

BOROUGH OF TETERBORO

ORDINANCE NO. 643

AN ORDINANCE TO CREATE A NEW CHAPTER IN THE CODE OF THE BOROUGH OF TETERBORO ENTITLED “TREE REMOVAL AND REPLACEMENT”

Trees play a critical, often overlooked, role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects. This ordinance is intended to ensure that permittees are considering these undervalued assets in their stormwater management efforts. The Borough of Teterboro is a unique municipality in the State of New Jersey and in the County of Bergen in that the number of residential structures is far less per capita than any other municipality. Additionally, it is significantly developed with large scale commercial/warehouse buildings and has within its boundaries one of the busiest general aviation reliever airports in the Nation. Teterboro thereby has a significant interest in preserving the tree inventory of the Borough while balancing that interest with the existing development pattern and providing a continuous safe environment for the flight patterns for the Teterboro Airport.

SECTION I. Purpose:

An ordinance to establish requirements for the removal or cutting down of trees and the replacement of trees when taken down in the Borough of Teterboro to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare while accommodating the development of the Borough and the protection of the flight patterns of Teterboro Airport. .

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" means 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. "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.
- C. "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).
- D. "Person" means any individual, resident, corporation, utility, company, partnership, firm, business entity, non-profit or association.
- E. "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.
- F. "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.
- G. "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.
- H. "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.

- I. "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.

SECTION III. Regulated Activities:

A. Application Process:

1. Any person planning to remove a street tree, as defined above 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 Borough Clerk's office. No tree shall be removed until municipal officials have reviewed and approved the Application removal. If determined to be necessary by the Borough Planning Board relating to a development project's site plan review process, the applicant may be required to prepare and submit a tree survey as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees if deemed necessary.
2. The Applicant shall be required to submit an application fee of Fifty (\$50.000) dollars for each and every tree the applicant is seeking permission to remove.

B. Tree Replacement Requirements

Any person who removes one or more trees with a DBH of Six inches (6 in.) or more, unless otherwise detailed under Section IV, shall be subject to the requirements of this Tree Replacement Ordinance. When a Tree Removal Permit is filed for removal of a qualified tree, the applicant shall provide for a Replacement tree. Replacement trees shall be required and provided on a one for one basis meaning for each qualified tree removed, one Replacement tree must be planted or provided.

Replacement tree(s) shall:

1. Be replaced with one tree for every tree removed;
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 Borough;

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.

C. Replacement Alternatives:

1. If it is determined by a certified tree expert as per N.J.S.A. 45:15C-11 or arborist that one, some or all required replacement trees cannot be planted on the property from where the tree(s) were removed, 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 Five hundred Dollars for each tree required to be replaced. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. Exemptions:

All persons shall comply with the tree replacement regulations outlined above, except in such cases as detailed below. To qualify for any such requested exemption, proper justification shall be provided by the applicant, in writing, to the Borough Clerk's office by any person(s) claiming an exemption. Such justification shall be provided by a qualified tree expert as per N.J.S.A.45:15C-11 or an arborist.

- A. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP), the United States Environmental Protection Agency (EPA), the Federal Aviation Administration (FAA) The New Jersey Meadowlands Commission (NJMC) or any other governmental agency or administration.
- B. A Hazard tree(s) may be removed with no fee or replacement requirement.

SECTION V. Enforcement:

This ordinance shall be enforced by the designated municipal officials appointed or directed by the Municipal Manager.

SECTION VI. 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 \$250.00 for each and every tree that is removed without replacement

if so required by this Ordinance and shall be required to replace or provide for the replacement of each tree so removed.

SECTION VII. 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 VIII. 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 BY:
JOHN P. WATT, MAYOR

ATTESTED BY:
VIRGINIA A. ALCURI, R.M.C.
MUNICIPAL CLERK

INTRODUCED: February 21, 2024
ADOPTED: March 12, 2024