



Township Council

c/o Township Clerk
Teaneck, NJ 07666

Meeting: 05/07/24 06:30 PM

Department: Township Clerk

Category: Establish

DOC ID: 8405

ORDINANCE (ID # 8405)

Ordinance No. 8-2024 ADOPTING RULES AND REGULATIONS RELATED TO TREE REMOVAL BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #8-2024 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law and to provide the appropriate notices in accordance with law.

ADOPTING RULES AND REGULATIONS RELATED TO TREE REMOVAL

BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #8-2024 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law and to provide the appropriate notices in accordance with law.

HISTORY:

04/16/24 Township Council INTRODUCED

COMMENTS - Current Meeting:

Attorney Salmon spoke on the details of this ordinance.

- 1) Alan Sohn - spoke about the importance of trees acting as drainage mechanisms.
- 2) Howard Rose - inquired to if this regulation would affect commercial districts
- 3) Chuck Powers - suggested that the Attorney's summary had been made available should have been made available earlier.
- 4) Keith Kaplan - offered a couple clarifying points aiming to improve the ordinance.
- 5) Deborah Baliberg - offered a couple clarifying points aiming to improve the ordinance.
- 6) Eli (Not Y) Katz - offered a couple clarifying points aiming to improve the ordinance.
- 7) Sean Hirschhorn - suggested tabelling this ordinance until more input is received.
- 8) Reshma Khan - suggested tabelling this ordinance until more input is received.
- 9) Michael Klatsky - offered a couple clarifying points aiming to improve the ordinance.

Councilwoman Orgen inquired to the Attorney to address some of the concerns brought up by the Public in regards to this ordinance. Attorney Salmon responded to the various comments.

| | |
|------------------|------------------------------------------------|
| RESULT: | ADOPTED BY CONSENT VOTE [UNANIMOUS] |
| MOVER: | Michael S Pagan, Councilman |
| SECONDER: | Karen Orgen, Councilwoman |
| AYES: | Schwartz, Orgen, Pagan, Belcher, Gee, Goldberg |
| ABSENT: | Elie Y. Katz |

TOWNSHIP OF TEANECK
BERGEN COUNTY, NJ

**ORDINANCE NO. 8-2024 ADOPTING RULES AND REGULATIONS
RELATED TO TREE REMOVAL BE IT RESOLVED BY THE
TOWNSHIP COUNCIL OF THE TOWNSHIP OF TEANECK THAT
ORDINANCE #8-2024 PASS UPON SECOND AND FINAL READING
AND THAT THE TOWNSHIP CLERK IS HEREBY AUTHORIZED AND
DIRECTED TO ADVERTISE THE SAME ACCORDING TO LAW AND
TO PROVIDE THE APPROPRIATE NOTICES IN ACCORDANCE WITH
LAW.**

WHEREAS, trees play a critical, often overlooked, role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects; and

WHEREAS, the Township of Teaneck is required by the New Jersey Department of Environmental Protection to enact an ordinance that ensures that permittees such as the Township are considering these undervalued assets in their stormwater management efforts; and

WHEREAS, the 2023 Tier A MS4 permit renewal requires the Township to, at a minimum, adopt and enforce a community-wide ordinance to control tree removal and replacement for all types of properties where the municipality has jurisdiction; and

WHEREAS, the Mayor and Township Council believe that the model ordinance proposed by the Department of Environmental Protection takes reasonable steps to ensure such requirements.

NOW, THEREFORE, BE IT ORDAINED by the Township Council that:

Section 1. Article IV, "Tree Removal/Replacement," of Chapter 37, "Trees and Shrubs," of the Township Code is hereby created as follows:

**ARTICLE IV
Tree Removal/Replacement**

Sec. 37-27. Purpose:

This is an ordinance to establish requirements for tree removal and replacement in the Township of Teaneck to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

Sec. 37-28. 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.); or
 - 5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist, 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 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. The Township is the only permitted entity to remove or contract the removal of a Street Tree.

- 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.

Sec. 37-29. Regulated Activities:

A. 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 Zoning Officer. No tree shall be removed until municipal officials have reviewed and approved the removal. Applicants will be subject to an application fee as per the Table below.

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 Sec. 37-30, 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 exempt under Sec. 37-30, shall be subject to the requirements of the Tree Replacement Requirements Table.
- 3. The Department of Public Works will maintain on file a list of non-acceptable trees that may be used when determining the species type and diversity of replacement trees to be used. Replacement tree(s) shall:
 - a. 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. If multiple trees are planted to replace a larger caliper tree, at least one of

the trees planted shall be replaced in-kind with a tree having an equal or greater DBH;

- 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. 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
- d. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

| # | Tree Removed (DBH) | Tree Replacement Criteria (on file with the Dept. of Public Works) | Application Fee |
|---|-----------------------------------------------------------------------|--------------------------------------------------------------------------|-----------------|
| 1 | DBH of 2.5" (for street trees) or 6" (for non-street trees) to 14.99" | Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed | \$50 per tree |
| 2 | DBH of 15" to 25.99" | Replant 2 trees with minimum tree calipers of 1.5" for each tree removed | \$100 per tree |
| 3 | DBH of 26" or greater | Replant 3 trees with minimum tree calipers of 1.5" for each tree removed | \$200 per tree |

C. Replacement Alternatives:

- 1. If the Township 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 Township.
 - b. Pay a fee of \$500 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

Sec. 37-30. 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:

- 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 three-year period.** The number of trees removed is a rolling count across a three-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 2026 and the second in July 2028.

- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers. The requirement of proper justification shall be met by submission of a written description certifying the active lawful operation of a tree farm, nursery, fruit orchard, or garden center and photographs substantiating same, to the satisfaction of the Zoning Officer.
- 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. The requirement of proper justification shall be met by submission of a written description certifying that the property is used for the practice of silviculture under an approved forest stewardship or woodland management plan, copies of all such approvals thereof in writing and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Zoning Officer.
- 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. The requirement of proper justification shall be met by submission of a written description certifying that the property is subject to a NJDEP-approved or EPA-approved environmental clean-up, or NJDEP-approved habitat enhancement plan, copies of all such approvals thereof in writing and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Zoning Officer.
- F. Approved game management practices, as recommended by the NJDEP, Division of Fish, Game and Wildlife. The requirement of proper justification shall be met by submission of a written description certifying that the property is subject to approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife, copies of all such approvals and recommendations thereof in writing and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Zoning Officer.
- G. Hazard trees may be removed with no fee or replacement requirement. The requirement of proper justification shall be met by submission of a written description certifying that the trees targeted for removal are nuisance trees, photographs substantiating same and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Zoning Officer.
- H. Nothing in this Article shall be construed to affect, limit, or supersede Sec. 37-6 through - 8 of Chapter 37 of this Code.

Sec. 37-31. Enforcement.

This Ordinance shall be enforced by the Zoning Officer or their designee during ordinary enforcement duties.

Sec. 37-32. Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall, upon conviction, be liable for the penalty stated in Chapter 1, Section 1-6, of the Teaneck Township Code, but in no instance less than the amount of the required replacement tree(s) and cost of planting.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

STATE OF NEW JERSEY)
): ss
COUNTY OF BERGEN)

I, Doug Ruccione, Township Clerk of the Township of Teaneck, do hereby certify that the foregoing Ordinance is a true and exact copy of the General Ordinance No.8-2024 and was duly adopted by the Township of Teaneck at a meeting held on May 7, 2024, with a quorum being present and voting in the majority.

Clerk, Township of Teaneck

ATTEST:

Doug Ruccione
Township Clerk

Michael Pagan, Mayor