

ORDINANCE 2021-22

AN ORDINANCE OF THE TOWNSHIP OF DELRAN, BURLINGTON COUNTY, NEW JERSEY AMENDMENT TO THE TOWNSHIP OF DELRAN CODE AND CREATING CHAPTER 90, ENTITLED "TREES".

WHEREAS, the Township of Delran Code (the "Township") does not contain specific provisions regarding the removal of trees on individual lots or tracts of land in the Township; and

WHEREAS, it has come to the Township's attention that there have been instances of the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees on privately owned individual lots and tracts of land; and

WHEREAS, the Township desires to amend the Township Code so as to add provisions regarding the removal of trees on privately owned individual lots and tracts of land; and

WHEREAS, the Township Council finds and determines that amending the Township Code so as to establish regulations regulating the removal of trees on privately owned individual lots and tracts of land is required to ensure and protect the safety, health and welfare of residents of the Township and the public at large.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Delran, County of Burlington, State of New Jersey, that:

SECTION 1. Amendment(s). The Township Code is hereby amended to create new Chapter 90, entitled "Trees," which shall read as follows:

Chapter 90: Trees

- A. PURPOSES:** Delran Township Council has determined that the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees upon privately owned individual lots and tracts of land within the Township of Delran will increase the municipal costs to control surface drainage and will increase the probability of soil erosion, sedimentation and a decrease of soil fertility; all of which conditions negatively impact the environment and the public safety, health and welfare of the citizens of the Township of Delran. The appropriate

management and use of existing vegetation resources are an important health, safety and welfare concern as per N.J.S.A. 40:48-2. Therefore, it is the intent of these regulations to:

(1) Reduce soil erosion and protect surface water quality by minimizing soil and tree root disturbance in existing woodlands, around tree masses or under individual trees.

(2) Reduce stormwater runoff, velocity and volume by retaining woodland and forest areas where stormwater can infiltrate easily.

(3) Increase groundwater recharge by retaining woodland areas where stormwater can infiltrate easily.

(4) Improve air quality by conserving existing trees and other mature vegetation which produce oxygen and remove carbon dioxide from the atmosphere.

(5) Protect wildlife habitat.

(6) Retain existing trees to provide wind breaks, shade and other microclimate benefits.

(7) Retain trees and woodlands that are important to the history or natural and aesthetic beauty of the Township of Delran.

(8) Preserve and enhance property values by retaining and properly protecting existing trees

(9) replace trees removed for land development

B. DEFINITIONS: For the purposes of this Tree Ordinance, the following terms as used within the Ordinance are defined as follows:

American Standard for Nursey Stock (AAN): Provide buyers and sellers with a common terminology in order to facilitate transactions involving nursery stock. The standard defines terms and numerical relationships among tree parts.

Dripline: A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

Emergency: Any tree that creates an immediate hazard or danger to persons and property, as a result of a weather event, such as a hurricane, windstorm, flood, freeze or other disaster, or other cause.

International Society of Arboriculture: Provides accreditation to those in the tree industry with demonstrated knowledge and skills to properly care for trees.

Licensed Tree Care Operator (LTCO) and Licensed Tree Expert (LTE): Professional Certifications issued by the NJ Board of Trees Experts as delineated in the Tree Expert and Tree Care Operator Licensing Act of 2010. All tree care companies doing business in that State of New Jersey are required to have at least one licensed LTCO or LTE on staff.

Plan: The "Tree Removal/Replacement Plan", in accordance with the requirements of this tree ordinance, which indicates the trees to be removed or replaced.

Protective Barrier: A barrier constructed to protect the root system and/or the trunk of a tree from damage during construction and/or from equipment, soil or material deposited on the site. The protective barrier may consist of a snow fence, sawhorses or other similar structure which is sufficient to protect the root system or trunk of a tree from potential damage.

Regulated waters: all waters in the state excluding man-made canals and waters draining less than 50 acres as described in N.J.A.C 7:13-2.2.

Replacement Tree: 2 ½ -3-inch diameter tree balled and burlapped measured six inches from the ground.

