

**ORDINANCE 2024-21**

**AN ORDINANCE OF THE BOROUGH OF SOUTH RIVER, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 319 OF THE TOWNSHIP CODE, ENTITLED "TREE REMOVAL AND WOODLAND MANAGEMENT"**

**NOW, THEREFORE, BE IT ORDAINED**, by the governing body of the Borough of South River, County of Middlesex, State of New Jersey, that Chapter 319- Tree Removal and Woodlands Management shall be amended and supplemented as follows:

**SECTION 1.** Chapter 319 of the Borough Code of the Borough of South River, entitled Tree Removal and Woodland Management, is hereby amended as supplemented to amend §319-1- Legislative Intent at add Section D to read as follows:

**§319-1 LEGISLATIVE INTENT**

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

**SECTION 2.** Chapter 319 of the Borough Code of the Borough of South River, entitled Tree Removal and Woodland Management, is hereby amended as supplemented to amend §319-3- Definitions and word usage so as to read entirely as follows:

**§319-3 DEFINITIONS**

**AESTHETIC IMPROVEMENT CUT**

The removal, to the extent possible, of the minimum number of smallest size and undesirable specimens of trees so as to permit land development while retaining the maximum number of larger and better specimens of trees.

**APPLICANT**

Means any person, as defined below, who applies for approval to remove trees regulated under this chapter.

**CLEAR CUTTING**

The removal of all standing trees on a lot or portion of a lot.

**CRITICAL ROOT RADIUS (CRR)**

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 the breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a  $CRR=6" \times 1.5"=9$ .

**DIAMETER BREAST HEIGHT**

The diameter of a tree measured at a point on the tree 4 ½ feet from ground level. This phrase may appear in this chapter as the abbreviation "DBH."

**HAZARD TREE**

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 safety, and/or welfare by a certified arborist or LTE.
- 6.

**PERSON**

Any individual, firm, copartnership, association, corporation or developer other than the Borough and public corporation.

**PLANTING STRIP**

The part of a street right-of-way between the public right-of-way adjacent to the portion of the street reserved for vehicular traffic abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

**PROFESSIONAL FORESTER**

One who has a minimum of a bachelor's od science degree in forestry from a four-year college accredited by the Society of American Foresters.

**RESIDENT**

Is an individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

**SELECTIVE CUTTING**

The removal on a selected basis while leaving other trees of various sizes and ages to meet a particular objective.

**SILVICULTURE**

The management of any forested tract of land to ensure its continued survival and welfare whether for commercial or noncommercial purposes.

**SLASH**

The forest debris remaining after a tree removal operation.

**STREET TREE**

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 planted in the planting strips within the roadway right-of-way, i.e., islands, medians, pedestrians refuges.

**SUBDIVISION**

The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered "subdivisions" within the meaning of this chapter if no new streets are created and no modifications to Borough facilities are involved: divisions of property by testamentary or intestate provisions; divisions of property upon court order, including but not limited to judgments of foreclosure deed or other recorded instrument; and the conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Maps of the Borough.

**THINNING**

The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of remaining trees on a lot.

**TREE**

Any deciduous or coniferous species which reaches a typical mature height of 10 feet and a typical mature DBH of four inches or greater. Any species not qualifying as a "tree" under this definition shall be considered a stem and shall not fall within the purview of this chapter.

**TREE CALIPER**

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.

**TREE REMOVAL**

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 3.** Chapter 319 of the Borough Code of the Borough of South River, entitled Tree Removal and Woodland Management, is hereby amended as supplemented to amend §319-9- Exemptions so as to read entirely as follows:

**§319-9 EXEMPTIONS**

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification shall be provided in writing, to the municipality by all persons claiming an exemption including photos, a detailed explanation as to why they should be exempt and any statements from a licensed tree expert as per N.J.S.A. 45:15C-11 or arborist.

- A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table 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 enhanced plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife; and
- G. Hazard trees may be removed with no fee or replacement requirement.

