

**BOROUGH OF ROCKLEIGH**

**ORDINANCE #2024-3**

**AN ORDINANCE TO ESTABLISH REQUIREMENTS FOR TREE REMOVAL AND REPLACEMENT AND TO PROVIDE FOR PENALTIES FOR VIOLATION THEREOF**

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

**Section 1. Purpose.**

This Ordinance is intended to establish requirements for tree removal and replacement in the Borough of Rockleigh for the purpose of reducing soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, publish health, safety and welfare.

**Section 2. 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” means the requirement is always mandatory and not merely directory.

**APPLICANT**

Shall mean any “person”, as defined below, who applies for approval to remove trees regulated under this Ordinance.

**CRITICAL ROOT RADIUS (“CRR”)**

Shall mean 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” DBS would have a CRR = 6”x1.5’ = 9’.

**DIAMETER AT BREAST HEIGHT (“DBH”)**

Shall mean 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 4½ foot height, the DBH shall be measured at the highest point before any division.

**HAZARD TREE**

Shall mean 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.

- a. Has an infectious disease or insect infestation;
- b. Is dead or dying;
- c. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
- d. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
- e. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

**PERSON**

Shall mean any individual, resident, corporation, utility, company, partnership, firm, or association.

**PLANTING STRIP**

Shall mean 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.

**RESIDENT**

Shall mean 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.

## **STREET TREE**

Shall mean a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to 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.

## **TREE**

Shall mean 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.

## **TREE CALIPER**

Shall mean 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**

Shall mean 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.

### **Section 3. Regulated Activities.**

- a. Optional 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 the Construction Official or his designee. No tree shall be removed until municipal officials have reviewed and approved the removal. Applicants will be subject to an application fee as per the Table below.
- 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 per acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table. The species type and diversity of replacement trees shall be in accordance with Appendix A.

c. Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet 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.

d. Tree Replacement Requirements Table.

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee
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	\$25.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$40.00
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$55.00

4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$75.00
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e. 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 \$50.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

**Section 4. Exemptions.**

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption. The requirements pertaining to proper justification may be provided by photographs or statements from a New Jersey licensed tree expert as set forth in N.J.S.A. 45:15C-11 or certified arborist.

- a. Residents who remove 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. The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.
- 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.

**Section 5. Enforcement.**

This Ordinance shall be enforced by the Construction Official or his designee during the course of ordinary enforcement duties.

**Section 6. Violations and Penalties.**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$500.00 per tree but shall not be less than the amount of the required replacement tree and cost of planting. The Borough may agree to the planting of additional trees in lieu of a fine.

**Section 7. Severability.**

If any section, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such subject shall be rendered.

**Section 8. Inconsistent Ordinances Repealed.**

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

**Section 9. Effective Date.**

This Ordinance shall take effect after publication thereof and final passage as required by law.

  
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**JAMES PONTONE, Mayor**

  
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**MARCELLA GIAMPICCOLO, RMC**  
**Borough Clerk**

Introduced: May 6, 2024  
Adopted: June 3, 2024  
Approved: June 3, 2024

## Appendix A

### Approved list of Replacement tree Species and Planting Standards for Borough of Rockleigh

<b>Tree Species</b>	<b>Cultivars</b>	<b>Planting Season</b>	<b>Planting Procedure</b> (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc)
<u>Acer Rubrum</u> Red Maple		Spring / Fall	Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam)
<u>Acer Saccharum</u> Sugar Maple		Fall / early winter	Full Sun to Part Shade, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam)
<u>Acaer x Freemanii</u> Freeman Maple	Armstrong, Fairfall, Marmo, scarlet Sentinel	Spring / Fall	Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam)
<u>Amelanchier laevis</u> Shadblow Serviceberry		Spring / Fall	Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (prefers well-drained loams)
<u>Betula Nigra</u> River Birch		Spring / Fall	Full Sun, Soil Moisture - average to wet, Soil Type- Prefers moist, acidic, fertile soils
<u>Carpinus Caroliniana</u> American Hornbeam	Native Flame	Spring	Part Shade, Soil Moisture - average to wet, Soil Type - Prefers moist, organically rich soils.
<u>Celtis Occidentalis</u> Hackberry		Spring	Full Sun to Part Shade, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam)
<u>Cercis Canadensis</u> Eastern Red Bud		Fall	Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type - Performs best in moderately fertile soils
<u>Cercis Chinensis</u> Chinese Redbud		Late Spring / Early Summer	Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type - Performs best in moderately fertile soils



