

Ordinance of the City of Jersey City, N.J.

File No. Ord. 23-066
Agenda No. 3.2 (1st Reading)
Agenda No. 4.3 (2nd Reading and Final Passage)



AN ORDINANCE AMENDING CHAPTER 321 (TREES) OF THE MUNICIPAL CODE OF THE CITY OF JERSEY CITY.

COUNCIL AS A WHOLE offered and moved adoption of the following ordinance:

WHEREAS, street trees promote the health and welfare of the public by improving air quality, absorbing carbon dioxide and particulate matter as well as reducing storm water runoff and the potential for soil erosion; and


WHEREAS, in addition, City trees provide shade, lower air temperatures, protect pedestrians from rain, wind, sun and heat as well as reduce noise pollution and provide habitat for birds and other wildlife; and

WHEREAS, City trees also increase property values and enhance the City's aesthetic qualities, thus making the City more attractive to residents, visitors and businesses; and


WHEREAS, the Municipal Council finds that it must revise the existing ordinance governing street trees throughout the City to ensure that they are given maximum protection.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that Chapter 321 (TREES) of the municipal code of the City of Jersey City, be and is hereby amended as described in the attached Attachment A.

APPROVED AS TO LEGAL FORM



Business Administrator



Corporation Counsel

An Ordinance amending chapter 321 (TREES) of the Municipal Code of the City of Jersey City.

RECORD OF COUNCIL VOTE ON INTRODUCTION – Jun 28 2023						
RIDLEY	AYE	SALEH	AYE	DEGISE	AYE	8-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	AYE	
BOGGIANO	ABSENT	GILMORE	AYE	WATTERMAN, PRES	AYE	

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING – Jul 12 2023						
RIDLEY	ABSENT	SALEH	AYE	DEGISE	AYE	6-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	ABSENT	
BOGGIANO	AYE	GILMORE	AYE	WATTERMAN, PRES.	ABSENT	


RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY –						
RIDLEY		SALEH		DEGISE		
PRINZ-AREY		SOLOMON		RIVERA		
BOGGIANO		GILMORE		WATTERMAN, PRES.		

RECORD OF FINAL COUNCIL VOTE – Jul 12 2023						
RIDLEY	ABSENT	SALEH	AYE	DEGISE	AYE	6-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	ABSENT	
BOGGIANO	AYE	GILMORE	AYE	WATTERMAN, PRES.	ABSENT	


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Adopted on first reading of the Council of Jersey City, N.J. on Jun 28 2023
Adopted on second and final reading after hearing on Jul 12 2023


This is to certify that the foregoing Ordinance was adopted
by the Municipal Council at its meeting on Jul 12 2023



City Clerk



Joyce E. Watterman, President of Council
Approved: Jul 12 2023



Steven M. Fulop, Mayor
Date to Mayor: Jul 13 2023
Approved: Jul 13 2023

An Ordinance amending chapter 321 (TREES) of the Municipal Code of the City of Jersey City.

FACT SHEET -

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the ordinance.

Project Manager

Mira Prinz-Arey, Councilperson		201-547-4878	MPrinz-Arey@jcnj.org
Department	Municipal Council		
Division	Municipal Council		

Note: Project Manager must be available by phone during agenda meeting (Wednesday prior to council meeting @ 1:00 p.m.)

Meeting	Regular Meeting of Municipal Council - Jul 12 2023
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Purpose

To amend and update section 321 (TREES) of the city code.

Cost (Identify all sources and amounts)	Contract term (include all)
N/A	

ATTACHMENTS:

ATTACHMENT A Chapter 321 TREES-2023-JMcK Edits-2023-06-27
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Approved by John McKinney, Attorney John Metro, Business Administrator	Status: Approved - Jun 02 2023 Approved - Jun 07 2023
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ATTACHMENT A

Chapter 321

TREES¹

§ 321-1. Definitions.

[Added 12-13-2017 by Ord. No. 17-169]

For the purpose of this Chapter, the following terms shall have the meaning given herein:

CANOPY means the extent of the outer layer of leaves of an individual tree formed by the leader together with the scaffold and lateral branches (Figure 1).

