



**Asbury Park, New Jersey  
ORDINANCE NO. 2024-10**

**ORDINANCE OF THE CITY OF ASBURY PARK AMENDING AND  
SUPPLEMENTING CHAPTER STC1, ENTITLED “RULES AND REGULATIONS OF  
THE SHADE TREE COMMISSION,” OF “THE CODE OF THE CITY OF ASBURY  
PARK.**

**WHEREAS**, the City of Asbury Park (the “City”) previously established Chapter STC1, entitled “Rules and Regulations of the Shade Tree Commission,” of “The Code of the City of Asbury Park” (also referenced as the “City Code”); and

**WHEREAS**, the Mayor and Council wish to revise Chapter STC1 of the City Code, in accordance with the provisions set forth herein.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED**, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, that Chapter STC1, entitled “Rules and Regulations of the Shade Tree Commission,” of “The Code of the City of Asbury Park,” is hereby amended and supplemented as follows (additions are shown with underline; deletions are shown with ~~strikeout~~):

**Chapter STC1. Rules and Regulations of the Shade Tree Commission**

§ STC1-1. PREAMBLE.

[STC:11-10-61]

Whereas, as provided in Chapter 325, of the Laws of 1915, and amendments and supplements thereto, Chapter 42 Laws of 1958 of the State of New Jersey, the Mayor and Council did on January 28, 1947 adopt an ordinance creating and establishing a Shade Tree Commission, granting to the Commission all such authority and power as conferred upon it by N.J.S.A. 40:64-1 et seq. The Shade Tree Commission, in order to perform the duties of the Commission as contained in the aforementioned enabling acts, does hereby enact the following Rules and Regulations.

§ STC1-2. POWERS AND DUTIES.

[STC:11-10-61 § 1]

There is hereby vested in the Shade Tree Commission full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located, or which may hereafter be planted in any public highway, park, or parkway in the City of Asbury Park, including the planting, trimming, spraying, care and protection thereof; regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection; remove or require the removal of any tree or part thereof, dangerous to public

safety; administer treatment to or remove any tree situated on private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the City and enter upon private property for that purpose with the consent of the owner thereof, provided suspected condition is first confirmed by a certificate issued by or on behalf of the Department of Agriculture.

#### § STC1-3. PRUNING OF HIGHWAY SHADE TREES.

[STC:11-10-61 § 2]

It shall be unlawful and a violation of the provisions of this chapter for any person or persons to prune or cut a highway shade tree without the consent of the Shade Tree Commission.

#### § STC1-4. INJURING, BREAKING, OR DESTROYING HIGHWAY SHADE TREES.

[STC:11-10-61 § 3]

It shall be unlawful and a violation of the provisions of this chapter for any person or persons to injure, tamper, willfully break, destroy or remove any highway shade tree.

#### § STC1-5. PENALTY.

[STC:11-10-61 § 4]

Any person who shall violate any of the provisions of this chapter and any person who aids, abets or assists therein, shall, upon conviction thereof by the Judge, be subject to one or more of the following penalties for each offense or violation: (1) a fine of ~~any amount~~, not less than five hundred dollars (\$500.00) nor exceeding two hundred (~~\$200.00~~) thousand dollars (\$2,000.00); ~~for each offense or violation or be imprisoned~~ (2) imprisonment for a term not exceeding thirty (30) days in the County Jail, or in any place provided by the municipality for the detention of prisoners, ~~or both~~; or (3) the performance of community service for a period of not more than ninety (90) days.

#### § STC1-6. INTERPRETATION.

[STC: 11-10- 61 § 5]

This chapter shall be deemed to be in addition and supplementary to, and not be in conflict with nor a repeal of prior or existing ordinances of this City, but shall be an additional provision for the regulation and control of highway shade trees.

#### § STC1-7. PROTECTING TREES ON CITY STREETS.

##### § STC1-7.1. Prohibited Acts.

[STC: Ord. No. 758 § 5]

No person shall do, or cause to be done, any of the following acts upon the City streets without the written permit of the Shade Tree Commission.

- a. Cut, trim, break, climb with spikes, disturb the roots of, or otherwise injure, or spray with any chemical, or remove, any living tree or shrub; or injure, misuse or remove any structure or device placed to support or protect such tree or shrub.
- b. Plant any tree or shrub.

