**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 l.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.**

1. 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:
      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 fora 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 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 l.5''  for each tree removed |

1. 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:
      1. Plant replacement trees in a separate area(s) approved by the Township.
      2. 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.

* 1. 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.]
  2. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
  3. 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;
  4. 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.
  5. 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;
  6. 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;

* 1. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
  2. 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;
  3. 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 $500per tree to cover the amount of the required replacement tree(s) and cost(s) of planting.

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| **APPENDIX A: NEW HANOVER TOWNSHIP TREE SPECIES LIST** | | |
| **Remarks** | **Botanical Name** | **Common Name** |
| Permitted Large Street Tree | Acer rubrum ’Armstrong’ | ‘Armstrong’ Red Maple |
| Permitted Large Street Tree | Acer rubrum ’Autumn Blaze’ | ‘Autumn Blaze’ Red Maple |
| Permitted Large Street Tree | Acer rubrum ’Bowhall’ | ‘Bowhall’ Red Maple |
| Permitted Large Street Tree | Acer saccharum ‘Bowhall’ | ‘Bowhall’ Sugar Maple |
| Permitted Large Street Tree | Acer saccharum ‘Green Mountain’ | ‘Green Mountain’ Sugar Maple |
| Permitted Large Street Tree | Ginkgo biloba (male) | Ginkgo |
| Permitted Large Street Tree | Ginkgo biloba ‘Princeton Sentry’ (male) | ‘Princeton Sentry’ Ginkgo (male) |
| Permitted Large Street Tree | Gleditsia tricanthos inermis ‘Halka’ | ‘Halka’ Honeylocust |
| Permitted Large Street Tree | Gymnocladus dioicus | Kentucky Coffeetree |
| Permitted Large Street Tree | Plantanus x acerifolia 'Columbia' | `Columbia’ Planetree |
| Permitted Large Street Tree | Platanus occidentalis | American Sycamore |
| Permitted Large Street Tree | Quercus alba | White Oak |
| Permitted Large Street Tree | Quercus phellos | Willow Oak |
| Permitted Large Street Tree | Quercus rubra | Red Oak |
| Permitted Large Street Tree | Sophora japonica 'Regent' | 'Regent' Scholar Tree |
| Permitted Large Street Tree | Tilia americana 'Redmond' | ‘Redmond' Linden |
| Permitted Large Street Tree | Tilia cordata ‘Greenspire’ | ‘Greenspire’ Linden |
| Permitted Large Street Tree | Ulmus 'Morton' Accolade' | Accolade' Elm |
| Permitted Large Street Tree | Ulmus americana 'Princeton' | 'Princeton’ American Elm |
| Permitted Large Street Tree | Zelkova serrata ‘Green Vase' | ‘Green Vase’ Zelkova |
| Permitted Large Street Tree | Zelkova serrata ‘Village Green' | ‘Village Green’ Zelkova |
| Permitted Medium Street Tree | Cladrastis kentukea | Yellowwood |
| Permitted Medium Street Tree | Koelreuteria paniculata | Goldenrain Tree |
| Permitted Medium Street Tree | Prunus kwanzan | Kwanzan Cherry |
| Permitted Underwire Street Tree | Amelanchier x grandiflora 'Autumn Brilliance' | Serviceberry |
| Permitted Underwire Street Tree | Cercis canadensis ‘Alba’ | White Eastern Redbud |
| Permitted Underwire Street Tree | Cercis canadensis ‘Forest Pansy’ | ‘Forest Pansy’ Redbud |
| Permitted Underwire Street Tree | Maackia amurensis | Amur maackia |
| Permitted Underwire Street Tree | Syringa reticulata 'Ivory Silk' | Japanese Tree Lilac |