**SECTION 4.** Chapter 319 of the Borough Code of the Borough of South River, entitled Tree Removal and Woodland Management, is hereby amended as supplemented to amend and delete §319-14- Clear Cutting and to replace it with a new section entitled Regulated Activities so as to read entirely as follows:

**§319-14 REGULATED ACTIVITIES**

**Regulated Activities:**

- A. Any person planning to remove a street tree with a DBH of 2.5" or more or any non-street tree with a DBH of 6" or more on their property, shall submit a Tree Removal Application to the Municipal Clerk or designee. No tree shall be removed until municipal officials have reviewed and approved the removal.
- B. Tree Replacement Requirements
  - 1. Within a five-year period, any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under §319-9, shall be

subject to the requirements of the Tree Replacement Requirements Table below.

2. Any person who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under §319-9, 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 the most recent list of native trees published by the New Jersey Department of Environmental Protection which shall be listed in Appendix A.

Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than the 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	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	\$35.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of	\$35.00

		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	\$35.00
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$35.00

C. Replacement Alternatives:

If the municipality determines that some or all required trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

1. Plant replacement trees in a separate area(s) approved by the municipality in accordance with §350-28.
2. Pay a fee in accordance with §350-28 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

**SECTION 5.** Chapter 319 of the Borough Code of the Borough of South River, entitled Tree Removal and Woodland Management, is hereby amended as supplemented to amend §319-23- Violations and penalties; and additional remedies so as to read entirely as follows:

**§319-23 ENFORCEMENT; VIOLATIONS AND PENALTIES; ADDITIONAL REMEDIES**

Enforcement:

- a. This chapter shall be enforced by the South River Police Department, the South River Public Works Supervisor, and the South River Code Enforcement Officer and/or Municipal Officials of the Borough of South River, during the course of ordinary enforcement duties.
- b. Any person(s), corporation or entity who is found to be in violation of the provisions of this chapter shall be subject to a fine not exceeding two thousand dollars (\$2,000.00) or lieu of said fine be required to plant additional trees.

**SECTION 6.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 7.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

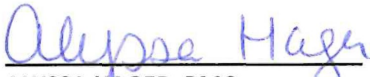
**SECTION 8.** This ordinance shall take effect after second reading and publication as required by law.

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Borough Council of the Borough of South River, in the County of Middlesex, State of New Jersey, held on April 22<sup>nd</sup>, 2024, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 13<sup>th</sup> day of May, 2024, at 7:00 p.m., or as soon thereafter as this matter can be reached, at the Council Chamber of the Criminal Justice Building located at 61 Main Street, South River, New Jersey, and/or virtually via Zoom meeting code 826 6082 9597: password: 000000 at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

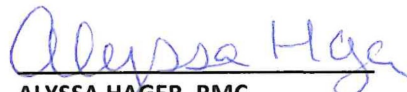
**Introduced 4-22-24**

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Balazs</i>			X			
<i>Councilman Ciulla</i>						X
<i>Councilman Dziemian</i>			X			
<i>Councilman Gurchensky</i>		X	X			
<i>Councilman Krenzel</i>			X			
<i>Council President Oliveira</i>	X		X			

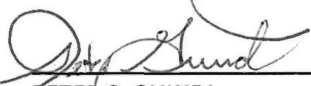
  
 ALYSSA HAGER, RMC  
 BOROUGH CLERK

**Adopted 6-10-24**


COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Balazs</i>		✓	✓			
<i>Councilman Ciulla</i>	✓		✓			
<i>Councilman Dziemian</i>			✓			
<i>Councilman Frost</i>			✓			
<i>Councilman Gurchensky</i>			✓			
<i>Council President Krenzel</i>			✓			

  
 ALYSSA HAGER, RMC  
 BOROUGH CLERK

SIGNED BY:

  
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PETER S. GUINDI

ATTESTED BY:

  
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ALYSSA HAGER, RMC