

TOWNSHIP OF HAINESPORT

ORDINANCE NO. 2024 - 9

ORDINANCE TO CONTROL TREE REMOVAL & REPLACEMENT TO REDUCE STORMWATER RUNOFF AND POLUTANTS AND TO PROMOTE INFILTRATION OF RAINWATER INTO THE SOIL

BE IT ORDAINED by the Township Committee of the Township of Hainesport, in the County of Burlington and State of New Jersey, as follows:

ARTICLE I. TREE REMOVAL AND REPLACEMENT

A. Purpose

The purpose of this Article is to establish requirements for tree removal and replacement in the Township of Hainesport in order to comply with the NJDEP Tier A MS4 permit renewal requirements established by the State of New Jersey.

B. 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.

1. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.
2. "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 12" DBH would have a $CRR = 12" \times 1.5' = 18'$.
3. "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.
4. "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.

- a. Has an infectious disease or insect infestation;
 - b. Is dead or dying;
 - c. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
 - d. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); and
 - e. Is determined to be a threat to public health, safety, and/or welfare by the Zoning Officer, in consultation with the Public works department and other staff and professionals.
- 5. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.
 - 6. "Planting strip" mean the area within the public right-of-way between the abutting property line and the curb or edge of pavement, exclusive of any sidewalk.
 - 7. "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.
 - 8. "Street Tree" means a tree within the public right-of-way. This also includes trees planted within shade tree easements on private property.
 - 9. "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.
 - 10. "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.
 - 11. "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.

C. Regulated Activities

1. Application Process

- a. Any person planning to remove a street tree with DBH of 8" or more or any non-street tree with DBH of 12" or more on their property which is not exempted from the requirements of this ordinance shall submit a Tree Removal Application to the Zoning Officer of the Township. No tree shall be removed, unless exempted under Section D below until municipal officials have reviewed and approved the removal.
- b. For larger scale clearing projects over 5,000 square feet, the applicant shall submit a tree survey as part of the application to determine number, sizes, and exemptions of trees.

2. Tree Replacement Requirements

- a. Any person who removes one or more street tree(s) with a DBH of 8" or more, unless exempt under Section D below, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- b. Any person who removes one or more tree(s), unless exempt under Section D below, as defined as Tree removal, with a DBH of 12", shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with a list of approved trees and planting requirements kept on file with the Zoning Officer.

- c. Replacement tree(s) shall:
 - (1) Be replaced in kind with a tree that meets 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), for those projects that are not subject to Site Plan or Subdivision approval; and
 - (3) 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 8" (for street trees) or 12" (for non-street trees) to 17.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 18" to 23.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 24" to 35.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 36" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

3. Replacement Alternatives:

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, or
- b. Pay a fee of \$300.00 per tree not planted. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of trees.

D. 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 includes, but is not limited to, photographic evidence, certification from a licensed tree expert or arborist, and/or state agency documentation.

1. The removal of one tree that falls into category 1, 2, or 3 of the Tree Replacement Requirements Table from a single lot within a two-year period. Trees removed in conjunction with additions to existing single family residential units, and the construction of permitted accessory structures, such as decks, patios, swimming pools, sheds, etc. Tree removals may extend 15' from said additions and structures to be exempt.

Outside of this 15' improvement area, where a property contains at least 100 trees, up to 10% of the trees may be removed and considered exempt.

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;
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. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
7. Hazard or invasive trees may be removed with no fee or replacement requirement.
8. One hundred percent (100%) affordable housing developments.
9. Any project that has received Preliminary Site Plan approval prior to the effective date of this ordinance, and said approval remains valid and in full force and effect.

E. Enforcement:

This ordinance shall be enforced by the Zoning Officer during the course of ordinary enforcement duties.

F. Violations and Penalties

Any person who violates or who fails or refuses to comply with the provisions of this article shall be subject to a fine of not less than \$50 nor more than \$1,000 per tree and/or any other penalty that is consistent with Section 1-1, Violations and Penalties, of the Township Code for each offense.

ARTICLE II. REPEALER, SEVERABILITY, EFFECTIVE DATE.

- A. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.
- B. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.
- C. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.


NOTICE OF PUBLIC HEARING

HAINESPORT TOWNSHIP ORDINANCE 2024-9

ORDINANCE TO CONTROL TREE REMOVAL & REPLACEMENT TO REDUCE STORMWATER RUNOFF AND POLUTANTS AND TO PROMOTE INFILTRATION OF RAINWATER INTO THE SOIL

The Ordinance published herewith was introduced and passed upon first reading at the regular meeting of the Township Committee of the Township of Hainesport held on April 9, 2024. It will be further considered for passage after a public hearing at the regular meeting to be held on May 14, 2024 at the Municipal Building, One Hainesport Centre, Hainesport, New Jersey at 6:30 PM at which time and place any persons desiring to be heard upon the same will be given an opportunity to be heard. During the week prior to and up to and including the date of such meeting or further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

Dated: April 9, 2024



Paula L. Kosko, RMC, Township Clerk
Township Administrator

	Motion	Second	Yes	No	Abstain	Absent
Evans	X		X			
Montgomery			X			
Clauss			X			
Tordy		X	X			
Gilmore			X			