

**LEGAL NOTICE  
ORDINANCE NO.33  
2024  
TOWNSHIP OF WAYNE  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND CHAPTER 134 (LAND DEVELOPMENT),  
ARTICLE VI (ENVIRONMENTAL PROTECTION) OF THE CODE OF  
THE TOWNSHIP OF WAYNE**

**WHEREAS**, Wayne Township is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

**WHEREAS**, the Wayne Township is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey, as follows:

**SECTION 1.** Chapter 134 (Land Development), Article VI (Environmental Protection), Section 134-91.1 (Definitions) and Section 134-91.4 (Tree Removal) of the Code of the Township of Wayne are hereby amended and supplemented to read as follows [additions by **bold**, deletions by ~~striketrough~~]:

**134-91.1. D.** Definitions for the purpose of this section. Certain terms are defined and shall be construed as follows:

**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.**

**134-91.4 Tree Removal.**

**A.**

All trees **6 &** inches in caliper or greater within and 20 feet beyond the limit of disturbance shall be indicated on the required site plan. Every effort shall be made to provide a layout to avoid any disturbance within the trees' driplines. An estimate of all trees **six** ~~eight~~ inches or greater in caliper on the entire site shall be submitted. If, in the opinion of the approving authority, the estimate is not a reasonable projection of actual field conditions, a precise count shall be required. The elimination of any deciduous or coniferous tree of this caliper shall be replaced on site in accordance with the following replacement schedule:

**(1)**

~~Trees 8-24 inches in caliper size shall be replaced at a ratio of 1 to 1;~~

**(2)**

~~Trees greater than 24 inches but equal to 36 inches in caliper size shall be replaced at a ratio of 2 to 1;~~

~~(3)~~

~~Trees greater than 36 inches in caliper size shall be replaced at a ratio of 3 to 1.~~

- (1) Trees 6"-12.99" in caliper size shall be replaced at a ratio of 1 to 1;
- (2) Trees greater than 13" but equal to 22.99" in caliper size shall be replaced at a ratio of 2 to 1;
- (3) Trees greater than 23" but equal to 32.99" in caliper size shall be replaced at a ratio of 3 to 1;
- (4) Trees greater than 33" in caliper size shall be replaced at a ratio of 4 to 1.

~~B.~~

~~Replacement deciduous trees shall be at least three inch caliper, the species of which is either identical to the deciduous tree being removed or is otherwise referred to in the United States Soils Conservation Service as compatible with the soil type. So as to maintain planting diversity no more than 50% of deciduous trees to be removed may be replaced by coniferous trees unless approved by the Parks and Recreation Department of the Township. Coniferous trees shall be replaced by a similar coniferous tree at least eight feet in height at the time of planting.~~

**B. Replacement tree(s) shall:**

1. Required minimum size of replacement trees: Deciduous: 3" caliper trunk diameter; Coniferous: 8' in height (No Arborvitae)
2. Be planted within three (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.

**SECTION 2:** All other provisions of Chapter 134, Section 91 of the Code of the Township of Wayne shall remain unchanged.

**SECTION 3.** Pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64, after introduction of this Ordinance, it shall be referred to the Township of Wayne Planning Board who shall within 45 days review and comment on the proposed revisions contained herein prior to the hearing on adoption of this Ordinance.

**SECTION 4: Severability.** The provisions of this Ordinance are declared to be severable and if any section, sub-section, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 5: Repeal of Inconsistent Provisions.** All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 6: Codification.** This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**SECTION 8.** This ordinance shall take effect twenty (20) days after final passage by Council and approval by the Mayor in the manner prescribed by law at N.J.S.A. 40:69A-181.

ATTEST:

\_\_\_\_\_  
PAUL V. MARGIOTTA  
TOWNSHIP CLERK

\_\_\_\_\_  
JASON DESTEFANO  
PRESIDENT OF THE COUNCIL

**NOTICE**

I hereby certify that the aforementioned ordinance was published in the Herald News, a newspaper published in the County of Passaic and circulated in the Township of Wayne, in the issues of June 12, 2024 and July 24, 2024.

\_\_\_\_\_  
PAUL V. MARGIOTTA  
Township Clerk

This ordinance is hereby  
approved this 18th day  
of July 2024.

ADOPTED ON: July 17, 2024

\_\_\_\_\_  
CHRISTOPHER P. VERGANO, Mayor