

**CITY OF SALEM
ORDINANCE 24-08**

**AN ORDINANCE AMENDING CHAPTER 130, PART 8 (STORMWATER
MANAGEMENT) OF THE CODE OF THE CITY OF SALEM, NEW JERSEY BY
ADDING NEW ARTICLE XXX TO BE TITLED "TREE REMOVAL-
REPLACEMENT"**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Mayor and City Council are authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the power and duties conferred and imposed upon the City by law; and

WHEREAS, the revised stormwater regulations require the City to adopt regulations on tree removal and replacement; and

WHEREAS, it is the intent of the City to amend Chapter 130, Part 8 (Stormwater Management) of the Salem Code to conform to the new stormwater regulations; and

WHEREAS, new Article XXX of Chapter 130, Part 8 is created entitled Article XXX- "Tree Removal- Replacement."

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SALEM:

Section 1. Chapter 130, Part 8 entitled Stormwater Management is hereby amended with the addition of Article XXX Tree Removal Replacement.

Article XXX Tree Removal-Replacement

§130-175 Purpose.

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

§130-176 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. "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. 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 the head of the Public Works Department or their designee.

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 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" means 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.

H. "Street Tree" means 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" 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.

§130-177 Regulated Activities.

A. Process:

1. Any person planning the Tree removal of a street tree with DBH of 4” or more or any non-street tree with DBH of 6” or more on their property shall **notify the head of the Public Works Department or their designee. No tree shall be removed until City officials have reviewed and approved the removal, unless otherwise exempt per §130-178 of this ordinance.**
2. Any Land Use application for Preliminary site plan or subdivision approval shall include a tree location and replacement plan for the area of disturbance. Replacement plan shall include the specified number of replacement trees or the replacement alternative.

B. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) with a DBH of 4” or more, unless exempt under §130-178, 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 per acre, unless otherwise exempt under §130-178, 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 Appendix A.

Replacement tree(s) shall:

1. Meet 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 City;
3. Be monitored by the applicant for a period of **two planting seasons** to ensure their survival and shall be replaced as needed **within the two seasons**; 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)
1	DBH of 4” (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 the City 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 City.
 - b. Pay a fee of \$350.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§130-178 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, to the City by all persons claiming an exemption

- A. Residents who remove less than five (5) trees per acre within a five-year period.
- 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 City;
- 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 New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement.

§130-179 Enforcement.

This ordinance shall be enforced by the head of the Public Works Department or their designee during the course of ordinary enforcement duties.

§130-180 Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows:

A. For each violation of any provision of the within chapter a fine of up to \$1,200 for each day the violation continues, each day constituting a separate violation.

B. A term of imprisonment for up to six months.

C. For any violation of any provision of the within chapter, the head of the Public Works Department or their designee may issue a stop-work order.

D. Failure to comply with any such stop-work order shall be an additional violation of this chapter and shall subject any violator to an additional fine of up to \$1,200 for each day the violation continues, each day constituting a specific violation.

E. These fines and penalties are in addition to any fines and/or penalties assessed by any other state, county, or federal agency or authority.

§130-181 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.

§130-182 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.

Appendix A

Following is a list of approved replacement trees in the City of Salem for trees being removed per Chapter 130 Article XXX. The mix, number and location of trees or substitutions shall be reviewed and approved by the City Engineer. Not all tree species may be appropriate for certain uses, locations, site conditions, and soil types.

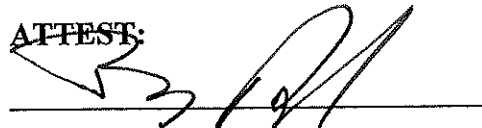
<u>Tree Species</u>	<u>Common Name</u>
Acer Rubrum	Red Maple
Acer Negundo	Boxelder
Betula Nigra	River Birch
Carpinus Caroliniana	American Hornbeam
Carya Ovalis	Red Hickory
Cornus Florida	Flowering Dogwood or other dogwoods
Fraxinus Americana	White Ash
Ginkgo Biloba (male)	Ginkgo
Gleditsia triacanthos var. inermis	Honey Locust (Thornless)

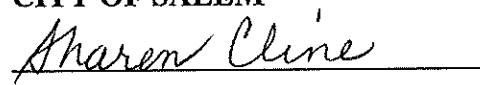
Liriodendron Styraciflua	Tuliptree
Nyssa Sylvatica	Blackgum
Populus Grandidentata	Bigtooth Aspen
Quercus Alba	White Oak
Quercus palustris	Pin Oak
Quercus Rubra	Northern Red Oak
Tilia Cordata	Littleleaf Linden
Ulmus Americana	American Elm "Princeton"

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

ATTEST:

Ben Angeli, RMC

CITY OF SALEM

Sharen Cline, Council President

COUNCIL	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
E. Gage	X		X			
T. Gregory			X			
Y. Groce			X			
S. Kellum		X	X			
C. Loatman			X			
J. Long			X			
C. Smith			X			
S. Cline			X			

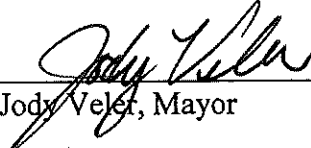
I, Ben Angeli, City Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of an Ordinance introduced by the Common Council of the City of Salem on March 18, 2024. Public Hearing shall take place on April 15, 2024.

3-19-24
Date


Ben Angeli, RMC

COUNCIL	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
E. Gage			X			
T. Gregory	X		X			
V. Groce				X		
S. Kellum		X	X			
C. Loatman			X			
J. Long			X			
C. Smith			X			
S. Cline			X			

4-15-24
Date


Dr. Jody Velet, Mayor

I, Ben Angeli, Municipal Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council of the City of Salem after a second reading and public hearing on April 15, 2024.

4-15-24
Date


Ben Angeli, RMC