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MEMORANDUM

To: Mayor and Council of Princeton

From: Lisa M. Maddox, Esq. *LM*
Assistant Princeton Attorney

Date: June 12, 2014

Re: **"Trees and Shrubs" Ordinance**

Attached on behalf of the Code Subcommittee please find the proposed "Trees and Shrubs" Ordinance for consideration and introduction at the Mayor and Council's June 16, 2014 meeting. This Ordinance consolidates (and updates) the Township Code and Borough Code provisions, also respectively entitled "Trees and Shrubs," into one chapter. The Ordinance is intended to:

- Establish and maintain the Shade Tree Commission;
- Define the scope of the Shade Tree Commission's duties and authority;
- Regulate the treatment of trees and shrubs on, and extending onto, public right-of-ways and public property;
- Impose a permit requirement prior to the removal or destruction of certain trees located on private property; and
- Establish registration requirements for persons engaged in tree pruning, repair and/or removal.

Also attached for your reference is a detailed chart which explains the proposed new provisions and compares them to the corresponding provisions of the existing Township and Borough Codes.

By way of background, this Ordinance is a product of over a year of substantial effort by the Shade Tree Commission. During that time, the Shade Tree Commission reviewed and compared similar ordinances from other municipalities and analyzed a variety of regulatory provisions governing trees and shrubs. The Shade Tree Commission held numerous special meetings, and completed many drafts of this Ordinance, all resulting in the current proposed Ordinance. At its May 27, 2014 meeting, the Shade Tree Commission unanimously approved this Ordinance.

The contents of this Ordinance, with one exception, are as proposed by the Shade Tree Commission. The only change relates to subsections 22-13 and 22-14 regarding "tree replacement plans."

As drafted by the Shade Tree Commission, every application for a permit to remove/destroy a tree on private property was to include a replacement plan which either provided for replacing the removed or destroyed trees with new trees on the subject property, or payment into the Princeton Shade Tree Trust Reserve. Funds from the Trust Reserve would be used for planting trees and shrubs on public property. A replacement plan was not required, however, if the applicant provided "sufficient evidence to demonstrate that no reasonable circumstances permit[ed] replacement of the destroyed or removed tree(s) on the premises." If the applicant could make that showing, then he or she would not be required to replace any trees or pay into the Trust Reserve. As drafted, the language focused the need for a replacement plan (or payment into the Trust Reserve) on the ability or inability of the applicant to replace the trees on the subject property.

Based on its review of this language and consultation with Municipal Arborist Greg O'Neil,

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the Code Subcommittee amended the replacement plan language in subsections 22-13 and 22-14. Mr. O'Neil expressed concern over the original language and potential for inconsistent application of the standard. As a result, the Subcommittee revised the language to clarify the purpose of a replacement plan (or payment into the Trust Reserve), and also to eliminate ambiguity.

Case law supports that a legitimate purpose of a tree replacement plan (or payment into a fund for purposes of planting trees on public property) may be to help mitigate the negative effect of tree removal; the Subcommittee revised the language to focus on this purpose.

The Ordinance now states that neither a replacement plan nor payment into the Trust Reserve is a requirement for submission of a permit application. Rather, the submission of a replacement plan (or payment into the Trust Reserve), and the substance of that plan, are factors which will be considered by the enforcement officer in deciding whether to a grant or deny an application.

More specifically, during his review of an application under section 22-14, the enforcement officer will consider whether the application includes a tree replacement plan (or payment into the Trust Reserve) which will "mitigate the negative impact that the tree removal or destruction will have on the land and other property." The Subcommittee recommends this Ordinance, as revised.

Please do not hesitate to contact me if you have any questions or concerns in reference to the above.

Attachs.

cc: Robert W. Bruschi, Administrator (w/attachs.)
Kathy Monzo, Assistant Administrator (w/attachs.)
Linda S. McDermott, Clerk (w/attachs.)
Gregory O'Neil, Municipal Arborist (w/attachs.)
Trishka W. Cecil, Esq., Attorney (w/attachs.)
Edwin W. Schmierer, Esq. (w/attachs.)

AN ORDINANCE BY PRINCETON CONCERNING TREES AND SHRUBS AND THE PRINCETON SHADE TREE COMMISSION, AND AMENDING THE “CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974” AND THE “CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968.”

WHEREAS, the Borough of Princeton and Township of Princeton pursuant to the provisions of the New Jersey Municipal Consolidation Act, *N.J.S.A. 40:43-66.35* consolidated as Princeton on January 1, 2013; and

WHEREAS, pursuant to *N.J.S.A. 40:43-66.64*, the Princeton Council on January 1, 2013 adopted a Resolution continuing in effect Ordinances of the former Borough of Princeton and the former Township of Princeton as a new Code for Princeton is prepared; and

WHEREAS, following consolidation, the Princeton Shade Tree Commission engaged in a comprehensive review of Chapter 33 of the “Code of the Borough of Princeton, New Jersey, 1974” and Chapter 22 of the “Code of the Township of Princeton, New Jersey, 1968,” both entitled “Trees and Shrubs,” for purposes of consolidating same and also for purposes of updating the standards and regulations affecting trees and shrubs in Princeton; and

WHEREAS, the Shade Tree Commission has found that the following benefits are associated with maintaining a healthy urban forest and tree canopy (which list is not exhaustive):

- Trees and wooded areas constitute a natural resource that boosts the economic value of property and promotes the general welfare of the community.
- Trees augment natural, scenic, and aesthetic values, creating desirable visual environments and streetscapes.
- Trees stabilize soil, reduce stormwater runoff and sedimentation, increase

groundwater recharge, and reduce the potential for flooding and for water and wind erosion.

- Trees sequester carbon and reduce the buildup of atmospheric carbon dioxide; trees increase oxygen, filter air pollution, and reduce dust.
- Trees serve as buffers, providing privacy, absorbing noise, and reducing nighttime glare.
- Trees provide shade and decrease energy consumption through transpiration of water vapor, which lowers ambient temperatures.
- Trees act as heat shields on the south, east, and west sides of a home and thus may significantly cut cooling costs.
- Trees reduce the impact of the sun's UV rays, and they lower the temperature of concrete and asphalt 10 degrees or more, thereby lessening the heat island effect.
- Trees form a windbreak to slow and redirect the wind, lowering heating bills in cold weather.
- Trees produce food and habitat for wildlife; and

WHEREAS, based on the foregoing benefits, and other aesthetic, economic, ecological, health and environmental benefits of trees and shrubs, the Shade Tree Commission drafted proposed Code revisions recommended for adoption by the Princeton Council; and

WHEREAS, Princeton is a designated Tree City, U.S.A. and as such, the Princeton Council is committed to maintaining reasonable standards for the preservation and protection of trees and shrubs on both public and private property as significant aesthetic, ecological, economic, health and environmental resources which enhance Princeton's natural character and heritage; and

WHEREAS, the Princeton Council wishes to adopt said Code revisions which will become a part of the new Princeton Code at a future date.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

Section 1. The following provisions of the “Code of the Borough of Princeton, New Jersey, 1974” and the “Code of the Township of Princeton, New Jersey, 1968” regarding the Shade Tree Commission and Trees and Shrubs are hereby repealed:

- A. Section 2-83 of Chapter 2, entitled “Shade Tree Commission,” and Chapter 33, entitled “Trees and Shrubs,” of the "Code of the Borough of Princeton, New Jersey, 1974,” and
- B. Article VI of Chapter 2 (Sections 2-23 through 2-25) and Section 2-110 of Chapter 2, which are both entitled “Shade Tree Commission,” and Chapter 22, entitled “Trees and Shrubs,” of the "Code of the Township of Princeton, New Jersey, 1968.”

