

**ORDINANCE No. RO-06-24**

**AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 196 "TREES AND SHRUBS" OF THE CODE OF THE TOWNSHIP OF WASHINGTON**

**WHEREAS**, the Township Code contains regulations and definitions associated with the removal of trees throughout the Township; and

**WHEREAS**, the New Jersey Department of Environmental Protection ("NJ DEP") has developed a model tree removal-replacement ordinance to ensure municipalities have adopted ordinances which are consistent with the NJ DEP's stormwater management statutes and regulations; and

**WHEREAS**, a review of the Code determined that the Township should amend the Code to incorporate the NJ DEP's model ordinance; and

**WHEREAS**, the Township Planner and Engineer have reviewed and recommended that the Code be amended; and

**WHEREAS**, the Township Committee has reviewed and approved of the recommended amendment.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Washington, County of Morris, State of New Jersey, as follows:

**SECTION ONE.** Chapter 196 "Trees and Shrubs" shall be amended to read as follows:

**§196-1 Purpose.**

An ordinance to establish requirements for tree removal and replacement and penalties for noncompliance in the Township of Washington to protect the environment, public health, safety and welfare.

**§196-2 Definitions.**

For the purpose of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter 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 Chapter.

B. "Diameter at Breast Height (DBH)" means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.

C. "Tree of Significance" means any tree that is recognized by the municipal governing body or local historical organization(s) as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological, and historical value.

D. "Homeowner" means a person(s) who owns a residence. E. "Nuisance tree" means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or threatens public health, safety, and welfare.

F. "Person" means any individual, resident, corporation, utility, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

G. "Planting strip" means the part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

H. "Street Tree" means a tree planted in the sidewalk or planting strip in the public right-of-way.

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 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, and improper grading and/or soil compaction 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.

**§196-3 Regulated activities.**

**A. 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 Section 196-4, shall be subject to the requirements of the Street Tree Replacement Requirements Table below.
2. For applicants, other than "Homeowners":  
Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under Section 196-4, shall be subject to the requirements of the Street Tree Replacement Requirements Table below.
3. For Homeowner applicants:  
Within a five-year period, any person that removes more than three (3) street trees per acre that fall into categories 1, 2, or 3, combined, or any one (1) street tree in categories 4 or 5 in the Street Tree Replacement Requirements Table below, unless exempt under Section 196-4, shall be subject to the requirements of the Street Tree Replacement Requirements Table below.

The species type and diversity of replacement trees shall be in accordance with the New Jersey Shade Tree Federations latest edition of 'Trees for New Jersey Streets'.

Replacement tree(s) shall meet the required actions in the Street Tree Replacements Table below, and shall be planted within twelve (12) months of the date of removal of the original street tree(s). Replacement tree(s) shall be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within the twelve (12) months. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

**Tree Replacement Requirements Table:**

<b>Category</b>	<b>Tree removal (DBH)</b>	<b>Required Action</b>
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree in accordance with Appendix A, with a minimum DBH of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees in accordance with Appendix A, with minimum DBH of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum DBH of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum DBH of 1.5" for
5	Tree of Significance (shall be approved by the Department of Public Works, Code Enforcement official or other designated official)	Replant 5 trees with minimum DBH of 1.5" for each tree removed

**B. 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 \$250.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting.

**§196-4 Exemptions.**

All persons shall comply with the tree replacement standards outlined above, except in the following cases. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption. Proper justification shall be supported by photos or statements from NJ licensed tree expert as per N.J.S.A. 45:15C-11 or arborist:

- A. Clearing, cutting, and/or removal of trees which is necessary to service, maintain, or ensure the continued safe use of a lawfully existing structure, right-of-way, field, park and/or garden.
- 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;
- 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. Nuisance trees may be removed with no fee or replacement requirement.

**§ 196-5 Wires and cables near trees.**

Every person having control over any wire for the transmission of an electric current along a public highway shall at all times guard the trees through which, or near which, such wire passes against any injury from the wire or cable or from the electric current carried by it. The device or means used shall in every case be subject to approval by the Shade Tree Committee.

**§ 196-6 Guy wires and braces.**

No person shall place any guy wire, brace or other device on any such tree in such a manner as to injure it.

**§ 196-7 Injury by animals.**

No person shall hitch or fasten an animal to any tree or shrub upon a public highway or to any guard or support provided for the same nor permit an animal to bite or otherwise injure any tree or shrub.

**§ 196-8 Chemical damage.**

No person shall permit any brine, gas or injurious chemical or liquid to come in contact with the stump or roots of any tree or shrub upon a public highway.

**§ 196-9 Interference with Shade Tree Committee.**

No person shall prevent, delay or interfere with any lawful work undertaken by the Shade Tree Committee or its authorized agent.

§ 196-10 **Enforcement.**

This Chapter shall be enforced by the Department of Public Works, Code Enforcement official or other designated official.

If any person continues to violate any of the provisions of this Chapter after being duly notified of such violation or neglects or refuses to comply with any lawful order of the Township Engineer or other lawful authority, the failure to comply with a second or each of any subsequent notifications or orders shall be construed as an additional violation of this chapter, and each such additional offense shall subject the offending party, upon conviction, to the same penalty as provided for the first offense.

§196-11 **Violations and Penalties.**

Any person(s) who is found to be in violation of the provisions of this Chapter shall be subject to a fine of \$250.00.

**SECTION TWO. RENUMBERING.** This Ordinance may be renumbered for codification purposes.

**SECTION THREE. SEVERABILITY.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**SECTION FOUR. REPEALER.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

**NOTICE OF FINAL ADOPTION**

Notice is hereby given that the Ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Committee of Washington Township, in the County of Morris, New Jersey, held on the 18<sup>th</sup> of March, 2024, and the same came up for final passage at a meeting of said Township Committee on the 20th day of May, 2024 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Township according to law. By order of the Township Committee of the Township of Washington, County of Morris and State of New Jersey.

Adopted: May 20, 2024

ATTEST:

TOWNSHIP OF WASHINGTON  
COUNTY OF MORRIS  
STATE OF NEW JERSEY

By:

\_\_\_\_\_  
Caitlin Haughey, Deputy Clerk

\_\_\_\_\_  
Matthew Murello, Mayor

Attest: I herein certify that the foregoing Ordinance was duly adopted by the Washington Township Committee at a regular meeting held by the Township Committee on May 20, 2024.

\_\_\_\_\_  
Denean Probasco, RMC, Township Clerk