

ORDINANCE 2024-04

REPEALING AND REPLACING ORDINANCE 2023-14, AMENDING THE CODE OF THE BOROUGH OF MOUNT EPHRAIM TO INCLUDE NEW CHAPTER 404, ENTITLED "TREE REMOVAL AND REPLACEMENT"

BE IT ORDAINED by the Governing Body of the Borough of Mount Ephraim, County of Camden, and State of New Jersey, that Ordinance 2023-14, adopted September 7, 2023, Amending the Code of the Borough of Mount Ephraim to Include New Chapter 404, Entitled, "Tree Removal and Replacement" is hereby repealed and replaced as follows:

**Article I.
Tree Removal and Replacement**

ARTICLE I. SECTION 404-1 Purpose.

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

ARTICLE II. SECTION 404-2 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 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 word "shall" means the requirement is always mandatory and not merely directory.

APPLICANT - means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

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 of 9' (6 x 1.5=9).

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.

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 pedestrian or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, sewer lines, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or LTE.

PERSON - means any individual, resident, corporation, utility, company, partnership, firm, or association.

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.

RESIDENT – means an individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

STREET TREE - means a tree planted in the sidewalk or a planting strip 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 - 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.

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 tree treatments intended to manage invasive species.

ARTICLE III. SECTION 404-3 Regulated Activities.

A. Application Process - Any person planning to remove a street tree with DBH of 2.5" or more or any non-street tree with DBH of 18" or more on their property shall submit a Tree Removal Application to the Borough Clerk or his/her designee. No tree shall be removed until Borough officials have reviewed and approved the removal.

B. 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 404-4 of this Chapter, 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 18", unless exempt under Section 404-4 of this Chapter, shall be subject to the requirements of the Tree Replacement Requirements Table below. The species type and diversity of replacement trees shall be in accordance with Appendix A. Replacement tree(s) shall:

a. Be replaced in kind with a tree that has an equal or greater DBH than the 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);

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 Removed (DBH)	Required Action
1	DBH of 2.5" (for street trees) or 18" (for other trees) to 29.99"	Replant 1 tree with a minimum DBH of 1.5" for each tree removed
2	DBH of 30" or greater	Replant 2 trees with minimum DBHs of 1.5" for each tree removed

C. Replacement Alternatives: If the Borough 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:

1. Plant replacement trees in a separate area(s) as approved by the Borough,
or

2. Pay a fee in an amount of \$200 per tree removed. This fee shall be placed into a fund dedicated to tree planting.

3.

ARTICLE IV. SECTION 404-4 Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the following cases (listed below). Proper justification shall be provided, in writing, to the Borough by all persons claiming an exemption and shall include a written statement as to the reason for the tree

removal, photos and/or a statement from an arborist or certified tree expert. All approved exemptions shall permit the removal of the tree(s) with no fee or replacement requirement.

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 that is active and on file with the Borough;

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.

ARTICLE V. SECTION 404-5 Enforcement.

This ordinance shall be enforced by the Mount Ephraim Police Department, the Mount Ephraim Property Maintenance Officer, the Mount Ephraim Superintendent and/or Assistant Superintendent of Public Works and/or other Municipal Officials of the Borough of Mount Ephraim, during the course of ordinary enforcement duties.

ARTICLE VI. SECTION 404-6 Violations; penalties.

Any person(s) found to be in violation of the provisions of this Chapter shall, upon conviction thereof, be liable for penalties or any combination thereof as set forth in Chapter 1-9 of the Code of the Borough of Mount Ephraim, in the discretion of the Judge of the Municipal Court before whom such violation is heard and conviction made. Each day that a violation occurs shall be deemed a separate and distinct violation, subject to the penalty provisions of this Chapter.

ARTICLE VII. SECTION 404-7 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.

ARTICLE VIII.

All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

ARTICLE IX.

This Ordinance shall take effect immediately after its passage and publication in accordance with law.

Date of Introduction:

Date of Adoption:

By: _____
Mayor Susan M. Carney

Attest: _____
Terry Shannon, Borough Clerk