<b><u>Cladrastis Kentukea</u> Yellowwood</b>	<b>Sweetshade, Perkins Pink</b>	<b>Spring</b>	<b>Full Sun, Soil Moisture - average, Soil Type - Prefers moist well drained, organically rich soils.</b>
<b><u>Crataegus Crus-galli</u> Cockspurn Hawthorn</b>	<b>Thornless varieties only</b>	<b>Spring / Fall</b>	<b>Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam)</b>
<b><u>Ginkgo Bilobra</u> Ginkgo, Maidenhair Tree</b>		<b>Spring / Fall</b>	<b>Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam)</b>
<b><u>Gladitsia Triacanthos</u> Honey Locust</b>	<b>Moraine, Shademaster, Sunburst, Imperial</b>	<b>Spring / Fall</b>	<b>Full Sun, Thornless, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam)</b>
<b><u>Gymnocladus Dioicus</u> Kentucky Coffeetree</b>		<b>Early Winter / Early Spring</b>	<b>Full Sun, Soil Moisture - Medium moisture, Soil Type organically rich, well-drained soils</b>
<b><u>Liquidambar Styraciflua</u> American Sweetgum</b>	<b>Cherokee, Rotundiloba, Slender Silhouette, Worplesdon</b>	<b>Early Winter / Early Spring</b>	<b>Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam)</b>
<b><u>Liriodendron Tulipifera</u> Tulip Tree</b>	<b>Ardis, Arnold, Emerald City, Fastigiatum</b>	<b>Spring / Fall</b>	<b>Full Sun, Soil Moisture - average, Soil Type - organically rich, well-drained loams</b>
<b><u>Magnolia Virginiana</u> Sweet Bay Magnolia</b>		<b>Spring / Fall</b>	<b>Full Sun to Part Shade, Soil Moisture – average to wet, Soil Type – clay to loam, prefers acidic soils</b>
<b><u>Metasequoia Glyptostroboides</u> Dawn Redwood</b>		<b>Fall</b>	<b>Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type - well-drained loam</b>
<b><u>Nyssa Sylvatica</u> Black Gum</b>		<b>Spring / Fall</b>	<b>Full Sun, Soil Moisture - average to wet, Soil Type sandy loam.</b>
<b><u>Ostrya Virginiana</u> Eastern Hop Hornbeam</b>		<b>Spring / Fall</b>	<b>Full Sun to Part Shade, Soil Moisture - Medium moisture, Soil Type organically rich, well-drained soils</b>
<b><u>Platanus x Acerifolia</u> London Planetree</b>		<b>Spring / Fall</b>	<b>Full Sun to Part Shade, Soil Moisture - average to wet,</b>

			Soil Type wide range (clay to sandy loam)
<u>Prunus Cistena</u> Purple-leaf Sand Cherry		Early Spring	Full Sun, Soil Moisture - average, Soil Type - organically rich, well-drained loams
<u>Prunus Sargentii</u> Sargent Cherry		Early Spring	Full Sun, Soil Moisture - Medium moisture, Soil Type organically rich, well-drained soils
<u>Prunus Virginiana</u> Chokecherry		Spring / Early Summer	Full Sun to Part Shade, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam)
<u>Quercus Bicolor</u> Swamp White Oak	Hightower	Spring	Full Sun, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) Prefers acidic soil
<u>Quercus Coccinea</u> Scarlet Oak	Kindred Spirit, Fastigiata, Skyrocket	Spring	Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam)
<u>Quercus Macrocarpa</u> Bur Oak		Spring	Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) Prefers moist well-drained loams
<u>Quercus Muehlenbergii</u> Chinkapin Oak		Spring	Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) Prefer moist fertile loams
<u>Quercus Michauxii</u> Chestnut Oak		Spring	Full Sun, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) Prefer moist fertile loams
<u>Quercus Palustris</u> Pin Oak		Spring	Full Sun, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) Prefer moist fertile loams
<u>Quercus Phellos</u> Willow Oak		Spring	Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefer moist well-drained loams
<u>Quercus Robur</u> English Oak		Spring	Full Sun, Soil Moisture - average to medium

			moisture, Soil Type wide range (clay to sandy loam) Prefer moist well-drained loams
<u>Quercus Rubra</u> Northern Red Oak		Spring	Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefers acidic soil
<u>Tilia Americana</u> American Linden		Spring / Fall	Full Sun to Part Shade, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefers moist, fertile, well-drained loams
<u>Tilia cordata</u> Little Leaf Linden		Spring / Fall	Full Sun to Part Shade, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefers moist, fertile, well-drained loams
<u>Ulmus Americana</u> American Elm	Accolade, Frontier	Spring / Fall	Full Sun to Part Shade, Soil Moisture - average to medium moisture, Soil Type - Prefers moist, fertile, well-drained loams
<u>Zelkova Serrata</u> Zelkova		Spring	Full Sun, Soil Moisture - average to medium moisture, Soil Type - Prefers rich, moist loams