

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO. 23-17

AN ORDINANCE TO ESTABLISH REQUIREMENTS FOR TREE REMOVAL AND REPLACEMENT IN THE TOWNSHIP OF WASHINGTON TO REDUCE SOIL EROSION AND POLLUTANT RUNOFF, PROMOTE INFILTRATION OF RAINWATER INTO THE SOIL, AND PROTECT THE ENVIRONMENT, PUBLIC HEALTH, SAFETY, AND WELFARE.

1. “

§ 465-1 Definitions.

The following terms, phrases, words, and their derivations shall have the meanings stated herein. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

A. “Applicant” means any “person”, as defined below, who applies for approval to remove trees regulated hereunder this ordinance, inclusive of any person seeking issuance of a tree removal permit under any of the procedures outlined in this chapter.

B. “Critical Root Radius (CRR)” – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6” DBH would have a CRR = 6”x1.5’ = 9’.

C. “Diameter at Breast Height (DBH)” means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree.

D. “Hazard Tree” means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

1. Has an infectious disease or insect infestation;
2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or LTE.

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

F. “Planting strip” means the part of a street right-of-way between the public right-of way adjacent to the portion of the street reserved for vehicular traffic the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

G. “Resident” means an individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

H. "Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

I. "Tree" means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

"Heritage Tree" means any of the following:

1. Any single-trunk tree with a circumference of 38 inches or more, measured four feet above ground level.
2. Any multi-trunk tree of which the two largest have a total circumference of 60 inches or more measured four feet above ground level.
3. Any tree 35 feet or more in height.

"Replanted Tree" means any deciduous or evergreen woody plant of the diameter/caliper required in this section, planted for the purpose of replacing trees cut, removed or destroyed.

J. "Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

K. "Tree removal" means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

L. "Tree Removal Permit" means the permit issued by the Township for removal of tree(s) as requested by an applicant.

M. "Tree Removal Permit Application" means the application required for consideration of a tree removal permit.

§ 465-2 Prohibited activities.

No person, corporation, association or entity of any kind shall do or cause to be done by others, either purposely, carelessly or negligently, any of the following acts upon privately owned property within the Township of Washington:

- A. Cut, destroy or injure any tree.
- B. Place or maintain upon the ground any substance which will impede free access of air and water to the tree's living components.
- C. The cutting, trimming or maintenance of trees in a manner which is harmful to the health of the tree.

§ 465-3 Permitted activities.

Notwithstanding the restrictions contained in the above section, the following activities shall be permitted:

- A. The removal of not more than three non-heritage trees on any approved or existing building lot, as shown on the current tax assessment map of the Township, within a twelve-month period.
- B. The removal of trees in accordance with a site plan or subdivision plan approved by the Planning Board or Zoning Board of Adjustment; in conjunction with any application for development or soil movement permit approved by the Planning Board or Zoning Board of Adjustment; in conjunction with development or soil movement applications; each so long as the approval includes a requirement that the applicant replace two trees measuring 2 1/2-inches caliper for each tree removed, and subject to the depositing of funds into the tree replacement fund account maintained by the Township.
- C. The cutting, trimming or maintenance of trees in a manner which is not harmful to the health of the tree.
- D. The removal of trees which are diseased, dead, partially or completely fallen by acts of nature or which endanger public safety.
- E. The removal of trees necessary to construct any structure for which a permit has been issued by the Construction Code Official, so long as the approval includes a requirement that the applicant replace at least 25% of the trees removed.
- F. Activities involving tree trimming or removal located within a public right-of-way or easements, or publicly owned or controlled property, so long as the Township of Washington is in responsible charge of the activities.

§ 465-3.1 Registration with Township for tree removal.

No person or entity shall engage in the business of removal of trees within the Township of Washington without first having completed an annual registration with the Township as provided herein and thereafter displaying a decal issued by the Township affixed to the front left fender of all vehicles and trailers utilized in connection with such tree removal activities. By registration of a business hereunder, same shall not constitute permission to remove any trees, which can only be authorized pursuant to an approved tree removal application by the Zoning Officer (see § 465-4).

