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ORDINANCE: 2024-002

**BOROUGH OF HIGH BRIDGE
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

AMENDING BOROUGH CODE CHAPTER 380, TREES

WHEREAS, the Borough maintains Borough Code Chapter 380, Article 1, entitled Trees which shall be amended to read:

§ 380-1. Power and duties.

The Mayor and Council shall have the power to:

- A. Exercise full and exclusive control over the regulations, planting and care of shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public right-of-way, highway, park or public open space in the Borough of High Bridge.
- B. Regulate and control the use of grounds surrounding the same so as may be necessary for their proper growth, care and protection.
- C. Move, remove or require the removal of any tree or branch or section of tree dangerous to the public safety.
- D. Care for and control plantings in parks and roadways to encourage arboriculture.
- E. Amend or adopt all ordinances necessary for the proper implementation of the provisions of this article.
- F. Administer treatment to or remove any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Borough, and enter upon private property for that purpose with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by and on behalf of the Department of Agriculture of the State of New Jersey.
- G. Accept guidance from the Borough Environmental Commission regarding shade trees and shrubbery in the public domain.

§ 380-2. Cost of trees and improvements to become liens.

Except as hereafter provided, the initial cost of all trees planted by the governing body, including the cost of labor, tree stabilization and protection articles, gear or equipment and the cost of the removal of any tree or branch or section dangerous to the public safety shall, if the governing body shall so determine in accordance with uniform rules and regulations promulgated for that purpose, be a charge upon the real estate upon which the tree or trees shall be planted, pruned or removed as an improvement. Such costs payable by the owner may be directly paid to the Borough or be certified by the Mayor and Council to the Tax Collector and shall then become a lien upon the real estate and be included in the next collection in the same manner as other taxes against the property; provided, however, that the provisions of this section shall not apply to the following:

- A. Any planting to replace a tree or trees formally planted by the Mayor and Council.
- B. Planting in connection with Arbor Day exercises or other educational demonstrations.

§ 380-3. Planting and removal of trees; notice of hearing; emergencies.

- A. Notice of hearing. In every case where the property owner will be charged with the cost of the planting of any shade tree or trees, the Mayor and Council shall give notice of the meeting at which it is proposed to consider said planting by publishing a notice at least once not less than 20 days before the meeting in a newspaper

circulating in the Borough and service of a copy of the notice upon the property owner at least 10 days before the meeting. The notice shall specify streets or areas where the planting is proposed and require all persons who may object to present their objections, in writing, to Mayor and Council at or before their next meeting. A notice shall be sent, certified mail, return receipt requested, to the person whose name appears on the most recent tax list of the Borough for the receipt of tax bill and notice sent or given to such persons shall be deemed sufficient for the purpose of this section. Before final action shall be taken, any objections filed with the Mayor or Council shall be considered.

- B. Emergencies. The Mayor and Council shall give reasonable notice of its intention to remove or cause the removal of a tree or part of a tree dangerous to public safety unless public safety requires immediate removal, in which case no notice shall be necessary.

§ 380-4. Consent required for certain improvements.

No statute giving any person, state, county or municipal board, body or official the power or authority to lay any sidewalk along or to open, construct, curb, clear or pave any street or to do any similar acts shall be construed to permit or authorize any interference with or injury to any roadway or highway shade tree without the consent of the Mayor and Council within whose jurisdiction such tree shall be located. In all cases, the Mayor and Council shall reasonably cooperate with such person, board, body or official for the public good.¹

§ 380-5. Compensation.

The Mayor and Council shall serve without compensation.

§ 380-6. Title.

This article shall be known and may be cited as the "Tree Protection Code of the Borough of High Bridge."

§ 380-7. Findings.

The governing body does herein decide and find that the indiscriminate uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land particularly on steep slopes and along stream corridors within the Borough has resulted in creating increased municipal costs to control drainage and road repairs and has further caused increased soil erosion, decreased fertility of soils and increased dust, which has caused deterioration of property values. This has further rendered land unfit and unsuitable for their most appropriate use, with the result that there has been deterioration or will result in a future deterioration of condition affecting the health, safety, and general well-being of the inhabitants of the Borough of High Bridge and has caused the passage of this article to regulate and control the indiscriminate and excessive cutting of trees in the Borough.

§ 380-8. Purpose.

The purpose of this article is to regulate the removal of trees within the Borough; to protect the Borough's current tree stock; to establish the authority for tree protection within the Borough and to provide penalties for violations to this article.

§ 380-9. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPLICANT – means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

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’.

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.

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 Licensed Tree Expert shall make all determinations for the below.

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 Licensed Tree Expert (LTE).
6. Is experiencing mechanical failure, or is likely to experience mechanical failure within five (5) years.

