

S.T.R.P. NO: \_\_\_\_\_

**TOWNSHIP OF NUTLEY APPLICATION FOR A  
TREE REMOVAL PERMIT**

(All questions must be answered or the application will be deemed incomplete)

I/We hereby make application to permit tree removal according to the attached detailed statement and plans herewith submitted. All provisions of the Township Ordinance and Forester's guidelines and recommendations will be complied with, if specified herein or not.

Property Owner of Record: \_\_\_\_\_

Owner Address: \_\_\_\_\_

Owners Telephone Number (Home) \_\_\_\_\_ (Email) \_\_\_\_\_ (Cellular) \_\_\_\_\_

1.) Exact Location (address) of proposed tree removal: \_\_\_\_\_

BLOCK: \_\_\_\_\_

LOT: \_\_\_\_\_

2.) Reason for tree removal: \_\_\_\_\_

If tree removal is necessary for construction or demolition, please indicate Building Permit Number

Permit Number: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Permit Number: \_\_\_\_\_

Date Issued: \_\_\_\_\_

NOTE: for all construction related tree projects, TREE PROTECTION FENCING must be installed around trees designated for preservation prior to issuance of the Tree Removal Permit.

3.) Has this property received consideration by either the Nutley Planning Board or the Nutley Zoning Board of Adjustment in regard to this tree removal application? If so state application number, action taken and when.

\_\_\_\_\_  
\_\_\_\_\_

4.) Number of living trees proposed for removal: \_\_\_\_\_ Number of dead, dying, or hazardous trees to be removed: \_\_\_\_\_  
Note: diameter, species and condition of trees proposed for removal below and show them on a location plan or sketch.

**Diameter in inches at 4.5' above grade**

(circumference divided by 3.1416)

	Species	Dead	Alive
1.			
2.			
3.			
4.			
5.			

**\*If living healthy trees are proposed for removal, the owner must sign this application see question 8.**

5.) Are the services of private contractor to be used for tree removal? YES \_\_\_\_\_ NO \_\_\_\_\_

Note: All the tree removal contractors working in the Town must register annually.

Contractors Name: \_\_\_\_\_ 24 Hour Phone Number: \_\_\_\_\_

NJTC Number \_\_\_\_\_

6.) Have the adjacent property owners been contacted in regard to the proposed tree removal?

YES \_\_\_\_\_

NOT APPLICABLE \_\_\_\_\_

If so, how has contact been made? \_\_\_\_\_

(OVER)

7.) Date of proposed tree removal: \_\_\_\_\_

Date tree removal will conclude: \_\_\_\_\_

- 8.) Please attach a photocopy of a survey, map or drawing of property, depicting the location of the trees you wish to remove. The actual trees need to be marked with a conspicuous painted blaze or with (1") wide florescent tape or flagging at the time that the Forester makes his inspection. The survey, map or drawing should also show the location, size and species of proposed replacement trees, if applicable.

**Property Owner**

I/We understand that the penalty or violation of the Township of Nutley Preservation Ordinance, Chapter 2963 is a fine up to \$1000.00 for each tree cut or removed in violation of this ordinance.

I/We agree to indemnify and hold the Township of Nutley harmless against any and all liability, damages and costs resulting from or arising out of the removal of the above stated trees.

I/We agree to post a copy of the approved tree permit on the site and to present it to any Township Official so requesting.

I/We understand that living/ healthy trees are required to be replaced within one year pursuant to the Tree Replacement Requirement Table listed in Ordinance 665-25 Mitigation.

Property Owner Signature: \_\_\_\_\_

**Tree Removal Contractor**

I/We will superintend the removal of trees, and having the proper authority from the owner to apply for this permit and make this application, say that the statements made in this application are true, and the proposed work will be done in accordance with the ordinance of the Township of Nutley governing tree removal.

Contractor's Signature: \_\_\_\_\_ Interested as: \_\_\_\_\_

Contractor's Address: \_\_\_\_\_

Contractor's Phone Numbers: (Day) \_\_\_\_\_ (Evening) \_\_\_\_\_ (Cellular) \_\_\_\_\_

Tree Removal Applications must be returned with a map or drawing of property, in relationship to the trees you wish to remove.

The actual trees must be marked with florescent ribbon or tape or spray paint at prior to Forester's inspection.

Tree Removal Permits are valid for a three (3) month period from date of issue.

Thank you.