Right of Way: A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a street, a crosswalk, a railroad, electric transmission lines, an oil or gas pipeline, a water line, a sanitary storm sewer, or other similar uses.

Riparian Zone: Land and vegetation within and adjacent to a regulated water.

Significant Tree: Any living woody plant with a diameter measured at a breast height (four and a half feet from the ground) or more than twelve (12) inches (or about 36 inch circumference).

Township Property: Lands which are owned by the Township of Delran, open space or under the control of the Township of Delran by way of ownership, deed restriction or other covenant.

Tree Bank Account: Separate and dedicated account established by Delran Township to collect permit fees, payment in lieu of planting replacement trees and donation received pursuant to the Memorial Tree

- i. If granted for a lot or parcel of land for which no building permit is required, the tree removal permit shall be valid for one year from the date of issuance.
- ii. If granted for a lot or parcel of land for which a building permit is required the tree removal permit shall be valid until an expiration of the building permit.
- iii. If granted for a lot or parcel of land for which an approval is required from the municipal agency, the tree removal permit shall be valid for as long as the approval is valid pursuant to N.J.S.A. 40:55D-1 et seq.
- iv. Once a tree removal permit expires, a new application must be submitted for review and new permit issued.

D. Replacement trees.

- a. Replacement trees shall include a variety of recommended tree species. There should be no more than 10% of one species of tree use in replacing trees by any property owner. To address changing conditions, Delran Township will periodically update the list of recommended species. The list will be kept on file in the Township Clerk's office.
- b. Replacement trees shall be nursery grown and comply with the AAN standards for nursery stock.
- c. If the required replacement trees cannot be planted on the site because of practical physical difficulties or environmental constraints, a fee in lieu of tree replacement may be contributed into the Tree Bank.
 - i. The cost per tree is \$350.

E. Exceptions. The following significant trees shall be exempt from determining the need for a Tree Removal and Replacement plan

- a. Trees directed to be removed by municipal, county, state or federal authority pursuant to law.
- b. Trees which are dead, dying or diseased, trees which have suffered damage or any tree whose angle of growth makes it a hazard to structures, roads or human life.
- c. Trees which are causing structural damage to buildings, foundations of structures, or public water and/or sewer infrastructure.
- d. Trees within the right-of-way by utility companies for maintenance of utility wires or pipelines, the pruning of trees within sight easements, and trees which are obstructing the sidewalk.
- e. Developments that have received preliminary or final approval within three years prior to the effective date of this chapter, unless a substantial change in the development occurs requiring a revised preliminary approval.
- f. Tree located in nurseries, orchards and properties with a state-approved forest management plan.
- g. Trees located in cemeteries.

F. Emergencies; hazardous trees.

In case of emergencies, such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster, or in the case of dead or diseased trees that pose an imminent threat to the safety of persons or property, the requirements of the regulations set forth in this chapter may be waived by the Department of Public Works or its designee upon determining that such waiver is necessary to remove the threat in order to protect public health and safety.

G. Protection of preserved vegetation and root zones from construction

- a. Vegetation designated to remain shall be protected by a temporary fence at least four feet in height, such as a wooden snow fence or orange construction fence.
- b. The location of this fence shall be shown on the soil erosion control plan, demolition plan (if applicable), grading plan and the landscape plan.
- c. The fence shall be placed a minimum of one foot outside the dripline of the protected vegetation, or closer if Subsection B(4)(b) above is applicable, but no closer than six feet to the trunk. Chain link fencing may be required for vegetation protection if warranted by site conditions and/or rarity of the vegetation.
- d. If a tree or area of existing vegetation is proposed to remain and is within the limit of disturbance, then the fence shall completely encircle the tree or vegetation.
- e. If the tree or area of existing vegetation is proposed to remain and is beyond the limit of disturbance, then the fence shall be placed between the vegetation and the construction.
- f. A detail of the fence shall be shown on the plan labeling materials, sizes, and placement. The detail shall note that there shall be no construction, grading, trenching, storing or stockpiling of materials, dumping, vehicular traffic or parking of any kind within the fenced area.
- g. The fence shall be erected prior to major clearing or construction and shall remain in place until construction is complete. This shall be noted in the construction sequence of the soil erosion control plan. The fence shall be placed to prevent construction, grading, trenching, storing or stockpiling of materials, dumping, vehicular traffic or parking of any kind within the fenced area. The fenced area shall be posted "TREE PROTECTION ZONE--KEEP OUT."
- h. Significant trees located off site and whose dripline is within 25 feet of any proposed construction activities shall be protected by the fence when required by the Department of Community Development.
- i. Removal of the fence, or disturbance within the fenced area, except as noted below shall be subject to penalties outlined in Section L below.
 - i. The fence may be removed and construction or removal of vegetation performed if there is an imminent threat to the health, safety and welfare of the community. The Municipal Engineer's Office will be notified as soon as possible if this is required.

