

**CITY OF GARFIELD
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO.: 3030**

AN ORDINANCE ESTABLISHING REQUIREMENTS FOR TREE REMOVAL AND REPLACEMENT, AND TO REPEAL AND REPLACE PART II, GENERAL LEGISLATION, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF GARFIELD

WHEREAS, the New Jersey Department of Environmental Protection (“NJDEP”) revised its Tier A Master Stormwater Permit requiring municipalities to adopt and enforce a community-wide ordinance covering tree removal and replacement; and

WHEREAS, the NJDEP Stormwater Program provides assistance to municipalities complying with the program and the adoption of stormwater-related ordinances such as the tree removal/replacement ordinance; and

WHEREAS, the Governing Body of Garfield believes it is in the best interest of the City of Garfield to Amend Part II General Legislation, of the Code of the City of Garfield;

BE IT ORDAINED by the Mayor and City Council of Garfield, County of Bergen, State of New Jersey, as follows:

Section 1. Part II, General Legislation, Chapter 315, Tree Removal and Replacement, is hereby enacted as follows

§ 315-1 Purpose.

An ordinance to establish requirements for tree removal and replacement and penalties for noncompliance in the City of Garfield to protect the environment, public health, safety and welfare.

§ 315-2 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.

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 tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.

C. “Tree of Significance” means any tree that is recognized by the municipal governing body or local historical organization(s) as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological, and historical value.

D. “Homeowner” means a person(s) who owns a residence.

E. “Nuisance tree” means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or threatens public health, safety, and welfare.

F. “Person” means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

G. “Planting strip” means the part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

H. “Street Tree” means a tree planted in the sidewalk or a planting strip in the public right-of-way.

I. “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.

J. “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.

§ 315-3 Tree Removal.

Any person planning to remove a street tree 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 Building Department of the City of Garfield. No tree shall be removed without first having obtained a tree removal permit as provided herein, and until municipal officials have reviewed and approved the removal. Applicants will be subject to an application fee as per Table 1 below.

§ 315-3 Tree Removal Permits.

- A.** Any person wishing to obtain a tree removal permit shall make application to the Building Department by filing a written application and paying such fees as are set forth in § 315-4.
- B.** Tree removal permit applications shall be filed at the Building Department and shall be completed in full. The application must be deemed complete and all required fees, as set forth in § 315-4, be paid prior to review.

- C. Any and all permits approved by the City shall be declared null and void if the tree removal is not completed within a reasonable time, not to exceed 12 months after permit issuance. In no case will the permit be valid for more than 12 months. Permits not used within this period will require a new application and the payment of new fees. For purposes of this section, a permit shall no longer be valid when the work authorized by the permit is completed.

§ 315-4 Fees.

A. Application.

1. The applicant, at time of filing the application with the Municipal Officer, shall pay the application fee of \$5 per tree for single-family residential lots, with a maximum fee of \$100 per lot. For all other applications, the fee shall be \$150 for the removal of five or fewer trees or \$150, plus \$25 for each tree removed over five trees. No application shall be considered without the payment of the required fees.
2. The replacement fee will be at the applicant's expense.

§ 315-5 Tree Replacement Requirements.

1. Within a five-year period, 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. For applicants, other than "Homeowners":
Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
3. For Homeowner applicants:
Within a five-year period, any person that removes more than three (3) trees per acre that fall into categories 1, 2, or 3, combined, or anyone (1) tree in categories 4 or 5 in the Tree Replacement Requirements table below, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
4. Replacement tree types:
The species type and diversity of replacement trees shall be in accordance with the City of Garfield's tree list distributed at the time of the issuance of the removal permit taking into account the "Right Tree Right Place" guidelines. In cases where the planting of a new tree(s) in place of the one removed would not be suitable for the particular site prescribed, due to the size of the site or location of other trees or be

found to prevent the necessary and reasonable use of a street, sidewalk or abutting property, the City may release the applicant from the requirement of planting a new tree, as per § 315-6.

5. Replacement trees prohibited.
Exotic invasive species shall not be used as replacement trees as identified in the New Jersey Invasive Species Strike Team’s “Do Not Plant List” at the time of the application.
6. Replacement tree(s) shall meet the Required Actions in Table below, and shall be planted within twelve (12) months of the date of removal of the original tree(s). 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 2.5” (for street trees) or 6” (for other trees) to 12.99”	Replant 1 tree in accordance with Appendix A, with a minimum DBH of 1.5” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees in accordance with Appendix A, with minimum DBHs of 1.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum DBHs of 1.5” for each tree removed
4	DBH of 33” or greater	Replant 4 trees with minimum DBHs of 1.5” for each tree removed
5	Tree of Significance*	Replant 5 trees with minimum DBHs of 1.5” for each tree removed

*Tree of Significance removals shall be approved by the Building Department.

§ 315-6 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 \$100 per tree removed. This fee shall be placed into a fund dedicated to tree planting.

§ 315-7 Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption that may include photos and/or statements from a licensed tree expert or arborist:

- A. Clearing, cutting, and/or removal of trees which is necessary to service, maintain, or ensure the continued safe use of a lawfully existing structure, right-of-way, field, park, and/or garden.
- 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;
- D. 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;
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- F. Nuisance trees may be removed with no fee or replacement requirement.

§ 315-8 Enforcement.

This ordinance shall be enforced by the Property Maintenance and/or the Building Department of the City of Garfield during the course of ordinary enforcement duties.

§ 315-9 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 or may be required to plant additional trees in lieu of a fine. The removal of a tree of significance is not subject to a fine limit.

Section 2. 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 3. 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.

ATTEST: _____

Erin Delaney, MPA, RMC, CMC

City Manager/City Clerk

Introduced: February 27, 2024

Adopted: March 12, 2024

APPROVED: _____

Richard Rigoglioso, Mayor