HOMEOWNER – means a person(s) who owns a residence.

OFFICIAL APPOINTED BY THE BOROUGH — The Zoning Officer, unless the Borough specifically appoints another official.

PERSON — means any individual, resident, corporation, utility, company, partnership, firm, or association.

PLANTING STRIP – means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

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.

STEEP SLOPE — Slopes of 15% or greater as outlined in Chapter 145, Section 312, of the Borough Land Use Plan.

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.

SUBDIVIDABLE LOT — A legally established and existing parcel of land, with boundaries determinable from existing records, which has a building located thereon which is occupied or capable of being occupied, by which has a lot size at least twice the minimum zoning requirements of the Borough, and with dimensions and setbacks sufficient to allow subdivision into at least two building lots and having same restrictions as an undeveloped lot.

TREE — means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing branches at some distance from the ground.

TREE OF SIGNIFICANCE – means any tree with a diameter of 18 inches or that is recognized by the municipal governing body or local historical organization(s) as being a significance.

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.

TREE REPLACEMENT PLAN — A specific plan for replacement of removed trees in accordance with the provisions of this article.

WOODLAND MANAGEMENT PLAN — A plan prepared in accordance with criteria set forth in N.J.A.C. 18:15-2.10 and which is required to be filed with the Assessor and the DEP by an owner of the woodland as set forth in N.J.A.C. 18:15-2.7.

§ 380-10. Interpreting definitions.

The official appointed by the Borough is the established authority responsible for interpreting definitions. In any case, the official appointed by the Borough shall have the right to determine whether any specific woody plant shall be considered a tree or a shrub. Such a determination shall be final and not subject to appeal.

§ 380-11. Jurisdiction.

The Borough of High Bridge shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the Borough limits or on property owned by the Borough, and shall have the power to plant, care for, maintain, remove and replace such trees, shrubs and other plantings. The Borough of High Bridge also shall have jurisdiction over any tree upon any private land, including the public right-of-way and easements within the Borough of High Bridge.

§ 380-12. Policies regarding trees.

- A. It is the policy of the Borough to line its streets with trees and to conduct a consistent and adequate program for maintaining and preserving the forest canopy throughout the Borough. It is the policy of the Borough to encourage new tree planting on public and private property and control and regulate through the permit requirements the indiscriminate and/or excessive removal of trees. The Borough, in implementing its various programs and projects, shall comply with the purpose and policy of this article. In doing so the Borough shall provide to the Environmental Commission for review and comment all plans that may affect protected trees, including but not limited to road improvement projects. In addition, the officer appointed by the Borough will provide a monthly report on residential tree permit removals and trees removed on municipal property.

§ 380-13. Permit required for tree removal.

- A. No person shall destroy or remove any tree upon any private or public land, including the public right-of-way and easements, within the Borough of High Bridge until a permit has been secured pursuant to this article or the removal is specifically exempt herein.
- B. No approval for a major subdivision, minor subdivision, or in the Borough that involves the destruction or removal of any tree will be granted until a landscaping plan and, in accordance with this article, tree replacement and reforestation of that parcel, is submitted to and approved by the Planning Board in consultation with the Environmental Commission.

The site plan must include:

- A tree survey to determine number, sizes, and exemption of trees for assessment of fees shall include; the location, identity of the species, Critical Root Radius, DBH and the quantity of each species of trees which are to be removed or disturbed.
 - List of the specific proposals for replanting, if applicable.
 - Reforestation plan. Lots with tree coverage less than 30% shall be required to plant a minimum of 1.5 trees per 10,000 square feet or less of open field. The owner or applicant shall have a landscape architect or licensed surveyor calculate the total required trees to be distributed in accordance with a landscape plan of the entire project, which shall be approved by the Environmental Commission
- C. No person shall destroy or remove any trees from steep slopes or within 25 feet of a stream on his/her private property unless a permit has been secured pursuant to this article. **[Added 12-20-2012 by Ord. No. 2012-19]**

§ 380-14. 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 Borough by all persons claiming an exemption. Proper justification shall be photos and a statement and must be verified by the Official appointed by the Borough. If requested a statement from a licensed tree expert as per NJ Statue 45:15C-11 or arborist must be provided.

- 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 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 Borough;
- 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.

§ 380-15. Application for tree removal.

