

**BOROUGH OF BEACH HAVEN
COUNTY OF OCEAN**

ORDINANCE #2024-11C

AN ORDINANCE CREATING Chapter 190, “Tree Removal and Replacement”, in the Borough Code of the Borough of Beach Haven, County of Ocean, State of New Jersey

PURPOSE

To establish requirements for tree removal and replacement in the Borough of Beach Haven to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE BOROUGH OF BEACH HAVEN DO ORDAIN:

SECTION I

190-1 Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" mean 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 under this ordinance.

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

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.

[Municipalities may choose to require a Licensed Tree Expert to make all Hazard tree determination]

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 Licensed Tree Expert (LTE).

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

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

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

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.

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.

190-2 Regulated Activities.

A. 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 IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.
3. The species type and diversity of replacement trees shall be in accordance with **Appendix A**.
4. Replacement tree(s) shall:
 - (a) Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Tree Replacement Criteria in the table below;
 - (b) Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
 - (c) Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
 - (d) Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (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	\$40
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$40
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$40
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$40

B. 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 \$500 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

190-3 Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption:

- 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.
- 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.

190-4 Enforcement.

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

Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to: First Offense – Replacement trees required, per chart plus 25%, rounded to the nearest whole

number. Planted within three months. Or pay the replacement fee in lieu of planting plus 25%.
Second Offense – Replacement trees required, per chart plus 50%, rounded to the nearest whole number. Planted within three months. Or pay the replacement fee in lieu of planting plus 50%.

SECTION II

All Ordinances or parts of Ordinances inconsistent herewith are repealed to the extent of such inconsistency. The Clerk of the Borough is authorized to renumber and/or re-codify any sections affected by such repeal to the extent consistent with this Ordinance.

SECTION III

If any word, phrase, clause, sections, or provision of this Ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the Ordinance and the remainder of the Ordinance shall remain in full force and effect.

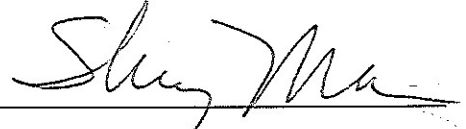
SECTION IV

This Ordinance shall take effect upon publication thereof after final passage according to law.

CERTIFICATION

I, Sherry Mason, RMC, Municipal Clerk of the Borough of Beach Haven, do hereby certify that the foregoing Ordinance was duly adopted by the Borough Council of the Borough of Beach Haven at a public meeting held on the 10th day of June 2024, a quorum being present and voting in the majority.

IN WITNESS WHEREOF, I have hereunto set my hand an official seal this 10th day of June 2024.



Sherry Mason, RMC, Borough Clerk

<i>Introduction:</i>	<i>May 13, 2024</i>
<i>First Publication:</i>	<i>May 23, 2024</i>
<i>Adoption:</i>	<i>June 10, 2024</i>
<i>Second Publication:</i>	<i>June 20, 2024</i>
<i>Effective Date:</i>	<i>June 30, 2024</i>

Appendix A

Approved list of Replacement tree Species and Planting Standards for BEACH HAVEN, OCEAN COUNTY

Tree Species	Planting Season
Cedar	May/October
Pine	May/October
Crepe Myrtle	Late spring or early fall
Red Maple	Late spring or early fall
Swamp Maple	Late spring or early fall
Russian Olive	Late spring or early fall

Planting Procedures

1. Ensure trunk flare is partially visible after the tree is planted.
2. Dig a shallow, broad planting hole, 2-3 times wider than the root ball, but only as deep as the root ball.
3. Uncover root ball and remove all wire or rings.
4. Lift tree into hole by root ball, not the trunk.
5. Ensure the tree is straight.
6. Gently fill in the hole, firmly pack soil around the base to stabilize it and eliminate air pockets. Do not fertilize at planting.
7. Staking may be required when planting bare root stock or at windy sites, however is not normally recommended. Remove stakes after one year of growth.
8. Place a 2-3 inch layer of mulch at the base but allow for a 1-2 inch wide mulch-free area to reduce moist bark and decay.
9. Keep soil moist, water once per week, continue into mid-fall.