

**AN ORDINANCE TO AMEND CHAPTER 289 IN REGARD TO
TREE REMOVAL AND REPLACEMENT**

WHEREAS, the Mayor and Township Committee recognize that trees play a critical, often overlooked, role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects; and

WHEREAS, the Mayor and Township Committee wish to establish community-wide regulations to control tree removal and replacement in Pennsauken Township to ensure that permittees for tree removal and replacement are considering these undervalued assets in their stormwater management efforts.

NOW, THEREFOR, BE IT ORDAINED, by the Township Committee of the Township of Pennsauken, County of Camden, State of New Jersey, that the code of the Township of Pennsauken is hereby amended regarding tree removal and replacement:

SECTION I. Purpose:

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

SECTION II. 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 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.
1. Has an infectious disease or insect infestation;
 2. Is dead (more than 75%) 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.

SECTION III. Regulated Activities:

A. Tree Removal Application Process:

1. Any person planning to remove a street tree, as defined as Tree removal, 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 the Planning and Zoning Office. There is no cost for a resident application. Commercial property owners will have a permit cost of \$100. No tree shall be removed until municipal officials have reviewed and approved the removal. For larger scale clearing projects, the Township, in the discretion of the Planning and Zoning Office, may require a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees.
2. Any person may hire a Tree removal company subject to the following:
 - a. Companies that are contracted to perform the above tree removal services must have the following:
 - i. Proof of insurance;
 - ii. Certification of a licensed tree expert of license tree care operator;
 - b. In addition, tree removal companies must register with the Pennsauken Building Department at an annual fee of \$100.
3. Performing tree removal services without proper registration shall result in a \$500 fine for the company for each instance. Tree removal companies, residents and commercial property owners are prohibited from placing Tree waste that is greater than 2 feet in length and/or weighing more than 50 pounds at the curbside. The penalty for violation of this condition would be subject to the cost for labor, equipment and removal assessed by DPW as well as a fine of \$1,250.

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 IV, shall replace the trees in accordance with the species type and diversity of replacement trees on the prescribed list found on the NJ Tree Foundation Website: www.njtreefoundation.org.
2. Any person, who removes three more tree(s), as defined as Tree Removal, with a DBH of 6” or more per acre, unless otherwise detailed under Section IV, shall replace the trees in accordance with the species type and diversity of replacement trees on the prescribed list found on the NJ Tree Foundation Website: www.njtreefoundation.org.
3. All Replacement Tree(s) shall:

- a. Be replaced in kind with a tree that has an equal or greater DBH than tree removed; and
- 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; and
- 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.

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 municipality.
 - b. Pay a fee of \$175 for residents and \$300 for commercial property owners per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. 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. Proof of proper justification may include photos or statements from a New Jersey Licensed Tree Expert pursuant to New Jersey Statute 45:15C-11, or a tree arborist. Such proofs of proper justification shall be reviewed by the Planning and Zoning Office. If in the discretion of the Planning and Zoning office additional or different proofs are necessary, the applicant will present such additional or different proofs as requested.

- A. Residents who remove less than three (3) trees per acre;
- 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.

SECTION V. Enforcement:

This ordinance shall be enforced by the Planning and Zoning Office, Property Maintenance Department and Department of Public Works during the course of ordinary enforcement duties.

SECTION VI. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a minimum fine of \$175.00 up to a maximum of \$1,250.00, but in no event shall such fine be less than the amount of the required replacement tree(s) and cost of planting.

SECTION VII. 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.

SECTION VIII. Repealer, Severability, and Effective Date:

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. The fines and penalties established within this Ordinance shall be considered cumulative, and not superseding, as a remedy available to the Township in addition to those which may also apply under any other applicable Township ordinance, or other applicable local, county, or State law or regulation.

D. This Ordinance shall become effective immediately upon adoption and publication in the manner prescribed by law.

TOWNSHIP OF PENNSAUKEN

Pamela Scott-Forman, RMC
TOWNSHIP CLERK

STATEMENT

Notice is hereby given that the foregoing proposed Ordinance was introduced by the Township Committee of the Township of Pennsauken, Camden County, New Jersey at its meeting open to the public, on Thursday, April 4, 2024 and a public hearing upon the said Ordinance will be conducted by the Township Committee at a meeting on Thursday, April 18, 2024 at 6:00 p.m. open to the public. During the week prior and up to including the date of such meeting, copies of the full ordinance will be mailed at no cost via an email pforman@pennsauken.gov or phone call 856-665-1000 x124 request, to the Pennsauken Township's Clerk office for the members of the general public who shall request the same.

4856-5161-8227, v. 1