

ORDINANCE NO. 2024-07

**TOWNSHIP OF NEW HANOVER
COUNTY OF BURLINGTON
STATE OF NEW JERSEY**

AN ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE WITH THE ADDITION/REPLACEMENT OF CHAPTER 43.3 ENTITLED "TREE REMOVAL-REPLACEMENT"

WHEREAS, the New Jersey Department of Environmental Protection, as part of the 2023 Tier A MS4 permit renewal process, requires permittees to adopt and enforce a community-wide ordinance to control tree removal and replacement on all types of properties where the municipality has jurisdiction; and,

WHEREAS, the in a community such as New Hanover Township is required to impose regulations pertaining to tree removal due to the potential impact upon the community's forested areas, tree canopy cover and related environmental impacts, said regulations must consider the needs of an agricultural community.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of New Hanover, County of Burlington, State of New Jersey that the Township Code be amended and supplemented with the addition of Chapter 43.3 entitled "Tree Removal-Replacement" to read as follows:

CHAPTER 43.3 - TREE REMOVAL-REPLACEMENT

§ 43.3-1 Purpose.

The purposes of this Chapter is to establish requirements for tree removal and replacement in New Hanover Township to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§ 43.3-2 Definitions.

- 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" x 1.5' = 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, Agriculture land/Structures, etc.); or
 5. Is determined to be a threat to public health, safety, and/or welfare by the Public Works Manager.
 6. If necessary, a homeowner may obtain a certification from a certified arborist or LTE deeming a tree a hazard.
- 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 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.

§ 43.-3 Regulated Activities.

A. Tree Replacement Requirements

1. Any person who removes one or more street tree(s), publicly or privately owned, with a DBH of 12" or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person who removes one or more tree(s), located in a designated wetland area or on a steep grade, with a DBH of 18" or more per acre, unless exempt under § ____ shall be subject to the requirements of the Tree Replacement Requirements Table.
3. Any person or entity intending to remove one or more trees greater than 12" as part of a Site Plan application shall be subject to the requirements of the Tree Replacement Requirements Table. A tree inventory plan is required to identify trees to be removed and the tree replacement locations.
4. The species type and diversity of replacement trees shall be in accordance with Appendix A.
5. Replacement tree(s) shall:
 - a. 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;
 - b. 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;
 - c. 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,
 - d. 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 12" to 23.99"	Replant 1 trees with minimum tree calipers of 1.5" for each tree removed
2	DBH of 24" to 32.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 33" or greater	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed

B. Tree Replacement Alternatives

1. If the Township 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 Township.
 - b. Pay a fee of (\$250.00) per tree removed. This fee shall be placed into a fund dedicated to continued maintenance of the trees within the Township of New Hanover.

§ 43.3-4 Exemptions

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification including pictures shall be provided, in writing, to the municipality by all persons claiming an exemption upon request by the Zoning Official.

- 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 I are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 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 and land used for agriculture purposes;
- 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. Trees that are damaged as a result of storms and or other naturally occurring calamities, that if not immediately removed, pose an imminent threat or danger to life and/or property;
- G. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

- H. Any tree located on publicly owned land and removed by the public agency or its representatives, or by a tenant in furtherance of other exemptions stated in this ordinance;
- I. Hazard trees may be removed with no fee or replacement requirement.

§ 43.3-5 Enforcement

This section shall be enforced by the Township Zoning Official during ordinary enforcement duties.

§ 43.3-6 Violations and Penalties

Any person(s) who is found to be in violation of the provisions of this section shall be subject to a fine of \$500 per tree to cover the amount of the required replacement tree(s) and cost(s) of planting.