Section 2. A NEW Chapter 22 of the “Code of the Township of Princeton, New Jersey, 1968,” as set forth on Exhibit A attached hereto and made a part hereof, is hereby adopted to set forth the composition, duties and authority of the Shade Tree Commission and the regulations and standards impacting trees and shrubs, and to replace the aforementioned provisions of the "Code of the Borough of Princeton, New Jersey, 1974" and the "Code of the Township of Princeton, New Jersey, 1968.”

Section 3. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are repealed.

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 portion thereof.

Section 5. This Ordinance shall take effect upon its final adoption and publication as provided for by law. The provisions of the attached Chapter 22 shall be applicable within Princeton upon taking effect and shall become a part of the new Princeton Code once completed and adopted.

Linda S. McDermott, Clerk

Liz Lempert, Mayor

Ordinance Introduced:

Ordinance Adopted:

EXHIBIT A

CHAPTER 22. TREES AND SHRUBS.

Article I. Findings, Intent and Purpose; Definitions.

Sec. 22-1. Findings, intent and purpose.

The mayor and council recognize that trees and shrubs are a natural resource that provide aesthetic, economic, ecological, environmental and health benefits to the municipality of Princeton and its inhabitants, and that the treatment of trees and shrubs on individual properties can have significant impacts not only on those individual properties, but also on neighboring properties, the streetscape, the tree canopy and the entire municipality.

For these reasons, the mayor and council find that it is in the interest of Princeton and its inhabitants to establish rules and regulations for the stewardship of trees and shrubs within Princeton, on both public and private property, and more specifically, for the care and protection of trees and shrubs, preservation of the maximum number of trees and shrubs, safeguarding of specimen and significant trees and replacement of removed or destroyed trees.

Sec. 22-2. Definitions.

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

- (a) *Canopy* shall mean the upper and outermost part of a tree created by the tree's crown and shall mean, in the case of contiguous trees, the upper and outermost parts of the trees' crowns.
- (b) *Crown* shall mean the upper mass or head of a tree created by its branches and leaves.
- (c) *Destroy* shall mean to kill or damage irreparably, which shall be deemed to include, but not be limited to: damage inflicted to the root system by machinery, storage of materials, soil compaction or change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; excessive pruning or thinning not in conformance with American National Standards Institute (ANSI) standards, leading to a failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the tree; or application of any substance toxic to the tree or causing the tree to be exposed to any such substance.
- (d) *Diameter shoulder height* or *DSH* shall mean the diameter of the trunk of a tree measured at a point four and one-half feet above ground level.
- (e) *Enforcement officer* shall mean a certified arborist appointed by the administrator upon consultation with the shade tree commission for the purpose of enforcing the terms of this chapter.

- (f) *Evergreen tree* shall mean a tree with foliage that remains green and functional throughout the year.
- (g) *Ornamental tree* shall mean a tree that can be single or multiple stemmed and that grows to a maximum height of twenty-five feet.
- (h) *Replacement tree* shall mean a tree no smaller than two to two and one-half inches in caliper and of a species and size appropriate for the site.
- (i) *Significant tree* shall mean a tree or grove of trees recognized as significant by the shade tree commission or enforcement officer on the basis of specimen, quality, historical significance, location, size or other unique characteristics.
- (j) *Specimen tree* shall mean any tree equal to at least eighty percent of the size of those listed on the “Champion Big Tree Register” of the New Jersey Community Forestry Program in the Department of Environmental Protection’s Division of Parks and Forestry, or any tree actually listed on the “Champion Big Tree Register.”
- (k) *Shrub* shall mean any woody plant with persistent stems protruding from grade level.
- (l) *Tree* shall mean any woody plant with a main stem or multiple stems with branches protruding above the root flare, which includes all deciduous, ornamental and evergreen trees.

Article II. Shade Tree Commission.

Sec. 22-3. Commission created; membership; term of office of members.

- (a) There is hereby established a shade tree commission consisting of seven members and two alternates, designated as “Alternate No. 1” and “Alternate No. 2.” There shall also be one non-voting liaison appointed from the governing body. All members and alternates shall be Princeton residents. The term of office of the members shall be five years. The term for members of the initial commission shall begin on the date of their appointment and shall be as follows: one member shall be appointed for one year, one member shall be appointed for two years, one member shall be appointed for three years, two members shall be appointed for four years, and two members shall be appointed for five years. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1.
- (b) Alternate No. 1 and Alternate No. 2 shall serve during the absence or disqualification of any regular member or members. The term of each alternate member shall be five years commencing on January 1 of the year of appointment; provided, however, that in the event two alternate members are appointed, the initial term of Alternate No. 2 shall be four years and the initial term of Alternate No. 1 shall be five years. The terms of the initial alternate members appointed shall commence on the day of their appointment and shall expire on the fourth or fifth December 31 next ensuing after the date of their appointments, as the case may be. An alternate member may participate in discussion of the proceedings but may not vote except in the absence or disqualification of a regular

member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

Sec. 22-4. Powers and duties of the shade tree commission.

The shade tree commission shall have the following general powers and duties:

- (a) Policy making responsibility in the regulation, planting, care and control of trees and shrubs upon and in the streets, highways, public places, public right-of-ways and parks of the municipality. The shade tree commission shall have responsibility for the regulation, planting, care and control of trees and shrubs upon and in state and county highways and county parks only to the extent authorized or required by law;
- (b) Responsibility to consult and advise with the enforcement officer in all matters within its purview;
- (c) All authority conferred by N.J.S.A. 40:64-1 *et seq.*, to the extent applicable;
- (d) Authority to review tree surveys, removal plans and planting plans submitted with land development applications referred to it by the planning board or zoning board. After its review the commission may prepare a report of its findings and recommendations to be sent to the board of jurisdiction at least fourteen days prior to that board's scheduled hearing of the development application;
- (e) Authority to prepare criteria, standards, guidelines, and recommendations, including recommendations as to specific appropriations, for the use of funds collected in the Princeton Shade Tree Trust Reserve;
- (f) Authority to develop a list of sites throughout Princeton that require the replacement of trees or the addition of new trees, and regularly update the list to reflect the replacement or removal of trees;
- (g) Authority to develop and maintain a recommended tree species list;
- (h) Authority to develop and maintain an inventory of trees and shrubs upon and in the streets, highways, public places, public right-of-ways and parks of the municipality;
- (i) Responsibility to develop and recommend tree removal standards for trees located on private property;
- (j) Responsibility to make, keep, and preserve minutes and records of its meetings and activities, and to make annual reports to the mayor and council. Copies of all minutes and records of its meetings and activities shall be filed with the clerk;
- (k) Responsibility to decide appeals and informal complaints, as set forth in sections 22-15 and 22-16, respectively, below; and
- (l) Such additional functions as required by this chapter or within the law as may be delegated to it.