**For Department Use**

Total Number of trees to be removed (from line 4) \_\_\_\_\_

Dead trees to be removed \_\_\_\_\_ Live Trees to be removed \_\_\_\_\_

Number of living trees to be replaced (from line 4 & Tree Replacement Mitigation Table 665-25)

\_\_\_\_\_

Date of Required Trees to be replaced by: June 1 \_\_\_\_\_ November 30 \_\_\_\_\_

Permit Cost= Total Number of trees removed \_\_\_\_\_ x \$50/tree =\$ \_\_\_\_\_

**Additional Conditions:**

\_\_\_\_\_  
Forester/ Supervisor

\_\_\_\_\_  
Date

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.*

# Chapter 665

## Trees

**[HISTORY: Adopted by the Board of Commissioners of the Township of Nutley as indicated in article histories. Amendments noted where applicable.]**

### GENERAL REFERENCES

Land use procedures — See Ch. **85**.

Shade Tree Advisory Committee — See Ch. **160**.

Brush, grass and weeds — See Ch. **240**.

Parks and playgrounds — See Ch. **500**.

Site plan review — See Ch. **600**.

Subdivision of land — See Ch. **630**.

Weed control — See Ch. **690**.

Zoning — See Ch. **700**.

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### Article I

### Removal of Dead, Dying and Hazardous Trees

**[Adopted 1-6-1959 by Ord. No. 1470 (Ch. 83, Art. I, of the 1978 Code)]**

#### § 665-1 **Owner or tenant to remove.**

Any owner or tenant of lands lying within the Township of Nutley, where it shall be necessary and expedient for the preservation of the public health, safety or general welfare, shall remove from such lands dead and dying trees which are likely to endanger the lives and property of persons using the public sidewalks and streets of the Township of Nutley, within 30 days after written notice from the Township Forester to remove the same.

#### § 665-2 **Service of notice.**

Said notice shall be given by delivering to the owner or tenant a written demand for the removal of said dead and dying trees from said lands, or by leaving the same at the residence of said owner or tenant with a member of the family above the age of 14 years, or, in case the owner is a nonresident, by mailing the same to said owner at his last known post office address, postage prepaid.

#### § 665-3 **Failure to comply.**

If said owner or tenant refuses or neglects to remove said dead and dying trees from said lands within said 30 days, said Township Forester or some person under his direction shall cause the removal of said dead and dying trees, and the cost of said removal shall be certified by said Township Forester to the Board of Commissioners of the Township of Nutley.

**§ 665-4 Township costs to become lien upon property.**

If the Board of Commissioners shall find the certificate of cost correct, said Board shall cause said cost to become a charge against the lands from which said dead and dying trees shall have been removed, and the amount so charged shall forthwith become a lien upon said lands and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

**§ 665-5 Violations and penalties.**

**[Amended 5-15-1979 by Ord. No. 1973]**

Any person or persons, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, pay a penalty of not more than \$500 or be imprisoned for a term not exceeding 90 days, or both, for each offense. Each day a violation continues shall constitute a separate violation.

**§ 665-6 Right to collect charges.**

The imposition and collection of the penalty imposed for the violation of this article shall not bar the right of the Township of Nutley to collect the charges made against said lands.

**Article II**  
**Public Shade Trees**

**[Adopted 11-1-1999 by Ord. No. 2587 (Ch. 200 of the 1978 Code)]**

**§ 665-7 Definitions.**

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

**PERSON**

Every person, firm, association, partnership, corporation and individual.

**SHADE TREE**

Shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, park or parkway, area between sidewalks and curbs and/or Township right-of-way of public streets in the Township, except those located or planted on county highways, parks and parkways and state highways.

**SHADE TREE ADVISORY COMMITTEE**

An advisory board consisting of five members appointed by the Director of Parks and Public Property.

**STREET**

All streets, roads, roadways, public highways, parks or parkways, public alleys and public places in the Township, except county parks, parkways and highways and state highways.

**§ 665-8 Work on public trees.**

No person, firm or corporation or individual connected with such firm or corporation shall do or cause to be done by others to any tree, shrub or plant on a public highway or place, either purposely, carelessly or negligently, without the permission of the Department of Parks and Public Property, any of the following acts:

- A. Cut, prune, climb with spikes, break, damage or remove.
- B. Cut, disturb or interfere in any way with any root.
- C. Spray with any chemical.

- D. Fasten any rope, wire, sign or other device.
- E. Remove or damage any guard or device placed to protect any tree or shrub.

**§ 665-9 Sidewalks and stones blocking air and water; open space around trunks.**

- A. No person or corporation shall, without the permission of the Department of Parks and Public Property, place or maintain or cause to be placed or maintained upon the ground in any public highway or place any stone, cement or other sidewalks or any stone, asphalt, cement or other substance which shall impede the free access of air and water to the roots of any tree or shrub in any public highway or place.
- B. An open space of not less than two feet outside the trunks of trees at their bases on all sides must be maintained on all trees on public highways except where limited by curb and/or sidewalks.

**§ 665-10 Salt, oil, chemicals or other injurious substances.**

No person shall place salt, brine, oil, chemicals or other substances injurious to plant growth in any public highway or place in such a manner as to injure any tree or shrub growing thereon.