- c. Fasten any rope, wire, electric attachment, sign or other device to a tree or shrub, or to any guard about such tree or shrub.
- d. Close or obstruct any open space provided about the base of the tree or shrub to permit the access of air, water, or fertilizer to the roots of such tree or shrub.
- e. Pile any building material, or make any mortar or cement within six (6) feet of a tree or shrub.

§ STC1-7.2. Guarding Trees from Harm.

[STC: Ord. No. 758 § 6]

- a. Every person having control over any wire for the transmission of an electric current along a public street shall at all times guard all trees through which or near which, such wire passes against any injury from the wire or from the electric current carried by it. The device or means used shall in every case be subject to the approval of the Shade Tree Commission.
- b. No person shall permit any brine, gas or injurious chemical to come in contact with the stem or roots of any tree or shrub upon a public street.

§ STC1-7.3. Tree Removal and Replacement Requirements.

The following provisions establish requirements for tree removal and replacement within the City of Asbury Park to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, reduce heat island effect, and protect the environment, public health, safety, and welfare.

**a. Definitions:**

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

**APPLICANT**

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

**ASBURY PARK ENVIRONMENTAL/SHADE TREE COMMISSION (ESTC)**

Shall mean the official name of the Shade Tree Commission of Asbury Park.

### **ASBURY PARK TREE REPLACEMENT FUND**

Shall mean a fund established by the City of Asbury Park for the express purpose of planting and maintaining trees on public property. The fund may also be used for consulting fees for administration of the Tree Removal and Replacement Ordinance.

### **CITY**

Shall mean the City of Asbury Park.

### **CRITICAL ROOT RADIUS (CRR)**

Shall mean 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'.

### **DIAMETER AT BREAST HEIGHT (DBH)**

Shall mean the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

### **HAZARD TREE**

Shall mean 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 not able to be repaired or remediated by other means; or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

### **INVASIVE TREES**

Shall mean species of trees introduced deliberately or unintentionally outside their natural habitats where they have the ability to establish themselves, invade, out-compete natives and take over the new environments. Invasive trees are those trees recognized by the New Jersey Department of Environmental Protection and those on the most recent New Jersey Invasive Species Strike Team "Do Not Plant List."

## **PERSON**

Shall mean any individual, resident, corporation, utility, company, partnership, firm, or association.

## **PLANTING STRIP**

Shall mean the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

## **RESIDENT**

Shall mean an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

## **STREET TREE**

Shall mean a tree planted in the sidewalk, planting strip, and/or in the public right-of-way. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

## **TREE**

Shall mean 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.

## **TREE CALIPER**

Shall mean 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.

## **TREE REMOVAL**

Shall mean 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.

### **b. Tree Removal Application Process.**

#### **1. Any person who would like to remove:**

- (a) a Street Tree with DBH of 2.5” or more, or**

(b) any non-Street Tree with DBH of 6” or more on their property,

shall submit a completed Tree Removal Application and the Application fee of \$25.00 to the City of Asbury Park Department of Public Works. **No tree shall be removed until municipal officials have reviewed and approved the removal.**

2. In addition to the application, the applicant must submit a sketch or site plan showing all existing and proposed structures, walkways, driveways, pools, etc., and the location of the trees to be removed and the proposed location of the replacement tree(s). Trees to be removed should be marked with a ribbon for clear identification by the ESTC member or Licensed Tree Expert who will be inspecting the site.

3. Within thirty (30) business days of receipt of the application, the ESTC or Licensed Tree Expert shall:

(a) Visit and inspect the location and trees that are subject to the application.

(b) If necessary, meet with the applicant on site.

(c) Grant or deny the application in part or in whole or make recommendations that would make the application acceptable to the ESTC or Licensed Tree Expert, in writing.

**c. Tree Removal Requirements for Approved Applications.**

1. It is the responsibility of the applicant to dispose of all branches, trunk, and debris.

2. All trees removed from the Planting Strip must have their trunk removed to 8” - 12” below grade and backfilled to grade.

**d. Tree Replacement Requirements.**

1. Any person who removes one or more Street Tree(s) with a DBH of 2.5” or more or tree on their property with DBH of 6” or more unless exempt under Section g, below, shall be subject to the requirements of Table A: Tree Replacement Requirements. Tree Replacement Fees are applied if the applicant prefers to pay for replacement trees to be planted at the agreed upon site or does not replace the tree(s) within the required timeframe. Replacement trees must be planted in accordance with Asbury Park City Code §30.57.12 Street Tree, Landscaping and Planting Requirements.

