

Ordinance #1106

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING CHAPTER 371, "TREES" INCORPORATING THE REQUIREMENTS OF THE BOROUGH'S NJDEP TIER ONE MUNICIPAL STORMWATER GENERAL PERMIT

WHEREAS, trees play a critical role in the water cycle where they reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare; and

WHEREAS, the NJDEP revised the Tier A Municipal Stormwater General Permit in 2023, which also reclassified all municipalities into the Tier A; and

WHEREAS, the 2023 Tier A MS4 permit renewal requires permittees to adopt and enforce a community-wide ordinance to control tree removal and replacement; and

WHEREAS, the Borough Council believes it is in the best interest of its residents to amend and update its tree replacement requirements in order to comply with the requirements of its Tier A MS 4 stormwater permit and to meet the NJDEP's standards regarding tree removal.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Oceanport, County of Monmouth and State of New Jersey, hereby amends Chapter 371-2 of the Borough Code entitled Trimming or removal of public trees by the addition of a new Section 307-2, to read, in full, as follows:

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Borough of Oceanport to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

SECTION II. 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" mean 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 $CRR = 6" \times 1.5' = 9'$.

C. "Diameter at Breast Height (DBH)" means the diameter of the trunk of a mature tree 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 or 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 (or specified distance from) 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.

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.

L. "Tree Removal Permit" means a permit approved by the Borough and duly issued by the Borough Zoning Officer or designee according to the terms of this chapter. The permit consists of a written letter acknowledging which trees have been approved for removal and is accompanied by a permit sign to be posted publicly. The permit may also include additional compliance requirements such as replanting agreement or landscape plan.

SECTION III. 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 Zoning Official. No tree shall be removed until municipal officials have reviewed and approved the removal.
2. The application will be on a form provided by Zoning office.
3. You are required to submit a Tree Replacement Plan with this application and a current survey/plot/site plan showing where trees are being removed from and where replacement will occur.
 - Single Family: If the tree removal permit is for a single-family residence, the plan shall consist of a tree location sketch containing the minimum amount of pertinent information to enable the determination of compliance with the regulations in this chapter.

- Other Types of Development: The plan for any other property shall include a survey prepared by a licensed land surveyor that contains tree's locations
- 4. Application for any tree removal or replacement that is the result of work or development to go before the Zoning or Planning boards will be referred by the Zoning Officer to the board secretary and engineer. The Board will review and mention any modifications or approval in the resolution of approval issued.
- 5. The Board may request professional tree surveys and or site plans be provided for review.
- 6. Application Fee
 - a. The application review fee is \$50, due before any review is performed by the Zoning Officer. The fee is per application and only good for one block and lot parcel.
 - b. A re-review fee of \$25 is required for plan resubmittals after rejected application. The Zoning Office can waive this fee if the review time is determined to be minimal.
 - c. The fee for governmental bodies removing or relocating trees on public land is waived.
 - d. The review fee for application going to the Zoning or Planning board will be charged via the professional's rate approved by the board and charged to the escrow account.

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 Section IV, 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, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.
3. The species type and diversity of replacement trees shall be in accordance with Appendix A

Replacement tree(s) shall:

1. Be replaced meeting the Tree Replacement Criteria in the table below;
2. 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;
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.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	<i>Dollar Amount per Tree removed if tree cannot be replanted</i>
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" to 2" for each tree removed	<i>\$300 for each tree removed</i>
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" to 2" for each tree removed	<i>\$600 for each tree removed</i>
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" to 2" for each tree removed	<i>\$900 per each tree removed</i>
4	DBH of 33" or greater	Replant 3 trees with minimum tree calipers of 1.5" to 2" for each tree removed	<i>\$1,200 for each tree removed</i>

C. 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 or Shade Tree Committee.
 - b. Pay a fee the in the Tree Replacement Requirement table, per tree removed. This fee shall be deposited into a municipal fund dedicated to tree planting and continued maintenance of the trees.

D. New plantings.

1. Any new tree that is not an invasive species or prohibited by the state, county, or this borough may be planted by a property owner where they wish on their lot with the following conditions:

- A. The tree shall be outside of the public easement.

