

TOWNSHIP OF ROCHELLE PARK

ORDINANCE NO. #1204-24

AN ORDINANCE TO AMEND CHAPTER 31 OF THE CODE OF THE TOWNSHIP OF ROCHELLE PARK ENTITLED “PUBLIC WORKS, SUPERINTENDENT OF” TO ADD SUBSECTION 31-6 “TREE REMOVAL AND REPLACEMENT.”

WHEREAS, Chapter 31 of the Code of the Township of Rochelle Park creates and regulates the Superintendent of the Department of Public Works; and

WHEREAS, Section 31-5 establishes the Division of Shade Trees under the direction of the Superintendent of the Department of Public Works; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township of Rochelle Park to revise the above chapter to include a new subsection to control and regulate the removal and replacement of trees within the Township; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ROCHELLE PARK, COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

SECTION ONE:

Chapter 31 is amended to add the following new subsection:

Section 31-6 Tree Removal and Replacement

- A. **PURPOSE.** This ordinance establishes requirements for tree removal and replacement in the Township of Rochelle Park to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

- B. **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.

- (1) “Applicant” means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.
- (2) “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’.
- (3) “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.
- (4) “Hazard Tree” means a tree or limbs thereof that meet one or more of the criteria below as determined within the sole discretion of the DPW Superintendent or his/her designee: (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 (LTE).
- (5) “Person” means any individual, resident, corporation, utility, company, partnership, firm, or association.
- (6) “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.
- (7) “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.

- (8) “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.
- (9) “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.
- (10) “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.
- (11) “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.

C. REGULATED ACTIVITIES:

(1) Optional Application Process:

- (a) 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 DPW Superintendent or his/her designee. No tree shall be removed until the DPW Superintendent or his/her designee have reviewed and approved the removal. For larger scale clearing projects, municipalities may choose to require a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees. Applicants will be subject to an application fee as per the Table below.
- (b) In the event the DPW Superintendent or his/her designee approves an applicant’s request to remove a tree on Township property, the applicant shall be required to pay for the tree removal in addition to other fees and requirements of this Section.

(2) Tree Replacement Requirements

- (a) Any person who removes one or more street tree(s) with a DBH of 2.5” or more, unless exempt under Section D, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- (b) Any person who removes one or more tree(s), as defined as Tree removal, with a DBH of 6” or more per acre, unless otherwise detailed under Section D, 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 **Appendix A.***

(c) Replacement tree(s) shall:

- i. 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;
- ii. 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;
- 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:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee <i>Township may amend fees in this section at any time</i>
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	\$50.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$100.00
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$200.00
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$250.00

(3) Replacement Alternatives:

- (a) 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:
 - i. Plant replacement trees in a separate area(s) approved by the municipality.
 - ii. Pay a fee of \$350.00 per tree removed. This fee shall be placed into a Township fund dedicated to tree planting & continued maintenance of trees.

D. EXEMPTIONS:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below that are exempt. Proper justification for an exemption shall be provided, in writing, to the DPW Superintendent or his/her designee by all persons claiming an exemption. The Township shall define what “proper justification” by photos or statements from a NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist.

- (1) Residents who remove less than four (4) trees per acre that fall into categories 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [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.]
- (2) Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- (3) 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;
- (4) 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.
- (5) 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;
- (6) Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- (7) Hazard trees may be removed with no fee or replacement requirement.

E. ENFORCEMENT:

This ordinance shall be enforced by Township Code Enforcement and/or the DPW Superintendent or his/her designee.

F. 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 up to \$1,000 per tree. However, in no event shall the fine be less than the amount of the required replacement tree(s) and cost of planting. The Code Enforcement Officer and/or the DPW Superintendent or his/her designee may (in their sole discretion) require the planting of additional trees in lieu of or in addition to a fine.

Appendix A

Approved list of Replacement tree Species and Planting Standards for the Township of Rochelle Park

The following is a list of species considered suitable for tree planting within the Township. This list may be revised in the sole discretion of the Township at any time, as new species or cultivars become available and/or as experience indicates the good or poor performance of some species, and/or as other issues such as hazardous or disease arise.

LARGE SHADE TREES SUITABLE FOR PLANTING WITHIN THE TOWNSHIP

Tree Species	Planting Season	Planting Procedure soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc.
Acer Rubrum (Red maple)	September 1 – Nov 30 March 1 – May 31	All planting must be in accordance with the procedures outlined by the state of New Jersey found at the official state website: NJ.GOV http://www.NJ.GOV
Acer Saccharum (Sugar maple)		
Acer x Freemonti (Freemont hybrid maple)		
Betula nigra (Rich birch)		
Carya spp (Hickory)		
Celtis occidentalis (Hackberry)		
Fagus spp (Beech)		
Gleditsia triacanthos inermis (Thornless Honeylocust)		
Gymnocladus dioicus (Kentucky coffeetree)		
Halesia spp (Silverbell)		
Juglans nigra (Black walnut)		
Liquidambar styraciflua (Sweetgum)		
Liriodendron tulipifera (Tulip poplar)		
Nyssa sylvatica (Sourgum, black tupelo)		
Platanus occidentalis (Sycamore)		
Quercus imbricaria (Shingle oak)		

Quercus bicolor (Swamp white oak)		
Quercus phellos (Willow oak)		
Quercus macrocarpa (Bur oak)		
Tilia americana (Linden)		
Ulmus Americana (American elm, DED resistant varieties)		

MEDIUM-SIZE SHADE TREES SUITABLE FOR PLANTING

Tree Species	Planting Season	Planting Procedure soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc.
Carpinus carolinianum (American hornbeam)	September 1 – Nov 30 March 1 – May 31	All planting must be in accordance with the procedures outlined by the state of New Jersey found at the official state website: NJ.GOV http://www.NJ.GOV
Cladrastrus kentuckea (Yellowwood)		
Magnolia cultivars (Magnolia salt tolerant)		
Ostrya virginiana (Hophornbeam)		
AM Elanchier (Serviceberry)		
Cercis canadensis (Eastern redbud)		
Cornus Florida (Dogwood)		

PROHIBITED TREES

Tree Species	Planting Season	Planting Procedure (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc)
No Pyrus (flowering pear-invasive alien)	None	None
No ash due to Emerald Ash Borer (EAB)		
No oaks in the red group due to Bacterial leaf scorch (BLS)		
No Acer platanoides (Norway maple – invasive alien)		

SECTION TWO. **Repealer:**

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

SECTION THREE: **Severability:**

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION FOUR: **Effective Date:**

This Ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.

ATTEST:

ANNEMARIE WELLS
Acting Municipal Clerk
