

**BOROUGH OF ALLENTOWN
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

ORDINANCE NO. 10-2024

AN ORDINANCE REPLACING CHAPTER 24: “PROTECTION OF TREES” OF THE BOROUGH’S REVISED GENERAL ORDINANCES WITH NEW CHAPTER 24: “PROTECTION/REPLACEMENT OF TREES” TO REQUIRE TREE REPLACEMENTS FOR CERTAIN TREE REMOVALS IN ACCORDANCE WITH UPDATED NJDEP STORMWATER REQUIREMENTS.

BE IT ORDAINED by the Mayor and Council of the Borough of Allentown, County of Monmouth, State of New Jersey, that Chapter 24: “Protection of Trees” of the Borough’s Revised General Ordinances is hereby replaced with new Chapter 24: “Protection/Replacement of Trees” as follows:

CHAPTER 24: PROTECTION/REPLACEMENT OF TREES

24-1 Tree Removals and Replacements; Permit Required.

24-1.1 Purpose.

This Section establishes requirements for tree removal and replacement and penalties for noncompliance in the Borough of Allentown to reduce soil erosion and pollutant runoff, promote infiltration of rainwater, protect the environment, public health, safety and welfare.

Trees are a natural resource that provide aesthetic, economic, ecological, environmental and health benefits to the Borough and its inhabitants, and that the treatment of trees on individual properties can have significant impacts not only on those individual properties, but also on neighboring properties, the streetscape, the tree canopy and the entire municipality.

The following rules and regulations are established for the stewardship of trees within the Borough, on both public and private property, and more specifically, for the care and protection of trees, preservation of trees, and replacement of removed or destroyed trees.

24-1.2 Definitions.

For the purpose of this Section, 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.

“Allentown Tree Fund” is a fund set up by the Borough separate from all other funds held by the Borough. Funds deposited into the Allentown Tree Fund shall be used exclusively for the administration and execution of tree planting projects within the Borough including, but not limited to, purchasing, distributing, and/or planting trees.

“Applicant” means any “person” as defined below, who applies for approval to remove trees regulated under this ordinance.

“Borough Administrator” means the Borough Administrator or his/her designee.

“Borough Tree List” is herein defined as the list that specifies and mandates the species of trees, shrubs, and bushes that may be planted on public property within the Borough of Allentown. Said list shall describe the species, and indicate acceptable plantings for Street Trees, Utility Trees, and Park Trees. Said list shall further delineate the minimum Street Lawns area for the planting of Street Trees. Said list shall be maintained by the Shade Tree Commission and updated at least once every three years by the Shade Tree Commission.

“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 = $6 \times 1.5 = 9'$.

“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.

“Owner” means the person who owns the land where tree removal is to take place. (Not all owners reside on the land). Include businesses.

“Nuisance tree” means any tree, or limb thereof, that has an infectious disease or insect infestation; 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 as determined by a NJ Certified Tree Expert or a competent public authority (police, Borough Engineer, Shade Tree Commissioner etc.).

“Official” is the Code Enforcement Official or his/her designee.

“Park Trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks, and all areas owned by the Borough, or to which the public has free access as a park.

“Person” means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

“Replacement Tree” is a tree that is planted within the Borough to make up for the loss of a removed tree.

“Street Lawn” 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.

“Street Trees” are herein defined as trees, shrubs, bushes, and all other woody vegetation on land comprising the Borough’s right-of-way on either side of all streets, avenues, or ways within the Borough.

“Tree” means any woody perennial plant having a DBH greater than 1.5”. For trees having more than one trunk, each shall be measured independently and then summed together to determine the size of the tree.

“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.

“Tree removal” means to kill or to cause irreparable damage that leads to the decline 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 tree treatments intended to manage invasive species.

“Utility Trees” are herein defined as Street Trees that are under utility lines.