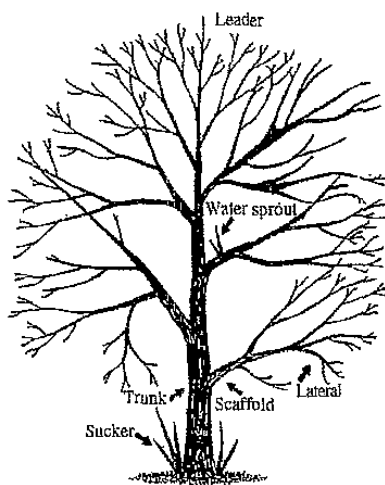


Figure 1

CITY TREE means (a) any living, self-supporting woody perennial plant that has a trunk diameter of at least two inches or more when measured at a point six inches above ground level and which normally attains an overall height of at least ten feet at maturity, usually with one main stem or trunk and several branches; and (b) planted in a public right-of-way, in a City park or on property owned by the City. The term "City tree" does not include trees on private property.

CROWN means the top part of the canopy (Figure 1).

DIVISION means the Division of Parks and Forestry.

¹Editor's note(s)—Ord. No. 17-169 , amended the Code by repealing former ch. 321, §§ 321-1—321-8, and adding a new ch. 321. Former ch. 321 pertained to similar subject matter, and derived from Ord. No. Mc-14, adopted September 8, 1981; Ord. No. McC-98, adopted January 24, 1990; Ord. No. 01-036, adopted April 14, 2001, and Ord. No. 01-082, adopted June 27, 2001.

Cross reference(s)—Shade Tree Committee, Ch. 10; Posting of Advertising Materials, Ch. 81; Trees in Parks and Recreation Areas, Ch. 239; Property Maintenance, Ch. 254; Streets and Sidewalks, Ch. 296.

DRIP LINE means the area defined by the outermost circumference of a tree canopy.

JERSEY CITY FORESTRY STANDARDS means the document promulgated by the Division of Parks and Forestry detailing the City's standards for the planting, maintenance and removal of City trees as defined herein. The Jersey City Forestry Standards shall be written and updated in consultation with the Shade Tree Committee and shall be subject to adoption by resolution from the Municipal Council.

[Amended 1-13-2021 by Ord. No. 20-111]

LATERAL BRANCHES means the secondary branches that emerge from scaffold branches (Figure 1).

LEADER means the vertical stem at the top of the trunk (Figure 1).

MUNICIPAL FORESTER means the employee of the ~~Division of Parks and Forestry~~Department of Public Works responsible for overseeing the planting, maintenance and removal of all City trees and who is responsible for promulgating the Jersey City Forestry Standards as well as the list of City tree valuations published annually.

PUBLIC RIGHTS-OF-WAY means all land in the City of Jersey City dedicated or expressly reserved for the use of vehicular or pedestrian traffic and/or utilities.

PRUNE means cutting or removing less than twenty (20) percent of the branching structure of a tree in the crown, trunk or root areas.

SCAFFOLD BRANCHES means the primary limbs that form a tree's canopy (Figure 1).

SHADE TREE COMMITTEE means the committee established pursuant to Chapter 10 of this Code.

[Added 7-17-2019 by Ord. No. 19-082]

TOPPING means cutting or removing the leader in such a way as to disfigure the canopy resulting in stunted or abnormal growth.

TREE PIT means the hole in the ground in which a tree is planted.

TRUNK means the stem and main wooden axis of a tree (Figure 1).

§ 321-2. Purpose.

[Added 12-13-2017 by Ord. No. 17-169]

The Municipal Council finds that the preservation of existing City trees and the planting of new City trees promote the health and welfare of the public in the following ways:

1. Conserving energy by providing shade, lowering urban air temperatures, and acting as a windbreak in winter;
2. Protecting pedestrians from rain, wind, sun and heat;
3. Improving air quality by producing oxygen, absorbing carbon dioxide and particulate matter;
4. Reducing noise pollution;
5. Providing habitat for birds and other wildlife;
6. Reducing storm runoff and the potential for soil erosion;
7. Increasing real estate property values; and
8. Enhancing the City's aesthetic qualities and thus making it more attractive to residents, visitors and businesses.

