

ORDINANCE 2024-02 Tree Removal-Replacement

Borough of Helmetta

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Borough of Helmetta to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare. Nothing within this section shall limit a property owner's ability to prune their trees.

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" 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 (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:

Application review and approval can be conducted along with existing business practices and permit application review such as, but not limited to, site plan approvals, building permit approvals, and planning board application approval.

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 Director of Public Works. No tree shall be removed until municipal officials have reviewed and approved the removal. For larger scale clearing projects, the Borough of Helmetta may choose to require a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees.

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 accordance with 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 1:

Tree Removed (DBH): DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"

Tree Replacement Criteria (See Appendix A): Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed

Application Fee: \$0

Category 2:

Tree Removed (DBH): DBH of 13" to 22.99"

Tree Replacement Criteria (See Appendix A): Replant 2 trees with minimum tree calipers of 1.5" for each tree removed

Application Fee: \$0

Category 3:

Tree Removed (DBH): DBH of 23" to 32.99"

Tree Replacement Criteria (See Appendix A): Replant 3 trees with minimum tree calipers of 1.5" for each tree removed

Application Fee: \$0

Category 4:

Tree Removed (DBH): DBH of 33" or greater

Tree Replacement Criteria (See Appendix A): Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

Application Fee: \$0

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 Director of Public Works.

b. Pay a fee of \$300.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below.

A. Nothing within this section shall preclude any electric and/or telephone utilities operating within the Borough of Helmetta to right to remove Street Trees without prior approval of the Superintendent, when an emergency exists and when obtaining prior approval is not practical. At all times, said utilities shall have the right to trim Street Trees and non-Street Trees when reasonably required for the purpose of ensuring continuous electric or telephone utility service, or to avoid danger to the public or electric or telephone utility personnel or equipment.

B. A resident shall have the right to remove trees without application when an emergency exists and the Director of Public Works or his delegate determines a tree poses a danger to the public and that obtaining prior approval is not practical.

C. Proper justification, such as photographs or statements from a NJ licensed tree expert or arborist pursuant to N.J.S.A. 45:15C-11 shall be provided in writing by all persons claiming an exemption for a hazard tree that has an infectious disease or insect infestation or is dead or dying. An individual may seek such a licensed tree expert or arborist through the Town's Zoning Officer or may hire a certified professional at their own cost.

D. Residents who remove less than four (4) trees per acre 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.

- E. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- F. 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;
- G. 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.
- H. 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;
- I. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- J. Hazard trees may be removed with no fee or replacement requirement.

SECTION V. Enforcement:

This ordinance shall be enforced by the Police Department and/or the Code Enforcer of the Borough of Helmetta 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.

Any person(s) who violates any provision of this chapter may, upon conviction thereof, may be punished and each tree removed or damaged in violation of this chapter shall be deemed a separate offense.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of not less than \$500.00 per tree, but in no case shall the fine be less than the amount to purchase and plant a required replacement tree(s).

Any person(s) who removes one or more trees without a permit shall be subject to a fine up to \$2,000 or a jail term not to exceed 90 days, or both.

Each tree removed without a permit where required shall be considered a separate violation.

The Borough of Helmetta shall retain the right to require the planting of additional trees, in lieu of any fine or jail term.

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.

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.

Adoption Date: April 17, 2024

Approved By: ML Hall RMC, Municipal Clerk

Appendix A

Approved list of Replacement tree Species and Planting Standards for the Borough of Helmetta

SECTION ONE: Approved list of Replacement tree Species and Planting Standards for the Borough of Helmetta shall be in agreement with the Native Plant Society of New Jersey, which hosts the United States Department of Agriculture tree/shrub list specific to Middlesex County NJ.

SECTION TWO: All Ordinances of the Borough of Helmetta which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION THREE: If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

ORDINANCE 2024-02
BOROUGH OF HELMETTA
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY

Introduced: March 20, 2024

Recorded Vote

Motion made by *Ron Dzingleski*

Second by *Joe Reid*

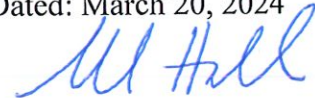
Roll Call

RECORDED VOTE

	AYES	NAYS	ABSTAIN	ABSENT
Council President Karczewski	✓			
Councilwoman Bohinski	✓			
Councilman Duffy	✓			
Councilman Dzingleski	✓			
Councilman Reid	✓			✓
Councilman Stasi				

Adopted on First Reading

Dated: March 20, 2024



Melissa Hallerman, RMC

Adopted: April 17, 2024

Recorded Vote

Motion made by *Pete Karczewski*

Second by *Nick Stasi*

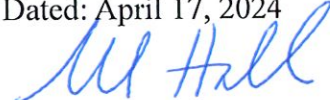
Roll Call

RECORDED VOTE

	AYES	NAYS	ABSTAIN	ABSENT
Council President Karczewski	✓			
Councilwoman Bohinski	✓			
Councilman Duffy				✓
Councilman Dzingleski	✓			
Councilman Reid	✓			
Councilman Stasi	✓			

Adopted on Second Reading

Dated: April 17, 2024



Melissa Hallerman, RMC