- A. Applications for registration hereunder shall be filed with the Clerk's office, which shall require the following:
 - (1) Name, address, telephone number, and email address of the applicant.
 - (2) The applicant's contact person, including telephone numbers and an email address.
 - (3) The name under which the business is operated.
 - (4) The name, make, model, year and license plate of each motor vehicle or trailer to be used by the registrant within the Township.
 - (5) Copy of the registrant's insurance declaration page or certificate of insurance.
 - (6) Copy of all vehicle operators' current driver's license.
 - (7) Any other information deemed pertinent as necessary and prescribed by the Business Administrator.
 - (8) Payment of annual registration fee of \$50 for blocks of five vehicles and/or trailers not to be prorated for any partial years or vehicles/trailers.
 - (9) Required current license/certification with the NJ Board of Tree Experts.
- B. All applications shall be received by the Clerk's office and reviewed for completeness. Once complete,

the Clerk's office shall issue to the applicant a decal for each vehicle and trailer covered by the application.

- C. Applicants who have been denied a permit shall have the right to appeal the decision to the Business Administrator, whose decision shall be deemed final.

§ 465-4 Permit required for tree removal.

- A. No activity under § 465-3A or D shall be permitted without the issuance of a tree removal permit, issued by the Building Department upon the affirmative recommendation of the Zoning Officer after review of an applicant's tree removal permit application.
- B. Tree removal permit applications shall be submitted to the Zoning Officer, and shall contain all information required by the application form. If removal of a tree is being requested under § 465-3D, the tree removal permit application shall be accompanied by a letter from a licensed arborist verifying that any tree to be removed qualifies under said section. If the Zoning Officer is satisfied with the information in the tree removal permit application, and with the letter from a licensed arborist if same is required hereunder, the Zoning Officer shall direct the Building Department to issue the tree removal permit upon payment by the applicant of a tree removal permit fee as set forth in Chapter 212, Fees, to the Building Department. If the Zoning Officer is not satisfied with the information in the tree removal permit application, or with the letter from a licensed arborist, if same is required hereunder, the Zoning Officer shall be authorized, at the sole cost of the applicant, to initiate a physical inspection of the subject tree(s) and property on which same is located, performed by the Township Engineer, the Department of Public Works, a licensed arborist and/or other professionals, and have a written opinion issued addressing the issues of concern identified by the Zoning Officer. Thereafter, the Zoning Officer shall make a determination as to whether or not the tree removal permit shall be issued, and shall thereupon either direct the Building Department to issue the tree removal permit or deny issuance thereof.
- C. If a tree removal permit is not issued under the procedure set forth herein, the applicant may file an application with the Planning Board, not associated with any subdivision or site plan application, which shall include the following requirements:
 - (1) The applicant shall be required to pay an application fee in the amount set forth in Chapter 212, Fees.
 - (2) The applicant shall be required to post an escrow in the amount of \$500 with the Township.
- D. In the event that the Zoning Officer initiates an inspection or involvement of the Township Engineer, the Department of Public Works, a licensed arborist and/or other professionals, the applicant shall be required to post an escrow with the Township, the amount of which shall be an estimate developed by the Zoning Officer to cover the cost of such inspection or involvement. The actual cost of such inspection or involvement shall be the responsibility of the applicant.
- E. Upon receipt of the costs in connection with the denial or issuance of a tree removal permit, same shall be memorialized in a certification by the Zoning Officer. The applicant shall pay such costs to the Township. If, upon no more than two attempts to obtain said costs (by sending an invoice to the applicant by certified and regular mail), said costs shall forthwith become a lien upon the lands identified in the tree permit application and shall be added to and become and form part of the taxes next to be assessed and levied upon the lands, the same to bear interest at the same rate as other taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

§ 465-5 Exceptions.

The following exceptions shall apply:

- A. The Planning Board or Zoning Board of Adjustment may waive the replacement planting requirements either in number, specie or replacement size.
- B. Upon application to the Planning Board, the granting of exceptions from the requirements of this section as may be reasonable and within the purposes and intent of this section if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question; the form of application will be the same provisions as that of the Site Plan Review Ordinance.

§ 465-6 Criteria for consideration of tree removal and replanting.

