

**TOWNSHIP OF CINNAMINSON**

**ORDINANCE 2024 – 7**

**AN ORDINANCE OF THE TOWNSHIP OF CINNAMINSON, COUNTY OF BURLINGTON, AND STATE OF NEW JERSEY, AMENDING CHAPTER 450 OF THE GENERAL CODE OF THE TOWNSHIP OF CINNAMINSON ENTITLED “TREES”**

**WHEREAS**, Chapter 450, Article V of the Code of the Township of Cinnaminson (“Township”), entitled “Trees,” establishes Street Tree Removal requirements, which were adopted on or about June 4, 2018; and

**WHEREAS**, the 2023 New Jersey Department of Environmental Protection (“NJDEP”) Tier A MS4 permit requires that the Township adopt and enforce a community-wide ordinance to control tree removal and replacement for properties within the jurisdiction of the Township on or before May 1, 2024; and

**WHEREAS**, the Township, in furtherance of the requirements of the NJDEP, desires to replace the existing Street Tree Removal Ordinance (Chapter 450, Article V) with certain provisions of the model ordinance provided by the NJDEP to municipalities in the State of New Jersey.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Mayor and Township Committee of the Township of Cinnaminson, County of Burlington and State of New Jersey as follows:

**SECTION 1:** Chapter 450, entitled “Trees,” is hereby amended, revised and/or supplemented to read as follows:

**§ 450-32 - Statement of Purpose.**

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 the Municipality is considering these undervalued assets in their stormwater management efforts.

The 2023 Tier A MS4 permit renewal requires permittees to, at a minimum, adopt and enforce a community-wide ordinance to control tree removal and replacement for all types of properties where the municipality has jurisdiction. This ordinance establishes requirements for tree removal and replacement in Cinnaminson Township to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

### **§ 450-33 – 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  $CRR = 6'' \times 1.5' = 9'$ .
  
- 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 including, but not limited to, building foundations, facades, roofs, and privately owned sidewalk; or

5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- 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.

#### **§ 450-34 - Regulated Activities.**

##### **A. 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 IV, shall be subject to the requirements of the Tree Replacement Requirements.

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 detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements.

The species type and diversity of replacement trees shall be in accordance with the Rutgers COOP Native Tree List. If a person desires to plant a tree that is not on the list, a written request must be sent to the Department of Public Works for review and approval. In the event a person plants a tree that is not on the list without prior approval, it shall be considered a violation of this Ordinance.

Replacement tree(s) shall:

1. Be replaced with a tree that is listed on the Rutgers COOP native tree list or approved by the Department of Public Works.
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 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.

#### B. Replacement Alternatives

1. If the municipality determines that some or all required replacement trees will not be planted on the property where the tree removal activity occurred, then the person(s) removing the tree(s) shall do one of the following:
  - a. Plant replacement trees in a separate area(s) approved by the municipality.
  - b. Pay a fee of \$50.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

#### C. Street Tree Removal

1. Any tree located within any Township right-of-way or on any Township-owned lands may, upon determination by the Department of Public Works, be removed as follows:
  - a. By and at the expense of the Township when dead or dying; or
  - b. By a combination of a public utility(ies) and the Township when endangering any aerial utility(ies), upon determination by the Enforcement Officer and/or

upon the Township receiving notice from an appropriate and duly authorized public agency; or

- c. By and at the expense of the Township when endangering any underground utility lateral(s) within the critical root zone of a tree, as determined and/or confirmed by the Enforcement Officer; or
  - d. By and at the expense of the adjacent and/or affected property owner when damaging any sidewalk within the Township right-of-way or when endangering an underground utility lateral(s) outside of the tree's critical root zone.
2. Any tree removed from any Township right-of-way or any Township-owned land by a property owner must receive approval from the Department of Public Works prior to removal.
  3. When a tree is removed within any Township right-of-way the stump shall be removed or ground to a minimum of six (6) inches below grade. The disturbed area shall be restored with topsoil, seed, and straw.

#### **§ 450-35 - 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 municipality by all persons claiming an exemption. Proper justification includes, but is not limited to, photographic evidence, certification from a licensed tree expert or arborist, and/or state agency documentation.

- A. Residents who remove less than four (4) trees per 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 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 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 replacement requirement.

**§ 450-36 - Enforcement.**

The following municipal officials of the Township of Cinnaminson shall have the authority to enforce the provisions of this article: the Superintendent of Public Works and/or his/her designee, the Code Enforcement Officer, the Health Officer, and the Zoning Official.

**§ 450-37 - Disposal Requirements.**

- A. Any debris from an approved tree removed from the Township right-of-way by a contractor hired by a property owner must be removed and disposed of by the contractor.
- B. Any debris from an approved tree removed from the Township right-of-way by a property owner may be disposed of curbside in accordance with standard Township removal times and per requirements as set forth in § 442-19.

**§ 450-38 - Appeal.**

- A. Any person aggrieved by the decision of the Enforcement Officer shall have the right to appeal such decision to the Township Committee. Such appeal shall be by written notice stating the reasons upon which the appeal is based and filed with the Township Clerk within 10 days of the Enforcement Officer's decision.
- B. The Township Committee shall hear the matter, upon notice to the applicant, within 30 days after the filing of the notice of appeal. The Township Committee may in its discretion and upon review of the application and hearing testimony from the Enforcement Officer, the applicant and any other experts as it may deem appropriate, reverse, modify or affirm the Enforcement Officer's decision. If the Township Committee does not act within 30 days after the filing of the notice of appeal, the Enforcement Officer's decision shall be deemed to have been affirmed by the Township Committee.

**§ 450-39 - 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 equal to the amount of the cost to replace the trees. The Township reserves the right to waive the penalty if an agreement is reached for the violator to plant replacement trees and/or contribution to the tree planting fund.

**§ 450-40 - 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 2:** All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

**SECTION 3:** If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

**SECTION 4:** This Ordinance shall repeal and replace the existing Article V, Street Tree Removal code provision (adopted 6/4/18 by Ord. No. 2018-9) in its entirety and be in full force and effect from and after its adoption and any publication as may be required by law.

Attest:

Township of Cinnaminson



LISA A. PASSIONE, RMC



PAUL CONDA, MAYOR

### CERTIFICATION

I, Lisa A. Passione, RMC, Clerk of the Township of Cinnaminson, County of Burlington, do hereby certify that the foregoing Ordinance was introduced at the meeting of the Township of Cinnaminson held on May 6, 2024 and thereafter duly advertised in the legal newspaper of the Township at least ten (10) days prior to it being considered for final passage and adoption at a subsequent meeting held on May 20, 2024, at which time any person interested therein was given an opportunity to be heard.



LISA A. PASSIONE, RMC  
Municipal Clerk