Sec. 22-5. Interference with work prohibited.

No person shall prevent, delay or interfere with any lawful work undertaken by the shade tree commission or its authorized agent.

Article III. Protection of Trees and Shrubs on or Extending onto Public Streets, Highways and Right-of-Ways, and Public Property.

Sec. 22-6. Approval required for certain actions concerning trees and shrubs located on public streets, highways and right-of-ways, and property under municipality's jurisdiction.

- (a) No person shall do, or cause to be done, any of the following acts upon public streets, highways, right-of-ways or parks or other lands under the municipality's jurisdiction, or cause or permit the same to be done by any third party contractor or subcontractor, without obtaining the written approval of the enforcement officer, in accordance with subsection (b) below:
 - (1) Cut, trim, break, climb with spikes, disturb the roots of or otherwise injure, remove or destroy any tree or shrub or injure, misuse or remove any structure or device placed to support or protect such tree or shrub.
 - (2) Plant any tree or shrub.
 - (3) Fasten or affix any rope, wire, electric attachment, sign or other device to a tree or shrub.
 - (4) Place or maintain, or cause to be placed or maintained, in or upon the ground, any stone, cement, sidewalk, mortar, building material, impervious material or other substance that shall impede or prevent the free access of water, air or fertilizer to the roots of any tree or shrub or within the drip line of a tree or shrub.
 - (5) Place or cause to be placed any chemical or substance harmful to tree life, including but not limited to gasoline or oil, on any tree or shrub or within the drip line of any tree or shrub.
 - (6) Hitch or fasten an animal to any tree or shrub, or to any guard or support provided for the same, or permit any animal to bite or otherwise injure any tree or shrub.
 - (7) Hitch or fasten a bicycle or other personal property to any tree or shrub, or to any guard or support provided for the same.
- (b) A person may request in writing the approval of the enforcement officer to undertake an activity otherwise prohibited in section 22-6(a) above. Within fifteen days of said written request, the enforcement officer shall, in his or her discretion, approve or deny the request.
- (c) Excepted from the requirements of this section is the treatment of trees and shrubs by the appropriate public agency with the consent of the enforcement officer.

Sec. 22-7. Removal or trimming by municipality when interfering with public street, highway or right-of-way use; duty to reimburse municipality for work performed.

If the limbs or branches of any trees or shrubs grown on any land in the municipality extend over or into any of the public streets, highways or right-of-ways in the municipality and interfere with the free and uninterrupted use of such streets, highways or right-of-ways for any lawful purpose, the enforcement

officer shall notify and direct the owner of the premises on which such trees or shrubs may stand, or the agent of such owner, to trim or detach, on or before a time to be fixed in such notice, any limbs, branches or parts of trees or shrubs so extending in the street, highway or right-of-way in the municipality. If the owner of any such trees or shrubs shall fail or neglect to comply with the terms of such notice, the enforcement officer is authorized and empowered to trim or detach, or cause to be trimmed or detached, any limbs, branches or parts of trees or shrubs so extending into the street, highway or right-of-way in the municipality. Upon completion of such work, there shall be rendered, by the enforcement officer, to the owner of the premises on which such trees or shrubs stood and for whom such work was done, a bill for such work, showing the money expended by the municipality therefor, and upon failure of the party for whom such work was done and such money expended to reimburse the municipality within sixty days from the time of completion of such work, suit shall be brought in the name of the municipality for the amount due in any court of competent jurisdiction.

Sec. 22-8. Removal of substance, material or covering at base of trees and shrubs; duty to reimburse municipality for work performed.

Where any tree or shrub in any public street, highway or right-of-way in the municipality may be surrounded at the base of its trunk by ground which is not open as required in section 22-6(a)(4) above, or by open ground of less quantity or measurement than that herein required in section 22-6(a)(4) above, it shall be the duty of the enforcement officer to notify the owner of the property in front of which any such tree or shrub may be to remove, within a time fixed in such notice, so much of the substance, material or other covering as may be necessary to give the space of open ground herein required. If the person so notified shall not remove the substance, material or covering by the time so fixed, the enforcement officer may do so, or cause the same to be done and, upon completion thereof, render a bill to the person so notified for the work done and the money expended therefor. If payment shall not be made within sixty days from the time of completion of such work, suit shall be brought in the name of the municipality for the amount due in any court of competent jurisdiction.

Sec. 22-9. Protection of trees and shrubs from utility wires.

Any person having control over any wire for the transmission of electric current or telephone, cable or any other utility service along a public street, highway or right-of-way shall at all times guard all trees and shrubs through which such wires pass against any injury from the wires or from the current carried by them. Prior to undertaking any work on the utility affecting any such tree or shrub, the utility company shall provide at least five days' prior written notice to the enforcement officer and abutting property owner of same. The device or means used shall be subject to the approval of the enforcement officer.

Article IV. Removal of Trees on Private Property; Permit Requirements.

Sec. 22-10. Purpose.

This article is intended to further the intent and purpose of this chapter, as set forth in Article I above. To that end, this article establishes tree removal standards for trees located on private property. The purpose of these specific standards is to encourage and further the protection and preservation of trees and their canopy as important public and environmental resources and to:

- (a) Control and prevent the indiscriminate or excessive removal and destruction of trees and their canopy.

- (b) Control and prevent conditions that cause an increase in stormwater runoff, sedimentation, soil erosion, loss of wildlife habitat and air and noise pollution, or that inhibit aquifer recharge or impair the ambiance or physical appearance of neighborhoods, historic landscapes and streetscapes.
- (c) Strike a balance between limiting the adverse impacts of tree removal and not unduly interfering with the ability of a property owner to appropriately remove trees on private property.

Sec. 22-11. Trees requiring permit before removal.

It shall be a violation of this article for any person to remove or otherwise destroy any tree as set forth in this section, or to cause or permit the same to be done by any third party contractor or subcontractor, without first obtaining a permit or approval as provided herein below. Except as otherwise provided in section 22-12 below, the following acts are hereby regulated and shall require a tree removal permit:

- (a) Removal of or otherwise destroying a tree with a DSH of eight inches or more;
- (b) Removal of or otherwise destroying an ornamental or evergreen tree with a height of ten feet or more;
- (c) Removal or otherwise destroying a tree with a canopy extending over a public right-of-way; and
- (d) Removal of or otherwise destroying any specimen or significant tree, as defined in section 22-2 above.

Sec. 22-12. Exceptions.

