



ORDINANCE 1811

AN ORDINANCE REPEALING AND REPLACING CHAPTER 12.28 SHADE TREES & ESTABLISHING CHAPTER 12.29 REQUIRING PERMITS FOR THE REMOVAL OF TREES ON PRIVATE PROPERTY

SECTION I. Permission required for certain acts.

A. No person, firm, corporation or individual connected with such firm or corporation shall do or cause to be done to any tree, shrub or plant within a public right-of-way or public place, either purposely, carelessly or negligently, without the permission of the shade tree commission or its designee, any of the following acts:

1. Cut, prune, climb with spikes, break, damage or remove.
2. Cut, disturb or interfere in any way with any root.
3. Spray with any chemical.
4. Fasten any sign or other device by wire or nail.
5. Remove or damage any guard or device placed to protect any tree or shrub.

B. Nothing herein shall prevent any governmental agency from tying a public notice upon a tree in connection with administering governmental affairs.

SECTION II. Certain acts prohibited.

A. No property owner or anyone in employ of the property owner shall place substances injurious to plant growth in any public right-of-way or public place in such a manner as to injure any tree, shrub or plant growing thereon. The use of calcium magnesium acetate or potassium chloride, is recommended for use by property owners to melt ice rather than rock salt as these products are environmentally-friendly and do not harm vegetation or corrode concrete surfaces.

B. No property owner or anyone in employ of property owner shall build any fire or station any tar kettle, road roller or other engine in such a manner that the heat vapors or fumes therefrom may injure any tree, shrub or plant growing in any public right-of-way or public place.

C. No property owner or anyone in employ of the property owner shall prune any tree, shrub or plant within a public right-of-way or public place.

D. None of the following acts are permitted, either by the property owner or anyone in the employ of property owner:

1. Use, within two feet of any public tree trunk, of a string trimmer or lawn mower or any other implement which could injure the trunk of any tree.
2. Attachment of any sign by means other than tying same around the trunk of a tree.
3. Securing or tying any object, other than a sign as noted in item 2. above, to a publicly owned tree.
4. Placement of mulch volcanoes, a thick layer of mulch is laid around a tree and piled up against the base of the trunk, covering the bark and root flare, on publicly owned trees.

E. No person or corporation shall, without the permission of the shade tree commission or its designee, place or maintain or cause to be placed or maintained upon the ground in any public right-of-way or public place any stone, cement or other sidewalk or any other substance which shall impede the free access of air and water to the roots of any tree or shrub.

F. No property owner or anyone in the employ of the property owner shall permanently damage or remove a publicly owned tree or shrub.

SECTION III. Construction of sidewalks, driveway apron and streets in conflict with trees.

A. Without the consent of the shade tree commission or its designee, no person, firm or corporation is permitted to do any other act which would interfere with or do injury to any publicly owned tree or its roots, including without limitation each of the following: (1) replacing any sidewalk which is a public right-of-way or (2) laying any sidewalk or driveway apron along any street or (3) opening, constructing, curbing or paving any street.

B. Property owners or their employees shall complete an application and appear before the shade tree commission or its designee for approval of any activity that may be prohibited by **Section II.** above prior to the start of the work.

SECTION IV. General construction and excavation regulations.

A. In the construction, altering or repairing of any building or structure, the owner or contractor thereof shall place tree protection guards or fences at the drip line around all trees in public rights-of-way or public places as will effectually prevent injury to such trees. Under no circumstances shall construction equipment or materials be allowed to be placed or stored within the drip line of trees within the public right-of-way or public places.

B. No person, firm or corporation shall do any excavating within the drip line of any tree or shrub in any public right-of-way or public place without the permission of the shade tree commission or its designee. For the purpose of this chapter "drip line" is defined as the area directly located under the outer circumference of the tree's branches.

C. Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public right-of-way or public place.

D. Where in authorized excavations it becomes necessary to expose or cut the roots of public trees of more than one inch in diameter, it shall be the duty of the contractor to protect such roots under advice from the shade tree commission or its designee.

SECTION V. Written approval required for removal; determination of cost; deposit.

