

TOWNSHIP OF BASS RIVER

ORDINANCE NO. 2024-_____

**AN ORDINANCE BY THE TOWNSHIP OF BASS RIVER PERTAINING
TO TREE REMOVAL AND MITIGATION OF TREES DUE TO STATE OF
NJ STORMWATER POLLUTION PREVENTION REGULATIONS**

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) developed the Municipal Stormwater Regulation Program as a result of the US Environmental Protection Agency's (USEPA) Phase II rules addressing pollutants entering into our water tributaries; and

WHEREAS, the NJDEP mandates that Bass River Township ("Bass River") develop a Stormwater Pollution Prevention Program in furtherance of the NJDEP's Municipal Stormwater Regulation Program; and

WHEREAS, the NJDEP mandates that each municipality adopt certain ordinances in furtherance of that municipality's Stormwater Pollution Program, and NJDEP has promulgated "one-size-fits-all" model ordinances that do not address the differing concerns and needs of urban, suburban and rural communities; and

WHEREAS, the NJDEP's model ordinances are urban and suburban centric aiming principally to prevent Stormwater Pollution from large areas of impervious surfaces in commercial and industrial use, and developed with high density housing, none of which are present in the Township of Bass River; and

WHEREAS, in a community such as Bass River, regulations pertaining to tree removal and the potential impact upon the community's forested areas, tree canopy cover, and related environmental impacts upon pollutants, soil erosion, and flooding must reflect the needs of a community with extensive land area dedicated to agricultural use and comparatively small areas without crops and trees; and

WHEREAS, Pinelands Commission regulations already prevent substantial clear cutting; and

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Township of Bass River, County of Burlington, State of New Jersey as follows:

Section 1. Chapter 12.09 entitled "Tree Removal and Replacement" is hereby added to the Code of the Township of Bass River.

Chapter 12.09 Tree Removal and Replacement

§ 12.09.01 Purpose:

The intent and purpose of this Chapter is to establish requirements for tree removal and replacement and penalties for non-compliance in the Township of Bass River to protect the environment, public health, safety and welfare.

§ 12.09.02 Definitions:

For 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.

DIAMETER AT BREAST HEIGHT (DBH) The diameter in inches of the trunk of a mature tree measured at a point four and a half feet above ground level from the downhill side of the tree.

NUSIANCE TREE Any tree or limb that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs; or the free passage of pedestrian or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or threatens public health, safety and welfare.

PERSON Any individual, corporation, company, partnership, firm, political subdivision of this State and any state, interstate or federal agency.

PLANTING STRIP 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.

STREET TREE A tree planted in the sidewalk or planting strip in the public right of way.

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 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, and improper grading and/or soil compaction 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.

TREE OF SIGNIFICANCE means any tree that is recognized by the municipal governing body as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological and historical value.

§ 12.09.03 Regulated Activities:

A. Unless exempt under § 12.08.04, no person, corporation, or entity shall remove or destroy any street tree with a DBH of 2.5" or more or any non-street tree with a DBH of 6" or more. If Code Enforcement finds any tree removal to not be in compliance with this Chapter, they shall notify the person, corporation, or entity with regard to a potential violation of this Chapter. The person, corporation or entity shall provide a response to the notice within twenty (20) days of the date of the notice advising, which response may include assertion of exemptions(s) as set for below.

B. Tree Replacement Requirements:

1. Any person who removes one or more street tree(s) within a five-year period, with a DBH of 2.5" or more, unless exempt under § 12.08.04, shall be subject to the requirements of the Tree Replacement Requirements Table below.

2. For persons, other than "Homeowners":

Any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6" or more per acre within a five-year period, unless exempt under § 12.08.04, shall be subject to the requirements of the Tree Replacement Requirements Table below.

3. For Homeowners:

Any person that removes more than three (3) trees per acre with a DBH between 6" and 32.99", or any one (1) tree with a DBH 33" or greater or a tree of significance within a five-year period, unless exempt under § 12.08.04, 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 the lists of approved trees which shall be adopted from time to time by resolution of the Township governing body and incorporated herein by reference: Tree Planting List, Right-of-Way Tree List, and Invasive Tree List.