24-1.3 Regulated Activities.

a. Application Process:

1. Any person planning to remove a street tree with DBH of 2.5” or more or any non-street tree with DBH of 6” or more or a Replacement Tree on their property shall submit an application for a Tree Removal Permit to the Municipal Clerk who will notify the Official. No tree shall be removed until the Official has reviewed and approved the removal and issued a permit. There shall be no fee for the application.
2. The application for a permit shall be on a form approved by the Official and shall identify the land upon which the tree is located; shall disclose the name and address of the owner or duly authorized agent of said owner and shall identify and indicate the location of the tree to be cut, removed or destroyed.
3. The Official shall act on an application for a Tree Removal Permit within fourteen (14) days of the receipt of a complete application. Failure to act within fourteen days shall be deemed to be an approval of the application and thereafter, a Tree Removal Permit shall be issued.

4. The Official shall have the authority to inspect any site to determine whether a Tree Removal Permit is to be issued and to ensure that replacement trees are being properly maintained.
- b. Tree Removals. No more than 10% of the trees on any one lot may be removed by a Tree Removal Applicant within a twelve (12) month period with the following exceptions:
1. Nuisance tree removals are not to be counted as part of the total.
 2. Tree removals necessitated by improvements including construction of buildings, paved areas or septic disposal systems, provided such improvements and the removal of trees therefore have received an approved site plan are not to be counted as part of the total

As a basis for determining permitted tree removal, the Official shall give due consideration to the following:

1. Removal of trees for proposed right of ways or driveways shall be approved by the Official only for the paved portion of such rights of way or driveways, plus ten-foot width on each side, and only for alignments as shown on an approved site plan.
2. Removal of trees for the construction of or addition to a residence or other principal and accessory buildings plus a twenty-five-foot distance on both sides of said building shall be approved by the Official. Removal of trees in a forty-foot distance to the front and to the back of any principal building shall be approved by the Official only upon receipt of an approved site plan.
3. Removal of trees for proposed off-street parking facilities or outdoor storage areas shall be approved by the Official only for cleared locations as indicated on an approved site plan.
4. Removal of trees for purposes of providing ample light and air to existing dwellings or accessory improvements or to prevent damage to foundations or other portions of existing dwellings or accessory improvements shall be approved by the Official.
5. Removal of trees for construction, reconstruction, maintenance and repair of septic tanks, cesspools, leaching fields, sewer plants and the like shall be approved by the Official.
6. Where prohibited:
 - (a) When the existing trees form part of a planned greenbelt or buffer zone, such removal shall be prohibited.
 - (b) Tree removal shall be prohibited when the tree is a Replacement Tree.

- (c) Tree removal shall be prohibited when the trees are part of: (1) a wetland, (2) a wetland transition area or (3) a stream buffer.
- (d) Tree removal shall be prohibited when the trees are on slopes greater than 20%.
- (e) The removal of trees near utility substations, transmission towers, warehouses, junkyards, landfill operations and other similar uses or structures shall be prohibited except when in conflict with public safety requirements and except when such removal is compensated by screen planting using preferable evergreen species as indicated on an approved site plan.

c. Tree Replacement Requirements.

Trees that are removed shall be replaced in accordance with the Required Trees in the Table below. An owner, instead of using the Tree Replacement Requirements Table, may plant a tree of at least four (4) feet in height on their property for each tree removed. Replacement trees shall be planted within twelve (12) months of the date of removal of the original trees. Replacement trees shall be monitored by the applicant for a period of five (5) years to ensure their survival and shall be replaced as needed within twelve (12) months. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

The species type and diversity of replacement trees shall be in accordance with the Borough's list of approved trees.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Required Trees
1	DBH of 2.5" (for street trees) or 6" (for other trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 2.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 2.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

- d. Replacement Alternatives. If the Official or the Applicant 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:
 1. Plant replacement trees in a separate area approved by the Official.
 2. Pay a fee of \$150 per required tree in the Tree Replacement Requirements Table. This fee shall be placed into the Allentown Tree Fund.

24-1.4 Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification (such as photos, statements from licensed tree expert or arborist, copies of plans) shall be provided, in writing, to the Official by all persons claiming an exemption:

- 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 and/or park.
- 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;

24-1.5 Enforcement.