B. The trees must conform with all zoning provisions of the Borough code, including what is deemed a fence.

2. In all new developments, renovations, including building lifts, substantial improvements, and the construction of additions of which shall have commenced following the effective date of this chapter, trees shall be planted by the developer on each side of a lot fronting a street therein, providing one tree in every 50-foot section. As an example, a corner lot with two 100-foot frontages on public streets would plan a minimum of 4 trees. Such trees shall be at least 1.5" to two inches in diameter. The tree shall be outside of the public easement and in front of the building.

3. Such trees shall be as listing appendix A, planted while in a dormant state and properly staked, with topsoil sufficient to cover all roots. Said trees shall be in good growing condition at the end of one year or shall be replaced by the developer in accordance with this chapter. The Shade Tree Committee shall assist with the placement, and selection of trees in all new developments and shall certify its approval thereof to the Planning Board and the Mayor and Council. The location of such new plantings or replacements shall be such that, wherever possible, conflict or interference with existing overhead or underground utilities or other facilities will be avoided. No new plantings shall be made in the area between sidewalks and curbs, nor shall any such existing plantings be replaced.

E. Inspections

1. The applicant upon completing the planting of the new trees shall request an inspection from the Zoning Official on the appropriate form provided by the official.
2. Failure to request an inspection before the 12-month time limit to replant will result in a requirement to reapply with a full fee amount.
3. Failure to complete the planting actions without inspection after reapplying for a second permit will result in violations and fines detailed in section VI.
4. After two failed inspections for the same permit an inspection fee of \$50 shall be charged for all further inspections requested.

SECTION IV. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided by the applicant, in writing, via the approved application to the municipality by all persons claiming an exemption.

- A. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- B. 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;
- C. 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.
- 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. Hazard trees may be removed with no fee or replacement requirement if meeting one of the requirements below and approved by the reviewing officer.
 - a. Hazard trees to have proper justification by a NJ Licensed Tree Expert, Arborist, or NJ Statue 45:15C-11
 - b. Proof of the hazard tree with color photos and written statement from the owner or contractor demonstrating the trees are in severe decline, diseased, or damaged such that they cannot, or should not, be saved.

SECTION V. Enforcement:

This ordinance shall be enforced by the Borough Administrator or any authorized employee of the Construction, Code Enforcement, Public Works, Police Department or any person or persons designated by the Mayor and Borough Council for that purpose, during the course of ordinary enforcement duties.

SECTION VI. Violations and Penalties:

The failure to obtain a tree replacement permit, replace a tree or make a payment as required by the Ordinance shall be subject to a fine of up to \$2,000.00 per violation but in no event, shall the fine be less than the amount of the required replacement tree(s) and cost of planting.

SECTION VIII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION IX. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

APPROVED ON FIRST READING

DATED: April 17, 2025

STEPHANIE KRAMER

Deputy Clerk of the Borough of Oceanport

ADOPTED ON SECOND READING:

DATED: May 1, 2025

STEPHANIE KRAMER Deputy Clerk of the Borough of Oceanport

APPROVAL BY THE MAYOR ON THIS 1st DAY OF May



THOMAS J. TVRDIK

Mayor

Appendix A

Approved list of Replacement tree Species and Planting Standards for Borough of Oceanport

Recommended Native Species

<u>Alder, Gray</u>	<i>Alnus incana</i>
<u>Beech, American</u>	<i>Fagus grandifolia</i>
<u>Birch, Cherry</u>	<i>Betula lenta</i>
<u>Birch, Gray</u>	<i>Betula populifolia</i>
<u>Birch, River</u>	<i>Betula nigra</i>
<u>Buckeye, Ohio</u>	<i>Aesculus glabra</i>
<u>Cherry, Black</u>	<i>Prunus serotina</i>
<u>Cherry, Choke</u>	<i>Prunus virginiana</i>
<u>Coffee Tree, Kentucky</u>	<i>Gymnocladus dioica</i>
<u>Cypress, Bald</u>	<i>Taxodium distichum</i>
<u>Elm, American</u> (resistant selections only)	<i>Ulmus americana</i>
<u>Gum, Sour</u>	<i>Nyssa sylvatica</i>
<u>Gum, Sweet</u>	<i>Liquidambar styraciflua</i>
<u>Hackberry, Common</u>	<i>Celtis occidentalis</i>
<u>Hickory, Bitternut</u>	<i>Carya cordiformis</i>
<u>Hickory, Mockernut</u>	<i>Carya tomentosa</i>
<u>Hickory, Pignut</u>	<i>Carya glabra</i>
<u>Hickory, Shagbark</u>	<i>Carya ovata</i>
<u>Hornbeam, American</u>	<i>Carpinus caroliniana</i>
<u>Hop Hornbeam, American</u>	<i>Ostrya virginiana</i>
<u>Linden, American</u>	<i>Tilia americana</i>
<u>Maple, Black</u>	<i>Acer nigrum</i>
<u>Maple, Red</u>	<i>Acer rubrum</i>