**§ 665-11 Laying sidewalks or opening or constructing streets.**

No person, firm or corporation is permitted to lay any sidewalk along or to open, construct, curb or pave any street or do any like act so as to interfere with or do injury to any highway shade tree without written consent of the Department of Parks and Public Property.

**§ 665-12 Building construction; excavations; machines and tools; protecting roots.**

- A. In the erection, altering or repairing of any building or structure, the owner or contractor thereof shall place such guards around all nearby trees in public highways or places as will effectually prevent injury to such trees.
- B. No person, firm or corporation shall do any excavating within six feet of any tree or shrub without the written permission of the Department of Parks and Public Property.
- C. Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public highway or place.
- D. Where in authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots under the supervision of the Department of Parks and Public Property.

**§ 665-13 Removal of transplanting on request.**

Any person requesting the removal or transplanting of any shade tree must obtain written approval from the Department of Parks and Public Property. If such removal or transplanting, in the opinion of the Department of Parks and Public Property, is of no advantage to the general public but advantageous to only said person requesting the work, then such person shall pay the cost of such work and provide a replacement tree in accordance with specifications to be determined by the Department of Parks and Public Property. If the work is conducted by the Department of Parks and Public Property, said cost of removal, transplanting or replacement of shade trees shall be based on the size and condition of the tree. A deposit sufficient to cover the cost of said work shall be made before the work is started. Work may also be conducted by private contractors upon approval by the Department of Parks and Public Property.

**§ 665-14 Removal of dangerous trees; notice to owner.**

The Department of Parks and Public Property may remove or require the removal of any tree or part thereof dangerous to public safety, at the expense of the owner of such tree, upon first serving written notice to the owner of said tree that the same will be removed unless the owner removes the same within one week from the date of said notice.

**§ 665-15 Planting or replacement.**

No shade or ornamental tree or shrub shall be planted in any of the public highways of this Township except by a representative of the Department of Parks and Public Property.

- A. The Department of Parks and Public Property, in its discretion, will plant a tree for a property owner upon written request, provided that there is sufficient distance for the future growing of said tree and that budget or availability of funds allows for said planting.
- B. Trees replacing trees heretofore planted by the Department of Parks and Public Property and removed because of disease, storm damage, accidents or natural causes will, in the discretion of the Department of Parks and Public Property, be replaced by the Department of Parks and Public Property at no charge to the property owner, provided that there is a minimum width of 50 feet between trees on the same side of the street.
- C. The type and selection of trees to be planted will be determined by the Department of Parks and Public Property.

**§ 665-16 Interference with authorized persons performing duties.**

No person shall prevent, delay or in any manner interfere with the Department of Parks and Public Property or its authorized agents or representatives in the performance of their lawful duties.

**§ 665-17 Electric, telephone or other wires; utility companies.**

- A. Every person, firm or corporation having or maintaining any electric, telephone, telegraph or other wires running through a public right-of-way shall securely fasten and maintain such wires in such a manner as will safeguard the trees and shrubs against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to trees and shrubs growing in any public highway or place.
- B. Every person or corporation having any wire or wires charged with electricity running through a public right-of-way shall temporarily remove any such wire or wires or the electricity therefrom when it shall be necessary in order to take down or prune any trees growing in a public highway within 24 hours after the service upon the owner of said wire or wires, or upon his agent, of a written notice to remove said wire or wires or the electricity therefrom, signed by the Department of Parks and Public Property or its Secretary upon the order of the Department of Parks and Public Property.
- C. No person, firm or corporation shall, without permission of the Department of Parks and Public Property, attach or fasten any wire, insulator or other device for holding any wire to any tree or shrub in any public highway or place.
- D. Any utility company or its agents may, with prior permission from the Department of Parks and Public Property, prune and remove trees for line clearance of utility wires pursuant to nationally recognized line clearance standards.

**§ 665-18 Applications for permission or approval.**

Where the permission, consent or approval of the Department of Parks and Public Property is required by the provision of this article, any person, firm or corporation required to obtain permission, consent or approval shall first make application therefor to the Department of Parks and Public Property, Township of Nutley, County of Essex.

**§ 665-19 Violations and penalties.**

The death, destruction, removal or injury of each and every tree or shrub in violation of any provision of this article shall constitute a separate offense. Any person, firm or corporation, their agents or employees, who shall violate or authorize or permit any violation of any provision of this article shall, upon conviction thereof, forfeit and pay a penalty of \$1,000 for each and every offense.

**Article III**  
**Preservation of Private Trees**

[Adopted 8-1-2006 by Ord. No. 2963 (Ch. 225 of the 1978 Code)]

**§ 665-20 Purpose and intent.**

Whereas, the preservation, protection and planting of trees aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces stormwater runoff and the potential damage it may create; aids in the removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against noise and pollution; provides protection against severe weather; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; conserves and enhances the Township's physical and aesthetic appearance; and generally protects the public health and safety, as well as the general welfare. This ordinance is designed to comply with N.J. D.E.P. 2023 Tier MS4 requirements.