Excepted from the requirements of this article are the following:

- (a) Any tree that poses imminent danger to life or property or where removal is in response to an emergency. To qualify under this exception, the tree shall only be removed to the extent necessary to abate the imminent danger or emergency. If notification of the removal of said tree pursuant to this article has not been given to the enforcement officer prior to removal, then notification must be provided as soon as practicable but no later than the next business day. Said notification shall include verification that the tree removal was necessary to abate the imminent danger or emergency;
- (b) Any tree that has fallen solely as a result of storm damage or other natural causes;
- (c) Any dead tree or substantially diseased tree as a result of natural causes or storm damage where:
 - (1) The tree is still standing;
 - (2) The person desiring to destroy or remove the tree is the owner of the land upon which the tree is located;
 - (3) The person notifies the enforcement officer of the desire to remove the tree; and
 - (4) The enforcement officer verifies in writing that the tree is dead or substantially diseased as a result of natural causes;

- (d) Tree removal that is a part of any land development application subject to the jurisdiction of the planning or zoning boards, or any of their subcommittees. The shade tree commission may, however, provide its review and comment, if any, regarding the tree removal to the municipal engineer;
- (e) Tree removal as part of an application requiring preservation plan approval by the historic preservation commission or the commission's administrative officer for properties that are subject to the commission's jurisdiction within the historic preservation zoning districts or historic preservation buffer zoning districts; and
- (f) The removal of any trees that are a part of an approved woodland management program pursuant to the provisions of the New Jersey Farmland Assessment Act of 1964.

Sec. 22-13. Application for tree removal permit.

- (a) General Application Requirements. A person desiring to remove or otherwise destroy a tree or trees as provided for in section 22-11 above shall first apply to the enforcement officer for a permit, on forms provided by the municipality and containing the information required in subsections (b), (c) and (d) of this section.
- (b) Narrative. The application required by subsection (a) above shall include a narrative specifying:
 - (1) The location of the premises where the tree removal or destruction is to take place, by both street address and lot and block number;
 - (2) The name and address of the owner of the premises;
 - (3) The name and address of the applicant for the permit, if other than the owner, accompanied by the owner's consent to said application;
 - (4) A list providing the species, DSH and number of trees to be destroyed or removed;
 - (5) The reason or purpose for the destruction or removal of trees; and
 - (6) A description of the applicant's tree replacement plan, in accordance with subsection (d) below.
- (c) Sketch/Printed Plan. The application required by subsection (a) above shall be accompanied by a sketch and/or printed plan showing the following:
 - (1) The size of the lot;
 - (2) All structures and their appurtenances, including but not limited to any building, garage, shed, deck, pool, driveway, walkway, patio or other impervious surface;
 - (3) The location upon the lot where the destruction or removal of the tree or trees is proposed to take place;
 - (4) The identity and location of trees to be destroyed or removed;
 - (5) The location of all streams and wetlands on the lot; and
 - (6) The proposed location(s) for planting of replacement tree(s), as well as their species and DSH.
- (d) Tree Replacement Plan.
 - (1) The tree replacement plan shall provide for replacing the removed or destroyed tree(s) in the same or contiguous location(s) on the premises. The tree replacement plan shall have the goal of a one-to-one tree replacement. In lieu of replacing the removed or destroyed trees, the applicant may pay a tree replacement fee into the Princeton Shade Tree Trust Reserve. The tree

replacement fee shall be a sum representing the cost to replace the removed or destroyed tree(s) and shall be maintained and utilized by Princeton for purposes of planting trees and shrubs on public property. As used hereafter, the phrase “tree replacement plan” shall be deemed to include reference to the payment of a tree replacement fee.

- (2) A tree replacement plan shall not be a mandatory requirement for submission of an application for a tree removal permit. However, whether an applicant has included a tree replacement plan as part of his or her application, and the substance of that plan, shall be among the factors considered by the enforcement officer in making a decision on the application, in accordance with section 22-14(a)(3) below.
- (e) Notice. A copy of the application shall be mailed or hand delivered to the owners of the properties contiguous to the premises where the proposed tree destruction or removal is to take place. The applicant shall confirm compliance with this requirement on the application.
- (f) The fee for each permit shall be twenty-five dollars.

Sec. 22-14. Review of application for tree removal; decision on application; time requirements; expiration.

- (a) The enforcement officer shall accept for filing the permit application referenced in section 22-13 above. Said application shall be date and time stamped when received. Thereafter, the enforcement officer shall within fifteen business days of receipt of the completed application:
 - (1) Visit and inspect the location and inspect the land and trees that are the subject of the application;
 - (2) If necessary, meet with the applicant to discuss the application; and
 - (3) Grant or deny the requested permit in whole or in part, or make recommendations that would make the application acceptable to the enforcement officer, in accordance with the following considerations:
 - a. Whether the removal or destruction of the tree or trees will cause or contribute to physical or environmental problems on the land and other property, including but not limited to flooding, soil instability and erosion.
 - b. Whether the destruction or removal of the tree or trees will have a negative impact on the contiguous canopy or on the growth and development of the remaining trees on the land and other property.
 - c. Whether the destruction or removal of the tree or trees will have a negative aesthetic or visual impact on the land and other property.
 - d. Whether the destruction or removal of the tree or trees will threaten or otherwise lead to a loss of wildlife habitat or tree species.
 - e. Whether the tree or trees are specimen or significant tree(s) as defined in section 22-2 above.
 - f. Whether the destruction or removal of the tree or trees is proposed to take place in an area identified by the New Jersey Department of Environmental Protection as a riparian buffer zone.
 - g. Whether the destruction or removal of the tree or trees is a part of an overall landscape plan for the property.

- h. Whether a denial of the permit, in whole or part, would cause an undue hardship on the applicant.
 - i. Whether the application includes a tree replacement plan which will mitigate the negative impact that the tree removal or destruction will have on the land and other property.
- (b) A decision other than one to grant the requested permit in its entirety shall include the enforcement officer's written findings and reasons for said decision.
- (c) The failure of the enforcement officer to grant or deny the application for a permit for the removal or destruction of a tree or trees within the fifteen-day period shall constitute approval of said application and entitle the applicant to the permit requested unless an extension of the fifteen-day period has been agreed upon between the applicant and the enforcement officer in writing before the period expires.
- (d) The removal of trees and any tree replacement plan are to be implemented within one year from issuance of the permit. A permit shall expire and shall no longer be in effect twelve months after the date said permit was first granted, unless an extension of the twelve-month period has been agreed upon between the permittee and the enforcement officer in writing before the period expires.

Sec. 22-15. Appeals.

