RECOMMENDATION:
The Office of Economic Development respectfully requests the placement of the attached Ordinance on the agenda for the March 11, 2024 City Council Meeting.

BACKGROUND:
The City of Plainfield strongly desires to clearly define the regulations governing the replacement and removal of shade trees via the adoption of a shade tree replacement and removal ordinance.

FISCAL IMPACT: None

Kindly present this matter at the Council Meeting on March 11, 2024. If you have any questions or require additional information, please contact me at ext. 3664.

ATTACHMENTS
A. Ordinance

ORDINANCE OF THE CITY OF PLAINFIELD, IN THE COUNTY OF UNION, CREATING CHAPTER 17, ARTICLE 9, SECTION 49D TITLED "SHADE TREE REPLACEMENT AND REMOVAL" TO ESTABLISH AN APPLICATION PROCESS FOR THE REPLACEMENT AND REMOVAL OF SHADE TREES

WHEREAS, the City of Plainfield strongly desires to clearly define the regulations governing the replacement and removal of shade trees; and

WHEREAS, the City of Plainfield wishes to create Chapter 17, Article 9, Section 49D "Shade Tree Replacement and Removal", to establish such a program;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Plainfield, in the County of Union, New Jersey, as follows:

SECTION 49D:

§ 17:9-49D Shade Tree Replacement and Removal

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

B. 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.

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

2. “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’.

3. “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.

4. “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. [Municipalities may choose to require a Licensed Tree Expect to make all Hazard tree determination]

a. Has an infectious disease or insect infestation;

b. Is dead or dying;

c. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;

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

e. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

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

6. “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.

7. “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.

8. “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.

9. “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.

10. “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.

11. “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.

C. Regulated Activities:

1. Application Process:

a. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5” or more or any non-street tree with DBH of 6” or more on their property shall submit a Tree Removal Application to the Zoning Officer. No tree shall be removed until municipal officials have reviewed and approved the removal. All Tree Removal Applications shall require that tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees. Applicants will be subject to an application fee as per the Tree Replacement Requirements Table below.

2. Tree Replacement Requirements

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

b. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6” or more per acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

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 municipality;

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. 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	Application Fee
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	$75
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	$100
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	$150
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	$175

3. Replacement Alternatives:

a. 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:

i. Plant replacement trees in a separate area(s) approved by the municipality.
ii. Pay a fee of (amount to be set by municipality) per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

D. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption. All persons claiming and exemption shall submit at least one statement from an NJ licensed tree expert as per NJ Statute 45:15C-11 or arborist.

1. Tree farms in active operation, nurseries, fruit orchards, and garden centers;

2. 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;

3. 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.

4. 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;

5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

6. Hazard trees may be removed with no fee or replacement requirement.

E. Enforcement:

This ordinance shall be enforced by the Zoning Officer during the course of ordinary enforcement duties.

F. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of $1,600.00 per violation committed.

G. 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.

H. 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.

Scheduled by the City Council March 11, 2024