

TOWN OF BOONTON

ORDINANCE 17-24

AN ORDINANCE, REPEALING AND REPLACING A SECTION WITHIN THE TOWN CODE OF THE TOWN OF BOONTON, PART II GENERAL LEGISLATION, CHAPTER 281, TREES

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BOONTON, COUNTY OF MORRIS, STATE OF NEW JERSEY, THAT CHAPTER 281, TREES, IS REPEALED IN ITS ENTIRETY AND REPLACED AS FOLLOWS:

SECTION ONE.

Chapter 281, Trees, within the Town Code of the Town of Boonton is hereby repealed in its entirety and replaced as follows:

Chapter 281, Tree Removal-Replacement Ordinance

Purpose: To promote tree growth in the Town by protecting trees on public property, requiring tree replacement as specified, and by collecting data on the number of trees removed in the Town.

§281-1. Regulated Tree Removal:

I. Public Property.

A. Required permission

- (1) No person shall plant a tree or cut, prune, remove, treat, spray, damage, kill or otherwise deliberately adversely affect the health of any street tree or tree upon Town-owned property without the prior written consent of the Superintendent of Public Works.
- (2) Utility companies operating within the Town of Boonton shall have the right to remove trees without prior approval of the Superintendent when an emergency exists and when obtaining prior approval is not practical. In such case, notification shall be provided no more than five (5) calendar days after removal. At all times, said utilities shall have the right to trim trees when reasonably required for the purpose of ensuring continuous electric or telephone utility service or to avoid danger to the public or electric or telephone utility personnel or equipment.

B. Planting and tree removal within the public rights-of-way and upon Town-owned property shall be performed by or under the supervision of the Department of Public Works.

II. Private Property.

A. Required notification

- (1) No person shall remove any tree without notifying the Town of Boonton Code Enforcement in accordance with the following:
 - a. Notification by application shall be submitted to the Zoning Officer;
 - b. Notification shall be provided not less than five (5) calendar days before removal;
 - c. In an emergency event to avoid danger to health or property and when obtaining prior approval is not practical, notification shall be provided no more than five (5) calendar days after removal.

B. Required permission

- (1) No person shall apply for any application to the Planning Board, Board of Adjustment, or any zoning review without submitting a tree removal and replacement plan consisting of:
 - a. a property survey that indicates the number, location, species, and trunk diameter of all trees on the property;
 - b. identification of trees proposed for removal;
 - c. a plan for proposed replacement of removed trees;
- (2) Removal of ten (10) or more trees shall require approval by the Planning Board;
- (3) No Planning Board application shall be deemed complete without the above components;
- (4) No tree shall be removed until the reviewing authority has provided written consent.

§281-2 Tree Replacement Requirements

I. Applicability

A. Affected persons

- (1) Any person subject to tree replacement in accordance with **§281-1.II.A** shall be required to replace each individual tree removed in accordance with the requirements below or, when no suitable replacement location exists, pay a fee for each removed tree into a tree fund for usage as noted below.
 - a. The reviewing authority may reduce the replacement requirement based on hardship and/or adherence to the Town of Boonton Master Plan.

II. Standards

A. Required replacement

- (1) Replacement trees shall:
 - a. Be a live tree of a minimum diameter of 1.5 inches;
 - b. Be located on the same property as the tree removed;
 - c. Be planted within twelve (12) months of the date of removal of the original tree(s);
 - d. Be replaced as needed within twelve (12) months;
 - e. Be of species American Elm, Swamp White Oak, White Oak, Black Oak, Red Maple, Silver Maple, Eastern Redbud, Tulip Tree, Dogwood, American Holly, Mountain Holly, Eastern White Pine, Chokecherry, or other approved native tree species with the written consent of the Zoning Officer.

B. Required payment

- (1) If the reviewing authority determines no suitable location exists on the subject property, the subject property owner shall be required to pay a fee to the Town which shall:
 - a. Place the fee in a fund which shall only be used for the planting and care of trees on municipal property or;
 - b. Which may be used for the planting of replacement trees on private properties adjoining the subject property;
 - i. At the written request of property owners of parcels adjoining the subject property;
 - ii. In accordance with all applicable requirements of Section II above;
 - iii. Upon written determination by the Zoning Officer;
 - c. Be determined by the Zoning Officer based upon the size and location of the removed trees and of an amount not less than the cost to replace each tree removed.

§281-3 Exceptions

- A. Appeals for exemption from §281-1, Section I may be made in writing by the Superintendent of Public Works to the Town Council.
- B. Appeals for exemption from §281-1, Sections II & III may be made by the owner or owner's agent to the Zoning Officer.

§281-4 Enforcement:

This ordinance shall be enforced by the Superintendent of Public Works and the Town of Boonton Zoning Officer, respective to public and private properties, or other authorized designee as approved by the Town Administrator.

§ 281-5 Violations and penalties.

Any person who violates any provision of this chapter may be punished as provided in Chapter 1, Article III, General Penalty, and each tree removed or damaged in violation of this chapter may be deemed a separate offense.

§281-6 Severability.

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

§ 281-7 Effective Date.

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

SECTION TWO. All Ordinances of the Town of Boonton which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION THREE. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION FOUR. This Ordinance shall take effect immediately upon final passage, approval and publication as provided by law.

SECTION FIVE. This Ordinance may be renumbered for purposes of codification.

INTRODUCED: August 19, 2024

Mayor and Town Council of the Town of Boonton
in the County of Morris and State of New Jersey

ADOPTED: September 3, 2024

ATTEST:

By: _____
James Lynch, Mayor

Elizabeth Bonsiewich, Town Clerk