**§ 665-21 Definitions.**

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

- 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 CRP = 6"x1.5'=9.
- C. "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 1/2-foot height, the DBH shall be measured at the highest point before any division.

**D. DRIP LINE**

The circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the outermost branches of the tree.

- E. "Hazard Tree" means tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below 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 NJ. Licensed Tree Expert (LTE). Invasive Trees per the Appendix B listing are considered as Hazard Trees.

**F. LANDMARK TREE**

Any tree designated and identified as such by the Township Forester pursuant to the standards set forth

in this article.

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

#### **I. PRIVATE TREE**

Any tree growing on private property other than in Township right-of-way or public property.

- J. “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.

#### **K. SIGNIFICANT TREE**

Any tree a living or dead, that has a DBH of 6” or greater.

- L. “Street Tree” means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to 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.

#### **M. TOWNSHIP FORESTER**

A certified tree expert by the New Jersey Department of Environmental Protection designated by the Township.

- N. “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.
- O. “Tree Caliper” means the diameter of the trunk of a young tree, measured six 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.
- P. “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 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.

#### **§ 665-22 Permit; fees.**

- A. Permit required. No person shall cut or remove, or cause or permit to be cut or removed, any **landmark** or **significant tree** on any land within the Township unless the person shall have first obtained a permit therefor in accordance with the regulations and provisions of this article.
- B. Permit procedures:
  - (1) Any person desiring to cut or remove any landmark or significant tree or trees within the Township shall file an application therefor with the Township Forester on a form to be provided for that purpose. The application shall identify:
    - (a) The tax lot and block of the tract of land upon which the tree or trees are located;



- (b) The name and address of the owner or duly authorized agent of the owner;
  - (c) The reasons for requesting a permit to cut or remove same, including the condition of such tree or trees as dead, poor or good;
  - (d) An original and two copies of a tree removal plan consisting of a map showing the location of the tree or trees to be removed, the species of such tree or trees, and the diameter of such tree or trees measured at a point four feet above the ground;
  - (e) Indemnify and hold the Township harmless against any and all liability, damages and costs resulting from or arising out of the applicant's cutting or removal of any tree or trees; and
  - (f) The application fee pursuant to Subsection **D(1)**.
- (2) The Township Forester shall review the application, which shall, upon filing, be deemed to constitute consent from the applicant to the Township Forester and/or such person or persons as he/she may designate in writing for entry upon the land for the purpose of inspection. The applicant shall mark the tree with paint or place a one-inch-wide red, yellow or blue ribbon around the trunk of the tree or trees to be removed at a height of four feet above the ground so that the tree or trees may be inspected by the Township Forester. In reviewing any such application, the Township Forester may at his/her discretion consult the Shade Tree Advisory Committee, the Township Engineer, Construction Official or other individual, as he/she may deem necessary or advisable. Except as otherwise hereinafter provided in Subsection **B(3)**, within 20 business days excluding Saturday, Sundays and legal holidays from the filing of an application hereunder, the Township Forester shall endorse his/her decision upon the application and, in case of partial or complete disapproval, shall set forth the basis for such decision. In addition, where appropriate, the Township Forester shall indicate on such application any guidelines and preventive measures to be taken to preserve from injury or destruction trees not sought to be cut or removed. Among the conditions which the Township Forester may impose on a permit are requirement of replanting trees, shrubs or ground covers if trees that provide buffer, reduce soil erosion, or serve other beneficial purposes are to be removed. Any application approved, in whole or in part, shall automatically become a permit in accordance with the terms of endorsement. Any permit not acted upon within three months from the date of such approval shall automatically expire.
- (3) Upon the filing of any application for cutting or removal of landmark or significant trees located on any lot or tract for which an application for a building permit or subdivision or site plan review is required to be submitted to the Construction Code Official, the Township Planning Board or the Board of Adjustment, the applicant shall furnish the Township Forester with a copy of the building permit application or subdivision plat or site plan therefor, and the Township Forester may withhold his/her endorsement pending receipt of written notice of official action with respect to such building permit, subdivision plat or site plan application. Within 20 business days excluding Saturdays, Sundays, and legal holidays of the receipt of such notice, the Township Forester shall act upon the application as provided in Subsection **B(2)** above.
- C. Standards. The following standards for review of applications by the Township Forester shall apply.
- (1) Permitted removal. No trees shall be permitted to be removed unless, at minimum, the tree is:
    - (a) Located within the building footprint of a proposed principal building;
    - (b) Dead or poses a safety hazard;
    - (c) Located within 15 feet of any building;
    - (d) Located within the area of a proposed driveway, walkway, utility line, accessory building or any other

structure;

- (e) Located in a front yard area proposed to be landscaped; and/or
- (f) Specifically permitted to be removed in a site plan approved pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).
- (g) Living trees approved for removal are required to be replaced per section 665-25 Mitigation.
- (2) Conflict with other laws. Notwithstanding anything in this article to the contrary, no tree removal shall be permitted where prohibited by any zoning or other municipal, state or federal statute, ordinance or regulation.