- (a) If an application for a permit is denied or otherwise not granted in whole, the applicant shall have a right to appeal the matter.
- (b) The applicant may appeal to the shade tree commission or may choose to appeal directly to the mayor and council. Should the applicant choose to appeal to the shade tree commission and is not thereafter satisfied with the shade tree commission's decision, the applicant shall have the right to appeal to the mayor and council. An applicant who appeals the enforcement officer's decision directly to the mayor and council waives his or her right to appeal to the shade tree commission.
 - (1) Appeal to shade tree commission. An appeal to the shade tree commission is taken by submitting written notice to the shade tree commission within ten days of receipt of a full or partial denial from the enforcement officer. The applicant will be notified as to the date and time when his or her matter will be heard by the shade tree commission. The shade tree commission shall decide the matter anew and in accordance with the standards set forth in subsections (a)(3) a.- i. of section 22-14 above. The shade tree commission shall render its decision within forty-five days of receipt of the written notice of appeal. The failure of the shade tree commission to decide the appeal within forty-five days shall constitute reversal of the decision by the enforcement officer. In any event, the applicant shall be notified of the shade tree commission's action or failure to act by written notice from the shade tree commission. If the applicant is not satisfied with the shade tree commission's decision, then the applicant shall have a right to appeal to the mayor and council as set forth in paragraph (2) below.
 - (2) Appeal to mayor and council. An appeal to the mayor and council is taken by submitting written notice to the clerk within ten days of receipt of a full or partial denial from the enforcement officer or within ten days of receipt of the shade tree commission's decision, as the case may be. The applicant will be notified as to the date and time when his or her matter will be heard by the mayor and council.

The mayor and council shall decide the matter anew and in accordance with the standards set forth in subsections (a)(3) a.- i. of section 22-14 above. The mayor and council shall render their decision within thirty days of receipt of the written notice of appeal. The failure of the mayor and council to decide the appeal within thirty days shall constitute reversal of the decision by the enforcement officer. In any event, the applicant shall be notified of the mayor and council's action or failure to act by written notice from the clerk. If the applicant is not satisfied with the mayor and council's decision, then the applicant shall have a right to pursue an appeal in a court of competent jurisdiction as permitted by law.

Article V. General Provisions.

Sec. 22-16. Violations and penalties; informal and formal complaint procedures.

A person who removes or destroys a tree without a required permit, or otherwise violates or causes to be violated any of the provisions of this chapter, shall be subject to the following informal and formal complaint procedures:

- (a) *Informal complaint.* Any person who removes or destroys a tree without a required permit, or who otherwise violates or causes to be violated any of the provisions of this chapter, shall have the opportunity to resolve the matter before the shade tree commission prior to the issuance of a summons and complaint. The following procedure shall apply:
 - (1) The shade tree commission shall offer a recommendation that is, in its judgment, sufficient to resolve the matter, which may include payment of a fine or payment of a replacement fee to the municipality for removal or destruction of the tree. Fines and/or replacement fees shall be paid into the Princeton Shade Tree Trust Reserve.
 - (2) The violator shall within ten days of the shade tree commission's recommendation advise the enforcement officer as to whether or not the violator accepts said recommendation. If at the end of said ten-day time frame said recommendation is not accepted by the violator, then the enforcement officer shall have the authority to issue the violator a summons and complaint returnable in the Princeton municipal court.

- (b) *Adjudication of complaints in municipal court.* Only in the event the shade tree commission's recommendation is not accepted by the violator within the ten days as provided for in subsection (a) above and all attempts at informal resolution have been unsuccessful may a summons and complaint be issued. In the event a summons and complaint are issued, the violator shall be subject to the penalties set forth in section 1-6 of this Code. In addition, the court may order restitution (appraised value) and/or replacement of the tree or trees illegally removed or destroyed. Replacement of an illegally removed or destroyed tree shall be with another tree of a species and size appropriate for the site, no smaller than two to two and one-half inches in caliper. Each tree removed or destroyed on the same lot in violation of this chapter shall be considered a separate violation.

Sec. 22-17. Annual report.

The enforcement officer shall make an annual report to the shade tree commission, which shall then report to the mayor and council, as to permits granted and denied in each calendar year pursuant to this article. Such report shall be submitted by February 1 of each year as to the preceding year's activities.

Sec. 22-18. Severance.

In the event that any portion of this chapter, or the application of this chapter to any specific situation, shall be declared invalid, such declaration shall not, in any manner, prejudice the enforcement of the remaining provisions, or the enforcement of this chapter in other situations.

Article VI. Contractor Registration.

Sec. 22-19. Registration requirements.

- (a) No person shall engage in tree pruning, removal and/or repair in the municipality for hire without first registering with the enforcement officer, on forms to be supplied by said enforcement officer.
- (b) At the time of registration, applicants shall certify that they have received a copy of and will comply with the municipality's tree ordinances.
- (c) Every registration shall be issued and renewed on an annual basis, effective January 1 of each year, upon payment of an annual fee to the enforcement officer in the amount of fifty dollars.
- (d) No registration shall be required of any owner of real property in the municipality who shall personally perform activities otherwise requiring a registration; except that all such work must otherwise comply with the municipality's tree ordinances.
- (e) The shade tree commission may, upon recommendation of the enforcement officer, after notice and an opportunity for a hearing, suspend or revoke any registration for violation of law or related municipal ordinances, or for good cause, which is shown to be prejudicial to the public health, safety or welfare. When the enforcement officer has reasonable cause or belief that an emergency affecting the public health, safety or welfare so requires, said enforcement officer may temporarily suspend any registration for a period not to exceed one week, until the shade tree commission can be convened to consider said suspension.
- (f) The municipality makes no guarantee or representation regarding the fitness, knowledge or qualification of any person that is registered by the municipality to engage in tree pruning, removal and/or repair for hire.
- (g) Applicants shall be advised at the time of registration that they are required to dispose of damaged or infested trees for which a permit of removal is granted pursuant to section 22-14 in accordance with then current industry standards of proper disposal for said trees.
- (h) Any person who violates this section shall be subject to the penalties set forth in section 22-16 above.

COMPARISON OF NEW PROPOSED “TREES AND SHRUBS” CHAPTER WITH TOWNSHIP AND BOROUGH PROVISIONS RE: SHADE TREE COMMISSION AND TREES AND SHRUBS

