



Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldtwpnj.com>

Meeting: 08/10/15 07:00 PM

2015 ORDINANCE AMENDMENT

AN ORDINANCE TO AMEND CHAPTER 535, "TREES", ARTICLE II, "Tree Removal" OF THE TOWNSHIP CODE

BE IT ORDAINED, by the Mayor and Council of the Township of Bloomfield, County of Essex, State of New Jersey, as follows:

Section 1. Chapter 535 "TREES", Article II Tree Removal, of the Code of the Township of Bloomfield, County of Essex, State of New Jersey, is hereby amended and shall reads as follows:

§ 535-13. Title.

This chapter shall be known as the "Tree Removal and Protection Ordinance of the Township of Bloomfield."

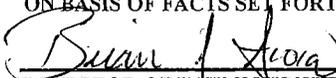
§ 535-14. Findings and purpose.

The Township Council of the Township of Bloomfield finds that the preservation, protection and planting of trees: aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces stormwater runoff and the potential damage it may create; aids in the removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against noise and pollution; provides protection against severe weather; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; conserves and enhances the Township's physical and aesthetic appearance; and generally protects the public health and safety as well as the general welfare.

§ 535-15. Definitions.

The following definitions shall apply to this article:

APPROVED AS TO FORM AND PROCEDURE
ON BASIS OF FACTS SET FORTH



DIRECTOR OF LAW-TOWNSHIP ATTORNEY

MAJOR TREE - A deciduous tree with a mature height of at least 50 feet which shall be of a caliper of at least 2 1/2 inches measured 4 1/2 feet above the ground when planted (e.g., red Norway; silver or sugar maple; sweetgum; London plane tree; American sycamore; white, red or pin oak; American elm; yellow or white poplar; or copper beech).

MINOR TREE - An evergreen tree, ornamental tree or other small tree at least six feet in height at time of planting (e.g., birch, dogwood, Japanese maple, cherry, crabapple, magnolia, Bradford pear, willow, cedar, spruce, pine, fir or hemlock).

PERSON - The owner of a parcel of real estate or any other individual, group, company, firm, corporation, partnership, association, society or other legal entity.

SPECIES - For purposes of this article, the common name of the tree.

STRUCTURE - A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

REPLACEMENT TREE - A new tree planted to replace a removed tree as part of a mitigation plan. Replacement trees shall be of a size and species as per a list on file at the Bloomfield Engineering Department and/or as specified by the Township Forester.

WEED TREE - A tree of a type and species undesirable for preservation and/or for use as a replacement tree as determined by the Township Forester.

§ 535-16. Permit required.

No person shall cut down or remove any tree of a caliper of six inches or greater measured at a height of 4 1/2 feet above the ground or engage in any site clearing without a tree removal permit.

§ 535-17. Application procedure.

A. Application for a tree removal permit shall be made by submission of the following:

(1) An original and two copies of an application on forms provided by the Township containing the following information; the name and address of the applicant; the street address and tax lot and block of the property in question; the number of trees to be removed; and such other information as may be required

(2) For removal of six or more trees per application, an original and two copies of a tree removal plan consisting of a map drawn to scale showing the location of all trees to be removed, the species of such trees and their caliper. In the event that the application is for the removal of more than ten trees, the tree removal plan must be prepared, signed and sealed by a licensed professional engineer or land surveyor, and must show the location of all existing and proposed structures on the property, together with the distance, up to 20 feet, that the trees proposed to be removed are located from such structures and from property lines.

(3) An original and two copies of a tree mitigation plan, if mitigation is required

pursuant to § 535-19D hereof, consisting of a map drawn to scale showing the location of all trees to be planted, the species of such trees and their caliper or size as required.

(4) For removal of ten or more trees per application, an original and two copies of a separate list of the trees to be removed identifying each tree on the tree removal plan by species and caliper, and stating the condition of each tree as "dead," "poor," or "good," and further explaining why removal is felt justified under the standards of this article.

(5) The application fee pursuant to § 535-18.

B. The applicant shall place a one-inch-wide red, yellow or blue ribbon around the trunk of each tree to be removed at a height of 4 1/2 feet above the ground so that the proposed tree removal may be inspected in the field.

C. A property owner may apply for a tree removal permit no more than two times in a calendar year.

§ 535-18. Fees.

[Amended 12-6-2010 by Ord. No. 10-43]

A. The fee for a tree removal permit shall be the following:

| Number of Trees | Fee |
|-----------------|--|
| 1 to 5 | \$50.00 |
| 6 to 10 | \$100.00 |
| 11 to 20 | \$200.00 |
| 21 to 50 | \$300.00 |
| 51 and over | \$400.00, plus an additional \$100.00 for each additional 50 trees or part Thereof |

B. Township residents age 65 and over will only be charged a fee of \$5 for tree removal permits.

C. All application fees are non-refundable.

§ 535-19. Standards for application review.