ii. The Municipal Engineer's Office has been given a written explanation of the need for construction or vegetation removal within the fenced area and has issued a letter of consent. When work within the dripline is necessary the following is to be adhered to:

(a) The grade of the land located within the driplines shall not be raised or lowered.

(b) No construction, grading, trenching, storing or stockpiling of materials, dumping, vehicular traffic or parking of any kind shall be permitted within the dripline or within six feet of any remaining trees, whichever is greater.

(c) Any clearing within the dripline, or within six feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.

- iii. Remedies for damage done within the tree protection zone shall include aeration, mulching, and if necessary, tree or plant replacement as determined by the Municipal Engineer's Office depending on the amount of damage done.
- iv. Any significant tree which is seriously injured or removed without proper approvals from the affected areas, shall be replaced to the satisfaction of the Municipal Engineer's Office.

H. Resource conservation standards for site preparation and cleanup.

- a. Protection of vegetation from mechanical injury. Where earthwork, grading, or construction activities will take place in or adjacent to woodlands, old fields or other significant vegetation or site features, the Planning Board shall require that the limit of disturbance be delineated, and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to commencing of and shall be maintained throughout the period of construction activity.
- b. Protection of vegetation from grading change. Grade changes to occur at any location of the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.
- c. Protection of vegetation from excavations.
- i. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be minimized.
 - ii. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as

quickly as possible and the area shall be revegetated with native species if the plants are destroyed.

- d. Protection of topsoil.
 - i. No topsoil shall be removed from the site.
 - ii. Prior to grading operations or excavation, topsoil in the area to be disturbed shall be removed and stored on site.
 - iii. Topsoil disturbed or moved on site shall be redistributed and stabilized immediately in primary and secondary conservation areas and within seven days in all other areas following the establishment of required grades for a project or project phase. All exposed earth surfaces shall be stabilized by hydroseeding on slopes of less than 10%, and by sodding, hydroseeding, or rip-rap on slopes exceeding 10%.
 - iv. Grading and earthmoving operations shall be scheduled to minimize site disturbance during the period from November 1 to April 1, when revegetation of exposed ground is difficult.

I. Restricted Plantings

- a. Prohibited trees to be used as replacement trees in all areas is to be evaluated by Township Council biannually.
 - i. Bamboo Bambusoideae Lueress
 - ii. Callery Pear/Bradford Pear (Pyrus Calleryana)
 - iii. Mulberry Morus Alba

J. When Landscape Plans required

All preliminary and site plan review plans submitted to the Planning Board or Zoning Board for approval, except minor subdivisions, shall contain a landscape plan. The landscape plan shall be prepared by a landscape architect, whose name and address shall appear on the plan. Wherever possible, the landscape architect shall promote creativity in design locations and selection of species. For example, instead of planting trees in straight rows, the landscape architect might group trees into clusters with different combinations of species in each cluster. The property owner is responsible for maintaining the approved landscape plan and removing and replacing dead/damaged/diseased trees due to the safety concerns.