NEW	TOWNSHIP	BOROUGH
<p align="center"><u>Article I. Findings, Intent and Purpose; Definitions.</u></p> <p>Sec. 22-1. Findings, intent and purpose.</p> <p>This section is new; it sets forth the findings, intent and purpose of Chapter 22. It ensures that the intent of the Chapter is clear, which is to regulate trees and shrubs on both public and private property.</p>	<p>No comparable provision.</p>	<p>No comparable provision.</p>
<p>Sec. 22-2. Definitions.</p> <p>This section incorporates and updates definitions from both the Township and Borough Codes, and also adds new definitions.</p>	<p>Sec. 22-6. Definitions.</p> <p>Incorporated into new section 22-2, as applicable.</p>	<p>Sec. 33-11. Definitions.</p> <p>Incorporated into new section 22-2, as applicable.</p>
<p align="center"><u>Article II. Shade Tree Commission.</u></p> <p>Sec. 22-3. Commission created; membership; term of office of members.</p> <p>This section, which consists of subsections (a) and (b), is identical to the Township and Borough Code sections from the 2012 reciprocal ordinances (adopted in 2012), currently in effect.</p>	<p>Sec. 2-83. Shade Tree Commission.</p> <p>Incorporated into new section 22-2.</p>	<p>Sec. 2-110. Shade Tree Commission.</p> <p>Incorporated into new section 22-2.</p>
<p>Sec. 22-4. Powers and duties of shade tree commission.</p> <p>The powers and duties of the STC have not been expanded. Instead, the provisions <i>explaining</i> the powers and duties have been expanded.</p> <p>This new section incorporates the language from both the Township and Borough Codes’ comparable provisions. These specific duties are also enumerated:</p> <ul style="list-style-type: none"> • Responsibility to consult/advise with enforcement officer. • All authority under the law, N.J.S.A. 40:64-1 <i>et seq.</i>, which gives the STC authority over trees in streets, public right-of-ways and on public property. • Authority to review tree surveys and tree removal/planting plans in connection with applications before the planning and/or zoning boards. This is an advisory function. • Authority to develop an inventory of trees/shrubs upon and in the 	<p>Sec. 2-24.1. Additional powers of the shade tree commission.</p> <p>Provides the STC with the power to: review tree surveys submitted with development applications referred to it by the planning board; prepare criteria and guidelines for use of funds collected in the Shade Tree Escrow Fund; develop an inventory of sites that require the addition of new trees, and regularly update same; develop a recommended tree species list; and make and maintain minutes and records of its meetings and activities.</p>	<p>Sec. 33-28. Powers and duties generally.</p> <p>This section provides the STC with policy making responsibility in the regulation, planting, care and control of shade and ornamental trees and shrubbery on streets, public places and parks.</p> <p>Sec. 33-12. Power and authority of borough engineer generally.</p> <p>This section grants the authority over trees and plants on Borough property to the Borough engineer; this provision has not been incorporated because the STC has this power and authority, rather than the engineer.</p> <p>Sec. 33-13. Injuries or destruction – Liability of borough, officers or employees.</p>

<p>public areas of the town.</p> <ul style="list-style-type: none"> Responsibility to decide appeals and informal complaints, according to the procedures set forth in this new chapter. 		<p>Similar to the above, this provision has not been incorporated because it is inapplicable.</p>
<p>Sec. 22-5. Interference with work prohibited.</p> <p>Language from a comparable portion of the Township Code is incorporated; sec. 33-25 of the Borough Code was not incorporated because trees on public highways fall under the STC's jurisdiction.</p>	<p>Sec. 2-25. Interference with work prohibited.</p> <p>Incorporated into new section 22-5.</p>	<p>Sec. 33-25. Interference with borough employees engaged in tree work.</p> <p>This provision makes it unlawful for anyone to interfere with the Borough Engineer or any Borough employee involved in maintenance, planting, removal, etc. of trees on the public highways; this language was not incorporated into the new section, because, as previously stated, trees on public property are under the jurisdiction of the STC.</p>
<p><u>Article III. Protection of Trees and Shrubs on or Extending onto Public Streets, Highways and Right-of-Ways, and Public Property.</u></p> <p>Sec. 22-6. Approval required for certain actions concerning trees and shrubs located on public streets, highways and right-of-ways, and property under the municipality's jurisdiction.</p> <p>This section simplifies and consolidates the provisions from the Township and Borough Codes which regulate and protect trees and shrubs on public property. In short, persons are prohibited from taking action that will negatively impact trees and shrubs that are located in the public streets, highways, right-of-ways, parks and other municipal property, without first obtaining the permission of the enforcement officer.</p> <p>In addition, persons seeking to plant trees and shrubs in a right-of-way or on public property must first obtain the enforcement officer's approval.</p>	<p>Sec. 22-1. Permit required for certain actions concerning trees and shrubs located on property under township's jurisdiction.</p> <p>Sec. 22-3. Protection of trees from animals.</p> <p>Sec. 22-4. Protection of trees and shrubs from chemicals.</p>	<p>Sec. 33-14. Injuries or destruction – Trees, plants, tree posts or tree guards.</p> <p>Sec. 33-16. Injuries or destruction – Protection of trees during erection, moving or repairing of buildings.</p> <p>Sec. 33-17. Injuries or destruction – Permitting harmful substance to come in contact with soil surrounding roots of trees or plants.</p> <p>Sec. 33-18. Injuries or destruction – Permitting brine water, oil, liquid dye or other deleterious substance to come in contact with soil at base of tree.</p> <p>Sec. 33-19. Injuries or destruction – Fastening horse or other animal to or near unguarded tree or plant in public highway.</p> <p>Sec. 33-20. Removal or trimming of trees, etc. – Permission of borough engineer required.</p> <p>Sec. 33-22. Permission required for attachment of ropes, wires, signs, etc.</p> <p>Sec. 33-25. Interference with borough employees engaged in tree work. (Specifically, this section prohibits the removing of stone,</p>

		<p>cement or other sidewalk, or stone, cement or other substance, about the trunk of any tree or plant in such highway in the borough.)</p> <p>Sec. 33-26. Permit to plant tree or plant in highway.</p>
<p>Sec. 22-7. Removal or trimming by municipality when interfering with public street, highway or right of way use; duty to reimburse municipality for work performed.</p> <p>This section, primarily taken from the Borough Code, provides that limbs and branches of a tree or shrub on any land shall not prevent the free use of the streets, sidewalks, etc. If limbs or branches of trees on any land interfere with the use of streets, sidewalks, etc., then the enforcement officer has the power to require the owner thereof to trim the limbs or branches. If the owner fails to do so, the enforcement officer can undertake the necessary work and charge the owner the cost thereof.</p>	No comparable provision.	<p>Sec. 33-21. Removal or trimming by borough when interfering with highway use; duty to reimburse borough for work performed.</p> <p>Substance has been incorporated into the new section.</p>
<p>Sec. 22-8. Removal of substance, material or covering at base of trees and shrubs; duty to reimburse municipality for work performed.</p> <p>This section, incorporated from the Borough Code, requires that the owner of property ensure that there is a certain amount of open space around the base of trees and shrubs located in the right-of-ways fronting their properties. The amount of open space required is defined as the “drip line” of the tree or shrub (the outside edge of the tree or shrub’s branches or leaves).</p> <p>This section consolidated two sections from the Borough Code into one section to provide a single standard for the required open space at the base of trees.</p> <p>If an owner fails to maintain the required open space at the base, the enforcement officer has the power to require the owner thereof to clear the space. If the owner fails to do so, the enforcement officer can undertake the necessary work and charge the owner the cost thereof.</p>	No comparable provision.	<p>Sec. 33-23. Placement or maintenance of sidewalk, etc., so as to impede free access of water or air to roots.</p> <p>Sec. 33-24. Four square feet of open ground required about bases of trees; removal of cement or other covering at base; liability for cost of work.</p> <p>These sections have been consolidated and included into the new section.</p>
<p>Sec. 22-9. Protection of trees from utility wires.</p> <p>This provision incorporates the substance from both the comparable Township and Borough Code sections, and ensures consistency with state</p>	<p>Sec. 22-2. Trees to be protected from wires.</p> <p>Similar requirements incorporated into new section.</p>	<p>Sec. 33-15. Injuries or destruction – Precautions to prevent injury to trees from electric wires.</p> <p>Similar requirements incorporated into new section.</p>

