

**BOROUGH OF RIVERTON
ORDINANCE #5-2024**

**AN ORDINANCE OF THE BOROUGH OF
RIVERTON, COUNTY OF BURLINGTON, STATE
OF NEW JERSEY, GOVERNING REMOVAL OF TREES AND SHRUBS**

WHEREAS, the Borough Council desires to implement provisions governing tree and shrub removal;
and

WHEREAS, the Borough Council desires to protect the existing trees and vegetation within the Borough and promote replanting of trees that are removed;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Borough Council of the Borough of Riverton, County of Burlington, State of New Jersey, as follows:

SECTION I. Chapter 120 entitled "Tree and Shrub Removal" is hereby added to the Code of the Borough of Riverton to read as follows:

§ 120-1 Purpose.

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

§ 120-2 Definitions.

For the purpose of this chapter, 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" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

"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'.

"Diameter at Breast Height (DBH)" means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill 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.

"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).

"Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.

"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.

“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.

“Street Tree” means 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” 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.

“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 and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, and improper grading and/or soil compaction 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.

§ 120-3 Regulated Activities.

A. Application Process.

1. Any person planning to remove any non-street tree with DBH of 35” or more on their property shall submit a Tree Removal Application to the Construction Office. No tree shall be removed until municipal officials have reviewed and approved the removal.
2. Tree removal permits shall be issued by the Construction Office or his or her designee. Application shall be in a form specified by the Shade Tree Board or his or her designee and shall contain the name and address of the owner of the lands upon which the trees or shrubs sought to be removed are located; the authority of the person, corporation or entity applying for the permit to remove the trees or shrubs; the type, size and location of the trees or shrubs sought to be removed. The application shall contain such additional information, surveys, plans or certifications as may be required by the Borough. No tree shall be removed until municipal officials have reviewed and approved the removal.
3. The application fees shall be \$25.00 for each tree to be removed. Said fee may be changed by ordinance at the discretion of the Borough Council.

B. Standard for granting or denying a permit; conditions.

1. The following standards shall govern the grant, conditional grant or denial of a tree removal permit in the Borough of Riverton:
 - a. The Shade Tree Board shall be satisfied that the removal or destruction of any particular tree or shrub which is unique in age, size or type is required for effective utilization of the lands in question.
 - b. The Shade Tree Board shall be satisfied that the removal or destruction of trees and shrubs proposed shall not impair the growth and development of the remaining trees and shrubs on the lands where the trees are situated or on adjacent lands.
 - c. The Shade Tree Board shall be satisfied that the removal or destruction of trees and shrubs proposed shall not cause soil erosion or impair existing drainage patterns.
 - d. The Shade Tree Board shall be satisfied that the proposed removal or destruction of trees and shrubs shall not result in a reduction or loss of value to properties proximate to the removal or destruction.
 - e. The Shade Tree Board shall be satisfied that adequate precautions shall be taken with respect to the removal of trees and shrubs, that other trees will not be damaged by mechanical removal, that the roots of the remaining trees will not be cut, that the trees removed will not be buried or burned and that dead trees are not permitted to become harborage for rats or other rodents.

2. The Construction Official shall grant or deny any such permit with reference to the standards contained above in § 120-3(B). In applying such standards, the Construction Official may condition the grant of the permit upon such reasonable conditions as may be deemed necessary to effectuate the purpose of this chapter.

C. Tree Replacement Requirements

1. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 35" or more per acre, unless otherwise detailed under § 120-4, 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 the list of non-approved trees which will be provided by the Shade Tree Board.

Replacement tree(s) shall 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, and shall 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. Replacement tree(s) shall 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. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

Tree Replacement Requirements Table		
Category	Tree Removed (DBH)	Required Action
1	DBH of 35" or greater	Replant one (1) tree with minimum DBHs of 2.5" for each tree removed

D. 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 in an amount to set by Borough per tree removed. This fee shall be placed into The Shade Tree Trust Fund, dedicated to tree planting.

§ 120-4 Exemptions.

A. All persons shall comply with the tree replacement standard outlined above, except in the following cases:

1. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
2. 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;
3. 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;
4. 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;
5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
6. Hazard trees may be removed with no fee or replacement requirement;
7. Any tree located on publicly owned land and removed by the public agency or its representatives. See Chapter 35 "Shade Tree Board and Tree Maintenance" regarding trees located on Borough property.

B. All persons claiming an exemption shall provide proper justification, in writing, to the municipality. Proper justification includes, photographs of all trees to be cut down, a report from a Licensed Tree Expert, and/or an ISA certified arborist.

§ 120-5 Enforcement.

This ordinance shall be enforced by the Code Enforcement Officer or their designee during the course of ordinary enforcement duties.

§ 120-6 Violations and Penalties.

Any person firm, partnership, corporation, association or other legal entity who is found to be in violation of the provisions of this chapter shall be subject to a fine not to exceed \$2,000. Each tree removed or damaged in violation of this chapter shall be deemed a separate offense. The removal of a tree of significance is not subject to a fine limit.

SECTION 2. If any section, paragraph, subsection, clause, or provision of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective;

SECTION 3. If any ordinances or parts thereof are in conflict with the provisions of this Ordinance those provisions shall be repealed to the extent of such conflict.

SECTION 4. This Ordinance shall take effect upon passage and publication in accordance within applicable law.

INTRODUCTION July 16, 2024						
Roll Call Vote						
Council Member	Motion	Second	Aye	Nay	Abstain	Absent
Fullerton		X	X			
Corbi			X			
Rafter			X			
Reed	X		X			
Scott			X			
Wilburn			X			

ADOPTION August 20, 2024						
Roll Call Vote						
Council Member	Motion	Second	Aye	Nay	Abstain	Absent
Fullerton	x		X			
Corbi			X			
Rafter			X			
Reed		x	x			
Scott						X
Wilburn						X

CERTIFICATION

I, Kelly Andrews, Municipal Clerk of the Borough of Riverton, County of Burlington, and State of New Jersey, do hereby certify the forgoing to be a true and correct copy of an Ordinance which was tabled by the Council of the Borough of Riverton at its meeting of April 16th, 2024, and reintroduced by the Council of the Borough of Riverton at its meeting of July 16th, 2024 with a second reading, public hearing, and final adoption to be held on August 20th, 2024.


 Kelly Andrews,
 Municipal Clerk