



# BOROUGH OF RIVERDALE NEW JERSEY



## ORDINANCE NO. 01-2024

### ORDINANCE AMENDING CHAPTER 157, "TREE REMOVAL", OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RIVERDALE AND REGULATING THE REMOVAL, PROTECTION, AND REPLACEMENT OF TREES

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**BE IT ORDAINED** by the Mayor and Council of the Borough of Riverdale, in the County of Morris and State of New Jersey, as follows:

**Section 1.** Chapter 157 of the Revised General Ordinances of the Borough of Riverdale, "Tree Removal" shall be retitled "Tree Removal, Protection, and Replacement" and shall be amended to read, in its entirety, as follows:

**§ 157-1 Title.**

This chapter shall be known as the "Tree Removal, Protection and Replacement Ordinance of the Borough of Riverdale."

**§ 157-2 Findings and Purpose.**

The Borough Council of the Borough of Riverdale finds that the preservation, maintenance, protection and planting of trees aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces storm water runoff and the potential damage it may create; aids in the removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against noise and pollution; provides protection against severe weather; mitigates the urban heat island effect; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; preserves and enhances the Borough's physical and aesthetic appearance; and generally protects the public health and safety as well as the general welfare.

**§ 157-3 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"x1.5' = 9'.
- C. "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.
- 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 infectious disease or insect infestation;
  - 2. Is dead or dying;



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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.);
  5. Is determined to be a threat to public health, safety, and/or welfare by a licensed Landscape Architect, certified arborist, Licensed Tree Expert (LTE) or Licensed Tree Care Operator (LTCO).
- E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.
- F. "Planting strip" mean the area within the public right-of-way between the abutting property line and the curb or edge of pavement, 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 within the public right-of-way. This also includes trees planted within shade tree easements. The removal of street trees is governed by the regulations of the Shade Tree Commission as set forth in Chapter 5.
- 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.

## **§ 157-4 Permit Required..**

Except as exempted herein, no person, firm or corporation shall cut, remove, injure or damage any street tree as defined in Section **157-3** with a DBH of 2.5" or more or any non-street tree of 6" or more on any property within the Borough of Riverdale without obtaining a Tree Removal Permit in accordance with the regulations and provisions of this chapter.

## **§ 157-5 Application Procedure.**

- A. Application for a tree removal permit shall be made by submission of the following:
1. An application form provided by the Borough containing the following information: the name and address of the applicant; their e-mail address and phone number, the street address of the property in question and the number of tree(s) to be removed.
  2. The reason(s) for removing the trees.
  3. Any tree removal application, with an approved Planning Board site plan or subdivision, shall post a guaranty equal to 120% of the estimate to plant or replace same. The guaranty is applicable where the project is for new development or construction.
  4. A tree removal application shall include a tree removal plan with a diagram showing the location of all trees to be removed, the species of such trees, their diameter, the drip



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line of the trees to be removed and location of all existing and proposed structures on the property, and property lines. A reproduction of the tax map or an existing survey modified to provide this information would be acceptable.

B. The fee for processing a tree removal permit shall be charged. The fee schedule is:

1. One to five trees: \$50.
2. Six trees or more: \$10 per tree.
3. For a subdivision or major site plan development application, the fee to be charged will be determined either by the above formula or at a fee of \$1,860 per acre whichever is greater.

C. The applicant shall place a one (1") inch wide yellow ribbon around the trunk of each tree to be removed at a height of four and one-half (4-1/2') feet above the ground so that the proposed tree removal may be inspected in the field.

D. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person who removes one or more non-street tree(s), unless exempt, with a DBH of 6" unless otherwise detailed under Section 330-9, 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 a list of approved trees and planting requirements (Exhibit A attached).
4. Replacement tree(s) shall:
  - a. Be replaced in kind with a tree that meets the Tree Replacement Criteria in the table below;
  - b. 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;
  - c. Shall be monitored for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
  - d. 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<br>(See Appendix A)                            |
|----------|---|--|
| 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" for each tree removed |
| 2        | DBH of 13" to 22.99"  | Replant 2 trees with minimum tree calipers of 1.5" for each tree removed |
| 3        | DBH of 23" to 32.99"  | 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 |



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## 5. Replacement Alternatives:

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 per tree in an amount equal to \$75.00 per tree for all residential applications less than thirty-six inches (36") in diameter of trees removed, and \$150 per tree greater than thirty-six inches (36") of tree removed, and \$300 for all commercial applications. The Shade Tree Commission will then release the applicant from the requirement of planting a new tree on that site. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

### 157-6. Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification in the form of photographs or certifications from the property owner or tree removal professional shall be provided, in writing, by all persons claiming an exemption:

- A. The removal of less than four (4) trees per acre that fall into category 1,2, or 3 of the Tree Replacement Requirements Table within a five-year period.
- 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 that is active and on file with the municipality;
- D. 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.
- E. 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;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement.
- H. Street Trees which shall not be removed except in accordance with the Shade Tree Commission regulations as established in Chapter 5.
- I. Replacement of a septic system requiring removal of trees as specified by a professional engineering drawing submitted and approved by the Borough of Riverdale.

### § 157-7 Protection of Existing Trees.

- A. In connection with any construction, subsequent to tree clearing but prior to the issuance of a building permit or start of construction, snow fencing or other protective barrier acceptable to the Shade Tree Commission representative official in charge with administration and enforcement of this Chapter, shall be placed around trees that are not removed. The protective barriers shall be placed at least nine (9') feet from the trunk of any tree and shall remain in place until all construction has been completed. All construction materials shall be placed outside any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.



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B. No person shall:

1. Cut down or remove any tree except as permitted by this chapter or allow or cause such cutting or removal.
2. Cause or allow any willful damage, injury or disfigurement of any tree growing within the Borough. For purposes of this subsection, the actions of any person shall be deemed willful if the damage, injury or disfigurement of any tree is caused as the result of but not limited to the following: cutting, gashing or slitting of any tree, or on the nearby ground, the construction or placement of any nonporous material on the ground around any tree so as to cut off air, light or water from the roots; placement or removal of any soil from within nine (9') feet of any tree as defined in § 157-3 above.
3. Place a rope, wire, sign etc. upon any tree upon any Borough Street, right-of-way etc., except as may be approved by the Commission.
4. Fasten or attach an animal to cause or allow an animal to injure a tree upon any Borough Street, right-of-way, etc.
5. Without prior approval, spray a tree or an area adjacent to a tree with any chemical so as to cause injury or death of said tree.
6. Remove or damage any guard or device placed to protect a tree.
7. Store or pile building material or temporary soil deposits or debris or place construction equipment within nine (9') feet of any tree as defined in § 157-3.

**157-8 Enforcement.**

This ordinance shall be enforced by an appointed Borough Forester or other designated Borough Official as designated by the Mayor and Council during the course of ordinary enforcement duties.

**§ 157-9 Violations and Penalties.**

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not exceeding \$1,000 or the replacement cost of the tree or both for each tree removed or damaged in violation of this chapter. Each tree shall be deemed a separate offense.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
Abubakar Jalloh, Borough Clerk

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Paul M. Carelli, Mayor

**NOTICE OF PENDING ORDINANCE**

The ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the Borough of Riverdale, a municipal corporation of the State of New Jersey, held on March 13, 2024. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at Borough Hall, in the Borough on April 10, 2024 at 7:30 o'clock p.m., and during the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's office to the members of the general public who shall request the same.

**Abubakar Jalloh, Borough Clerk**