation Area	40%
PF Preserved Forest Pinelands	40%

In addition to the above schedule, all lands subject to New Jersey Pinelands Commission jurisdiction shall comply with all requirements of the Pinelands Comprehensive Management Plan. Specifically, all forestry activities shall comply with the requirements of §55-292 and any development, clearing, landscaping and screening shall be made in compliance with §55-295 of this chapter.

A permit which allows the cutting of trees in excess of the above schedule on a lot will only be issued if the applicant can demonstrate to the satisfaction of the Township Engineer that the existing terrain and/or small lot size makes the removal of the trees necessary. In addition, the applicant must demonstrate that all proposed excavation or filling of a lot is unavoidable, and that no feasible method exists for preserving the trees on the lot.

In each major site plan development, minor site plan development and major subdivision, the owner shall be responsible for planting shade and/or decorative trees on each existing or newly created lot at the rate of one (1) tree per one thousand (1,000) square feet of gross lot area, or fraction thereof. Existing trees which meet the size requirements of this section, and which were not injured during construction may be included in the number of trees required. Planting sites shall be indicated on the

site plan and/or on a separate landscaping plan and must be approved by the applicable Board Engineer.

As a condition of any Planning Board or Board of Adjustment approval, specimen trees and trees of significant historical value shall be preserved. This condition shall be evaluated by the Board having jurisdiction over the application based upon recommendations made by the Barnegat Township Shade Tree Commission and the Board Engineer.

All trees and shrubs planted in accordance with the provision of this section shall be placed in a proper manner and in a good grade of topsoil. All shade trees shall be nursery grown in conformance with AANIS (American Standard for Nursery Stock ANN also known as ANSI Z60.1 latest revision) and shall be of substantially uniform size and shape and shall have straight trunks. Ornamental trees need not have straight trunks but must conform in other respects with the provisions of this section.

All trees shall be planted in a dormant state. The minimum height of all shade and ornamental trees when planted shall be not less than twelve (12) feet and shall have a minimum caliper (diameter) of three (3) inches as measured at six (6) inches above finished grade. The types of trees to be planted shall be approved by the Township Landscape Architect and shall be selected from the list of approved trees set forth in §55-126.9 of Chapter 55 Land Use. All trees shall be balled and wrapped in burlap.

- (1) Exempt lands or activities. The following lands or activities shall be exempt from the provisions of this Ordinance: nurseries, orchards and tree farms, building lots of one (1) acre or less where an existing home has been fully constructed and activities for which a forestry permit has been approved by the Zoning Officer in accordance with §55-292.
- (2) Fees. Upon filing of an application with the Township Clerk, the applicant shall pay twenty-five (\$25.00) dollars to the Township of Barnegat for the application fee, unless the property to be harvested qualifies as a homestead, in which case the application must be submitted but the application fee and all other fees herein will be waived. In addition, if the Township Clerk, after review of the Code Enforcement Officer, issues a permit for the destruction and/or removal of trees pursuant to the terms of this ordinance, an additional permit fee of one hundred (\$100.00) dollars shall be required. Thereafter the following fee schedule shall be in effect:

Twenty-five (\$25.00) dollars per acre of area harvested. For the purposes of computing such fee, fractions of one (1) acre shall constitute one (1) acre, if the total acreage exceeds one (1) acre. If the total acreage is less than one (1) acre, no additional fee, other than the twenty-five (\$25.00) dollar application fee and the one hundred (\$100.00) dollar permit fee, shall be required.

In the alternative of the permit fee and a fee to be imposed in accordance with the acreage to be harvested, the applicant shall submit a management plan prepared by the New Jersey Department of Environmental Protection, Division of Forestry, or a similar State or Federal agency, or a management plan prepared by a person holding a Bachelor of Science Degree in Forestry from a recognized institution of higher education, in which event the permit fee and the acreage fee for a part of an acre, will be waived by the Township Clerk.

In addition, no permit fee or harvesting fee, other than the twenty-five (\$25.00) dollar application fee, need to be paid for harvesting dead wood if an upon the condition that written permission from the owner of the subject premises be given to the Township Clerk and Code Enforcement Officer and a copy of said written permission be in the possession of the wood harvester at all times that said person is harvesting the dead wood from the subject premises.

In the event that an applicant is a partnership corporation or other entity having more than one (1) individual wishing to use a permit then and, in that event, each additional individual wishing to be authorized to cut trees or shrubs on behalf of that corporation, partnership or other business entity shall be required to pay an additional fee of twenty-five (\$25.00) dollar per person in excess of the first designated individual.

- E. Violations - Tree removal in conservation easements and/or deed restricted areas. Any person and/or persons found to have removed, destroyed and/or diminished the existing vegetation in either a conservation easement and/or deed restricted area shall be subject to a penalty as set forth in Article XV herein. In addition, said person shall submit to the Township of Barnegat a proposed revegetation plan and planting schedule for review and approval by the Township Engineer and the Shade Tree Commission. The revegetation plan shall be in conformance with the requirements of plantings as outlined in subject ordinance. The revegetation plan shall be submitted within fourteen (14) days of the notice of violation. Should violator not submit the required plan as stipulated herein, they shall be subject to an additional fine of one thousand (\$1,000.00) dollars per day until said plan is submitted, reviewed and approved by appropriate agencies.
- F. Appeals. Whenever an application for a permit shall be denied by the Municipal Clerk, the applicant may appeal the denial to the Township Committee by filing a written notice of appeal with the Township Clerk within ten (10) days after receiving a written notice of denial of the application. The Township Committee shall hold a public meeting on the matter in accordance with rules or procedures to be established by the

Township Committee and may modify or affirm or reverse the decision of the Municipal Clerk.

- G. Enforcing Officers. The Barnegat Township Police Department and the Code Enforcement Officer are hereby designated as enforcing officers of this section.

SECTION 2. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the 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 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be 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 5. This ordinance shall take effect after second reading and publication as required by law.

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 Barnegat on **the 6th day of June, 2024**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **2nd day of July, 2024, at 6:30 PM.** at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

Donna M. Manno, RMC
Municipal Clerk