- A. The Planning Board or Zoning Board may consult with the Township Engineer or any professional; as provided in the Municipal Land Use Law for guidance in considering land use, development, soil movement or exception applications.
- B. Tree Replacement Requirements.
 - 1. Any person who removes one or more street tree(s) with a DBH of 2.5” or more, unless exempt under Section 465-7, shall be subject to the requirements of the Tree Replacement Requirements Table below.
 - 2. Any person, other than a resident, who removes one or more tree(s) with a DBH of 6” or more per acre, unless exempt under Section 465-7, 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.

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 pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee
1	DBH of 2.5” (for street trees) or 6” (for non-street trees) to 12.99”	Replant 1 tree with a minimum tree caliper of 1.5” for each tree removed	TBD by Township
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree caliper of 1.5” for each tree removed	TBD by Township
3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree caliper of 1.5” for each tree	TBD by Township

		removed	
4	DBH of 33" or greater	Replant 4 trees with minimum tree caliper of 1.5" for each tree removed	TBD by Township

C. Replacement Alternatives:

1. If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

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

Replacement trees must be nursery stock; balled in burlap and staked upon planting per Township standards provided by the Township Engineer.

D. The location of replanted trees shall be determined by the following schedule of preference when at all possible:

1. In the location where the trees are removed.
2. Within the building lot containing the removed trees.
3. Within the development site approved by the Planning Board/Zoning Board or within the public right-of-way fronting or bounding the site.
4. Elsewhere in the Township within public property.

E. If the location of trees to be replanted is not designated by the Planning Board or Zoning Board of Adjustment under Subsection

D (1), (2) or (3) above, or if the required number of trees cannot be replanted, then there shall be deposited into a tree replacement fund account maintained by the Township the sum of \$350 for each tree as required by the Planning Board or Zoning Board of Adjustment to be utilized for the purchase and planting of trees pursuant to Subsection D (4) above.

§ 465-7 Violations and penalties; replacement schedule.

- A. Any person, corporation, association or entity of any kind violating any provision of this chapter shall, upon conviction thereof, be punishable by a fine not exceeding \$3,000 per offense. The cutting, destruction or removal of each tree shall constitute a separate offense.
- B. If trees are cut, destroyed or removed for any reason in conjunction with any land use, development or soil movement activity in excess of the specified number of trees which were approved for removal by the Planning Board or Zoning Board or Construction Official, restitution shall be made by the applicant in accordance with the following schedule.

Diameter of Tree Removed (inches)	Number of 2 1/2-inch Caliper Trees To Be Provided
6 to 15	6
16 to 24	10
25 to 36	15
37 and over	20

C. Any offense will be subject to fine and replacement.

§ 465-7 Exemptions.

All persons shall comply with the tree replacement standards outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption, and shall be either acceptable photos or statements from NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist:

A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the ‘count’ resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]

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

C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;

D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.

E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;

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

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

§ 465-8 Enforcement.

Each of the following shall have full authority to enforce the provisions of this chapter, including but not limited to, the power to make inspections, the issuance of summonses, the issuance of cease and desist notices, the serving of summonses and notices, the prosecution of violators of this chapter in Municipal Court, and the prosecution of violations in any court of competent jurisdiction: Chief Building Inspector, Zoning Officer, Code Enforcement Official, Superintendent of Department of Public Works, Township Engineer, and Police Department.

Appendix A


Approved list of Replacement tree Species and Planting Standards for Township of Washington

TREE SPECIES	PLANTING SEASON	PLANTING PROCEDURE <i>(soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc.)</i>

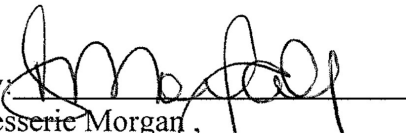
[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. The list shall include approved planting times/seasons and proper planting standard procedures.]”

2. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the remaining portions of this Ordinance.
3. All Ordinances or any provisions of any ordinance inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies and not otherwise.
4. This Ordinance shall take effect upon final passage and publication and in accordance with the Charter, and subject to such emergency resolution as may be adopted pursuant to Section 17-32 thereof. [R.S. 40:69A-181 (b)].