<p>statute, which provides, in relevant part:</p> <p>“It shall be unlawful for any public utility to enter upon any lands in which it has acquired an easement or right-of-way, for the purpose of . . . maintaining such easement or right-of-way by clearing, moving, cutting or destroying any trees, shrubs, plants or other growth thereon, unless and until not less than 5 days' notice of such entry shall be given to the owner of the lands subject to such easement or right-of-way personally or by certified or registered mail addressed to the owner. . . .” N.J.S.A. 48:3-17.10.</p>		
<p><u>Article IV. Removal of Trees on Private Property; Permit Requirements.</u></p> <p>Sec. 22-10. Purpose.</p> <p>This provision is similar to the “purpose” provisions at the beginning of the Articles in the Township and Borough Codes which address removal of trees on private property. This section recognizes the significance that the removal of trees on private property may also have outside that property and on the community.</p>	<p>Sec. 22-10. Purpose.</p> <p>The new section is very similar to the Township’s purpose section.</p>	<p>Sec. 33-30. Purpose.</p> <p>The substance of the new section is similar to the Borough’s purpose section.</p>
<p>Sec. 22-11. Trees requiring permit before removal.</p> <p>The STC weighed these (among other) goals in crafting new recommended standards for the removal of trees on private property:</p> <ol style="list-style-type: none"> (1) protect as many trees as reasonably possible; (2) protect the canopy; (3) protect the rights of individual property owners to appropriately develop and utilize private property; and (4) create a single, uniform standard in a municipality with vast differences from property to property. <p>As a result of its research and analysis, the STC recommends these new threshold requirements to be utilized to determine whether a permit is necessary:</p> <ol style="list-style-type: none"> 1. Permit required for removal/destruction of a single tree of 8 inches or more in size at diameter shoulder height (DSH). Under the new standard, every tree 8 inches or more in DSH needs a permit before it may be removed or destroyed. Trees that are less than 8 inches DSH may be removed without a permit. The STC 	<p>Sec. 22-7. Governed acts.</p> <p>Sec. 22-8. Trees requiring permit before removal.</p> <p>A permit is required before the owner can:</p> <ul style="list-style-type: none"> • Remove 20% or more of trees having a DSH of 6 inches or more for shade trees and 10 feet or more for evergreen/ornamental trees (“clear-cut”). • Remove/destroy tree with a DSH of 16 inches or more. • Remove/destroy a shade tree with a DSH of 6 inches or more with canopy over township right-of-way, or evergreen/ornamental tree 10 feet or more in height extending over right-of-way. • Remove/destroy tree located within Township right-of-way. 	<p>Sec. 33-31. Governed acts.</p> <p>Sec. 33-32. Application for permit.</p> <p>A permit is required before the owner can:</p> <ul style="list-style-type: none"> • Remove/destroy a tree with a DSH of 16 inches or more. • Remove/destroy more than 2 trees with DSH from 6 inches to 16 inches.

<p>recommends this single standard because it is supported by industry standards, and further, it is simple and easy to understand.</p> <ol style="list-style-type: none"> 2. Permit required for removal/destruction of a single evergreen/ornamental tree of 10 feet or more in height. Similarly, this new standard requires a permit before any evergreen or ornamental tree of at least 10 feet in height is removed or destroyed. 3. Permit required for removal/destruction of <u>any</u> tree (regardless of size) with canopy extending over public right-of-way. This is similar to the Township requirement, but there is no longer consideration of the size of the tree extending into the right-of-way. Rather, before an owner may remove any tree with a canopy extending into a public right-of-way, the owner must first obtain a permit. This change stresses the importance of maintaining a canopy in the public right-of-way. 4. Permit requirement for removal/destruction of specimen or significant tree. This is a new requirement and not specifically contained in the Township or Borough Codes. It recognizes the importance of trees defined (under the definition section) as “significant” or “specimen.” <p>Further, the reason that the requirement to obtain a permit prior to removal of trees located <i>in</i> a public right-of-way was not included in this new section is because the removal of said trees is already regulated under new sec. 22-6, above.</p>		
<p>Sec. 22-12. Exceptions.</p> <p>This section retains the substantive exceptions to the permit requirement from the Township and Borough Codes, which are:</p> <ul style="list-style-type: none"> • Trees that pose imminent danger to life or property, where removal is in response to an emergency. • Dead or substantially diseased trees, or trees which have fallen, as a result of natural causes or storm damage. • Tree removal covered by planning board/zoning board – approved plans. <p>In addition, two exceptions, from the Township Code (but not in the Borough Code) have been included:</p> <ul style="list-style-type: none"> • Tree removal as part of preservation plan approval by the HPC. • Tree removal part of an approved woodland management program pursuant to the New Jersey Farmland Assessment Act of 1964. 	<p>Sec. 22-12. Exceptions.</p> <p>All exceptions to the permit requirement from the Township Code have been incorporated into the new section 22-12, except for the exception for trees on public property.</p>	<p>Sec. 33-35. Exceptions.</p> <p>All exceptions to the permit requirement from the Borough Code have been incorporated into the new section 22-12, except for the exception for trees on public property.</p>

<p>The only exception from the Township and Borough Codes not otherwise included in the new section is the exception for trees located on publicly owned land and removed by the appropriate public agency; the reason this was not included here is because this Article only applies to trees on private property. Further, the removal of trees on public property is already covered under new sec. 22-6, above.</p>		
<p>Sec. 22-13. Application for tree removal permit.</p> <p><u>Application Requirements.</u> This new section provides more detail as to the type of information required from applicants requesting permits to remove trees on private property. It requires a narrative explaining the requested removal, as well as an explanation of the existing location. It requires a sketch/printed plan to be included, which details the lot along with its structures and impervious areas, identity of wetlands and streams, and identity of location of trees to be removed. All of this information may be provided by the resident applicant; there is no requirement that the resident hire a professional contractor to complete this application, or the work itself.</p> <p><u>Application Fee.</u> This new section imposes a permit fee of \$25 on the applicant.</p> <p><u>Tree Replacement Plan.</u> This new section provides for the inclusion of a “tree replacement plan” as part of a tree removal application. The replacement plan is to provide for replacing the removed or destroyed trees in the same or contiguous location on the premises. The goal of the replacement plan is to be a one-to-one replacement (i.e., for each tree removed, a new tree planted). In lieu of replacing the tree on the property, applicants have the option of paying into a tree replacement fund. These funds will be used to plant trees and shrubs on public property.</p> <p>The standards for what constitutes a suitable replacement tree are contained in the definitional section, and the standards for what is a sufficient payment into the fund are set forth in this section.</p> <p>Importantly, there is a provision which specifically provides that a replacement plan is <u>not</u> required to submit an application. However, whether a replacement plan (or payment into the fund) is provided, and the</p>	<p>Sec. 22-9. Application for tree removal permit.</p> <p>The Township Code requirements for the contents of the application for the tree removal permit are similar to those in the new section, although not as detailed.</p> <p>There is no fee for the permit application under the Township Code.</p> <p>The application is to include a plan for replacing any destroyed/removed trees or other landscape improvement, although no specific minimum standards are included.</p> <p>There is no requirement that the applicant provide notice of the proposed tree removal to neighbors.</p>	<p>Sec. 33-33. Permit for tree removal.</p> <p>The Borough Code requirements for the contents of the application for the tree removal permit are similar to those in the new section, although not as detailed.</p> <p>There is no fee for the permit application under the Township Code.</p> <p>There is no requirement that the application include a plan for replacement, although the applicant’s replacement of trees is considered by the enforcement officer in rendering his or her decision.</p> <p>There is a requirement that the applicant provide notice of the proposed tree removal to neighbors.</p>