The following standards for review of applications shall apply:

A. Permitted removal. No tree shall be permitted to be removed unless the tree is:

- (1) Located within the building footprint of a proposed principal building.
- (2) Located between the curblines of a proposed roadway approved pursuant to Chapter 234, Subdivision of Land.
- (3) Located within the roadway right-of-way but outside the curbline of a proposed roadway approved pursuant to Chapter 234, Subdivision of Land, subject to the provisions of Subsection D(8) of this section.
- (4) Dead or poses a safety hazard.
- (5) Located within 20 feet of any building.
- (6) Located within the area of a proposed driveway, walkway, utility line, accessory building or any other structure.
- (7) Located in a front yard area proposed to be landscaped.
- (8) Located in a recreation area which shall not exceed an area of land equal to 50% of the rear yard of a lot on which a building is proposed or measured within the first 80 feet from the rear building line, less areas in the side yards and rear yard where trees are to be removed pursuant to other provisions of this subsection.
- (9) Specifically permitted to be removed in a site plan approved pursuant to the Municipal Land Use Law.
- (10) Approved for removal by the Township Forester upon his/her inspection of the subject tree.
- (11) If a tree is located within the Bloomfield Historic District, the tree shall be reviewed by the Bloomfield Historic Preservation Commission to verify that the tree, if deemed healthy and safe by the Township Forester, is of historic significance and should not be removed.

B. Conflict with other laws. Notwithstanding anything in this article to the contrary, no tree removal shall be permitted where prohibited by Chapter 268, Zoning, ^[2] (e.g., buffer zones and crestline provisions), or any other municipal, state or federal statute, ordinance or regulation.

C. Hardship appeal. In the event that an applicant believes the standards set forth in Subsection A above constitute a hardship which prohibits a reasonable use of all or substantially

all of the property in question, an applicant may seek relief from the governing body of the Township of Bloomfield. In the event that such relief is sought, the applicant shall submit an additional eight copies of the documents required to be submitted, together with 11 copies of a written statement as to the reasons for the claimed hardship. In addition, the applicant shall submit a fee for the hearing of the matter in the amount of \$300. The governing body, upon submission of a complete application to the Township Clerk, shall schedule a public hearing in connection with the requested relief. The applicant shall cause to be published in an official newspaper of the municipality a notice setting forth the time, date and place of the hearing to be so held, together with a brief statement of the relief requested. Such notice must be published within 10 days prior to the date of the hearing. Additionally, the applicant shall cause to be served upon all property owners within 200 feet of the property in question a similar notice by certified mail, return receipt requested, or by personal service. Proof of publication and service of notice shall be required to be submitted prior to the hearing. At the hearing the applicant shall present witnesses under oath, and any other interested parties may do the same. All witnesses shall be subject to cross-examination. The decision of the governing body shall be binding upon the municipal official in charge of enforcement and administration of this article.

D. Mitigation. Mitigation for tree removal shall be required as follows:

- (1) No mitigation shall be required in connection with tree removal conducted pursuant to a permit issued under Subsection A(1), (2) and (9) of this section.
 - (a) Mitigation shall not be required for the removal of five or less trees with the exception of D (9).
- (2) For the removal six trees or more, mitigation shall be required pursuant to Subsection D(4) of this section in the event of tree removal pursuant to Subsection A(5) through (8) of this section.
- (3) In the event of tree removal pursuant to Subsection A(4), no mitigation shall be required.
- (4) For each tree for which mitigation is required the following shall apply:

- (a) For each tree removed pursuant to the standards of this article of a caliper of six inches or more, the applicant shall plant a major tree as defined in this article on the property in question
- (5) In the event that it is unknown or in question in any given instance as to whether mitigation should be determined on the basis of a minor tree or major tree, mitigation shall be required on the basis of a major tree.
- (6) In the event that it is unknown how many trees were removed from any given site, and removal took place without a tree permit issued pursuant to this or the predecessor Chapter 247, adopted August 5, 1963, as may have been amended, the number of trees requiring mitigation shall be computed by assuming trees over six inches in caliper existed 30 feet on center and plotting the maximum number of those trees as circles of a fifteen-foot radius without having the circles overlap or extend beyond the property lines or driplines of existing trees.
- (7) In connection with tree removal pursuant to Subsection A(3) of this section, it shall be required that the applicant plant major trees, on center a distance of 30 feet, as street trees between the curblin and the edge of the right-of-way in a location determined by the Township Engineer and the official administering this article.
- (8) Mitigation in any instance is not to be considered a penalty, but rather an implementation of the purposes of this article. Mitigation shall not be a substitute for but shall be in addition to any penalty imposed for violation of the provisions of this article.
- (9) If upon review of a tree or trees by the Township Forester and it is his, or hers, professional opinion that a tree removal permit should be denied based upon the condition, species or health of a tree, an applicant may still remove the tree under the condition that they mitigate the removed tree by planting a replacement tree somewhere on their property.