§ 321-3. Prohibited activities.

[Added 12-13-2017 by Ord. No. 17-169 ; amended 1-13-2021 by Ord. No. 20-111]

No person shall do or cause to be done any of the following to a City tree as defined herein:

1. Hitch or fasten any animal, bicycle or vehicle to any guard or support attached to the City tree;
2. Permit any injurious substance, whether gaseous, liquid or solid, to come into contact with the trunk or roots of any ~~to any~~ City tree;
3. Cover or obstruct any open space provided around the base of a City tree in such a way to prevent water or fertilizer or air from reaching the roots of the tree;
4. Pile any building material or make any mortar or cement within six feet of a City tree;
5. Affix a sign to a City tree through use of tape, glue, nails, staples, ropes, cables, wires, or other material that may cause punctures or girdling; All temporary "no parking" signs affixed to a tree, must be removed upon expiration of the no parking time period by the entity requesting that restriction.
6. No person shall place within a tree pit any type of free-standing sign of any kind including feather signs, sandwich boards (a-frame signs, chalkboard signs) or any other similar device or structure.
7. Pile garbage bags, recycling and paper bins within tree pit is also prohibited.
8. Cut or remove ~~more than twenty (20) percent of~~ a City tree's canopy.
9. Fill or close a tree pit.

§ 321-4. Acts requiring a permit.

[Added 12-13-2017 by Ord. No. 17-169]

- A. No person shall do or cause to be done any of the following without a permit from the Division of Parks and Forestry:

[Amended 1-13-2021 by Ord. No. 20-111]

1. Plant a tree in the public rights-of-way;
2. Remove a City tree;
3. ~~Prune, cut or saw a City tree;~~
4. Spray or coat a City tree with chemicals;
5. Climb a City tree;
6. Cut, trim, prune, break, saw, or disturb ~~the roots~~ any portion of any City tree;
7. Change the size or depth of a City tree bed or place any guard or structure around a City tree bed;
8. Fasten any rope, guy wire, electric attachments, sign or any other device to a City tree or to any guard about the City tree;
9. Remove any structure or device installed by the City to support or protect a City tree;
10. Change the grade of the soil within the limits of the canopy of any City tree;
11. Install an electrified wire or decorative lighting above, around or through any City tree;

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12. Conduct any activity within ~~30~~15-feet of a City tree such as construction, demolition, replacement of a sidewalk or driveway, erecting scaffolding, repairing underground utilities or services, and installation of infrastructure such as a street light.

13. Fill or close a tree pit.

- B. A separate permit shall be required for each tree affected by any of the foregoing acts.

[Added 12-13-2017 by Ord. No. 17-169]

§ 321-5. Planting trees.

[Added 12-13-2017 by Ord. No. 17-169 ; amended 1-13-2021 by Ord. No. 20-111]

A property owner may plant a tree in the public rights-of-way abutting his or her property by obtaining a permit from the Division of Parks and Forestry subject to the following conditions:

1. The species shall be selected from the list of recommended trees in the Jersey City Forestry Standards and be planted and maintained according to the Jersey City Forestry Standards;
2. The owner shall carry liability insurance for any damage to property or injury to person by the planting of such City trees;
3. The owner shall maintain the sidewalk in accordance with Chapter 254 (Property Maintenance) and the tree-bed surrounding the tree in accordance with the Jersey City Forestry Standards;
4. A property owner to whom a permit is issued under this section may engage a private landscaper to plant a City tree or request that the Division plant the tree on behalf of, and as an agent for, the owner,

§ 321-6. Removal of City trees.