D. Fees.

- (1) The fee for a tree removal permit shall be \$50 per tree, plus the requirement to replace living trees per the NJ DEP Tree Replacement Table which shall be accompanied by application(s) for removal of said tree(s).
- (2) The DEP Regulations require a property owner to replace living tree(s) on the same or on another property. The replacement tree(s)' size(s) and species must be approved in advance by the Township Forester. If the replacement tree is placed on property other than the applicant's property, the location must be approved in advance by the Township Forester. Another option to replace tree(s) is for a property owner to contribute the cost of a replacement tree to the Township Tree Fund where it will be used to plant a tree(s) within public right of way or public land.
- (3) Any property owner who commits to replacing a tree or trees but fails to do so within one year of the date of the permit shall be subject to the penalty provisions of this article and shall be liable for the costs for the Township to replace the tree(s) at a location chosen by the Township Forester. The cost shall include actual expenses, plus an administrative surcharge of 15%.

**§ 665-23 Appeals.**

- A. Hardship appeals. In the event that an applicant believes the standards set forth in § **665-22C** above constitute a hardship that prohibits a reasonable use of all or substantially all of the property in question and the Township Forester partially or completely disapproves such application, the applicant may seek relief from the Director of the Department of Parks and Public Property of the Township of Nutley.
- B. In the event that such relief is sought, the applicant shall submit an additional two copies of the documents required to be submitted, together with three copies of a written statement as to the reasons for the claimed hardship. In addition, the applicant shall submit a fee for the hearing of the matter in the amount of \$50. The Director, upon submission of a complete application for appeal, shall schedule a hearing in connection with the requested relief. The applicant shall cause to be served upon all adjacent property owners of the property in question, at least seven days prior to such hearing, a notice by certified, return receipt requested mail or by acknowledged personal service which shall include the time, date and location of such hearing together with a brief statement of the relief requested. Proof of service of notice shall be required to be submitted prior to the hearing. At the hearing, the applicant shall present witnesses under oath and any adjacent property owners may do the same. All witnesses shall be subject to cross-examination. The decision of the Director shall be binding.

**§ 665-24 Exceptions.**

Excepted from the provisions of this article shall be:

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 [the municipality shall define what “proper justification” is such as photos or statements from NJ licensed tree expert as per NJ Statue 45: 15C-11 or arborist]

- A. Tree Farms in active operation, nurseries, fruit orchards, and garden centers;
- B. Properties used for the practice used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality.
- C. Any tree 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.
- D. 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 habit enhancement plan;
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environment Protection, Division of Fish, Game and Wildlife;
- F. Hazard trees may be removed with no replacement requirement.
- G. The emergency removal dead or diseased trees or trees that present an imminent threat to life or property as determined by qualified New Jersey-Licensed Tree Expert providing that a Tree Removal Application is filed with photos within 5 business days of an emergency tree removal.

#### § 665-25 **Mitigation.**

Mitigation for a living tree removal shall be required as follows:

- A. No mitigation shall be required in connection with permitted Hazard Tree removal.
- B. Mitigation shall be required pursuant to State DEP standards.
- C. In the event of tree removal pursuant to § **665-22C(1)(d)**, no mitigation shall be required if the tree has been planted for at least five years, there has been no damage to the tree by construction or otherwise by any person, and there has been no soil moving within 15 feet of such tree within such five years; otherwise, mitigation shall be required pursuant to this section.
- D. For each tree for which mitigation is required pursuant to this section, the following shall apply: For each tree removed pursuant to the standards of this article, the applicant shall plant a tree(s) pursuant to DEP standards.
- E. Mitigation in any instance is not to be considered a penalty but rather an implementation of the purposes of this article. Mitigation shall not be a substitute for, but shall be in addition to, any penalty imposed for violation of the provisions of this article.
- F. Any person, who removes one or more healthy tree(s), as defined as Tree removal, with a DBH of 6” unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with Appendix A (**for Nutley Township provided tree list as Appendix A of this ordinance**). [The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. This list will be included as “**Appendix A**”. It is permissible for a municipality to include a procedure for approval of a tree not on the approved list. The list shall also contain approved planting times/seasons and proper planting standard procedures or a

reference to available literature containing this information.]

Replacement tree(s) shall:

1. 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;
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 plots, as these do not count towards tree requirements.