<p>substance of that plan, will be among the factors considered by the enforcement officer in granting or denying the permit. One of the factors considered by the enforcement officer is whether the application includes a tree replacement plan which will mitigate the negative impact that the tree removal or destruction will have on the land and other property.</p> <p><u>Notice.</u> The applicant is required to provide a copy of the application to the owners of neighboring properties, similar to the Borough Code. The applicant's obligation is complete at sending the copy via mail or delivering the copy to the neighbor. There is no requirement to provide proof that the neighbor received the copy.</p>		
<p>Sec. 22-14. Review of application for tree removal; decision on application; time requirements; expiration.</p> <p>Upon receipt of an application, the enforcement officer visits the property and grants or denies the application in whole or part, or makes recommendations that would make the application acceptable.</p> <p>The enforcement officer has 15 business days to act. Like the Township and Borough Codes, the failure to act results in approval of the permit.</p> <p>The standards the enforcement officer considers in deciding to grant or deny an application are similar to those in the Township and Borough Codes.</p> <p>Most importantly, the standards are listed in sec. 22-14(a)(3); the enforcement officer has the discretion to make a decision based on the enumerated factors. Like the Township Code, the factors are listed and not ranked. The Borough Code, however, does focus on certain factors over others.</p> <p>The format of this new section is similar to the format contained in the Township Code's corresponding section.</p> <p>Like the Township Code, the permit is only in effect for 12 months; the applicant may seek additional time for the permit (i.e., completion of the removal and/or replacement) prior to expiration of the 12 month period.</p>	<p>Sec. 22-10. Issuance of permit for tree removal; time requirements; expiration.</p> <p>Similar to the new provision, the enforcement officer visits the property and grants or denies the application in whole or part, or makes recommendations that would make the application acceptable.</p> <p>The enforcement officer has 21 calendar days to act.</p> <p>The permit is only in effect for 12 months.</p>	<p>Sec. 33-33. Permit for tree removal.</p> <p>Similar to the new provision, the enforcement officer visits the property and grants or denies the application, or conditions the grant of a permit on possible alternatives to the proposed tree removal and/or comments from interested parties. The enforcement officer may also refer the application to the STC for consultation.</p> <p>The enforcement officer has 15 calendar days to act.</p> <p>This section provides detail regarding the factors to be used in determining whether tree removal will be favored.</p> <p>No time limit is included for the effectiveness of the permit.</p>
<p>Sec. 22-15. Appeals.</p>	<p>Sec. 22-11. Appeals.</p>	<p>Sec. 33-34. Appeal.</p>

<p>If an application is not granted in full, the applicant has a right to appeal either to the STC or directly to the mayor and council. This is similar to the former Township’s process. The Borough Code contains an appeal process, but the appeal goes directly to the mayor and council.</p>	<p>This is very similar to the new provision.</p>	<p>The applicant has a right to appeal to the mayor and council.</p>
<p style="text-align: center;"><u>Article V. General Provisions.</u></p> <p>Sec. 22-16. Violations and penalties; informal and formal complaint procedures.</p> <p>Like the Township Code, there is an informal complaint adjudication procedure as well as a formal one. The potential penalties are different from the former Township’s provisions.</p> <p>Under the informal complaint procedure, the STC reviews the matter and offers a recommendation. If the violator accepts the recommendation, then the matter is concluded. If the violator does not accept the STC’s recommendation, then the enforcement officer may pursue the issuance of a summons and complaint in municipal court.</p> <p>The formal complaint procedure involves resolution of the complaint in municipal court. If convicted, the violator is subject to the fines and penalties set forth in section 1-6 of the Code (up to the maximum permitted by law). In addition, the court may order restitution, which is the payment of the appraised value and/or replacement of the trees illegally removed. The potential penalties that may be imposed are a more expansive than the Township and Borough Codes’; they involve the potential to order restitution in the event of removal of any tree illegally, including both privately owned and publicly owned trees.</p>	<p>Sec. 22-13. Resolution of complaints; informal and formal procedures.</p> <p>Like the new section, a person who violates this chapter is subject to informal and formal complaint procedures. Initially, the STC reviews the matter and offers a recommendation. If the violator accepts the recommendation, then the matter is concluded. If the violator does not accept the STC’s recommendation, then the enforcement officer may pursue the issuance of a summons and complaint in municipal court.</p> <p>The formal complaint procedure involves resolution of the complaint in municipal court. If convicted, the violator is subject to the fines and penalties set forth in section 1-6 of the Code. In addition, if the tree is a publicly owned tree, the court may also require the violator to pay a replacement assessment to the township for the destruction or removal.</p>	<p>Sec. 33-36. Violations and penalties.</p> <p>An owner in violation of the article governing removal of trees on private property may be required to pay up to a \$1,000 fine and shall be required to replace the tree removed with a “replacement tree” as defined in the chapter.</p> <p>The Borough Code definition of “replacement tree” is similar to the definition proposed in the new chapter.</p>
<p>Sec. 22-17. Annual Report.</p> <p>The requirement of an annual report to be submitted to the governing body is taken from both the Township and Borough Codes.</p>	<p>Sec. 22-14. Annual report.</p> <p>Same requirements.</p>	<p>Sec. 33-37. Annual report.</p> <p>Same requirements.</p>
<p>Sec. 22-18. Severance.</p> <p>This is standard language similar to the language in the Township and Borough Codes.</p>	<p>Sec. 22-15. Severance.</p> <p>Similar requirements.</p>	<p>Sec. 33-38. Severance.</p> <p>Similar requirements.</p>

<p>Sec. 22-19. Registration requirements.</p> <p>Similar to the Township Code, persons engaging in tree pruning, removal and/or repair in Princeton must annually register with the enforcement officer. This is similar to the requirements for registration contained in the Township Code.</p> <p>The registration fee is \$50 annually, similar to the Township.</p>	<p>Sec. 22-16. Registration.</p> <p>Same requirements.</p>	<p>No similar provision.</p>