

TOWNSHIP OF BYRAM
Sussex County, New Jersey

ORDINANCE NO. 007-2024

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE
TOWNSHIP AMENDING THE CODE OF BYRAM TO ADD A NEW
CHAPTER ENTITLED "CHAPTER 212, TREE PRESERVATION" TO
THE CODE TO CONTROL TREE REMOVAL AND REPLACEMENT IN
ORDER TO REDUCE STORMWATER RUNOFF AND POLLUTANTS,
AND TO PROMOTE INFILTRATION OF RAINWATER INTO THE SOIL**

Purpose Statement: The purpose of this article is to protect trees and woodlands from indiscriminate destruction and damage, and further to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

WHEREAS, the New Jersey Department of Environmental Protection requires that all Tier A municipalities take measures to control the removal of trees in order to reduce stormwater runoff and to promote infiltration of rainwater into the soil. In order to comply with the requirements of the Township of Byram's Municipal Stormwater General Permit, the Township Council wishes to amend the revised general ordinances to require that measures be taken to preserve trees within the Township and provide guidelines for replacement of trees when unauthorized removal occurs.

NOW, THEREFORE, BE IT ORDAINED by the Byram Township Mayor and Council that the Code of the Township of Byram is amended as follows:

Section 1. The Code is amended to add a new Chapter 212 to be entitled "Tree Preservation" and to state in its entirety as follows:

212 Tree Preservation

212-1 Purpose:

The purpose of this article is to protect trees and woodlands from indiscriminate destruction and damage, and further to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

212-2 Definitions:

Definitions is created to include the following:

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

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 word "shall" is always mandatory and not merely directory.

CLEAR CUTTING - the removal of most or all trees on a property at one time for the purpose of a creating lawn or graded areas on that property.

HAZARD TREE - 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 located near an existing structure and poses a threat to that structure since the structure is located in the fall zone of said tree;
5. Has a root system that is causing or has the potential to cause damage to structures (such as building foundations, sidewalks, etc.); or

LOT DISTURBANCE – includes all areas disturbed for the purpose of the construction of buildings and structures as well as all graded areas and lawns. The total shall include disturbed areas both inside and outside of the building envelope.

PERSON - any individual, resident, corporation, utility, company, partnership, firm, or association.

MUNICIPAL RIGHT-OF-WAY STRIP - the area between the owner's property lot line and edge of pavement as defined in Chapter 214. Right-of-Way Strip.

RESIDENT - 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.

STREET TREE - a tree planted within the Municipal Right-of-Way Strip".

TRACT DISTURBANCE - Any lot improvement, including construction or expansion of buildings, decks, sheds, garages, driveways, lawns, pools, septic fields, land clearing, tree removal, terracing and other land improvements.

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 - 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.

212-3 *Clear Cutting is Prohibited*

With the exceptions of the exemptions established in this article, no person shall cut or remove, or cause to be cut or removed, any existing trees for the purpose of clear cutting unless the cutting and removal can be accomplished in accordance with the provisions set forth in this chapter.

212-4 *Exemptions*

The following shall be exempted from the requirements of this article:

- A. Commercial nurseries or fruit orchards.
- B. Christmas tree farms.
- C. Any tree which is a part of a cemetery.
- D. Trees directed to be removed by the Township, County, State or Federal authority pursuant to law.
- E. Removal of hazard trees.
- F. Pruning or removal of street trees by utility companies or maintenance of utility wires or pipelines and the pruning of trees within sight easements.
- G. Trees removed in conjunction with the Right to Farm Act, on qualifying farms.

- H. Parcels of land with a forest management plan or woodland management plan that has the required approval by the NJDEP Division of Forestry or the appropriate State agency. These plans are on file in the Tax Assessors office..
- I. Trees removal on a property for the purpose of constructing a firebreak that will create a strip of ground where vegetation will be removed to stop the progress of forest fires.
- J. Street trees which are required to be removed by property owners due to said trees interfering with driver sight distances or are dead or dying and need to be removed to preserve the public health, safety and general welfare.
- K. Parcels of land with preliminary site plan or subdivision approval, major or minor. Removal of trees prior to Township Planning Board approval is prohibited, unless it is part of site investigation such as percolation test for septic system suitability.
- L. Trees to be removed as necessary to permit the construction of buildings, structures, decks, pools, driveways, septic field, lawn area for recreational use for the residents of the dwelling and any other improvements approved by way of a Zoning Permit issued by the Township Zoning Officer.
- M. Trees removed as required to install a new and/or repair an existing septic system as approved by the Sussex County Health Department or the New Jersey Department of Environmental Protection.

