

ORDINANCE 2024-14C

ORDINANCE OF THE BOROUGH OF SHIP BOTTOM, COUNTY OF OCEAN, STATE OF NEW JERSEY, ADOPTING CHAPTER 8.70, WHICH PERTAINS TO TREE REMOVAL AND REPLACEMENT

STATEMENT OF PURPOSE

The purpose of this ordinance is to adopt Chapter 8.70 to adopt the required State regulations relating to tree removal and replacement.

SECTION I

Chapter 8.70 is adopted as follows.

Chapter 8.70 Tree Removal and Replacement

§8.70.010 Purpose.

This Chapter establishes the requirements for tree removal and replacement to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§8.70.020 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.

APPLICANT

Any person, as defined below, 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 4 ½ 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 1 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 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 (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.

TREE

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 6 inches from the soil line. For young trees whose caliper exceeds 4 inches, the measurement is taken 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.

§8.70.030 Regulations.

A. Application Process.

1. Any person planning to remove a street tree, as defined as Tree removal, 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 Zoning Officer. No tree shall be removed until municipal officials have reviewed and approved the removal.
2. Applicants will be subject to an application fee as per the Table below.

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 IV, 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 detailed under §8.70.040, shall be subject to the requirements of the Tree Replacement Requirements Table.
3. The species type and diversity of replacement trees shall be in accordance with Appendix A.
4. 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 12 months of the date of removal of the original tree(s) or at an alternative date specified;
 - c. Be monitored by the applicant for a period of 2 years to ensure their survival and shall be replaced as needed within 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)	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	\$40
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 1.5” for each tree removed	\$40
3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree calipers of 1.5” for each tree removed	\$40
4	DBH of 33” or greater	Replant 4 trees with minimum tree calipers of 1.5” for each tree removed	\$40

C. Replacement Alternatives.

1. 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:
 - a. Plant replacement trees in a separate area(s) approved by the Borough; and
 - b. Pay a fee of \$500 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§8.70.040 Exemptions.

All persons shall comply with the tree replacement standard outlined in this Chapter, except in the cases detailed below. Proper justification shall be provided, in writing, to the Borough by all persons claiming an exemption. Proper justification shall include statements from a New Jersey licensed tree expert pursuant to N.J.S.A. 45:15C-11.

- A. Residents who remove less than 4 trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a 5-year period. The number of trees removed is a rolling count across a 5-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 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.

§8.70.050 Enforcement.

This Chapter shall be enforced by the Police Department, Zoning Officer, and/or Code Enforcement Officer during the course of ordinary enforcement duties.

§8.70.060 Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this Chapter shall be subject to the general penalty provisions of Title 1, General Provisions, 1.08 General Penalty, plus the payment of \$500 per tree into the fund dedicated to tree planting and continued maintenance of the trees. Each tree shall constitute a separate violation.

§16.92.080 Penalties.

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure, or land in violation of this Chapter shall be subject to the penalties set forth in

SECTION II

All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION III

If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

Effective date.

This ordinance shall take effect after final adoption and publication as required by law.

NOTICE

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a regular meeting of the Mayor and Council of the Borough of Ship Bottom, County of Ocean, State of New Jersey, held on Tuesday, May 28, 2024, at 6:30 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a regular meeting of the Mayor and Council to be held on June 25, 2024, at 6:30 p.m. at the Municipal Building, 1621 Long Beach Boulevard, Ship Bottom, New Jersey 08008.



Kristy DeBoer, RMC
Municipal Clerk

Appendix A

Approved list of Replacement tree Species and Planting Standards for

SHIP BOTTOM, OCEAN COUNTY


Tree Species	Planting Season
Cedar	May/October
Pine	May/October
Crepe Myrtle	Late spring or early fall
Red Maple	Late spring or early fall
Swamp Maple	Late spring or early fall
Russian Olive	Late spring or early fall

Planting Procedures

1. Ensure trunk flare is partially visible after the tree is planted.
2. Dig a shallow, broad planting hole, 2-3 times wider than the root ball, but only as deep as the root ball.
3. Uncover root ball and remove all wire or rings.
4. Lift tree into hole by root ball, not the trunk.
5. Ensure the tree is straight.
6. Gently fill in the hole, firmly pack soil around the base to stabilize it and eliminate air-pockets. Do not fertilize at planting.
7. Staking may be required when planting bare root stock or at windy sites, however is not normally recommended. Remove stakes after one year of growth.
8. Place a 2-3 inch layer of mulch at the base but allow for a 1-2 inch wide mulch-free area to reduce moist bank and decay.
9. Keep soil moist, water once per week, continue into mid-fall.

CERTIFICATION

I, KRISTY DeBOER, RMC, Municipal Clerk for the Borough of Ship Bottom do hereby certify that the foregoing Ordinance 2024-14C was duly adopted by the Mayor and Council at the meeting held on June, 25, 2024, at 6:30 p.m.



Kristy DeBoer, RMC
Municipal Clerk

William Huelsenbeck
Mayor