# Ordinance # 2024-04
# Tree Removal-Replacement Ordinance

***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 permittees are considering these undervalued assets in their stormwater management efforts.***

## SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Borough of Audubon, County of Camden, State of New Jersey to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

## SECTION II. 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" mean 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. [Municipalities may choose to require a Licensed Tree Expect to make all Hazard tree determination]

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).

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.

## SECTION III. Regulated Activities:

### A. Application Process:

1. Any person requesting to remove a street tree, as defined as Tree removal, shall submit a Tree Removal Application to the Department of Public Works. No tree shall be removed until borough officials have reviewed and approved the removal.

**Applicants will be subject to an application fee of $50.00.**

### 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 Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in one of the following: Amur Maple, Sugar Maple, Ginko Biloba (male), Northern Red Oak, Paper Birch. Listed in Appendix A.

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 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 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.

**Tree Replacement Requirements Table:**

| Category | Tree Removed (DBH) | Tree Replacement Criteria (See Appendix A) | Application Fee $50.00 |
|---|---|---|---|
| 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 | |

**C. Replacement Alternatives:**

1. If the municipality 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 of Audubon.

**SECTION IV. EXCEPTIONS:**

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 to include a written report from a NJ Licensed Arborist as to why the exception might be considered.

A. Residents who remove 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. [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 are 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 fee or replacement requirement.

## SECTION V. Enforcement:

This ordinance shall be enforced by the Audubon Department of Public Works during the course of ordinary enforcement duties.

## SECTION VI. 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 in the amount of the required replacement tree(s) cost and cost of re-planting of the affected tree/trees.

## SECTION VIII. 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.

# Appendix A

Approved list of Replacement tree Species and Planting Standards for the Borrough of Audubon.

| Tree Species | Planting Season | Planting Procedure (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc) |
|---|---|---|
| Amur Maple | Spring/Fall | Peat humus, trunk wrap, water bag, staking, mulch bed. |
| Sugar Maple | Spring/Fall | Peat humus, trunk wrap, water bag, staking, mulch bed. |
| Ginko Biloba (male)<br>Northern Red Oak<br>Paper Birch | Spring/Fall | Peat humus, trunk wrap, water bag, staking, mulch bed. |

## SECTION VIII. 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.

THE BOROUGH OF AUDUBON

BY: _____
ROBERT JAKUBOWSKI, MAYOR

ATTEST:

_____
DANIELLE INGVES, MUNICIPAL CLERK

The foregoing ordinance was introduced by the Board of Commissioners at a meeting held on April 16, 2024. The Ordinance will be considered for adoption on final reading and public hearing to be held on May 21, 2024, at 7:00 pm.

The purpose of this Ordinance is to establish requirements for tree removal and replacement in the Borough of Audubon, County of Camden, State of New Jersey to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 am to 4:00 pm, Monday through Friday (Legal Holidays excluded), at the office of the Borough Clerk, Audubon Municipal Building, 606 W. Nicholson Road, Audubon, New Jersey.

The foregoing Ordinance was adopted on final reading and public hearing at a meeting held by the Board of Commissioners on May 21, 2024.

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DANIELLE INGVES, RMC