**Tree Replacement Requirements Table:**

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee
1	DBH of 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	\$50 per tree
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$50 per tree
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$50 per tree
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$50 per tree

**G. 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 municipality.

b. Pay a fee of (\$200) per replacement tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

**§ 665-26 Enforcement; violations and penalties.**

A. Provisions of this article shall be enforced by the Township Forester, Construction Official and Police Department.

B. Any person violating any provision of this article shall, upon conviction, be subject to a fine of up to

\$1,000. Each tree cut or removed in violation of this article shall be considered a separate violation.

- C. The illegal removal of trees will invoke an automatic suspension of any existing building permits associated with a property and freeze the issuance of any future permits until the case is adjudicated and unwanted effects of the removal mitigated.
- D. Persons failing to replace a tree(s) or replace a dead replacement tree(s) over the two year guarantee period, will be subject to a fine plus the requirement to either replace the tree(s) on site or make a contribution to the dedicated tree fund.

**§ 665-27 Designation of landmark trees.**

- A. The Township Forester, upon request, shall determine whether any tree qualifies as a landmark tree. A tree may qualify as a landmark tree if it meets one or more of the following criteria:
  - (1) The tree species is rare;
  - (2) The tree is more than 100 years of age;
  - (3) The tree is of a superior height or has a substantial trunk diameter or dripline diameter for a tree of its species so as to designate it as a specimen tree which is defined as a tree in good health and condition for that species; or
  - (4) The form of the tree foliage is classical for a tree of its species.
- B. All trees designated as landmark trees shall be shown on an official Township Map with appropriate code marks signifying each tree's designation, number, specie, age, size and other distinguishing characteristics for ready reference and period monitoring.
- C. If the owner(s) of the property on which a landmark tree is located consents thereto, the Township may identify such tree as a landmark tree by the placement of suitable marker thereon.
- D. If and when any landmark tree is removed, the Township Forester shall arrange for the necessary changes to be made to the official landmark tree inventory records and Township Map.

**665-28**

All tree removal contractors operating within the Township shall:

- (1) Be licensed in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act;[1]

[1] *Editor's Note: See N.J.S.A. 45:15C-11 et seq.*

- (2) Maintain the required insurance;
- (3) Hold a current valid registration with Nutley Township to be renewed annually.
- (4) A tree removal contractor shall carry and provide proof of the following insurance coverage: \$1,00,000 property damage and bodily injury insurance per incident; \$300,000 automobile insurance per incident; and workers' compensation insurance in such amounts as required by law. All tree removal contractors shall require their insurers to provide with a minimum of 30 days' advance notice of the cancellation of any required coverage. Upon the cancellation of any of the required insurance coverage, the tree removal contractor's registration shall automatically be suspended, and the tree removal contractor shall thereafter be prohibited from performing. Upon the submission of

proof of satisfactory proof of insurance coverage, licensure in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act, and a certification that the tree removal contractor has read, understands, and will comply with all requirements of this rule, then the Clerk shall register the tree removal contractor as approved to do business in the after paying a \$75 annual registration fee to Nutley Township.

665-29 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.

665-30 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.

Adoption Date: \_\_\_\_\_

Approved By: \_\_\_\_\_

Appendix A, B, & C will be provided.

## Appendix A

### Approved list of Replacement tree Species and Planting Standards for

(Insert Municipality Name)

[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. The list shall include approved planting times/seasons and proper planting standard procedures or a reference to available literature containing this information.]

Tree Species	Planting Season	Planting Procedure  (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc.)

# APPENDIX A

## List of Recommended Replacement Tree Species

SPECIES/COMMON NAME VARIETIES	DESCRIPTION	NATIVE and/or NATIVE CULTIVAR	FALL DIGGING HAZARD
Acer freemanii x (Autumn Fantasy, Armstrong, Armstrong Gold)	Upward Branching Structure	X	
Acer rubrum (Brandywine, Red Sunset, Redpointe)	Sturdy Branching resists storm damage	X	Y
Acer saccharum (Fall Fiesta, Green Mountain, Legacy, Sugar Maple)	Dense Shade, Excellent Fall Color	X	
Amalanchier grandiflora 'Robin Hill' (Service Berry)	Light Pink	X	
Amalanchier laevis 'Spring Flurry'	Reddish Leaves, Bright White Flowers	X	
Betula nigra (Duraheat, Heritage, Little King)	Compact	X	Y
Nyssa sylvatica (Black Gum)	Crimson Fall Color	X	
Carpinus caroliniana 'Native Flame'	Red/Orange Fall Color	X	
Carpinus caroliniana (American Hornbeam, Musclewood)	Great Understory Tree	X	
Carpinus caroliniana 'Ball of Fire'	Reddish Fall Color	X	Y
Carpinus caroliniana 'Palisade'	Upright Oval Growth, Yellow to Orange Fall Color	X	Y
Carpinus caroliniana 'Rising Fire'	Orange Fall Color	X	Y
Celtis occidentalis (Hackberry, Prairie Pride, Windy City)	Dark Green Foliage	X	Y
Cercis canadensis 'Summers Tower' or 'Cotton Candy' (American Redbud)	Lavender Pink or Pink Flowers	X	
Cercis canadensis var. texensis 'Oklahoma'	Smaller, Glossy, Tougher Leaves; Heat	X	
Cladrastis lutea (American Yellowwood)	Showy White Flowers in Spring, Yellow/ Orange Fall	X	Y