**Table A: Tree Replacement Requirements**

<b><u>Tree Removed (DBH)</u></b>	<b><u>Required Number of Replacement Trees (2" Caliper) per Tree Removed or Destroyed</u></b>	<b><u>Tree Replacement Fee in Lieu of Planting</u></b>
<u>DBH of 2.5" (street trees) or 6" (private property trees) to 12.99"</u>	<u>1</u>	<u>\$500</u>
<u>DBH of 13" to 22.99"</u>	<u>2</u>	<u>\$1000</u>
<u>DBH of 23" to 32.99"</u>	<u>3</u>	<u>\$1500</u>
<u>DBH of 33" or greater</u>	<u>4</u>	<u>\$2000</u>

2. The species type and diversity of replacement trees shall be approved by the ESTC and be consistent with the guidance provided by the Monmouth County Department of Public Works and Engineering, Trees for Monmouth County. Tree selection and must consider the planting site, including proximity to buildings, the width of the planting strip and whether utility wires will interfere with the tree's future growth. The planting of Invasive Tree species is prohibited.
3. Replacement trees must be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the City;
4. Replacement trees must be monitored and watered 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
5. Replacement trees shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

**e. Tree Replacement Fund.**

Where an applicant chooses to make payment to the Asbury Park Tree Replacement Fund in lieu of physically replacing the trees on said property, the Tree Replacement Fee as set forth in Table A will be assessed. The Asbury Park Tree Replacement Fund shall constitute a separate fund established by the City with the dedicated purpose of tree replacement and maintenance within the City.

**f. Tree Replacement Alternative.**

1. If the City determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the

applicant shall:

- (a) Plant replacement tree(s), in consultation with the ESTC and in accordance with the requirements outlined in Section d above in a separate area(s) approved by the City, or
- (b) Pay a Tree Replacement Fee in accordance with the schedule outlined in Table A above. This fee shall be placed into The Asbury Park Tree Replacement Fund.

**g. Exemptions.**

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the City by all persons claiming an exemption. An application must be submitted for an exemption and approved by the City. The following exemptions are applicable:

- 1. 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.
- 2. 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;
- 3. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- 4. Hazard trees may be removed with no replacement requirement. However, an application and fee must be submitted to the City and approved.

**h. Enforcement.**

This ordinance shall be enforced by the Asbury Park Police Department and/or Code Enforcement during the course of ordinary enforcement duties.

**i. Violations and Penalties.**

Any person who shall violate any of the provisions of this chapter and any person who aids, abets or assists therein, shall, upon conviction thereof by the Judge, be subject to one or more of the following penalties for each offense or violation: (1) a fine of not less than five hundred dollars (\$500.00) nor exceeding two thousand dollars (\$2,000.00); (2) imprisonment for a term not exceeding thirty (30) days in the County Jail, or in any place provided by the municipality for the detention of prisoners; or (3) the performance of community service for a period of not more than ninety (90) days.



**i. Annual Report.**

The Shade Tree Commission shall provide a written report to the City Council annually on the number of applications that were granted or denied pursuant to this Chapter and the number of trees removed and replaced. The report shall include the fees, penalties and assessments collected and dispersed to the Asbury Park ESTC. The report shall be submitted by February 1 of each year regarding the preceding year’s activities.

**BE IT FURTHER ORDAINED**, that all other provisions of Chapter STC1 of the City Code which are not referenced in this Ordinance shall remain unaffected/unchanged and remain in full force and effect.

**BE IT FURTHER ORDAINED**, that all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

**BE IT FURTHER ORDAINED**, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect upon final passage and publication in accordance with the law, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2024-10 which was finally adopted by the City Council at a meeting held on the 24th day of April, 2024



LISA ESPOSITO  
CITY CLERK

✓ Vote Record - Ordinance 2024-10						
			Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Adopted						
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Defeated						
<input type="checkbox"/> Tabled						
<input type="checkbox"/> Withdrawn						
<input type="checkbox"/> Introduced						
	Angela Ahbez-Anderson	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Eileen Chapman	Voter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Yvonne Clayton	Seconder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Amy Quinn	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	John Moor	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>