

**AN ORDINANCE ESTABLISHING CHAPTER 5, SECTION 26
AND AMENDING CHAPTER 25, SECTIONS 27.3 and 27.4 OF THE
REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE
(TREE PROTECTION AND REMOVAL – Permit Required; Prohibitions and
Exemptions)**

**BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF
WEST ORANGE, NEW JERSEY** that Chapter 25 of the Revised General Ordinances of the
Township of West Orange be and are hereby amended as follows:

I. PURPOSE

The purpose of this ordinance is to require any tree cutting and/or removal to be performed only by tree care professionals duly licensed under the Tree Experts and Tree Care Operators Licensing Act. This ordinance also establishes requirements for licensing and registration of tree care professionals with the Township of West Orange Department of Public Works. This ordinance shall also narrow the exceptions to the licensing requirement to exclude trees close to property boundaries in an effort to prevent disputes between neighboring property owners.

**II. CHAPTER 5, SECTION 26 SHALL BE AND HEREBY IS ESTABLISHED TO
INCORPORATE THE FOLLOWING:**

5-26 LICENSING AND REGISTRATION OF TREE CARE PROFESSIONALS

5-26.1 Purpose

This section applies to Tree Care Professionals or Qualified Tree Experts who shall undertake any services in the Township for a fee the purpose of which is to diagnose the health of any trees within the Township of West Orange or remove any trees within the Township of West Orange. The Township finds that it is in the best interests of the health, safety and welfare of the residents of West Orange that such tree care professionals or Qualified Tree Experts possess a license certifying that they are competent to perform the services which they hold themselves out to the public as qualified to perform and to register with the Department of Public Works.

5-26.2 Definitions.

As used in this section:

APPLICANT

Any person or entity submitting an application for a license pursuant to this section of the Revised General Ordinances of the Township of West Orange Township.

QUALIFIED TREE EXPERT

Shall have the same meaning as set forth in the Chapter 25, Section 27.3 of the Revised General Ordinances of the Township of West Orange Township.

TREE

Shall have the same meaning as set forth in the Chapter 25, Section 27.3 of the Revised General Ordinances of the Township of West Orange Township.

TREE CARE PROFESSIONAL

Shall mean any person or entity engaging in the business of diagnosing the health of trees or the removal of trees.

5-26.3 License Required and Penalty.

No Tree Care Professional or Qualified Tree Expert shall be allowed to operate within the Township of West Orange until such person or entity shall be licensed and registered in accord with this section. For violation of any provision of this subsection, penalties shall be in accordance with Chapter 1, § 1-5.

5-26.4 Application for License and License Fee.

Applications for licensing pursuant to this section shall be made to the Department of Public Works under oath on a form furnished by the Township. Upon the filing of the application, the Applicant shall pay to the Township a fee of \$25. The application shall set forth the following information:

- a. The Applicant's name, business name and business address.
- b. Whether the Applicant is an individual, a partnership or corporation.
- c. If the Applicant is an individual, the Applicant's resident address.
- d. If the Applicant is a partnership, the names of the partners and their respective residence addresses.
- e. If the Applicant is a corporation or other entity, the names of all corporate officers and all stockholders who possess more than 10% of its stock, the name and address of the registered agent and the address of the principal office of the corporation.
- f. Whether the Applicant or any partners or officers thereof have ever been convicted of a crime, and if so, the name of the person convicted, the date of conviction, the crime or charge involved and the disposition thereof.
- g. Whether the Applicant or any partner, shareholder or officer has been named in a complaint to the State or County, the Division of Consumer Affairs, the Better Business Bureau or any other similar agency and the disposition of such a complaint.

- h. Whether the Applicant or any partner, shareholder or officer has been named party defendant in a civil suit for any reason related to his or her work as contractor or subcontractor as defined above and the disposition of such litigation.
- i. The number of years the Applicant has been in business at its present business address and all prior locations.
- j. Evidence of state licensure under the Tree Expert and Tree Care Operator Licensing Act, N.J.S.A. 45:15C-11, et. seq.
- k. Acknowledgment and Certification that the Applicant has reviewed Chapter 25, Section 27 of the Revised General Ordinances of the Township of West Orange Township.

5-26.5 License Term and Transferability.

- a. All licenses shall be issued for the term or one year and shall expire one year after the date of issuance.
- b. Licenses shall not be transferable, separate or divisible.

III. CHAPTER 25, SECTION 27.3 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

25-27.3 Definitions.

The following definitions shall apply to this chapter:

CONSERVATION EASEMENT

Shall mean a legal covenant restricting the use of land or natural features of the land that is described in the property deed and shown on a filed plat.

DBH

Shall mean the measurement of the diameter of the trunk of a tree planted in the ground taken 4.5 feet from ground level on the uphill side of the tree.

DEVELOPMENT APPLICATION

Shall mean an application filed with the Township Planning Board or Board of Adjustment pursuant to the Municipal Land Use Law and the Township land development ordinances for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40:55D-3.

DRIP LINE

Shall mean a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground beneath.

ENDANGERED OR THREATENED SPECIES

Shall mean any species of tree or animal which has been determined by the Federal Fish and Wildlife Service or the State of New Jersey to be endangered or threatened.

IMPROVED LOT

Shall mean a single parcel of land with a residential or commercial structure, that is occupied pursuant to and in compliance with all applicable laws and regulations.

LAND USE BOARD

Shall mean the Planning Board or Zoning Board of Adjustment of the Township of West Orange.

MAJOR TREE

Shall mean a tree species with a mature height of at least 50 feet, which shall be at least a 2.5 inch caliper at the time of planting.