<u>Oak, Basket</u>	<i>Quercus michauxii</i>
<u>Oak, Blackjack</u>	<i>Quercus marilandica</i>
<u>Oak, Black</u>	<i>Quercus velutina</i>
<u>Oak, Bur</u>	<i>Quercus macrocarpa</i>
<u>Oak, Chestnut</u>	<i>Quercus montana</i>
<u>Oak, Laurel</u>	<i>Quercus imbricaria</i>
<u>Oak, Northern</u>	<i>Quercus rubra</i>
<u>Oak, Pin</u>	<i>Quercus palustris</i>
<u>Oak, Post</u>	<i>Quercus stellata</i>
<u>Oak, Red (NJ State Tree)</u>	<i>Quercus coccinea</i>
<u>Oak, Shingle</u>	<i>Quercus imbricaria</i>
<u>Oak, Spanish</u>	<i>Quercus falcata</i>
<u>Oak, Swamp White</u>	<i>Quercus bicolor</i>
<u>Oak, White</u>	<i>Quercus alba</i>
<u>Oak, Willow</u>	<i>Quercus phellos</i>
<u>Pine, Loblolly</u>	<i>Pinus taeda</i>
<u>Pine, Pitch</u>	<i>Pinus rigida</i>
<u>Sassafras</u>	<i>Sassafras albidum</i>
<u>Sycamore</u>	<i>Platanus occidentalis</i>
<u>Tulip Tree</u>	<i>Liriodendron tulipifera</i>
<u>Yellowwood, American</u>	<i>Cladrastis kentukea</i>

The following are Trees, typically smaller than 25' in height at maturity, to be planted in easements or under overhead utilities:

<u>Alder, Hazel</u>	<i>Alnus serrulata</i>
<u>Cherry, Choke</u>	<i>Prunus virginiana</i>
<u>Crabapple, American</u>	<i>Malus coronaria</i>
<u>Crabapple, Narrowleaf</u>	<i>Malus angustifolia</i>
<u>Crabapple, Prairie</u>	<i>Malus ioensis</i>
<u>Dogwood, Flowering</u>	<i>Cornus florida</i>
<u>Dogwood, Pagoda</u>	<i>Cornus alternifolia</i>

Fringetree, White

Moosewood

Mulberry, Red

Redbud, Eastern

Serviceberry, Allegheny

Serviceberry, Shadblow

Silverbell, Carolina

Silverbell, Two-winged

Silverbell, Mountain

Sourwood

Spruce, Black

Sweetbay

Chionanthus virginicus

Acer pensylvanicum

Morus rubra

Cercis canadensis

hornnchier laevis

Amelancier canadensis

Halesia tetraptera

Halesia diptera

Halesia tetraptera

Oxydendrum arboretum

Picea mariana

Magnolia virginiana

The following are large evergreens for screening:

Arborvitae, Eastern

Cedar, Eastern Red

Fir, Douglas

Holly, American

Pine, Eastern White

Pine, Pitch

Pine, Shortleaf

Pine, Jersey

Spruce, White

Thuja occidentalis

Juniperus virginiana

Pseudotsuga menziesii

Ilex opaca

Pinus strobus

Pinus rigida

Pinus echinata

Pinus virginiana

Picea glauca

The following are tress for occasionally wet sites:

Birch, Cherry

Birch, Gray

Birch, River

Cedar, Atlantic White

Cypress, Bald

Gum, Sour

Betula lenta

Betula populifolia

Betula nigra

Chamaecyparis thyoides

Taxodium distichum

Nyssa sylvatica

Gum, Sweet

Hornbeam, American

Magnolia, Swamp

Maple, Red

Oak, Pin

Oak, Swamp White

Oak, Willow

Sycamore

Liquidambar styraciflua

Carpinus caroliniana

Magnolia virginiana

Acer rubrum

Quercus palustris

Quercus bicolor

Quercus phellos

Platanus occidentalis