This Section shall be enforced by the Official during the course of enforcement duties.

24-1.6 Right of Appeal.

Applicant shall have the right to appeal to any decision of the Official to the Borough Administrator within 10 days of receipt of the official's decision. Said appeal shall be by written notice of appeal to the Borough Administrator. The Borough Administrator shall proceed to hear said appeal upon notice to applicant within 30 days after the filing of said notice of appeal. The Borough Administrator may, in her/his discretion and upon complete review of the application, and after hearing the testimony of the Official and the applicant, reverse, modify or affirm the aforesaid decision. If the Borough Administrator shall not act within 30 days after the filing of the notice of appeal, the decision being appealed shall be deemed to have been affirmed by the Borough Administrator.

24-2 Tree Species Permitted.

No species of tree, except those identified on the Borough Tree List may be planted on public property within the Borough of Allentown without the prior written permission of the Shade Tree Commission.

24-3 Public Tree Planting Specifications.

- a. Street Tree, Park Tree, and Utility Tree placement shall be in accordance with the Borough Tree List. If the Borough Tree List specifies a variety for a species, that variety, or one of similar species, height, spread, habit and hardiness, must be used. Species permitted in a smaller-width Street Lawn may be planted in a larger-width Street Lawn. No more than 10% of a species may be planted within the Borough. Areas that are difficult to diversify may be exempted from this requirement by the Shade Tree Commission.
- b. The spacing and clearances of public trees shall be maintained as follows:
 1. Water Meter or Valve Box – 6 Feet
 2. Utility Pole – 10 Feet
 3. Street Corner – 30 Feet (From the curb of cross street to tree)
 4. Fire Hydrant – 15 Feet
 5. Stop Sign – 30 Feet
 6. Buried Utility Line – 3 Feet
 7. Curb cut or driveway – 7 Feet
 8. Minimum distance between trees (trunk to trunk) shall be 20 feet to 30 feet, depending upon the tree species and other local conditions, except that the minimum distance may be as close as 10 feet if the new planting is to succeed an existing tree that has been identified for future removal.

24-4 Public Tree Maintenance and Care.

The Shade Tree Commission and/or the Mayor and Council shall have the power to plant, prune, maintain, regulate, and remove trees, plants, and shrubs within the limits and rights-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to protect public safety or to preserve or enhance the symmetry and beauty of such public grounds in accordance with the procedures set forth in Section 2-56 of this Code. All pruning, care, and maintenance of Street Trees, Park Trees, and Utility Trees shall be in accordance with ANSI 300 Standards.

24-5 Pruning, Corner Clearance.

Every owner of any tree overhanging any street or right-of-way within the Borough shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 8 feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Shade Tree Commission and/or the Mayor and Council shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign in accordance with the procedures set forth in Section 2-56 of this Code.

24-6 Dead or Diseased Tree Removal on Private Property.

The Shade Tree Commission and/or the Mayor and Council shall have the right to cause the removal of any dead or diseased trees on private property within the Borough, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Borough in accordance with the procedures set forth in Section 2-56 of this Code.

24-7 Removal of Stumps.

All stumps of Street Trees, Park Trees, and Utility Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

24-8 Violations and Penalties.

- a. Any person who violates any provision of this chapter shall, upon conviction thereof in Municipal Court, for a violation of any provision of this chapter, be subject to a fine of \$150.00. Each instance of engaging in a separate regulated activity, including specifically each tree removed, in the violation of this chapter shall be deemed a separate offense.
- b. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provisions of this chapter including requiring the replacement of all trees illegally removed and/or, at the option of the Borough, the payment of a contribution to allow equivalent mitigation on public land.

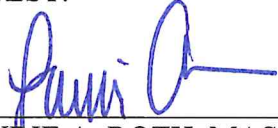
BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED by Mayor and Council that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED by Mayor and Council that this ordinance shall be in full force and take effect after final passage and publication according to law.



THOMAS FRITTS, Mayor

ATTEST:


LAURIE A. ROTH, MAS, RMC, CMR
Municipal Clerk

DATED: July 9, 2024

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