- A. Any person planning to remove one or more street tree(s) with a DBH of 2.5” or more, unless exempt under 380-14 above, shall be subject to the requirements of the Tree Replacement Requirements Table below
- B. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6” or more per acre, unless otherwise detailed under 380-14 shall be subject to the requirements of the Tree Replacement Requirements Table and shall apply for a tree removal permit in accordance with 380-18 below. Permit fees will be assessed as permit section 380-19.
- C. The applicant shall identify the land upon which the tree or trees are located and shall disclose the name and address of the owner, tenant, or duly authorized agent of the owner of the property.
- D. The applicant shall identify and place the location of the tree or trees to be cut, destroyed or removed, reason for removal, size and species proposed for removal and such further information when requested
- E. Applicants with woodland management plans will be required to apply for a permit, receive approval from the official appointed by the Borough and will be responsible for full permit fees.
- F. Residents are responsible for informing tree services of our tree ordinances.

§ 380-16. Basis for determination.

As a basis for determining permitted tree removal, the official appointed by the Borough shall give due consideration to the following and their impact on the existing trees and the following:

- A. Clearance for proposed road or approved driveway right-of-way.
- B. Clearance of trees for construction of a residence or other primary building plus a twenty-five-foot-wide area surrounding such buildings.
- C. Clearance of trees for the construction of septic tanks, leaching fields, sewer plants and other utilities shall be considered if the plan is approved by the County Health Department, Health Officer, or the Borough Engineer.
- D. Any tree designated in accordance with an approved woodland management plan.
- E. Clearance of any dead, dying, or diseased or infested tree.
- F. It’s inherent value as a Significant tree.
- G. Clearance of trees to plant a garden
- H. Clearance of trees to put in a pool.
- I. Clearance of trees to build a patio or deck.
- J. Clearance of trees to add an addition.

§ 380-17. Regulated Activities

A. Tree Replacement Requirements

1. Appendix A of this Ordinance shall provide for a tree list which shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. Requests to have a tree not on the approved list shall be a written request to the Borough official. Approved planting times/seasons and proper planting standard procedures shall be provided in Appendix A.
2. 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.

B. Tree replacement and reforestation.

Replacement tree(s) shall meet the Required Actions in the Table below:

Category	DBH of Tree Removal	Number of Replacement Trees(minimum 2 inch caliper)
1	2.5” (for street trees) or 6” (for other trees) to 12.99”	1 tree with a minimum DBH of 1.5” for each tree removed
2	12” to 22.99”	2 trees with a minimum DBHs of 1.5” for each tree removed
3	23” to 32.99”	3 trees with minimum DBHs of 1.5” for each tree removed
4	33” or greater	4 trees with minimum DBHs of 1.5” for each tree removed
5	Tree of Significance*	5 trees with minimum DBHs of 1.5” for each tree

*Tree of Significance removals shall be approved by the officer appointed by the Borough

3. Replacement Alternative. Replacement tree(s) shall be located on site. If replacement trees cannot be accommodated on site, the Environmental Commission may consider suggestions of alternate planting sites and/or monetary fee of \$300 for each replacement tree that would have been required in accordance with the article deposited in the Borough Tree Trust Fund.

§ 380-18. Issuance of permit.

The official appointed by the Borough after inspecting the site shall determine whether the applicant shall be granted a permit and shall issue a tree removal permit or denial, in writing, within 14 days of the date of such application.

§ 380-19. Fees.

- A. The applicant at the time of filing said application shall deposit with the official appointed by the Borough Mayor and Council a fee for the permit according to the following schedule:
- (1) Dead or dying tree, mechanically-failing tree, or poses a safety hazard : no fee.
 - (2) Trees within 20 feet of a structure: no fee.
 - (3) One to two trees: free per calendar year.
 - (4) Three to five trees: \$30.
 - (5) Six to 15 trees: \$300.
 - (6) Sixteen to 50 trees: \$1,000.
 - (7) Fifty-one to 100 trees: \$3,000.
 - (8) One hundred to 200 trees: \$5,000.
 - (9) Each additional increment of 100: \$2,000.
- B. If upon reviewing an application, the official appointed by the Borough determines a tree to be dead or dying, the fee shall be waived
- C. If said determination of the applicant's request is unfavorable, the official appointed by the Borough shall promptly notify the applicant, in writing, within 14 days and shall not issue said permit. The applicant shall, therefore, be entitled to a refund of the fees paid with the application.
- D. In cases where the services of a tree expert are required, the cost thereof shall be borne by the applicant.

§ 380-20. Borough liability.

Nothing contained in this article shall be deemed to impose any liability upon the Borough, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition or to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, alley or public place within the Borough.

§ 380-21. Protection of Existing Trees; Unlawful interference with planting, maintenance, and removal of trees.

No person, firm or corporation shall interfere with the Director of Public Works or persons acting under the authority of the Mayor and Council while engaged in planting, mulching, pruning, or removing any tree, shrub, or plant in any street or public place within the Borough. No person, firm or corporation shall purposefully damage, harm or alter any tree in a manner that threatens to diminish the vigor of the tree and will be subject to the penalties outlined for unlawful tree removal in this article.