APPENDIX A: NEW HANOVER TOWNSHIP TREE SPECIES LIST


Remarks	Botanical Name	Common Name
Permitted Large Street Tree	<i>Acer rubrum</i> 'Armstrong'	'Armstrong' Red Maple
Permitted Large Street Tree	<i>Acer rubrum</i> 'Autumn Blaze'	'Autumn Blaze' Red Maple
Permitted Large Street Tree	<i>Acer rubrum</i> 'Bowhall'	'Bowhall' Red Maple
Permitted Large Street Tree	<i>Acer saccharum</i> 'Bowhall'	'Bowhall' Sugar Maple
Permitted Large Street Tree	<i>Acer saccharum</i> 'Green Mountain'	'Green Mountain' Sugar Maple
Permitted Large Street Tree	<i>Ginkgo biloba</i> (male)	Ginkgo
Permitted Large Street Tree	<i>Ginkgo biloba</i> 'Princeton Sentry' (male)	'Princeton Sentry' Ginkgo (male)
Permitted Large Street Tree	<i>Gleditsia tricanthos inermis</i> 'Halka'	'Halka' Honeylocust
Permitted Large Street Tree	<i>Gymnocladus dioicus</i>	Kentucky Coffeetree
Permitted Large Street Tree	<i>Plantanus x acerifolia</i> 'Columbia'	'Columbia' Planetree
Permitted Large Street Tree	<i>Platanus occidentalis</i>	American Sycamore
Permitted Large Street Tree	<i>Quercus alba</i>	White Oak
Permitted Large Street Tree	<i>Quercus phellos</i>	Willow Oak
Permitted Large Street Tree	<i>Quercus rubra</i>	Red Oak
Permitted Large Street Tree	<i>Sophora japonica</i> 'Regent'	'Regent' Scholar Tree
Permitted Large Street Tree	<i>Tilia americana</i> 'Redmond'	'Redmond' Linden
Permitted Large Street Tree	<i>Tilia cordata</i> 'Greenspire'	'Greenspire' Linden
Permitted Large Street Tree	<i>Ulmus</i> 'Morton' Accolade'	Accolade' Elm
Permitted Large Street Tree	<i>Ulmus americana</i> 'Princeton'	'Princeton' American Elm
Permitted Large Street Tree	<i>Zelkova serrata</i> 'Green Vase'	'Green Vase' Zelkova
Permitted Large Street Tree	<i>Zelkova serrata</i> 'Village Green'	'Village Green' Zelkova
Permitted Medium Street Tree	<i>Cladrastis kentukea</i>	Yellowwood
Permitted Medium Street Tree	<i>Koelreuteria paniculata</i>	Goldenrain Tree
Permitted Medium Street Tree	<i>Prunus kwanzan</i>	Kwanzan Cherry
Permitted Underwire Street Tree	<i>Amelanchier x grandiflora</i> 'Autumn Brilliance'	Serviceberry
Permitted Underwire Street Tree	<i>Cercis canadensis</i> 'Alba'	White Eastern Redbud
Permitted Underwire Street Tree	<i>Cercis canadensis</i> 'Forest Pansy'	'Forest Pansy' Redbud
Permitted Underwire Street Tree	<i>Maackia amurensis</i>	Amur maackia
Permitted Underwire Street Tree	<i>Syringa reticulata</i> 'Ivory Silk'	Japanese Tree Lilac
Permitted Evergreen Tree	<i>Abies concolor</i>	White Fir
Permitted Evergreen Tree	<i>Chamaecyparis nootkatensis</i>	Alaskan Cedar
Permitted Evergreen Tree	<i>Cryptomeria japonica</i> 'Yoshino'	Cryptomeria
Permitted Evergreen Tree	<i>Ilex</i> 'Nellie R. Stevens'	'Nellie R. Stevens' Holly
Permitted Evergreen Tree	<i>Ilex opaca</i>	American Holly
Permitted Evergreen Tree	<i>Ilex x aquipernyi</i> 'Dragon Lady'	'Dragon Lady' Holly