| Permitted Evergreen Tree | Abies concolor | White Fir |
| Permitted Evergreen Tree | Chamaecyparis nootkatensis | Alaskan Cedar |
| Permitted Evergreen Tree | Cryptomeria japonica 'Yoshino' | Cryptomeria |
| Permitted Evergreen Tree | Ilex ‘Nellie R. Stevens’ | 'Nellie R. Stevens’ Holly |
| Permitted Evergreen Tree | Ilex opaca | American Holly |
| Permitted Evergreen Tree | Ilex x aquipernyi 'Dragon Lady' | 'Dragon Lady' Holly |
| Permitted Evergreen Tree | Juniperus virginiana 'Emerald Sentinel' | 'Emerald Sentinel' Juniper |
| Permitted Evergreen Tree | Picea pungens | Colorado Spruce |
| Permitted Evergreen Tree | Picea abies | Norway Spruce |
| Permitted Evergreen Tree | Picea glauca | White Spruce |
| Permitted Evergreen Tree | Picea omorika | Serbian Spruce |
| Permitted Evergreen Tree | Pseudotsuga menziesii | Douglas Fir |
| Permitted Evergreen Tree | Thuja x plicata 'Green Giant | 'Green Giant' Arborvitae |
| Permitted Evergreen Tree | Tsuga canadensis | Canadian Hemlock |
| Prohibited Invasive Tree | Acer ginnala | Amur Maple |
| Prohibited Invasive Tree | Acer platanoides | Norway Maple |
| Prohibited Invasive Tree | Acer pseudoplatanus | Sycamore Maple |
| Prohibited Invasive Tree | Ailanthus altissima | Tree-of-heaven |
| Prohibited Invasive Tree | Albizia julibrissan | Mimosa |
| Prohibited Invasive Tree | Alnus glutinosa | European Black Alder |
| Prohibited Invasive Tree | Aralia elata | Japanese Angelica Tree |
| Prohibited Invasive Tree | Aralia spinosa | Devil’s Walking Stick |
| Prohibited Invasive Tree | Broussonetia papyrifera | Paper-mulberry |
| Prohibited Invasive Tree | Catalpa bignonioides | Catalpa |
| Prohibited Invasive Tree | Elaeagnus angustifolia | Russian Olive |
| Prohibited Invasive Tree | Elaeagnus umbellata | Autumn Olive |
| Prohibited Invasive Tree | Kalopanax septemlobus | Castor aralia |
| Prohibited Invasive Tree | Magnolia tripetala | Umbrella Tree |
| Prohibited Invasive Tree | Malus toringo | Japanese Crabapple |
| Prohibited Invasive Tree | Morus alba | White Mulberry |
| Prohibited Invasive Tree | Morus australis | Chinese Mulberry |
| Prohibited Invasive Tree | Paulonia tomentosa | Empress Tree |
| Prohibited Invasive Tree | Phellodendron amurense | Amur Corktree |
| Prohibited Invasive Tree | Populus alba | White Poplar |
| Prohibited Invasive Tree | Populus x canescens | Gray poplar |
| Prohibited Invasive Tree | Prunus avium | Sweet Cherry |
| Prohibited Invasive Tree | Pyrus calleryana | Callery/Bradford Pear |
| Prohibited Invasive Tree | Robinia pseudoacacia | Black Locust |
| Prohibited Invasive Tree | Salix alba | White Willow |
| Prohibited Invasive Tree | Salix matsudana | Chinese Willow |
| Prohibited Invasive Tree | Ulmus parvifolia | Chinese Elm |
| Prohibited Invasive Tree | Ulmus procera | English Elm |
| Prohibited Invasive Tree | Ulmus pumila | Siberian Elm |
| Prohibited Street Tree | Acer campestre | Hedge Maple |
| Prohibited Street Tree | Acer ginnala | Amur maple |
| 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

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 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 | | | | | | | | | |

Adopted:

Date of Publication:

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| COUNCILMEMBER | YES | NO | NV | AB | COUNCILMEMBER | YES | NO | NV | AB |
| KOSHAK |  |  |  |  | SMITH |  |  |  |  |
| PAWLYZYN |  |  |  |  | PETERLA |  |  |  |  |
| MURPHY |  |  |  |  |  |  |  |  |  |
| MOTION |  | | | | SECOND |  | | | |
| 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.

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Susan D. Jackson, RMC

Borough Clerk

ATTEST:

Susan D. Jackson, Clerk Paul Peterla, Mayor