



**BOROUGH OF MILLTOWN  
ORDINANCE 24-1544**



**Ordinance to Amend Chapter XXXIV, Comprehensive Development, of the Revised General Ordinances of the Borough of Milltown, County of Middlesex, State of New Jersey, to Delete Chapter 19, Protection of Trees, and Add Section 34-36 Tree Removal and Replacement**

**NOW, THEREFORE, BE IT ORDAINED** by the Borough of Milltown of the County of Middlesex and State of New Jersey that the Chapter XIX, Protection of Trees of the Revised General Ordinances of the Borough of Milltown be deleted; and

**NOW, THEREFORE, BE IT ORDAINED** by the Borough of Milltown of the County of Middlesex and State of New Jersey that the Chapter XXXIV, Comprehensive Development of the Revised General Ordinances of the Borough of Milltown be amended as follows:

**Section 1.** Chapter XXXIV, Comprehensive Development, of the Revised General Ordinances of the Borough of Milltown, is hereby amended to add the following:

**§ 34-36. TREE REMOVAL AND REPLACEMENT.**

**§ 34-36.1. Purpose.** An ordinance to establish requirements for tree removal and replacement in the Borough of Milltown to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**§ 34-36.2. 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.

**APPLICANT**

Shall mean any "person," as defined below, who applies for approval to remove trees regulated under this Section.

**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")**



**BOROUGH OF MILLTOWN  
ORDINANCE 24-1544**



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.

**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.

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

**LICENSED TREE EXPERT OR LTE**

Shall mean an individual who is licensed to provide tree expert services pursuant to N.J.S.A. 45:15C-11, et seq. (or any successor statute thereto).

**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 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.

**RESIDENT**

Shall mean an 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 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.



**BOROUGH OF MILLTOWN  
ORDINANCE 24-1544**



**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.

**§ 34-36.3. 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 Zoning Officer. No tree shall be removed until municipal officials have reviewed and approved the removal. For larger scale clearing projects, the Zoning Officer may require a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees.
2. Applicants will be subject to an application fee of \$20.00 or \$10.00 per tree, whichever is greater.

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 34-37.4, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under Section 34-37.4, shall be subject to the requirements of the Tree Replacement Requirements Table.



**BOROUGH OF MILLTOWN  
ORDINANCE 24-1544**



3. The species type and diversity of replacement trees shall be in accordance with a list of the types of permitted trees created by the Borough and maintained in the Office of the Borough Clerk, which may be updated as necessary from time to time
  
4. Replacement tree(s) shall:
  - i Be nursery grade and 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;
  - ii Be planted in accordance with industry standards and within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Borough;
  - iii 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
  - iv Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

**Tree Replacement Requirements Table**

<b>Category</b>	<b>Tree Removed (DBH)</b>	<b>Tree Replacement Criteria (See Appendix A)</b>	<b>Tree Replacement Fee</b>
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	\$250.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$500.00
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$750.00
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$1,000.00

c. Replacement Alternatives.



BOROUGH OF MILLTOWN  
ORDINANCE 24-1544



1. If the Borough 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:
  - i Plant replacement trees in a separate area(s) approved by the Borough.
  - ii Pay a fee of per tree removed in accordance with the foregoing table. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees by the Borough in the public rights-of-way and on public property, including open space.

**§ 34-37.4. 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 Borough by all persons claiming an exemption. Proper justification shall consist of written statements and/or photographs from a Licensed Tree Expert or a tree arborist. Such proofs shall be revised by the Zoning Officer; and if the Zoning Officer determines that additional or different proofs are necessary, the applicant will present such additional or different proofs as requested.

- 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. Note: 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 Borough;
- 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.



**BOROUGH OF MILLTOWN  
ORDINANCE 24-1544**



**§ 34-37.5. Enforcement.** This ordinance shall be enforced by the Zoning Officer during the course of ordinary enforcement duties.

**§ 34-37.6. Violations and Penalties.** Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to the violation and penalty provisions of Subsection 34-39.2 of this Chapter; but in no event shall the amount be less than the amount of the required replacement tree(s) and cost of planting.

**Section 2.** Each clause, section or subsection of the ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

**Section 3.** All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency.

**Section 4.** This ordinance shall take effect immediately upon adoption and publication according to law; and as otherwise provided by for by law.


**Ordinance # 24-1544**

Ordinance to Amend Chapter XXXIV, Comprehensive Development, of the Revised General Ordinances of the Borough of Milltown, County of Middlesex, State of New Jersey, to Delete Chapter 19, Protection of Trees, and Add Section 34-36 Tree Removal and Replacement

ROLL CALL VOTE	Motion	Second	Aye	Nay	Abstain	Absent
Council President Revolinsky	X			X		
Councilman Collins		X	X			
Councilman Manco			X			
Councilman Posnansky			✓			
Councilman Potter			X			
Councilman Zambrana			X			
Mayor Murray (tie-breaker)						
Introduction Date	June 24, 2024					
Publication Date	June 28, 2024					

  
 \_\_\_\_\_  
 Monica Orlando, Borough Clerk


ROLL CALL VOTE	Motion	Second	Aye	Nay	Abstain	Absent
Council President Revolinsky	X		X			
Councilman Collins		X	X			
Councilman Manco			X			
Councilman Posnansky			X			
Councilman Potter			X			
Councilman Zambrana				X		
Mayor Murray (tie-breaker)						
Public Hearing/Adoption Date	July 31, 2024					
Publication Date	August 6, 2024					


  
 \_\_\_\_\_  
 Monica Orlando, Borough Clerk

Approved by the Mayor on this date:

\_\_\_\_\_  
 August 1, 2024

Attest:

  
 \_\_\_\_\_  
 Monica Orlando, Borough Clerk

  
 \_\_\_\_\_  
 George Murray, Mayor