

Chapter 220

Tree Removal and Replacement

- § 220-1. Purpose.
- § 220-2. Definitions.
- § 220-3. Regulated Activities.
- § 220-4. Exemptions.
- § 220-5. Non-Approval Species.
- § 220-6. Enforcement.
- § 220-7. Violations and Penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler April 16, 2024. Amendments noted where applicable.]

§ 220-1. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Borough of Butler to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§ 220-2. 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"x1.5' = 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 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 adjacent to the portion of the street reserved for vehicular traffic 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.

§ 220-3. Regulated Activities:

A. Application Process:

1. Any person planning to remove a street tree 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 Borough Administrator or their Designee. A copy of the Tree Removal Application is available from the Property Maintenance Officer, Municipal Clerk or Borough Administrator. No tree shall be removed until municipal officials have reviewed and approved the removal. For larger scale clearing projects, a tree survey shall be submitted as part of the application to the land use Board to determine number, sizes, and exemptions of trees covered under this ordinance.
2. Applicants will be subject to an application fee as per the Table below.

1 – 5 trees	\$15 per application
6-10 trees	\$30 per application
Over 10 trees	\$150 per application

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 § 220-4, shall be subject to the requirements of the Tree Replacement Requirements Table in § 220-3.
2. Any person who removes one or more tree(s) with a DBH of 6” or more per acre, unless exempt under § 220-4, shall be subject to the requirements of the Tree Replacement Requirements Table § 220-3.
3. The species type of replacement trees to avoid shall be in accordance with § 220-5 of this Chapter.

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	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 2.5” (for street trees) or 6” (for non-street trees) to 12.99”	Replant 1 tree with a minimum tree caliper of 1.5” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 1.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree calipers of 1.5” for each tree removed
4	DBH of 33” or greater	Replant 4 trees with minimum tree calipers of 1.5” for each tree removed

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 municipality.
 - b. Pay a fee of \$125 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees in the Borough.

§ 220-4. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption. Proper justification shall be photos or statements from a NJ licensed tree expert as per NJ Statue 45:15C-11 or an arborist:

- A. Residents who remove less than four (4) trees per acre that 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 2024, the ‘count’ resets to zero in July 2029. However, if 1 tree from category 1 is removed in July 2024 and another in July of 2025 the first tree will come off the count in July 2029 and the second in July 2030.
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. 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;
- D. 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.

- E. 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;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement.

§ 220-5. **Non-Approved Species:**

A. Invasive Trees

- Amur corktree (*Phellodendron amurense*)
- Birchleaf pear (*Pyrus betulifolia*)
- Black locust (*Robinia pseudoacacia*)
- Bradford pear (*Pyrus calleryana*)
- Callery pear (*Pyrus calleryana*)
- Chinese elm (*Ulmus parvifolia*)
- Kousa dogwood (*Cornus kousa*)
- Empress tree (*Paulownia tomentosa*)
- False acacia (*Robinia pseudoacacia*)
- Golden raintree (*Koelreuteria biopinnata*, *K. elegans*, and *K. paniculata*)
- Gray poplar (*Populus x canescens*)
- Japanese angelica tree (*Aralia elata*)
- Japanese maple (*Acer palmatum*)
- Japanese zelkova (*Zelkova serrata*)
- Kobus magnolia (*Magnolia kobus*)
- Mimosa (*Albizia julibrissin*)
- Norway maple (*Acer platanoides*)
- Princess tree (*Paulownia tomentosa*)
- Siberian elm (*Ulmus pumila*)
- Sweet cherry (*Prunus avium*)
- Sycamore maple (*Acer pseudoplatanus*)
- Tree-of-heaven (*Ailanthus altissima*)
- English elm (*Ulmus procera*)
- Weeping Higan cherry (*Prunus subhirtella* var. *pendula*)
- White poplar (*Populus alba*)

B. Do Not Plant– Other tree concerns (pests, diseases, poor growth habits, etc.)

- Black ash (*Fraxinus nigra*) – susceptible to Emerald Ash Borer
- Black oak (*Quercus velutina*) – susceptible to Oak wilt
- Green ash (*Fraxinus pennsylvanica*) – susceptible to Emerald Ash Borer
- Northern red oak (*Quercus rubra*) – susceptible to Oak wilt
- Pin oak (*Quercus palustris*) – susceptible to Oak wilt
- Scarlet oak (*Quercus coccinea*) – susceptible to Oak wilt
- Silver maple (*Acer saccharinum*) – susceptible to storm damage
- Tulip tree (*Liriodendron tulipifera*) – susceptible to storm damage
- White ash (*Fraxinus americana*) – susceptible to Emerald Ash Borer

§ 220-6. Enforcement:

This ordinance shall be enforced by the Police Department and/or other Municipal Officials of the Borough of Butler during the course of ordinary enforcement duties.

§ 220-7. 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 of \$200 per tree. This fine can be reduced to \$25 per tree if the trees removed in violation are replaced according to the Tree Replacement Requirements Table in § 220-3 of this Chapter.