

ORDINANCE O – 7 – 2024

AN ORDINANCE OF THE MAYOR AND COMMITTEE OF THE TOWNSHIP OF ELK,
COUNTY OF GLOUCESTER, STATE OF NEW JERSEY ESTABLISHING A NEW CHAPTER ENTITLED “TREE
REMOVAL” OF THE CODE OF THE TOWNSHIP OF ELK

WHEREAS, the Mayor and Committee, Township of Elk, have determined that the establishment of a new Chapter of the Code entitled “Tree Removal” is necessary; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Committee of the Township of Elk, in the County of Gloucester and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:
Section 1.

Chapter XX entitled “Tree Removal” shall be established as follows:

§ XX-1. Purpose.

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

§ XX-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 Chapter 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 – any “person”, as defined below, who applies for approval to remove trees regulated under this Article.
- b. Critical Root Radius (CRR) – 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) – 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 – 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. The Township may choose to require a Licensed Tree Expert to make a Hazard tree determination.
 - i. Has an infectious disease or insect infestation;
 - ii. Is dead or dying;
 - iii. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
 - iv. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
 - v. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- e. Person – any individual, resident, corporation, utility, company, partnership, firm, or association.
- f. Planting strip – 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 – an individual who owns the residential property or Chapter hired by the individual who owns the residential property where a tree(s) regulated by this Article is removed or proposed to be removed.
- h. Street Tree – 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 – 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 – 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 – 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.

§ XX-3. Regulated activities.

A. Application Process:

- 1. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 4" or more or any non-street tree with DBH of 6" (that exceeds the amount exempted in § 86-XX.A. of this Ordinance) shall submit a Tree Removal Applications. Application shall be submitted to the zoning official.
- 2. All developments applications, including grading plans, filed with the Township shall comply with the requirements of this Ordinance as part of its application.

B. Tree Replacement Requirements

- 1. Any person who removes street tree(s) with a DBH of 4" or more, unless exempt under § 90-4, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 2. Any person, who removes tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under §XX-4, 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 in kind with a tree that meets 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 Township;
- 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.
- 5. Application fee for tree removal application is \$35.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (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

C. Replacement Alternatives:

1. If it is determined by the Township 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 upon written approval by the Township:
 - a. Plant replacement trees in a separate area(s) approved by the Township.
 - b. Pay a fee \$350 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees within the Township of Elk.

§ XX-4. Exemptions.

All persons shall comply with the replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the Township by all persons claiming an exemption:

- A. Owners of properties up to 1 acre may remove up to 6 trees with a Diameter at Breast Height ("DBH") of 6" or greater within 12-month period. For each tree over 6 trees removed, the property owner must plant 1 tree with a minimum tree caliper of 1.5".
- B. Owners of properties between 1 and 5 acres in size may remove up to 15 trees with 6" DBH or greater within a 12-month period. For each tree over 15 trees removed, the property owner must plant 1 tree with a minimum tree caliper of 1.5".
- C. Owners of properties over 5 acres may remove up to 75 trees with 6" DBH or greater within a 12-month period. For each tree over the allowable number of trees removed, the property owner must plant 1 tree with a minimum tree caliper of 1.5".
- D. Farms in active operation, tree farms in active operation, nurseries, fruit orchards, and garden centers;
- E. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the Township;
- F. Any trees removed as part of a Township or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
 - i. Any trees removed 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;

- ii. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- iii. Hazard trees may be removed with no fee or replacement requirements.

§ XX-5. Enforcement.

This Chapter shall be enforced by the Elk Township Police Department, Elk Township Public Works Department and/or Elk Township Code Enforcement Official.

§ XX-6. Violations and Penalties.

Any person who shall violate any of the terms or provisions of this Chapter or shall commit or do any act or thing prohibited by the terms of this article shall, upon conviction thereof, be subject to a fine not exceeding \$1,250, imprisonment for a term not exceeding 90 days or a period of community service not exceeding 90 days. Offenses on separate days shall be deemed to be separate offenses, so that a continued violation from day to day shall be construed to be a view violation for each day such violation occurs.

Section 2.

Repealer.

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

Section 3.

Severability.

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

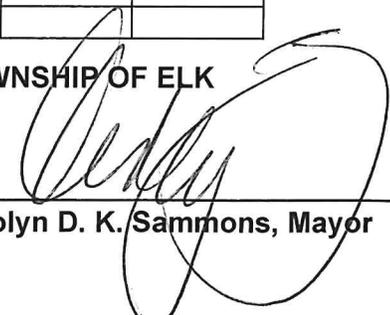
Section 4.

When effective.

This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

INTRODUCTION ROLL CALL VOTE						
COMMITTEE MEMBER	Motion	Second	AYE	NAY	ABSTAIN	ABSENT
Cowan		✓	✓			
Lucas						✓
Nicholson	✓		✓			
Rambo						✓
Sammons			✓			

TOWNSHIP OF ELK


 Carolyn D. K. Sammons, Mayor

ATTEST:


 DEBORA R. PINE, Township Clerk

FINAL ADOPTION ROLL CALL VOTE						
COMMITTEE MEMBER	Motion to Adopt	Second	AYE	NAY	ABSTAIN	ABSENT
Cowan		✓	✓			
Lucas			✓			
Nicholson	✓		✓			
Rambo			✓			
Sammons			✓			

NOTICE

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Committee of the Township of Elk, in the County of Gloucester and State of New Jersey, held on October 15, 2024. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Committee to be held in the Township Municipal Building on November 7, 2024, at 7:00 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at the said Municipal Building, 680 Whig Lane, Monroeville, New Jersey, to the members of the general public who shall request the same.

DEBORA R. PINE, CLERK

Appendix A

Following is a list of approved replacement trees in the Township of Elk for trees being removed per Chapter XX of the Code of the Township of Elk. The mix, number and location of trees or substitutions shall be reviewed and approved by the Zoning Official. Not all tree species may be appropriate for certain uses, locations, site conditions, and soil types.

Tree Species	Common Name
Acer Rubrum	Red Maple
Acer Negundo	Boxelder
Betula Nigra	River Birch
Carpinus Caroliniana	American Hornbeam
Carya Ovalis	Red Hickory
Cornus Florida	Flowering Dogwood or other dogwoods
Fraxinus Americana	White Ash
Ginkgo Biloba (male)	Ginkgo
Gleditsia Triacanthos Var Inermis	Honey Locust (Thornless)
Liriodendron Styraciflua	Tuliptree
Nyssa Sylvatica	Blackgum
Populus Grandidentata	Bigtooth Aspen
Quercus Alba	White Oak
Quercus Paulustris	Pine Oak
Quercus Rubra	Northern Red Oak
Tilia Cordata	Littleleaf Linden
Ulmus Americana	American Elm Princeton

The planting procedure and season for planting shall follow recommendations from the NJ Shade Tree Federation, "Trees for NJ Streets".

Following is a list of trees that shall **not** be planted as replacement:

Trees: Sweet Gum
 Bradford Pear