E. Qualifications of Tree Care Contractors.

All trees shall be removed by a qualified tree care contractor. At the time of application for a tree removal, the following information shall be required for submission as part of the tree removal application:

- (1) The name, business address and contact information for the contractor who will perform the tree removal.
- (2) The contractor shall provide a certificate of insurance, issued by a company duly authorized to transact business under the laws of the State

of New Jersey, providing for the payment of not less than \$1,000,000 to satisfy all claims for, property damage; damage by reason of bodily injuries to or the death of any person as a direct or indirect result of the removal of a tree.

- (3) Proof that the individual overseeing the tree removal is a N.J. Certified Tree Expert as recognized by the N.J. Board of Tree Experts.
- (4) Failure to provide this information at the time of application will result in denial of the application.

§ 535-20. Performance bond.

Except in the event of tree removal pursuant to an approved subdivision or site plan where a performance bond to assure tree planting was posted, as a precondition to the issuance of a permit where mitigation is required, the applicant shall post a cash bond to assure mitigation in an amount equal to the amount set forth in the resolution adopted by the Township Council pursuant to § 535-19D(4) for each minor and major tree to be planted. The bond shall be returned to the applicant upon completion of the required mitigation.

§ 535-21. Protection of existing trees.

A. In connection with any construction, subsequent to tree clearing but prior to the issuance of a building permit or start of construction, snow fencing or other protective barrier acceptable to the official charged with the administration and enforcement of this article shall be placed around trees that are not to be removed. The protective barriers shall be placed at least 10 feet from the trunk of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

B. No person shall:

- (1) Cut down or remove any tree except as permitted by this article or allow or cause such cutting or removal.

- (2) Cause or allow any willful damage, injury or disfigurement of any tree growing within the Township. For purposes of this subsection, the actions of any person shall be deemed willful if the damage, injury or disfigurement of any tree is caused as the result of but not limited to the following; cutting, gashing or slitting of any tree; the pouring of any liquid or other material on any tree; or on the nearby ground; the construction or placement of any nonporous material on the ground around any tree so as to cut off air, light or water from the roots; or placement or removal of any soil from within 10 feet of any tree.
- (3) Store or pile building material or debris or place construction equipment within 10 feet of any tree.

C. In the event that any tree to be saved in connection with construction as set forth above or any tree planted in mitigation shall die within two years after planting, it shall be replaced by the applicant or the property owner within six months.

§ 535-22. Administration and enforcement.

This chapter shall be administered and enforced by the Township Manager, or his designee, except that the Township Council shall approve the issuance of a tree removal permit in conjunction with any tree removal sought in conjunction with an application for a major soil-moving permit.

§ 535-23. Appeals.

Any person aggrieved by the decision of the official charged with the administration and enforcement of this article shall have the right, within 10 days of the issuance of any decision by such official to appeal to the Township Council, which shall take action as it deems necessary in matter. In the event of such an appeal, the procedures set forth with reference to applications based on hardship contained in § 535-19C of this article shall apply.

§ 535-24. Violations and penalties.

Any person who violates any provision of this article shall, upon conviction thereof, be punished as provided in § 1-15, General penalty, of this Code, and each tree removed or

damaged in violation of this article shall be deemed a separate offense.

Section 2. All ordinances inconsistent herewith are hereby repealed.

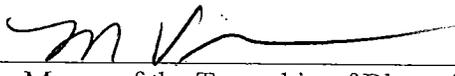
Section 3. This ordinance shall take effect upon final passage and publication in accordance with the law.

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I hereby certify that the above ordinance was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on SEPTEMBER 8, 2015



 Municipal Clerk of the Township of Bloomfield



 Mayor of the Township of Bloomfield

| ✓ Vote Record - Ordinance | | | | | | |
|---|--------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--|
| | | Yes/Aye | No/Nay | Abstain | Absent | |
| <input type="checkbox"/> Adopt | | | | | | |
| <input type="checkbox"/> Deny | | | | | | |
| <input type="checkbox"/> Withdrawn | Elias N. Chalet | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Table | Nicholas Joanow | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Not Discussed | Carlos Bernard | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> First Reading | Wartyna Davis | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Table with no Vote | Joseph Lopez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Approve | Carlos Pomares | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Veto by Mayor | Michael J. Venezia | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Discussion | | | | | | |
| <input type="checkbox"/> Defeated | | | | | | |
| <input type="checkbox"/> Discussion No Vote | | | | | | |

| ✓ Vote Record - Ordinance | | | | | | |
|---|--------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--|
| | | Yes/Aye | No/Nay | Abstain | Absent | |
| <input type="checkbox"/> Adopt | | | | | | |
| <input type="checkbox"/> Deny | | | | | | |
| <input type="checkbox"/> Withdrawn | Elias N. Chalet | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Table | Nicholas Joanow | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Not Discussed | Carlos Bernard | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| <input type="checkbox"/> First Reading | Wartyna Davis | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Table with no Vote | Joseph Lopez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Approve | Carlos Pomares | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Veto by Mayor | Michael J. Venezia | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <input type="checkbox"/> Discussion | | | | | | |
| <input type="checkbox"/> Defeated | | | | | | |
| <input type="checkbox"/> Discussion No Vote | | | | | | |