ATTEST:


 Susan Witkowski,
 Township Clerk


APPROVED:
 TOWNSHIP COUNCIL OF THE
 TOWNSHIP OF WASHINGTON

By: 
 Desserie Morgan,
 Council President

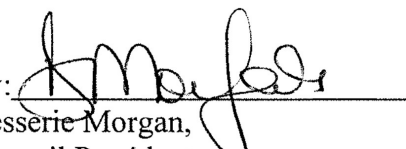
Introduction Date: December 4, 2023

COUNCIL	MOTION	SECOND	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Cascio			X				
Feeney		X	X				
Morgan			X				
Sears	X		X				
Velez			X				

ATTEST:


 Susan Witkowski,
 Township Clerk

APPROVED:
 TOWNSHIP COUNCIL OF THE
 TOWNSHIP OF WASHINGTON

By: 
 Desserie Morgan,
 Council President

Adoption Date: December 18, 2023

COUNCIL	MOTION	SECOND	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Cascio			x				
Feeney		x	x				
Morgan			x				
Sears	x		x				
Velez			x				

NJ Tree Foundation's Utility Friendly Trees



This is a short list of utility friendly trees – trees that stay small and are suitable for planting under utility wires.

Scientific Name	Common Name	Height	Additional Info.
<i>Acer campestre</i>	Hedge Maple	25-35'	
<i>Acer buergeranum</i>	Trident Maple	20-30'	
<i>Acer ginnala</i>	Amur Maple	15-20'	Invasive
Acer Henryi	Henry Maple	20-30'	
<i>Acer leucoderme</i>	Chalkbark Maple	20-25'	Native SE US
<i>Acer nikoense</i>	Nikko Maple	20-30'	
<i>Acer palmatum</i>	Japanese Maple	10-25'	
<i>Acer tataricum</i>	Tatarian Maple	15-20'	
<i>Acer truncatum</i>	Purpleblow Maple	20-25'	
Acer Griseum	Paperbark Maple	20-30'	
<i>Cotinus obovatus</i>	American Smoketree	10-15'	Native
<i>Lagerstroemia spp.</i>	Crapemyrtle	4-12'	Naturalized S US
Amelanchier Autumn Brilliance	Autumn Brilliance Serviceberry	15-25'	Native
Amelanchier Prince Charles	Prince Charles Serviceberry	25-30'	Native
Amelanchier Princess Diana	Princess Diana Serviceberry	15-20'	Native
<i>Carpinus caroliniana</i>	American Hornbeam	20-35'	Native
<i>Cercis can.</i> Forest Pansy	Forest Pansy Red Bud	20-30'	Native
<i>Cercis reniformis</i> Oklahome	Oklahoma Redbud	12-18'	Native
<i>Chionanthus virginicus</i>	White fringetree	12-20'	Native
<i>Cornus florida</i> selections	American Dogwoods	15-30'	Native
<i>Cornus kousa</i> selections	Kousa Dogwood	15-30'	
<i>Cornus Rutgers</i> Selections	Rutgers Dogwod	15-30'	Native
<i>Crataegus</i> Winter King	Winter King Hawthorn	25-35'	Native
<i>Halesia tetraptera</i>	Carolina Silverbell	30-35'	Native
<i>Maackia amurensis</i>	Amur Maackia	20-30'	
<i>Malus</i> selections for tree form use	Crabapples	15-20'	Some native
<i>Parrotia persica</i>	Persian Parrotia	20-30'	
<i>Prunus cerasifera</i>	Cherry Plum	15-30'	
<i>Prunus Autumnalis</i>	Autumn Flowering Cherry	20-30'	
<i>Prunus Kwanzan</i>	Kwanzan Cherry	25-30'	
<i>Prunus Okame</i>	Okame Cherry	20-30'	
<i>Prunus Sargentii</i>	Sargent Cherry	20-30'	
<i>Prunus sarg.</i> Columnaris	Columnar Sargent Cherry	20-30'	
<i>Prunus virginiana</i>	'Canada Red' Chokecherry	20-30'	Native
<i>Prunus yedoensis</i>	Yoshino Cherry	30-40'	
<i>Styrax japonica</i>	Japanese Snowbell	20-30'	
<i>Syringa reticulata</i>	Japanese Tree Lilac	20-30'	