Replacement tree(s) shall meet the Required Actions in Table below and shall be planted within twelve (12) months of the date of removal of the original tree(s). Replacement tree(s) shall be monitored by the property owner for a period of two (2) years to ensure their survival and shall promptly be replaced if they die during the monitoring period. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

Tree Replacement Requirements Table	
Tree Removed (DBH)	Required Action
DBH of 2.5" (for street trees) or 6" (for other trees) to 12.99"	Replant 1 tree in with a minimum DBH of 1.5" for each tree removed
DBH of 13" to 22.99"	Replant 2 trees with minimum DBHs of 1.5" for each tree removed
DBH of 23" to 32.99"	Replant 3 trees with minimum DBHs of 1.5" for each tree removed

DBH of 33" or greater	Replant 4 trees with minimum DBHs of 1.5" for each tree removed
Tree of Significance	Replant 5 trees with minimum DBHs of 1.5" for each tree removed

C. Tree of Significance.

1. All Tree of Significance removals shall be approved by the Code Enforcement Officer prior to removal.
2. The Township governing body may designate, by resolution, a certain tree or a certain species of trees as being of special value based on rarity or historical importance.

D. 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 property owner shall do one of the following:
 - a. Plant replacement trees in a separate area(s) approved by the municipality.
 - b. Pay a fee representing the cost to replace the removed or destroyed tree(s), including administration and labor costs, per tree removed. This fee shall be placed into a Township fund dedicated to planting and maintaining trees and shrubs on public property.

§ 12.09.04. Exemptions:

All persons shall comply with the tree replacement and permit standards described within this Chapter, except in the cases detailed below.

- 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, firebreak, field, park, and/or garden;
- B. Lands in active agricultural use and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan;
- D. 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;
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

- F. Trees that are damaged as a result of storms and or other naturally occurring calamities, that if not immediately removed, pose an imminent threat or danger to life and/or property, and any nuisance trees;
- G. Any tree located on publicly owned land and removed by the public agency or its representatives, or by a tenant in furtherance of other exemptions stated in this ordinance;
- H. Any trees removed within 100 feet of any structure for the purposes of fire safety. Any activity promoting public health and safety by creating, maintaining and improving fire defensible space around structures or other fire suppression and control activities, such as, but not limited to, the creation of fire lanes;
- J. Any tree, excluding street trees, with a DBH less than 6”;
- K. Any trees removed within one (1) acre surrounding a residential dwelling;
- L. Tree removal, maintenance or land management by the Township or Volunteer Fire Companies or its authorized contractors or subcontractors; and
- M. Any trees causing damage or the risk of damage to structures such as buildings, walkways and driveways and roadways.

§ 12.09.05. Enforcement, Appeals:

This ordinance shall be enforced by the Code Enforcement Officer or their designee during the course of ordinary enforcement duties.

§ 12.09.06. Violations and Penalties:

The burden of proof shall remain with the Township for any potential violations of this Chapter. Any person who is found to be in violation of the provisions of this ordinance shall, upon conviction, be liable for a fine of not more than \$200 and costs of prosecution, in addition to the applicable Tree Replacement fee. The Township may, based upon individual circumstances, require the planting of additional trees in accordance with the provisions of this Chapter in lieu of a fine.

Section2. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

Section 3. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Board of Commissioners hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

Section 4. This Ordinance shall take effect upon passage and publication according to law.

ALL OF WHICH IS ADOPTED this 8th day of July, 2024, by the Bass River Township Board of Commissioners.

Jenny Gleghorn, RMC/CMR

William Adams, Mayor

PUBLIC NOTICE

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Commissioners of the Township of Bass River at a meeting held on the 10th day of June, 2024. The Ordinance will be considered for final adoption after a public hearing to be held at the Township of Bass River Town Hall located at North Maple Avenue, New Gretna, New Jersey, on July 8, 2024 at 7:00 p.m.