In connection with any building construction subsequent to permitted tree removal but prior to start of construction, suitable tree protective barriers shall be erected the issuance, inspected and approved by the officer appointed by the Borough Official and this protection, generally at the Critical Root Radius, where required, shall remain until such time as the protection is authorized to be removed or after the issuance of a final certificate of occupancy. In addition, during construction, no attachments or wires shall be attached to any of said trees so protected. Grading within the Critical Root Radius of trees must be approved and appropriate measures shall be taken to minimize impact to the trees. Any trees seriously damaged during construction must be professionally treated by a New Jersey certified tree expert or replaced if the damage is beyond treatment. A detail of the existing tree self-supported protective barrier shall be provided on all applications. The self-supported protective barrier shall be placed at the Critical Root Radius of any tree along the limit of clearing and around the entire Critical Root Radius for trees to remain undisturbed within the limit of clearing. It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery or temporary soil deposits

within the Critical Root Radius. During construction, the contractor shall take all reasonable steps to protect the surrounding tree. No structures, equipment or movable machinery that could injure a tree shall be permitted to operate closer than the Critical Root Radius of the tree. Prior to removal for construction activity, all trees to be removed shall be tagged and all trees to be retained shall be protected with tree protection fencing. Tagging and fencing shall be inspected by the Borough Official. Installation and repair of septic tanks and fields and underground utilities are not permitted under the die Critical Root Radius of a tree.

Any work in the Critical Root Radius of a tree will be considered a violation of this article, without the approval in writing of the Construction Official.

§ 380-22. Right of appeal.

The applicant shall have the right to appeal the aforesaid decision to the Planning Board/Board of Adjustment of the Borough of High Bridge within 20 days of receipt of the official appointed by the Borough's decision. Said appeal shall be scheduled to be heard with a written notice of the hearing sent to the applicant within 30 days after the filing of said notice of appeal. The Planning Board/Board of Adjustment may, in its discretion and upon complete review of the application, after hearing the testimony of the official appointed by the Borough and the applicant, reverse, modify or affirm the aforesaid decision.

§ 380-23. Enforcement.

The official appointed by the Borough is hereby charged with the responsibility for the enforcement of this article and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the Borough Prosecutor is hereby authorized to institute appropriate proceedings to that end.

§ 380-24. Performance evaluation.

The Borough Environmental Commission shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this article. An annual summary and analysis of the evaluation and recommendations for action shall be prepared at the direction of the Environmental Commission and presented to the Mayor and Borough Council. The Mayor and Borough Council shall consider the report and recommendations and take all actions deemed necessary to accomplish the goals of this article. These actions may include, but are not limited to, revision or amendment of this article or the adoption of other resolutions or ordinances.

§ 380-25. Administrative responsibilities.

- A. The Mayor and Borough Council shall promulgate rules, regulations and policies establishing public tree policy. The duties of the Borough Environmental Commission shall include:
- (1) To study the problems and determine the needs of the Borough in connection with its tree policy.
 - (2) To recommend to the Mayor and Borough Council the type and kind of trees to be planted upon such Borough streets or parts of Borough streets, parks, or public places.
 - (3) To assist the properly constituted officials of the Borough, as well as the Mayor, Borough Council and citizens of the Borough, in the dissemination of news and information regarding the protection, maintenance, removal, and planting of trees on public and private lands.
 - (4) To make such recommendations from time to time to the Borough Council as to desirable legislation concerning tree policy and activities within the Borough.
- B. The official appointed by the Borough of High Bridge Mayor and Council shall have the authority and be responsible for implementing the provisions of this policy carried under this article. The Director of Public Works shall, by use of Borough employees or private contractors, plant, maintain and otherwise care for, or, if necessary, remove trees in any public place in the Borough with consultation from the Environmental Commission and/or designee (tree expert) as needed.

§ 380-26. Violations and penalties; presumptions.

- A. Fines. Any violation of any provision in this article shall be considered an offense punishable by a fine not to exceed \$1,000 for each offense or imprisonment for a term not exceeding 90 days.
- B. Presumptions.

In any prosecution for failure to secure a permit prior to removal the following shall apply:

- The diameter of the stump of a removed tree shall be rebuttably presumed to be the diameter of the removed tree at a point 4.5 feet above the ground.
- If the stump of a removed tree has been removed or destroyed, it shall be rebuttably presumed that the tree exceeded the minimum standards requiring a permit to be secured.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of High Bridge, in the County of Hunterdon, to amend the Borough code as above.

NOW THEREFORE BE IT FURTHER ORDAINED, that this Ordinance is effective immediately upon passage.