	Color		
Cornus rutgerensis 'Stellar Pink'	Light Pink	X	Y
Cornus 'Venus'	Large, Pure White Flowers	X	Y

<b>SPECIES/COMMON NAME VARIETIES</b>	<b>DESCRIPTION</b>	<b>NATIVE and/or NATIVE CULTIVAR</b>	<b>FALL DIGGING HAZARD</b>
Cornus rutgerensis 'Constellation'	White	X	Y
Cornus rutgerensis 'Celestial'	White	X	Y
Ginkgo biloba [Ginkgo] (Autumn Gold, Goldspire)	Excellent Summer Foliage, Autumn Gold Foliage		
Gymnocladus dioica 'Espresso' (Kentucky Coffee Tree )	Hardy	X	
Celtis Occidentalis (Hackberry)	Interesting Bark Pattern	X	
Ilex opaca (Recommend 'Jersey Knight' & 'Jersey Princess', American Holly also acceptable)	Dark Foliage, Excellent Fruit Set, Evergreen	X	
Liquidambar styraciflua 'Slender Silhouette' (Fastigate Sweetgum)	Narrow, Great Fall Color	X	
Littleleaf Lindens	Beautiful Heart-Shaped Leaves, a Favorite Pollinator Species	X	
Magnolia virginiana (Emerald Tower, Green Mile, Green Shadow, Northern Belle, Sweetbay Magnolia)	Semi-Evergreen, Fragrant Summer Flowers	X	
Malus 'Brandywine' (Crabapple)	Grows to 30' in height		
Malus 'Redpointe' (Crabapple)	Pest and Disease Resistant		
Malus 'Royal Raindrops' (Flowering Crabapple)	Vibrant Pink to Red Flowers		
Malus 'Showtime' (Flowering Crabapple)	Fuchsia Red Flowers, Fiery Orange Fall Color		
Nyssa sylvatica cultivar 'Green Gables' (Black Gum)	Tolerates Wet Sites	X	Y

Ostrya virginiana 'Autumn Treasure' (American Hop-Hornbeam)	Shade/Sun/Drought-Tolerant, Brilliant Fall Color	X	Y
Parrotia subaequalis (Persian Ironwood)	Crimson Red Fall Color, Tolerant of Heat and Cold, Pest Resistant		
Picea abies (Norway/European Spruce)	Tolerant Evergreen		
Prunus 'First Blush' (Flowering Cherry)	Oval Shape, Pink Flowers, Orange Fall Color		Y
Prunus 'Royal Burgundy' (Flowering Cherry)	Vase Shaped, Prefers Well-Drained Soils		Y
SPECIES/COMMON NAME VARIETIES	DESCRIPTION	NATIVE and/or NATIVE CULTIVAR	FALL DIGGING HAZARD
Prunus sargentii 'Pink Flair' (Flowering Cherry)	Narrow, Upright Form		Y
Prunus sargentii 'Pink Myst' (Flowering Cherry)	Dark Pink Flowers, Orange/Red Fall Color		
Prunus serrulata 'Kwanzan' (Flowering Cherry)	Double Blossom, the Tree that made Washington DC famous		Y
Quercus alba (White Oak)	Incredible Longevity	X	Y
Quercus bicolor (Swamp White Oak)	A Low-Maintenance Shade Tree	X	Y
Quercus warei 'Kindred Spirit'	Columnar Form		Y
Quercus x warei 'Regal Prince'	Columnar, Resistant to Powdery Mildew		Y
Taxodium distichum (Bald Cypress, Emerald Shadow, Green Whisper, Shawnee Brave)	Deciduous Conifer	X	
Thuja plicata 'Green Giant'	Evergreen		Y
Tilia cordata (Little Leaf Linden)	Dark Green Glossy Foliage	X	
Tilia cordata 'Greenspire'	Pyramidal Shape	X	
Ulmus 'Accolade'	Resistant to DED		Y

