

First Reading:	06-06-2024
Publication:	06-13-2024
Second Reading:	06-20-2024
Publication:	06-27-2024

**ORDINANCE NO. 2785**

**AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF THE BOROUGH OF ROSELLE PARK ENTITLED, "TREES," ESTABLISHING A NEW SECTION 2 AS MANDATED BY THE NJDEP ENTITLED, "PRIVATE TREE REMOVAL AND REPLACEMENT"**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Roselle Park, County of Union and State of New Jersey that Section 2 of Chapter 26 of the Code of the Borough of Roselle Park be and hereby is established as follows:

**SECTION 1.** Adoption of Model Stormwater Control Regulations Promulgated by NJDEP

**§ 26-2 PRIVATE TREE REMOVAL AND REPLACEMENT.**

**§ 26-2.1 PURPOSE.**

Pursuant to the requirements of the New Jersey Department of Environmental Protection, this Section shall establish requirements for tree removal and replacement in Borough of Roselle Park on private property, to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**§ 26-2.2 DEFINITIONS.**

For the purpose of this Section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Section 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 Section.
- 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.); 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 an 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 chapter 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.**

**§ 26-2.3 REGULATED ACTIVITIES.**

- a. **Application Process:**

1. Any person planning to remove any non-street tree with a with a DBH of 6” or more shall submit a Tree Removal Application to the Borough of Roselle Park Department of Code Enforcement. No non-street tree shall be removed until municipal officials have reviewed and approved the removal.
2. Nothing in this Section shall alter the site plan requirements, including application, review, and approval processes, as provided in Part II of § 40.
  - (a) No person shall be permitted to remove a street tree of any size unless explicitly authorized by the municipality through the site plan approval processes in Part II of § 40.

**b. Tree Replacement Requirements.**

1. Any person, who removes a tree, as defined by this Section as tree removal, with a DBH of 6” or more shall be subject to the requirements of the Tree Replacement Requirements Table within this Section. The species type, diversity, and planting standards for replacement trees shall be in accordance with the list kept on file with the Borough of Roselle Park Department of Code Enforcement. The Roselle Park Environmental Commission shall make recommendations as to the compilation and update of such list.
2. Replacement tree(s) shall:
  - (a) Be replaced in kind with a tree that has equal or greater DBH than the tree removed, or meet the criteria in the table below;
  - (b) Be plated within twelve (12) months of the date of removal of the original tree(s) or at an alterative date specified by the Borough of Roselle Park;
  - (c) Be monitored by the applicant for the period of two (2) years to ensure their survival and shall be replaced as-needed within twelve (12) months; and,
  - (d) Shall not be plated in temporary contained or pots, as these do not count towards tree replacement requirements.
3. Tree Replacement Requirements Table:

Category	Size of Tree Removed (DBH)	Tree Replaced Criteria	Application Fee
1	DBH of 6” to 12.99”	Replant 1 tree with a minimum tree caliper of 1.5” for each tree removed	\$0.00

2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 1.5” for each tree removed	\$0.00
3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree calipers of 1.5” for each tree removed	\$0.00
4	DBH of 33” or greater	Replant 4 trees with minimum tree calipers of 1.5” for each tree removed	\$0.00

**c. Tree Replacement Alternatives.**

1. If the Borough of Roselle Park determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall pay a fee of \$250.00 per tree that would otherwise be required by the replacement criteria in the Tree Replacement Requirement Table. For example, a tree removed with a DBH of 19” would result in a total alternative fee of \$500.00, \$250.00 per required tree.

**§ 26-2.4 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 of Roselle Park by all persons claiming an exemption, which justification may be in the form of photos, or statements from New Jersey licensed tree experts (pursuant to N.J.S.A. 45:15C-11) or arborist, as deemed necessary by the reviewing Borough official:

- a. Residents who remove one tree per property that falls into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period, not including those otherwise exempted by this Section.
- 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 on file with the Borough of Roselle Park.
- 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.

**§ 26-2.5 ENFORCEMENT.**

**This Section shall be enforced by the Department of Code Enforcement.**

**§ 26-2.6 VIOLATIONS AND PENALTIES.**

**Any person who is found to be in violation of the provisions of this Section shall be subject to a fine of \$250.00 per tree removed.**

**SECTION 2. Invalidity**

If any section or portion of a section of this Code shall be invalid for any reason, such invalidity shall not affect the validity of the remaining sections or portions of this Ordinance.

**SECTION 3. Inconsistent Ordinances Repealed.**

All Ordinances or parts of Ordinances, to the extent that they are inconsistent herewith, are hereby repealed.

**SECTION 4. Captions.**

Captions contained in this Ordinance have been included only for the purpose of facilitating reference to the various sections and are not intended and shall not be utilized to construe the intent and meaning of the text of any section. Likewise, all strike through text, ~~thusly~~, should be considered a deletion from Borough Code, and all bolded text, **thusly**, should be considered an addition to Borough Code.

**SECTION 5. Effective Date.**

This Ordinance shall become effective upon publication of the Notice of Final Adoption prepared by the Office of the Borough Clerk.

Introduction: June 6, 2024

Adoption: June 20, 2024

Attest: \_\_\_\_\_  
Andrew J. Casais, RMC  
Borough Clerk

\_\_\_\_\_  
Joseph Signorello III  
Mayor

Record of Vote – Introduction				
	Aye	Nay	Abstain	Absent
Petrosky	X			
Johnson	X			
Signorello	X			
Robaina	X			
Lyons	X			
Patel	X			

Record of Vote – Adoption				
	Aye	Nay	Abstain	Absent
Petrosky	X			
Johnson				X
Signorello	X			
Robaina	X			
Lyons	X			
Patel	X			

Copy To: **Richard Belluscio (Construction Official), Neglia Group (Special Projects Engineer), Colliers Engineering (Borough Engineer), CME Associates (Municipal Planner), Tim Coakley (Chairman, Roselle Park Environmental Commission)**