MINOR TREE

Shall mean an evergreen tree, ornamental tree or other small tree at least six feet in height at the time of planting.

NONVIABLE TREE

Shall mean a tree that the officer or a Qualified Tree Expert certifies is dead, dying, diseased or too damaged to survive.

OFFICER

Shall mean the person primarily responsible for enforcing this chapter and who is qualified to do so by having the status of a New Jersey Approved Forester, New Jersey Licensed Tree Expert, or an International Society of Arboriculture Approved Arborist, employed by, or appointed by, the Township of West Orange to implement this chapter and to carry out other related responsibilities as the Township may provide, including, but not limited to, developing and recommending to the Council a Township Woodlands Retention and Protection Plan and a Township Tree Inventory and Planting Schedule.

PERSON

Shall mean the owner of a parcel of real estate or any other individual, group, company, firm, corporation, partnership, association, society or other legal entity.

QUALIFIED TREE EXPERT

Shall mean a New Jersey Licensed Landscape Architect, New Jersey Approved Forester, New Jersey Licensed Tree Expert, or International Society of Arboriculture Approved Arborist.

REPLACEMENT TREE

Shall mean a tree of a species approved by the officer and of nursery grade, properly balled and burlapped, meeting the minimum measurements of a major or minor tree, respectively.

SPECIES

Shall mean the common name of a tree.

SPECIMEN TREE

Shall mean a tree in good health of unusual or exceptional form, size, age or shape for its species as evidenced by its inclusion in New Jersey's Big Tree List, or data base, published and coordinated by the New Jersey Forest Service, or having a Champion Tree point total (girth in inches plus height in feet, plus one quarter of average crown spread in feet) within 10% of the point total of a tree of the same species listed in New Jersey's Big Tree List, published in "New Jersey's Big Trees", by the New Jersey Forest Service.

STRUCTURE

Shall mean a combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

TREE

Shall mean a self-supporting perennial woody plant having a diameter of at least four inches measured at a point 4.5 feet (or 54 inches) from the ground at the base of the tree on its uphill side.

IV. CHAPTER 25, SECTION 27.4 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

25-27.4 Permit Required; Prohibitions and Exemptions.

- a.** Permit. Any person desiring to cut down or remove a tree shall file an application for a tree removal permit issued pursuant to this chapter and shall not commence the cutting down or removal of any tree without first having been issued a permit. A tree or trees within two feet of any property boundary shall also require written notice of the filing of a permit application to the neighboring property owner who shares the property boundary.

- b.** Prohibitions. Notwithstanding Subsection **a** above, no person shall be permitted to do any of the following:
 - 1.** Cut down or remove any tree within wetlands, flood hazard areas, riparian zones, or other areas protected by State or Federal law or applicable EPA or NJDEP regulations;

 - 2.** Cut down or remove any tree within a conservation easement;

 - 3.** Engage in activities which could cause a tree to die, including but not limited to topping, grade cut or fill, soil compaction within the drip line, chemical contamination, excessive drainage alterations or mechanical damage.

 - 4.** Cut down or remove any tree on a slope of 15% or greater in grade or on a slope where vegetation is presently stabilizing soils where a tree removal permit is

submitted in connection with a development application, or a parcel upon which a new development is contemplated.

5. Cut down or remove any tree unless the cutting or removal is performed by a tree care professional: (i) duly licensed under the Tree Expert and Tree Care Operator Licensing Act, N.J.S.A. 45:15C-11, et. seq.; and (ii) is licensed by and registered with the Township of West Orange Department of Public Works pursuant to Chapter 5, Section 26 of the Revised General Ordinances of the Township of West Orange Township.
- c. Exemptions. The following are exempt from the permit requirement of Subsection a above:
1. For purposes of administrative convenience, up to three living trees may be removed on an improved lot within any three-hundred-sixty-five-day period. This exemption shall only apply to trees with bases that are more than two feet (2') from any property boundary. For enforcement and record-keeping purposes, every person or business removing one or more trees pursuant to this exemption shall file a tree removal report with the officer on a form to be provided by the officer, to document the tree(s) removed and date of removal. The tree removal report shall be filed no later than five days before removal of the tree(s).
 2. Cutting down or removal of a nonviable tree, or a tree that is an immediate hazard to structures or human life or property provided that the tree stumps must remain for subsequent inspection by the officer; and
 3. Activities lawfully conducted on public lands or rights-of-way by or on behalf of a local, County, State, Federal or other governmental agency or entity, or a utility company.
 4. Tree removal in conjunction with a Woodland Management Plan(s) approved by the N.J. Forest Service.
 5. tree removal on a golf course which is greater than 75 feet from a property boundary.
- d. Development Applications. With regard to every development application that involves proposed tree removal, the applicant shall:
1. Schedule a meeting with the officer in connection with the development application for the purpose of evaluating the impact of this chapter on the plans for development;

2. Submit a qualified tree expert's report setting forth a tree removal and tree replacement plan when applicable.

V. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

VI. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

VII. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

ROBERT D. PARISI, MAYOR

**MICHELLE CASALINO,
COUNCIL PRESIDENT**

KAREN J. CARNEVALE, R.M.C., MUNICIPAL CLERK

INTRODUCED: September 8, 2020

ADOPTED: November 24, 2020

Legislative History

The purpose of this ordinance is to require any tree cutting and/or removal to be performed only by tree care professionals duly licensed under the Tree Experts and Tree Care Operators Licensing Act. This ordinance also establishes requirements for licensing and registration of tree care professionals with the Township of West Orange Department of Public Works. This ordinance shall also narrow the exceptions to the licensing requirement to exclude trees close to property boundaries in an effort to prevent disputes between neighboring property owners.