

BOROUGH OF ROCKY HILL
ORDINANCE NUMBER 2024-10

ORDINANCE REGULATING
“TREE REMOVAL-REPLACEMENT” BY THE BOROUGH OF ROCKY
HILL IN ACCORDANCE WITH MANDATES FROM NEW JERSEY’S
DEPARTMENT OF ENVIRONMENTAL PROTECTION.

CHAPTER XX
TREE REMOVAL-REPLACEMENT ORDINANCE

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Borough of Rocky Hill 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. [Municipalities may choose to require a Licensed Tree Expert to make all Hazard tree determination]

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 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:

[Application review and approval can be conducted along with existing business practices and permit application review such as, but not limited to, site plan approvals, building permit approvals, planning board application approval, etc. A separate application process is not required, but the Department has included sample language below for municipalities that prefer to do so.]

A. Optional 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 Rocky Hill Zoning Officer. No tree shall be removed until municipal officials have reviewed and approved the removal.

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 be subject to the requirements of the Tree Replacement Requirements Table below.
2. 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 IV, 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

Replacement tree(s) shall:

1. 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;
2. 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;
3. 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
4. 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
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	<i>No Fee</i>
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 1.5” for each tree removed	<i>No Fee</i>

3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree calipers of 1.5” for each tree removed	\$25.00
4	DBH of 33” or greater	Replant 4 trees with minimum tree calipers of 1.5” for each tree removed	\$50.00

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 (amount to be set by municipality) 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 **[the municipality shall define what “proper justification” is such as photos or statements from NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist.]:**

- A. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- B. 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;
- C. 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.

- D. 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;
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- F. Hazard trees may be removed with no fee or replacement requirement.

SECTION V. Enforcement:

This ordinance shall be enforced by the Borough of Rocky Hill Zoning Officer 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 fine of \$300.00 per tree or planting of additional trees.

SECTION VIII. 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. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced and passed on first reading on April 8, 2024, at a meeting of the Borough Council of the Borough of Rocky Hill and will be taken up for final consideration and passage at a regularly scheduled meeting of the Mayor and Borough Council of

the Borough of Rocky Hill to be held on May 13, 2024, at 7:00PM, or as soon thereafter as the matter may be reached, to be held at the Borough of Rocky Hill Municipal Building 15 Montgomery Avenue Rocky Hill, New Jersey 08553

Copies of said Ordinance are at the office of the Rocky Hill Borough Municipal Clerk 15 Montgomery Avenue Rocky Hill, NJ 08553, and posted on the Borough website.

ROBERT UHRIK, MAYOR

ATTEST:

REBECCA NEWMAN, RMC
MUNICIPAL CLERK

Introduction:
Public Hearing:
Adoption:
Publication:

Appendix A

Approved list of Replacement tree Species and Planting Standards for Rocky Hill Borough

**Note: Source = The Native plant Society of New Jersey “Native plants list”
List of Native Trees and Tall Shrubs by County – Somerset County list**

Scientific Name	Common Name
Acer negundo	boxelder
Acer nigrum	black maple
Acer pensylvanicum	striped maple
Acer rubrum	red maple
Acer saccharinum	silver maple
Acer saccharum	sugar maple
Acer spicatum	mountain maple
Aesculus parviflora	bottlebrush buckeye
Alnus incana	gray alder
Alnus serrulata	hazel alder
	common
Amelanchier arborea	serviceberry
Amelanchier canadensis	Canadian serviceberry
Amelanchier laevis	Allegheny serviceberry
Aralia spinosa	devil's walkingstick
Baccharis halimifolia	eastern baccharis
Betula alleghaniensis	yellow birch
Betula lenta	sweet birch
Betula nigra	river birch
Betula populifolia	gray birch
Carpinus caroliniana	American hornbeam
Carya alba	mockernut hickory
Carya cordiformis	bitternut hickory
Carya glabra	pignut hickory
Carya ovalis	red hickory
Carya ovata	shagbark hickory
Castanea dentata	American chestnut
Catalpa bignonioides	southern catalpa
Celtis occidentalis	common hackberry

Scientific Name	Common Name
Cephalanthus occidentalis	buttonbush
Cercis canadensis	eastern redbud
Chionanthus virginicus	white fringetree
Cornus alternifolia	alternatleaf dogwood
Cornus florida	flowering dogwood
Cornus rugosa	roundleaf dogwood
Cornus sericea	redosier dogwood
Corylus cornuta	beaked hazelnut
Crataegus crus-galli	cockspur hawthorn
Crataegus intricata	Copenhagen hawthorn
Crataegus phaenopyrum	Washington hawthorn
Crataegus punctata	dotted hawthorn
Crataegus uniflora	dwarf hawthorn
Diospyros virginiana	common persimmon
Fagus grandifolia	American beech
Fraxinus americana	white ash
Fraxinus pennsylvanica	green ash
Gleditsia triacanthos	honeylocust
Hamamelis virginiana	American witchhazel
Ilex laevigata	smooth winterberry
Ilex opaca	American holly
Ilex verticillata	common winterberry
Juglans cinerea	butternut
Juglans nigra	black walnut
Juniperus virginiana	eastern redcedar
Kalmia latifolia	mountain laurel
Lindera benzoin	northern spicebush
Liquidambar styraciflua	sweetgum
Liriodendron tulipifera	tuliptree
Maclura pomifera	osage orange
Magnolia virginiana	sweetbay
Malus coronaria	sweet crab apple

Scientific Name	Common Name
Morella pensylvanica	northern bayberry
Morus rubra	red mulberry
Nyssa sylvatica	blackgum
Ostrya virginiana	hophornbeam
Pinus rigida	pitch pine
Pinus strobus	eastern white pine
Pinus virginiana	Virginia pine
Platanus occidentalis	American sycamore
Populus grandidentata	bigtooth aspen
Populus tremuloides	quaking aspen
Prunus americana	American plum
Prunus pensylvanica	pin cherry
Prunus serotina	black cherry
Prunus virginiana	chokecherry
Ptelea trifoliata	common hoptree
Quercus xheterophylla	
Quercus alba	white oak
Quercus bicolor	swamp white oak
Quercus coccinea	scarlet oak
Quercus ilicifolia	bear oak
Quercus palustris	pin oak
Quercus prinus	chestnut oak
Quercus rubra	northern red oak
Quercus velutina	black oak
Rhododendron maximum	great laurel
Rhus copallinum	winged sumac
Rhus glabra	smooth sumac
Robinia hispida	bristly locust
Robinia pseudoacacia	black locust
Robinia viscosa	clammy locust
Salix discolor	pussy willow
Salix eriocephala	Missouri River willow
Salix lucida	shining willow
Salix nigra	black willow
Salix sericea	silky willow

Scientific Name	Common Name
Sassafras albidum	sassafras
Staphylea trifolia	American bladdernut
Tilia americana	American basswood
Tsuga canadensis	eastern hemlock
Ulmus americana	American elm
Ulmus rubra	slippery elm southern
Viburnum dentatum	arrowwood
Viburnum lentago	nannyberry
Viburnum prunifolium	blackhaw