

TOWNSHIP OF PEQUANNOCK

ORDINANCE NO. 2024-05

AN ORDINANCE AMENDING CHAPTER 330 OF THE CODE OF THE TOWNSHIP OF PEQUANNOCK AND ESTABLISHING TREE REMOVAL AND REPLACEMENT REQUIREMENTS

BE IT ORDAINED by the Township Council of the Township of Pequannock, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 330, "Trees", of the Revised General Ordinances of the Township of Pequannock, shall be amended by the inclusion of new Article II "Tree Removal and Replacement" which shall read, in its entirety, as follows:

ARTICLE 11

TREE REMOVAL AND REPLACEMENT

330-6. Purpose

The purpose of this Article is to establish requirements for tree removal and replacement in the Township of Pequannock in order to comply with the NJDEP Tier A MS4 permit renewal requirements established by the State of New Jersey.

330-7. 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 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.);
 5. Is determined to be a threat to public health, safety, and/or welfare by a licensed Landscape Architect, certified arborist, Licensed Tree Expert (LTE) or Licensed Tree Care Operator (LTCO).
- E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.
- F. "Planting strip" mean the area within the public right-of-way between the abutting property line and the curb or edge of pavement, 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 within the public right-of-way. This also includes trees planted within shade tree easements. The removal of street trees is governed by the regulations of the Shade Tree Commission as set forth in Chapter 5.
- 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.

330-8. Regulated Activities

A. Application Process

Review and approval of any tree removal shall be required as part of any subdivision or site plan application before a Land Use Board, or any Major Development as defined in Chapter 308 - Stormwater Management Regulations of the Township Code. Removal of street trees shall be regulated by the Shade Tree Commission as set forth in Chapter 5.

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 330-9, shall be subject to the requirements of the Tree Replacement Requirements Table below.

2. Any person who removes one or more tree(s), unless exempt, as defined as Tree removal, with a DBH of 6” unless otherwise detailed under Section 330-9, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with a list of approved trees and planting requirements kept on file in the Public Works Department

Replacement tree(s) shall:

- a. Be replaced in kind with a tree that meets 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. The applicant shall post a bond 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)
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:

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 per tree removed in accordance with the formula set forth in Chapter 5. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

330-9. Exemptions:

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

- A. The removal of less than four (4) trees that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table from a single lot 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.
- H. Street Trees which shall not be removed except in accordance with the Shade Tree Commission regulations as established in Chapter 5 Article VI.

330-10 Enforcement:

This ordinance shall be enforced by the Department of Public Works during the course of ordinary enforcement duties.

330-11 Violations and Penalties

Any person who violates or who fails or refuses to comply with the provisions of this article shall be subject to a fine of not less than \$50 nor more than \$1,000 and/or any other penalty that is consistent with Chapter 74, Violations and Penalties, of the Municipal Code for each offense.

Section 2. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Introduced: February 13, 2024

Adopted: February 27, 2024

Carol J. Marsh, Township Clerk

Ryan Herd, Mayor