Any person requesting the removal or transplanting of any publicly owned tree must obtain written approval from the shade tree commission or its designee. The shade tree commission or its designee may grant such approval if it determines that the tree is of no advantage to the general public but to said person requesting the work, and if such person pays the cost of such work, said costs to be determined by the following:

A. Said cost of removal or transplanting of a shade tree shall be based upon the size and condition of the tree. A deposit sufficient to cover the cost of said work shall be made before the work is started.

B. In addition, replacement costs shall apply. The replacement assessment is determined by the value of tree or trees with total caliper equal to the diameter at breast height of the tree or trees removed or damaged to the degree necessitating removal. For the purposes of this section, "diameter at breast height" shall mean the diameter of the tree taken at a point 4.5 feet above ground level. The commission shall modify the value of the tree based upon its species variety, location and its condition at the time of removal or destruction. Replacement trees shall be located within the right-of-way of the subject property as space permits or in other locations recommended by the shade tree commission or its designee.

SECTION VI. Removal of dangerous privately owned trees; notification of owner.

The borough arborist may move or require the removal of any tree, shrub or plant or part thereof dangerous to public safety at the expense of the owner of such tree, shrub or plant, upon first serving written notice to the owner of said tree, shrub or plant that same will be removed unless the owner removes same within one week from the date of said notice or as determined by the shade tree commission or its designee.

SECTION VII. Planting in public rights-of-way.

No shade or ornamental tree or shrub shall be planted in any public land or in any public right-of-way without permission of the shade tree commission or its designee.

SECTION VIII. Plantings: written request; replacements; type and selection.

A. The shade tree commission or its designee, by its discretion, will plant a tree in the public right-of-way for the property owner upon written request, provided that there is sufficient distance for the future growth of said tree, budget permitting.

B. Replacement trees heretofore planted by the instruction of the shade tree commission or its designee which have been removed because of disease, storm damage, accidents or natural causes will, in the discretion of the borough arborist, be replaced by the shade tree commission or its designee at no charge to the property owner, provided that there is a minimum width of twenty-five to thirty feet between the trunks of standing trees on the same side of the street depending upon species, budget permitting.

C. The type and selection of trees to be planted will be determined by the shade tree commission in consultation with the borough arborist.

SECTION IX.

Property owners' responsibilities for publicly owned trees planted on the right-of-way adjacent to their houses.

- A. The property owner or agent is required to give sufficient and regular watering to ensure the health of the tree(s).
- B. The property owner or agent must apply proper mulching at the base of the tree or trees in accordance with standards of the shade tree commission or its designee.

SECTION X. Privately owned trees.

The property owner is responsible for the pruning and care of private trees on property owner's property that overhang the public right-of-way and that may present a danger to the health, safety and welfare of the public.

SECTION XI. Noninterference with borough arborist.

Borough arborist acts under the jurisdiction of the shade tree commission.

No person shall prevent, delay or in any manner interfere with the borough arborist or his or her authorized agents or representatives in the performance of their lawful duties to protect the health, safety and welfare of the public.

SECTION XII. Statutory powers.

In addition to the foregoing powers, the shade tree commission and its representative, the borough arborist, shall have any and all such powers granted to it by N.J.S.A. 40:64-1 through 40:64-14.

SECTION XIII. Application for permission.

Where the permission, consent or approval of the borough arborist is required by the provisions of this chapter, any person, firm or corporation required to obtain such permission, consent or approval shall first make application therefore to the Borough Arborist, Borough of Glen Ridge, County of Essex.

SECTION XIV. Violations and penalties.

A. Any owner or occupant of lands in the borough or any agent of the foregoing who violates or refuses to comply with the terms of Section 11. (F) shall be liable for the payment of a fine.

1. For the first and second offense, a penalty of fifty dollars will be imposed;
2. For the third and each subsequent offense, any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine upon conviction thereof, be punished as provided in Section 1.08.010, general penalty, of this code plus the replacement and/or repair cost of the tree.

C. Any owner, occupant of lands or agent thereof in the borough who shall neglect or refuse to comply with the terms of **Section II. (A),(B),(C),(D),(E)** shall, upon conviction, be subject to a fine:

1. For the first and second offense, a penalty of one hundred dollars will be imposed;
2. For the third and each subsequent offense, any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine upon conviction thereof, be punished as provided in Section 1.08.010, general penalty, of this code plus the replacement and/or repair cost of the tree.

