

**BOROUGH OF HALEDON
ORDINANCE 5-9-2024B**

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF HALEDON, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY, AMENDING CHAPTER 380 (“TREES”) TO IMPLEMENT NEW DEPARTMENT OF ENVIRONMENTAL PROTECTION REGULATIONS TO THE BOROUGH’S REVISED GENERAL ORDINANCES

WHEREAS, the Borough of Haledon (“Borough”) is a municipal corporations organized and operating under the laws of the State of New Jersey; and

WHEREAS, the Borough adopted new stormwater control regulations and codified same in the Borough Code; and

WHEREAS, the New Jersey Department of Environmental Protection (DEP) has enacted certain regulations and standards with respect to tree removal and replacement; and

WHEREAS, the Borough of Haledon desires to comply with the updated DEP regulations by adopting this Ordinance;

WHEREAS, the Borough of Haledon had previously enacted certain regulations related to the trees and has determined that certain changes are necessary to properly effectuate those regulations;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Haledon, County of Passaic, State of New Jersey, Sections 380-1 through 380-6 are deleted in their entirety and replaced in full by the following:

Chapter 380 - Trees

380-1 Purpose.

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

380-2 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" 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 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 of

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, or association.

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 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.

380-3 Regulated Activities.

A. Application Process:

1. Any person planning to remove a street tree with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to Borough of Haledon. No tree shall be removed until municipal officials have reviewed and approved the removal.

2. For any development where more than 10 trees as defined above are to be removed, a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees

3. The species type and diversity of replacement trees shall be in accordance with the most recent list of native trees published by the New Jersey Department of Environmental Protection which shall be listed by the Borough in 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	\$ _____
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$ _____
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$ _____
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$ _____

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

- 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.

380-5 Enforcement.

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

380-6 Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$2,000 per day of violation.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. Ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency; and
2. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portion of the Ordinance; and
3. Except as hereby amended, the Code of the Borough of Haledon shall remain in full force and effect.
4. This Ordinance shall take effect twenty days after final passage and publication in accordance with law.

INTRODUCED: 5-9-2024

PASSED: 6-13-2024