[Added 12-13-2017 by Ord. No. 17-169 ; amended 1-13-2021 by Ord. No. 20-111]

- A. An adjoining property owner may be granted a permit for the removal of a City tree abutting his or her property in accordance with the Jersey City Forestry Standards under the following conditions:
1. The City tree poses a danger to persons or property which cannot be remedied except by removal; or
 2. The removal of the City tree is required for the development of the property or the improvement of the sidewalk.
- B. An owner granted a permit to remove a City tree under subsection A.2 shall make a payment to the City equivalent to the value of the tree, as determined annually by the ~~Division of Parks and Forestry~~Municipal Forester in conjunction with the Shade Tree Committee in accordance with the Jersey City Forestry Standards.

[Amended 7-17-2019 by Ord. No. 19-082]

- C. If the Municipal Forester determines that a tree requires removal, the Division of Parks and Forestry shall replace it with a tree from the list of recommended trees in the Jersey City Forestry Standards.
- D. Nothing in this section shall be construed to limit the power of the Division to move or require the removal of any City tree or part thereof for any purpose consistent with Section 321-2 and the Jersey City Forestry Standards.

§ 321-6.1. Notice of removal of City trees.

- A. Pursuant to the requirements as written and defined in the Jersey City Forestry Standards, at least ten days before the removal of any two or more trees by a property owner or party, notice shall be given to the owners of all real property as shown on the current tax duplicates within 200 feet in all directions of the tree to be removed. Notice shall be given by (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate.
- B. A copy of the notice provided to the property owners pursuant to § 321-6.1.A shall be filed with the Division of Parks and Forestry.
- C. Notice shall not be required for the emergency removal of any tree dangerous to public safety.

[Added 1-13-2021 by Ord. No. 20-111]

§ 321-7. Permit application fee.

[Added 12-13-2017 by Ord. No. 17-169]

Application for the permit required under Section 321-4 shall be made in writing to the Division of Parks and Forestry, on forms to be supplied by the Division, accompanied by the fee provided in Chapter 160 (Fees and Charges).

§ 321-8. Protection from wires, cables and electrical current.

[Added 12-13-2017 by Ord. No. 17-169]

Every person or entity having control over any wire for the transmission of an electric current along a public rights-of-way shall at all times guard all City trees through which or near which such wire passes against any injury from the wire or cable or from the electric current carried by it. The device or means used shall in every case be subject to approval by the Division of Parks and Forestry.

§ 321-8.1. Protection of trees near excavation or construction sites.

All trees on any street or other publicly owned property within 30 feet of any excavation or construction of any building, structure, or street work shall be guarded with a temporary wooden tree guard not less than four feet high. At no time shall the tree guard extend beyond the sidewalk into the street, nor shall the tree guard cause a hardship for those using the sidewalk.

When construction, excavation, and/or material deposits result in the destruction and/or removal of a street tree, the person or utility company responsible for that damage shall replace the street tree with either a tree or trees of equivalent dollar value in the vicinity of the removed street tree subject to the approval of the Municipal Forester.

§ 321-9. Violations and penalties.

[Added 12-13-2017 by Ord. No. 17-169 ; amended 9-23-2020 by Ord. No. 20-074 ; 1-13-2021 by Ord. No. 20-111]

The penalties provided under Section 1-25 shall apply to violations of this chapter; provided, however, that the penalty for a violation of this Chapter shall be \$100.00 to \$2,000.00 as determined by the Jersey City Municipal Court. Additionally, the City may pursue all legal remedies in the Hudson County Superior Court for any trees that are removed, destroyed or damaged in violation of this Chapter.

§ 321-10. Forestry standards adopted.

[Added 3-28-2018 by Ord. No. 18-019 ; amended 1-13-2021 by Ord. No. 20-111]

The document entitled Jersey City Forestry Standards ~~2018~~ is hereby adopted and all the provisions contained therein are hereby incorporated into the Municipal Code by reference and also are on file in the Office of the City Clerk. All sections of this chapter shall be interpreted and executed in accordance with the Jersey City Forestry Standards as amended and adopted by the Municipal Council. The Jersey City Forestry standards shall be written and amended in consultation with the Jersey City Shade Tree Committee and shall be subject to approval by a resolution passed by the Municipal Council.