B. In addition to the penalties authorized above in **Section XIV.A and B.**, any owner or occupant of lands in the borough or any agent of the foregoing who removes, damages, and/or otherwise destroys a tree or trees on public land or on a public right-of-way may be required to pay a replacement assessment as determined by **Section II** to the borough.

SECTION XV. Failure to comply—Lien on property.

In case of the refusal or neglect of any owner or occupant of land or any agent of the foregoing to comply with this chapter, the council may after notice take or cause corrective or replacement actions, and that the cost of said actions, as ascertained by the borough council, with interest thereon, shall be added to and form a part of the taxes next to be levied and assessed upon such land, and shall be a lien upon such lands until the same shall be paid.

CHAPTER 12.29 PERMITS FOR THE REMOVAL OF TREES ON PRIVATE PROPERTY

Introduction

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 and their important role in stormwater management efforts when anticipating potential removals.

SECTION I. Purpose:

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

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" 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 as determined by a New Jersey Licensed Tree Expert. 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 new Jersey Certified Arborist or New Jersey Licensed Tree Expert (LTE).

E. "Invasive Tree" means species of trees, either aquatic or terrestrial, that are:

1. Non-native to the New Jersey ecosystem, and
2. Whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Through aggressive or novel reproduction, environmental endurance, and/or lack of natural predators, these species can outcompete native plants for resources. They do this by changing habitat structure, altering soil chemistry, dominating available space, absorbing sunlight or by shading or more efficiently utilizing nutrients.

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

G. "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.

H. "Resident" means an individual who resides on the residential property, owns the 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.

I. "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.

J. "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.

K. "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.

L. "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 excavation, 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 permit is required for the removal of any street tree or tree greater than six inches DBH on private property.

A. Street Tree Removal:

1. No person, firm or corporation is permitted to do any other act which would interfere with or do injury to any publicly owned tree or its roots

B. Private Tree Removal Application:

1. Any person seeking to remove 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 required to obtain a tree removal permit.

2. If a tree is determined to be hazardous or invasive, by an LTE, the tree may be immediately removed and a permit application shall be submitted not more than ten days after the removal. No fee shall be charged nor will replacement tree(s) be required.

C. Tree Replacement Requirements

1. Any person who removes one or more tree(s), unless exempt under Section III, 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, unless otherwise detailed under Section III, 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 an annual list prepared by the Glen Ridge Shade Tree Commission.

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 six (6) 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.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee
1	DBH of 6" to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	\$100.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$100.00
3	DBH of 23" or greater	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$100.00

C. Escrow Fee:

For each tree required to be replanted, the applicant shall submit an escrow fee of \$100 per tree. At the end of the two-year monitoring period, if the tree is still in good standing, the escrow fee shall be returned. In lieu of an escrow fee, the property owner may present a two-year guarantee from the installer of the tree(s).

D. Replacement Alternatives:

If the Borough Forester determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall pay a fee of \$450 per tree required to be replanted. 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 standard outlined above, except in the cases detailed below:

A. Tree farms in active operation, nurseries, fruit orchards, and garden centers;

B. 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.

C. 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;

D. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

E. Hazard trees or Invasive species trees may be removed with no fee or replacement requirement.

SECTION V. Enforcement:

This ordinance shall be enforced by the Director of Public Works or the Borough Arborist during the course of ordinary enforcement duties.

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 upon conviction thereof, be punished as provided in Section 1.08.010, general penalty, of this code plus the replacement cost of the tree.

SECTION VII. Failure to comply—Lien on property.

In case of the refusal or neglect of any owner or occupant of land or any agent of the foregoing to comply with this chapter, the council may after notice take or cause corrective or replacement actions, and that the cost of said actions, as ascertained by the borough council, with interest thereon, shall be added to and form a part of the taxes next to be levied and assessed upon such land, and shall be a lien upon such lands until the same shall be paid.

SECTION VIII. 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 VIV. 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.

BE IT ENACTED AND ORDAINED, by the Mayor and the Borough Council of the Borough of Glen Ridge, in the County of Essex in the State of New Jersey, as follows:

BE IT FURTHER ENACTED AND ORDAINED, that this Ordinance shall take effect immediately upon final passage and publication in accordance with the law.

Ordinance Introduction: Monday, August 19, 2024
Ordinance Adopted:

ATTEST:

Deborah Mans
Mayor

Tara Ventola
Municipal Clerk