1. Site Plans and Subdivision Requirements

- a. **Tree inventory.** A tree inventory shall be shown on the existing conditions or landscape plan according to the following:
 - i. The location, elevation, relative health and species of all significant trees on site. Within woodland areas, the number of significant trees may be approximated using the forest density survey method. This shall be done by an LTE.

- ii. All significant off-site trees, whose dripline is within 25 feet of proposed construction, shall be inventoried and shown on the plan. The inventory shall show approximate location, elevation, species and relative health of each significant tree.
 - iii. The extent of the existing tree canopy area from individual trees, tree masses and woodlands on-site, and the approximate extent of the existing tree canopy from individual trees, tree masses and woodlands within 25 feet of proposed construction off-site, shall be shown.
 - iv. Existing trees, tree masses and woodland areas shall be designated either to remain or to be removed on the landscape plan and soil erosion control plan.
- b. Minimize removal of existing trees.**
- i. It shall be incumbent on the applicant to prove that removal of existing significant trees is minimized given the allowed development. If challenged by the Department of Public Works or its designee, the professional LTCO or LTE, the applicant shall produce evidence such as testimony, written documents or plans certified by a landscape architect, arborist, or other qualified professional showing that no reasonable alternative layouts are possible and that no reasonable alternative clearing or grading plan would reduce the loss of significant trees given the proposed development.
 - ii. Any tree, tree mass, woodland area, or other plants may be considered to remain only if either of the following criteria are met:
 - 1. The tree, tree mass, woodland area or other plants designated to remain appear in relatively good health, the driplines are at least one foot from any proposed grading, construction of any kind, including installation of utilities, and the plant(s) do not obstruct any sight triangles, and do not by their apparent health, natural habit or location pose an undue threat to the general health, safety or welfare of the community; or
 - 2. Within the drip line area or within one foot of the dripline, grading and installation of utilities, driveways, parking areas and sidewalks may occur, provided that the applicant's landscape architect, arborist, engineer or other qualified professional provides testimony and/or a drawing that by using innovative techniques the existing tree, tree mass, or woodland area proposed to remain will not be severely injured by the proposed development.

K. Compliance Required

No person shall cut or remove any significant tree nor shall any property owner or occupant knowingly permit the removal of any significant tree in excess of

twelve (12") inches in diameter measured on the tree at a height of fifty four (54") inches above the level of the ground upon any lands within the Township, unless the aforesaid is accomplished in accordance with the regulations and provisions of this section. Permits are required to remove both healthy and diseased or dead trees. The removal of diseased or dead trees requires certification by the Director of Public Works or his/her designee. In addition, any person desiring to clear an area greater than five hundred (500) square feet (no matter how small the trees, brush and/or vegetation may be) must obtain approval from the Planning Board.

L. Fines and Penalties

Any property owner who fails to comply with the above subsections shall be subject to the following fines and penalties as determined by the Department of Code Enforcement.

1. A penalty of no less than \$350 and no more than \$1000 is to be applied at the discretion of the enforcement Department.
2. Each tree removed shall/may be considered as a separate offense.

M. Trees in Wetlands Areas

Trees and all vegetation in freshwater wetlands areas are protected by N.J.S.A. 13:9B-1 et seq., Freshwater Wetlands Protection Act Rules, Chapter 7A; enforced by the New Jersey Department of Environmental Protection. Neither the Department of Public Works nor the Planning Board will authorize the removal of trees in any wetlands area until a permit has been issued by the Department of Environmental Protection.

N. Memorial Tree Program

Any funds donated to participate in Delran Township's Tree Memorial Program shall be deposited into the Township's Tree Bank Account. These funds will be used to purchase, plant and maintain trees on Township property.

Section 2. Effective date.

This Ordinance shall take effect after final passage and publication according to law.

MEMBERS OF COUNCIL	AYE	NAY	ABSENT	ABSTAIN
Mr. Smith	X			
Mr. Jeney	X			
Ms. Parejo	X			
Mr. Lyon	X			
Mr. Burrell	X			

Introduced: November 9, 2021

Adopted: December 7, 2021



 JAMEY EGGERS, MUNICIPAL CLERK



 GARY CATRAMBONE, MAYOR