

**CITY OF HACKENSACK  
ORDINANCE NO. 17-2024**

**AN ORDINANCE AMENDING CHAPTER 162 OF THE  
CODE OF THE CITY OF HACKENSACK, “TREES,” TO  
ESTABLISH PROCEDURES FOR TREE REMOVAL AND  
REPLACEMENT IN ORDER TO COMPLY WITH STATE  
REQUIREMENTS**

**AS AMENDED FOR APRIL 16, 2024 COUNCIL MEETING**

**WHEREAS**, the City’s professionals have advised the City Council that the New Jersey Department of Environmental Protection (“NJDEP”) has required municipalities adopt legislation addressing tree removal and replacement to comply with NJDEP stormwater regulations; and,

**WHEREAS**, 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; and,

**WHEREAS**, the 2023 Tier A MS4 permit renewal requires the City to, at a minimum, adopt and enforce a community-wide ordinance to control tree removal and replacement for all types of properties where it has jurisdiction; and,

**WHEREAS**, the DEP has prepared a model ordinance in furtherance of this effort that the City Council believes is appropriate to adopt with various modifications as recommended by the City’s professionals.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HACKENSACK**, as follows:

**Section 1:**

Chapter 162 of the Code of the City of Hackensack, “Trees,” is hereby amended to add the following provisions relating to tree removal and replacement as follows:

**§162-6 Purpose.**

The purpose of this ordinance is to establish requirements for tree removal and replacement in the City of Hackensack to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**§162-7 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

## **APPLICANT**

Any “person,” as defined herein, who applies for approval to remove trees regulated under this ordinance.

## **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’.

## **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.

## **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.

- A. Has an infectious disease or insect infestation;
- B. Is dead or dying;
- C. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
- D. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
- E. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (“LTE”).

## **PERSON**

Any individual, resident, corporation, utility, company, partnership, firm, or association.

## **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.

**RESIDENT**

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.

**STREET TREE**

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.

**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.

**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.

**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.

**§ 162-8 Regulated Activities.**

- A. The removal of any tree within the City of Hackensack shall remain subject to the City's existing business practices and permit application reviews, including, but not limited to, site plan approvals, building permit approvals, planning board application approvals, and so forth. There shall not be a separate application process for tree removal and replacement under this ordinance. However, advance notification of any "tree removal," as that term is defined in this ordinance, involving a tree with a minimum DBH of 2.5" (for street trees) or 6" (for non-street trees) must separately be provided to the Supervisor of the Tree Division of the Department of Public Works, or designee, in a manner to be established by the Director of the Department of Public Works.
- B. The following tree replacement requirements shall apply when a person engages in "tree removal" as that term is defined in this ordinance:

1. Any person who removes one or more street tree(s) with a DBH of 2.5” or more, unless exempt under §162-9, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person who removes one or more tree(s) with a DBH of 6” or more per acre, unless otherwise exempt under §162-9, shall be subject to the requirements of the Tree Replacement Requirements Table below.
3. The species type and diversity of replacement trees are set forth in Appendix A to this ordinance (§162-12). The provisions of §162-3 addressing certain prohibited trees and vegetation at certain locations within the City shall continue to apply in all cases.

C. 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 criteria in the Tree Replacement Requirements Table below;
2. Be planted within twelve (12) months of the date of removal of the original tree(s);
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:**

<b>Category</b>	<b>Tree Removed (DBH)</b>	<b>Tree Replacement Criteria (See Appendix A)</b>
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

D. If the City determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the person responsible for the property shall do one of the following:

1. Plant replacement trees in a separate area(s) approved by the City; or
2. Pay a fee of \$350.00 per tree removed, which shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

**§ 162-9 Exemptions.**

All persons shall comply with the tree replacement standard outlined in § 162-8, except in the cases detailed below. Any exemption sought shall be supported by proper justification submitted to the Supervisor of the Tree Division of the Department of Public Works or designee. Proper justification may include photographs or written documentation from a certified arborist or a LTE as certified by the Board of Tree Experts within the New Jersey Department of Environmental Protection (“NJDEP”).

- A. Residents removing less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. NOTE: The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the ‘count’ resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.
- 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 that is active and on file with the municipality.
- D. 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.
- E. Any trees removed pursuant to a NJDEP or United States Environmental Protection Agency (“EPA”) approved environmental clean-up, or NJDEP approved habitat enhancement plan.
- F. Approved game management practices, as recommended by the NJDEP’s Division of Fish, Game and Wildlife.
- G. Hazard trees as defined in this ordinance may be removed with no fee or replacement requirement.

### § 162-10 **Enforcement.**

This ordinance may be enforced by the Police Department, the Supervisor of the Tree Division of the Department of Public Works, the Zoning Officer, or other official designated by the City Manager during the course of ordinary enforcement duties.

### § 162-11 **Violations and Penalties.**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to the penalties established in §1-15 of the Code of the City of Hackensack, provided, however, that the minimum fine shall be \$100. A separate penalty shall be imposed for each tree improperly removed without being replaced.

### § 162-12 **Appendix A, Authorized Replacement Trees**

Any tree species that has been recognized by the Native Plant Society of New Jersey ([www.npsnj.org](http://www.npsnj.org)) as a recommended tree native to New Jersey is authorized as a replacement tree, street trees excluded. Other tree species may be separately authorized by the Supervisor of the Tree Division of the Department of Public Works for good cause and following consultation with the Shade Tree Advisory Committee. The list of authorized replacement trees may be found at the following Internet link:

[https://npsnj.org/wp-content/uploads/2023/01/native\\_trees\\_for\\_landscaping.pdf](https://npsnj.org/wp-content/uploads/2023/01/native_trees_for_landscaping.pdf)

Authorized street trees shall be determined by the Supervisor of the Tree Division of the Department of Public Works following consultation with the Shade Tree Advisory Committee. Replacement of trees shall follow appropriate planting procedures to be developed by the Supervisor of the Tree Division of the Department of Public Works and posted on the City's website.

### **Section 2:**

*Repeal of Inconsistent Provisions.* All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

### **Section 3:**

*Severability.* The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4:**

*Codification.* This Ordinance shall be a part of the Code of the City of Hackensack as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The City Clerk and the City Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hackensack in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Section 5:**

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

Introduced: April 2, 2024  
Adopted: April 16, 2024

ATTEST:

**CITY OF HACKENSACK**

By: \_\_\_\_\_  
Deborah Karlsson, City Clerk

By: \_\_\_\_\_  
John P. Labrosse Jr., Mayor