# APPENDIX B

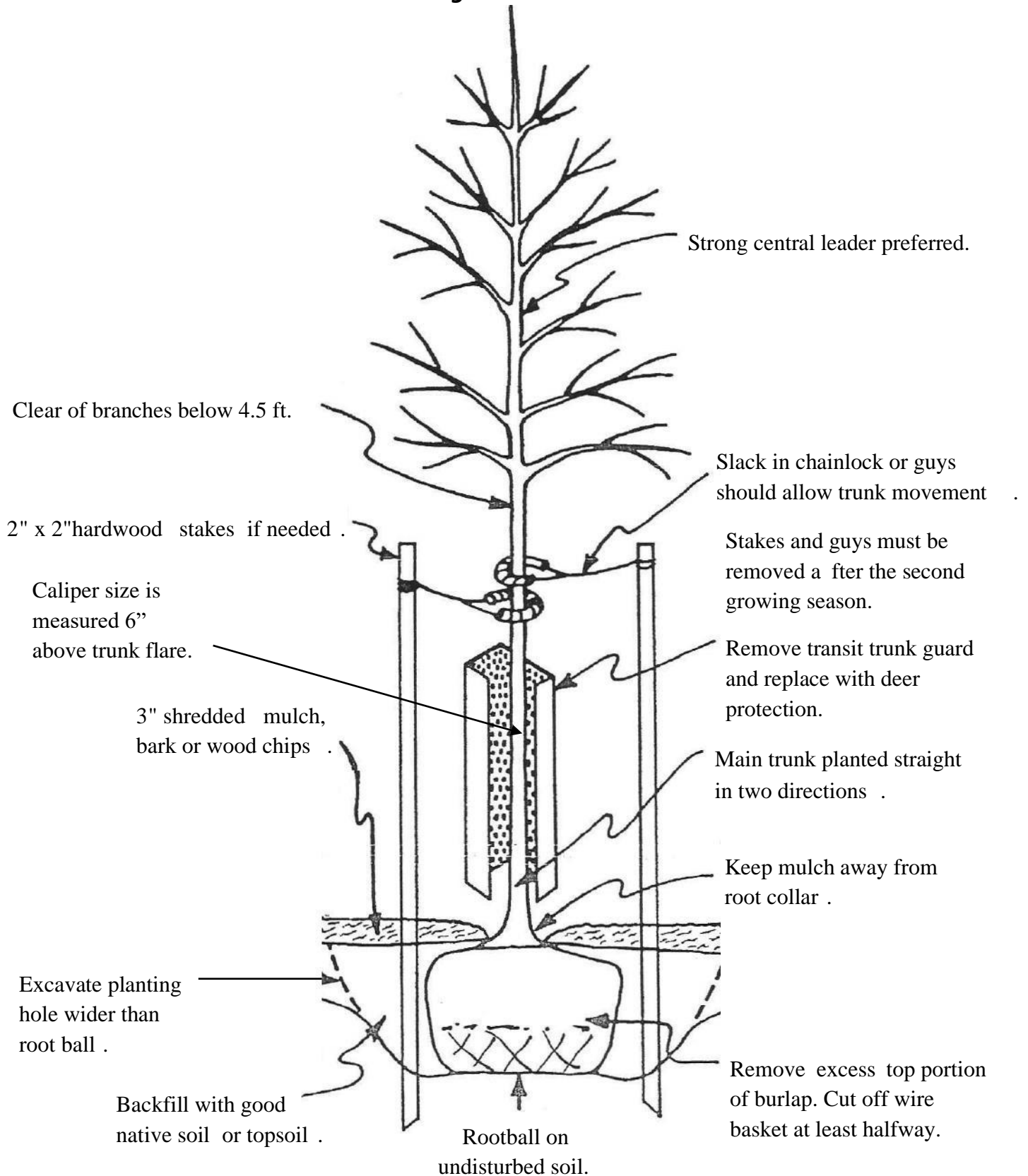
## List of Invasive or Problematic Species

The following is a list of trees and plants that shall **not** be used as replacement trees or be planted due to their invasive and damaging nature. This list has been established in order to protect and promote public health, safety and welfare, and protect public and private properties and indigenous and other plant material through the restriction and prohibition of new plantings of invasive plants, and the cultivating and/or maintenance and/or growing of existing plantings of invasive plants.

1. Acer platanoides (Norway Maple)
2. Ailanthus altissima (Tree of Heaven)
3. Albizia julibrissin (Mimosa)
4. Bamboo
5. Fraxinus (Ash)
6. Invasive plants resembling or having the characteristics of Running Bamboo
7. Pinus nigra (Austrian Pine)
8. Prunus cerasifera (Purple Leaf Plum)
9. Prunus padus (Purple Leaf Bird Cherry 'Summer Glow')
10. Pyrus calleryana (Bradford Pear/Callery Pear)
11. Sorbus americana (Mountain Ash)
12. Tsuga canadensis (Hemlock) – unless controlled for scale and adelgid

# APPENDIX C

## Tree Planting Standards and Details



Clump replacement trees are also acceptable.