212-5 *Review and Design Standards*

- A. Healthy trees outside of the approved building disturbance areas should be retained to maintain resource protection and buffering to neighboring properties, unless the trees pose a hazard to person or property or whereby the approved construction grading or disturbance would cause damage to a tree creating an unsafe condition.
- B. Trees and vegetation shall not be removed in wetlands, wetland buffers, slopes in excess of 25 percent, flood plains, stream buffers, dedicated conservation easements or other environmentally protected areas unless approvals from the New Jersey Department of Environmental Protection (NJDEP) and/or Byram Township have been obtained.
- C. Lot disturbance shall be limited to the area permitted in the zoning district in which a property is located. If the lot disturbance exceeds the allowable area, an approval from the Township Planning Board will be required prior to any tree

cutting occurs. Any cutting that occurs prior to receiving the necessary approvals being granted will be considered not authorized.

- D. No trees shall be removed unless exempted as defined in Section 212-4, from critical areas as defined in accordance with section 240-29.2, Tract Disturbance of the Township's Zoning Code. Approval from the Township Planning Board will be required for any removal of trees that is deemed a violation of 240-29.2. Any cutting that occurs prior the necessary approvals being granted with be considered not authorized.
- E. Commercial properties removing trees, planting of trees and landscaping are part of any Planning Board approval and shall be in accordance with Section 215, Subdivision and Site Plan Review of the Code of Byram Township, as well as addressed in Section 240, Zoning. Any cutting that occurs prior to receiving the necessary approvals being granted will be considered not authorized.

212-6 Enforcement

This ordinance shall be enforced by the Township's Zoning Officer, or designee of the Township Manager during the course of ordinary enforcement duties. It shall be unlawful for any reason to violate any part of this section adopted by the Township of Byram Council.

212-7 Violations and Penalties

- A. Any removal of trees that is part of lot disturbance that exceeds the permitted lot disturbance area and a zoning permit cannot be issued, an approval from the Township Planning Board will be required. The restoration of any disturbed areas not permitted by the Planning Board will need to be restored in a manner approved by the Planning Board by resolution.
- B. Any removal of trees that is part of lot disturbance within a critical area as defined by 240-29.2, Tract Disturbance, shall require an approval from the Township Planning Board. The restoration of any disturbed areas not permitted by the Planning Board will need to be restored in a manner approved by the Planning Board by resolution.
- C. Penalty. The Township Administrative Code § 1-15 shall apply to any violation of the tree removal regulations contained in this article.

Section 2. Severability:

Each section, subsection, sentence, clause, and phrase of this Section is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of

any such portion of this Section to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Section.

Section 3. Inconsistency/Repealer:

All prior ordinances or parts of the same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

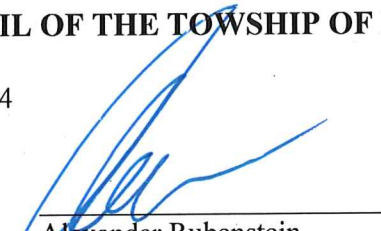
Section 4. Effective Date:

This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

BY ORDER OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BYRAM.

Introduced: May 7, 2024 Adopted: May 21, 2024


Cynthia Church, RMC
Township Clerk


Alexander Rubenstein
Mayor

BYRAM TOWNSHIP COUNCIL

	Councilwoman Franco	Councilman Gallagher	Councilman Proctor	Councilman Roseff	Mayor Rubenstein
Motion	✓				
2nd			✓		
Yes	✓		✓	✓	✓
No					
Abstain					
Absent		✓			

NOTICE OF ADOPTION

NOTICE is hereby given that Ordinance 007-2024 was introduced and passed first reading at a meeting of the Township Council of the Township of Byram, held at the Byram Township Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 7th day of May 2024. The said ordinance was further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township, New Jersey, on the 21st day of May at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.


Cynthia Church, RMC
Township Clerk