Permitted Evergreen Tree	<i>Juniperus virginiana</i> 'Emerald Sentinel'	'Emerald Sentinel' Juniper
Permitted Evergreen Tree	<i>Picea pungens</i>	Colorado Spruce
Permitted Evergreen Tree	<i>Picea abies</i>	Norway Spruce
Permitted Evergreen Tree	<i>Picea glauca</i>	White Spruce
Permitted Evergreen Tree	<i>Picea omorika</i>	Serbian Spruce
Permitted Evergreen Tree	<i>Pseudotsuga menziesii</i>	Douglas Fir
Permitted Evergreen Tree	<i>Thuja x plicata</i> 'Green Giant'	'Green Giant' Arborvitae
Permitted Evergreen Tree	<i>Tsuga canadensis</i>	Canadian Hemlock
Prohibited Invasive Tree	<i>Acer ginnala</i>	Amur Maple
Prohibited Invasive Tree	<i>Acer platanoides</i>	Norway Maple
Prohibited Invasive Tree	<i>Acer pseudoplatanus</i>	Sycamore Maple
Prohibited Invasive Tree	<i>Ailanthus altissima</i>	Tree-of-heaven
Prohibited Invasive Tree	<i>Albizia julibrissan</i>	Mimosa
Prohibited Invasive Tree	<i>Alnus glutinosa</i>	European Black Alder
Prohibited Invasive Tree	<i>Aralia elata</i>	Japanese Angelica Tree
Prohibited Invasive Tree	<i>Aralia spinosa</i>	Devil's Walking Stick
Prohibited Invasive Tree	<i>Broussonetia papyrifera</i>	Paper-mulberry
Prohibited Invasive Tree	<i>Catalpa bignonioides</i>	Catalpa
Prohibited Invasive Tree	<i>Elaeagnus angustifolia</i>	Russian Olive
Prohibited Invasive Tree	<i>Elaeagnus umbellata</i>	Autumn Olive
Prohibited Invasive Tree	<i>Kalopanax septemlobus</i>	Castor aralia
Prohibited Invasive Tree	<i>Magnolia tripetala</i>	Umbrella Tree
Prohibited Invasive Tree	<i>Malus toringo</i>	Japanese Crabapple
Prohibited Invasive Tree	<i>Morus alba</i>	White Mulberry
Prohibited Invasive Tree	<i>Morus australis</i>	Chinese Mulberry
Prohibited Invasive Tree	<i>Paulonia tomentosa</i>	Empress Tree
Prohibited Invasive Tree	<i>Phellodendron amurense</i>	Amur Corktree
Prohibited Invasive Tree	<i>Populus alba</i>	White Poplar
Prohibited Invasive Tree	<i>Populus x canadensis</i>	Gray poplar
Prohibited Invasive Tree	<i>Prunus avium</i>	Sweet Cherry
Prohibited Invasive Tree	<i>Pyrus calleryana</i>	Callery/Bradford Pear
Prohibited Invasive Tree	<i>Robinia pseudoacacia</i>	Black Locust
Prohibited Invasive Tree	<i>Salix alba</i>	White Willow
Prohibited Invasive Tree	<i>Salix matsudana</i>	Chinese Willow
Prohibited Invasive Tree	<i>Ulmus parvifolia</i>	Chinese Elm
Prohibited Invasive Tree	<i>Ulmus procera</i>	English Elm
Prohibited Invasive Tree	<i>Ulmus pumila</i>	Siberian Elm
Prohibited Street Tree	<i>Acer campestre</i>	Hedge Maple
Prohibited Street Tree	<i>Acer ginnala</i>	Amur maple

Adopted: September 10, 2024
 Date of Publication: September 13, 2024

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
KOSHAK	X				SMITH	X			
PAWLYZYN	X				PETERLA	X			
MURPHY	X								
MOTION	PAWLYZYN			SECOND			MURPHY		
X - INDICATES VOTE				AB- ABSENT			NV- NOT VOTING		

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Township Committee of the New Hanover Township, Burlington County, New Jersey at a regular meeting held on September 10, 2024.




 Susan D. Jackson, RMC
 Borough Clerk

ATTEST:



 Susan D. Jackson, Clerk



 Paul Peterla, Mayor

Prohibited Street Tree	Acer palmatum	Japanese Maple
Prohibited Street Tree	Cornus, all species	Dogwood, all species
Prohibited Street Tree	Crataegus, all species	Hawthorn, all species
Prohibited Street Tree	Fagus, all species	Beech, all species
Prohibited Street Tree	Fraxinus, all species	Ash, all species
Prohibited Street Tree	Ginkgo biloba (female)	Maidenhair
Prohibited Street Tree	Gleditsia tricanthos (common, thorny)	Honeylocust (common, thorny)
Prohibited Street Tree	Halesia diptera	Silverbell
Prohibited Street Tree	Juglans, all species	Walnut, all species
Prohibited Street Tree	Liquidambar styraciflua (female)	Sweetgum (female)
Prohibited Street Tree	Malus, all species	Crabapple, all species
Prohibited Street Tree	Metasequoia glyptostroboides	Dawn Redwood
Prohibited Street Tree	Maclura pomifera	Osage Orange
Prohibited Street Tree	Salix, all species	Willow, all species
Prohibited Street Tree	Taxodium distichum 'Shawnee Brave'	'Shawnee Brave' Bald Cypress

NOTICE

This Ordinance published herewith was introduced and passed upon first reading at the regular meeting of the Township Committee of the Township of New Hanover held on August, 13, 2024. It will be further considered for final passage after a public hearing to be held on September 10, 2024, at the Municipal Building, 2 Hockamick Road, Cookstown, NJ at 6:00 p.m. or as soon thereafter as the matter may be heard, at which time and place any person desired to be heard upon the same will be given an opportunity to be heard. Copies are available free of charge at the Municipal Clerk's Office prior to the public hearing.



Susan Jackson, RMC
Municipal Clerk

Introduction: August 13, 2024
Date of Publication: August 19, 2024

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
KOSHAK	X				SMITH	X			
PAWLYZYN	X				PETERLA	X			
MURPHY	X								
MOTION	KOSHAK				SECOND	MURPHY			
X -- INDICATES VOTE		AB- ABSENT			NV- NOT VOTING				