

ADOPTED: April 16, 2024
APPROVED: [Signature]
MAYOR
DATE: 4-16-2024
ATTEST: [Signature]
MUNICIPAL CLERK

ADOPTED: April 16, 2024

**ORDINANCE NO. 8-2024
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY
OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 23
"SHADE TREES" OF THE CODE OF THE BOROUGH OF BLOOMINGDALE**

WHEREAS, the Borough Code contains regulations and definitions associated with the removal of trees throughout the Borough; and

WHEREAS, the New Jersey Department of Environmental Protection ("NJ DEP") has developed a model tree removal-replacement ordinance to ensure municipalities have adopted ordinances which are consistent with the NJ DEP's stormwater management statutes and regulations; and

WHEREAS, a review of the Code determined that the Borough should amend the Code to incorporate the NJ DEP's model ordinance; and

WHEREAS, the Borough Engineer and Ordinance Review Committee have reviewed and recommended that the Code be amended; and

WHEREAS, the Borough Council has reviewed and approved of the recommended amendment.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Bloomingdale, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 23 "Shade Trees" shall be amended to read as follows:

§23-1 SHADE TREES.

§23-1.1 Purpose.

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

The purpose of this section is to discourage indiscriminate and excessive removal, cutting and destruction of trees, which has caused environmental damage and adversely affected property values, to prevent soil erosion and stream pollution and silting, to augment flood control, to restrict the cutting of trees to a minimum during construction, to reduce dust and air pollution, to preserve wildlife habitat, to beautify the streets and to

reforest the municipality by encouraging the planting of trees wherever and whenever possible.

§23-1.2 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" 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 Chapter.

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.

D. "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 at least one of the following: Certified Arborist, Licensed tree expert (LTE), Bloomingdale Property Maintenance Officer, EEO, Superintendent of Public Works, Borough Engineer, or Borough Official.

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

F. "Planting strip" means the part of a street right-of-way between the public right-of-way adjacent to the portion of the street reserved for vehicular traffic the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

G. "Resident" means an individual who resides on the residential property where a tree(s) regulated by this Chapter is removed or proposed to be removed.

H. "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. (according to tax map). This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

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 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.

K. "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.

L. "Environmental Enforcement Officer" (EEO) shall mean the Bloomingdale Zoning Official or his duly appointed designee, who may, on his own initiative or on the complaint of any individual, take action hereunder to ensure compliance with this chapter. He may request expert assistance, subject to the approval of the governing body.

§23-1.3 Regulated activities.

A. Application Process:

1. 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 the construction official. No tree shall be removed until municipal officials have reviewed and approved the removal.
2. For larger scale clearing projects a tree survey is required to be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees.

B. Tree Removal and Planting Plan.

1. An approved tree removal and planting plan is required prior to approval of a subdivision, site plan or building permit or prior to the removal of any tree not excepted in subsection 23-1.4. The EEO shall make an on-site inspection within 14 days of submission of the plan and all trees to be cut are to be clearly identified with tagging by the plan applicant at the time the plan is submitted.

2. No certificate of occupancy shall be issued unless tree removal and planting have been in accordance with the approved plan or a bond posted guaranteeing proper planting and removal.
3. Data required for a tree removal and planting plan shall include:
 - a. The Tax Map, lot and block number.
 - b. The area of tract, and the location of streams, wetlands, streets and woods.
 - c. Slopes over 15%.
 - d. The type of tree-cutting, clear or selective.
 - e. Removal in relation to buildings, roads and septic systems and sewer lines, present and proposed.
 - f. A list of trees to be planted.
 - g. The map of surrounding properties showing wooded areas and features.
4. The tree removal and planting plan shall be prepared by the applicant on forms to be prepared and supplied by the EEO.

C. Criteria for Plan Approval.

1. Trees may be removed within five feet of the edge of pavement of drives and parking areas.
2. Trees may be removed from proposed building foundations as follows:
 - a. 40 feet as front and backyard setback.
 - b. 20 feet as side and backyard setback.
3. Tree removal is prohibited where the existing trees form part of a planned greenbelt or buffer.
4. Any tree used in a required planting or to replace a damaged tree must be at least two and one-half (2 1/2) inches in diameter and must be nursery stock, balled and burlapped.
5. Trees in the area between the street line and setback line of the buildings shall be preserved to the greatest extent possible.
6. The removal of trees from any environmentally sensitive area or slopes over 15% is prohibited as it will contribute to extra runoff of surface water, erosion and silting, unless other means, approved by the Hudson Essex Passaic Soil Conservation District, are provided to prevent runoff and erosion.
7. Any grading must protect standing trees from machine operation, soil storage or material storage by a distance equal to or greater than the drip line of the tree. Any tree damaged to the extent that such damage may cause disease or death to the tree must be replaced. Temporary construction fences delineating clear-cut setbacks are required for tree protection.
8. Trees may be removed to allow for backfill or soil removal, provided that the same amount of wooded area is replaced when fill is settled.
9. Unless otherwise proven necessary, staging areas for machinery, equipment, supplies, materials, etc., shall be within a cleared building area in order to prevent damage to trees designated to be saved.
10. If, upon a building site inspection, the EEO finds that trees have been removed without regard for this section, no building permit shall be issued until the alleged violation has been prosecuted and disposed of in Municipal Court.
11. Should the EEO discover violations of the section following the issuance of a building permit, a stop-work order will be issued until the matter is disposed of

in Municipal Court.

D. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under Section 23-1.4, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person, other than a resident, who removes one or more tree(s) with a DBH of 6" or more per lot, unless exempt under Section 23-1.4, shall be subject to the requirements of the Tree Replacement Requirements Table. The species type and diversity of replacement trees on the owners lot will be up to the homeowner. The municipality will decide species type and diversity of replacement trees planted on Borough property. (as per chapter 20-13.1 of Borough code). No person shall plant a poplar, linden, willow, catalpa, silver maple or swamp maple tree within the lines of any street or within 25 feet of the lines of any street or highway in the Borough or within 25 feet of any municipal utility easement.
3. Replacement tree(s) shall:
 - a. 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;
 - b. 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;
 - c. 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
 - d. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree removal (DBH)	Tree Replacement Criteria (See Appendix A)	Application Fee
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	\$50.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$50.00
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$50.00
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$50.00

E. 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 \$150.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§23-1.4 Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided in writing, by a certified licensed arborist paid for by homeowner, to the municipality by all persons claiming an exemption except where noted otherwise.

- A. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- B. 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;
- C. 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.
- 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. Hazard trees may be removed with no Arborist Justification, provided written approval is granted by the EEO.
- G. Any tree growing in a public right-of-way.
- H. Any tree growing in the following areas on a lot containing a building. No Arborist Justification is needed provided written approval by the EEO is granted.
 - a. Within 40 feet of the front wall and the rear wall of the structure.
 - b. Within 20 feet of either side wall of the structure.
 - c. Within five feet of any paved surface.
 - d. On or above any existing or proposed utility lines or septic system, provided that requisite permits are obtained.

- e. On or above any surfaces which are being prepared for the immediate extension of pavement expansion, of recreation areas, installation of swimming pools, installation of outdoor sheds or garden enhancement; provided, however, that no tree shall be removed until and unless a necessary requisite permit is obtained for the construction activity.
- I. Likely to endanger life or property as determined by an Arborist or the EEO.
- J. Dead or diseased trees may be removed with no Arborist Justification, provided written approval is granted by the EEO.
- K. Trees on the premises of nurseries and garden centers.
- L. Tree farms may remove up to but not more than 30% of trees from their entire tract, provided that a forest management plan, approved by the New Jersey Department of Environmental Protection, Bureau of Forestry or other professional forester has been submitted to the EEO.
- M. Removal of one tree per residential lot per year. No Arborist Justification needed, provided written approval is granted by the EEO.
- N. The Oak Tree situated in front of Borough Hall may be removed only upon a determination by an arborist that the tree is diseased or unsafe and an affirmative vote by a majority of the Borough Council that the tree should be removed, except in cases of emergency where public safety necessitates the removal of the Oak Tree.

§ 23-1.5 Enforcement

This Chapter shall be enforced by the Borough of Bloomingdale EEO and/or other designated Municipal Official during the course of ordinary enforcement duties.

§23-1.6 (Reserved)

§ 23-1.7 Fees; Costs.

- a. A fee schedule shall be on file in the Office of the EEO for the purpose of adequately covering the administrative costs of this section. The fee shall be included with the plan submitted. Where needed and not otherwise provided, an escrow account will be established to cover expenses associated with regard to any expert assistance retained by the Borough. The amount of the escrow shall be set by the EEO.
- b. The owner or applicant shall reimburse the Borough for all costs of expert advice obtained in connection with the application for an approved plan which may exceed the fee schedule.

§ 23-1.8 Violations and Penalties.

ADOPTED: April 16, 2024

Any person violating any provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter 1, Section 1-5 of the Revised General Ordinances of the Borough of Bloomingdale.

SECTION 2. This Ordinance may be renumbered for codification purposes.

SECTION 3. All ordinances or parts of ordinances of the Borough of Bloomingdale inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 4. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

PUBLIC NOTICE


**ORDINANCE NO. 8-2024
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 23 "SHADE TREES" OF THE CODE OF THE BOROUGH OF BLOOMINGDALE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey held in the Municipal Building on April 2, 2024, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on April 16, 2024 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk's Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Purpose/Summary of Ordinance No. 8-2024:

WHEREAS, the New Jersey Department of Environmental Protection ("NJ DEP") has developed a model tree removal-replacement ordinance to ensure municipalities have adopted ordinances which are consistent with the NJDEP's stormwater management statutes and regulations. A review of the Code determined that the Borough should amend the Code to incorporate the NJDEP model ordinance, also recommended by the Borough Engineer. The recommendation includes amending Chapter 23 "Shade Trees".



Breeanna Smith, RMC
Municipal Clerk

ADOPTED: April 16, 2024

BOROUGH OF BLOOMINGDALE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ATTEST:



Breeanna Smith, Clerk



By: _____
John D'Amato, Mayor