

**TOWNSHIP OF ANDOVER  
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

**ORDINANCE #2024-08**

**AN ORDINANCE OF THE MAYOR AND COMMITTEE OF THE  
TOWNSHIP AMENDING THE CODE OF ANDOVER TOWNSHIP TO  
REMOVE “CHAPTER 171, TREE HARVESTING” AND REPLACE  
WITH A NEW CHAPTER ENTITLED “CHAPTER 171, TREE  
PRESERVATION” TO CONTROL TREE REMOVAL AND  
REPLACEMENT IN ORDER TO REDUCE STORMWATER RUNOFF  
AND POLLUTANTS, AND TO PROMOTE INFILTRATION OF  
RAINWATER INTO THE SOIL**

**Purpose Statement:** The purpose of this article is to protect trees and woodlands from indiscriminate destruction and damage, and further to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**WHEREAS**, the New Jersey Department of Environmental Protection requires that all Tier A municipalities take measures to control the removal of trees in order to reduce stormwater runoff and to promote infiltration of rainwater into the soil. In order to comply with the requirements of the Township of Andover’s Municipal Stormwater General Permit, the Township Committee wishes to amend the revised general ordinances to require that measures be taken to preserve trees within the Township and provide guidelines for replacement of trees when unauthorized removal occurs.

**NOW, THEREFORE, BE IT ORDAINED** by the Andover Township Mayor and Committee that the Code of the Township of Andover is amended as follows:

**Section 1.** The Code is amended to add a new Chapter 171 to be entitled “Tree Preservation” and to state in its entirety as follows:

**171 Tree Preservation**

**171-1 Purpose:**

The purpose of this article is to protect trees and woodlands from indiscriminate destruction and damage, and further to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**171-2 Definitions:**

*Definitions* is created to include the following:

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 Chapter 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 word "shall" is always mandatory and not merely directory.

*CLEAR CUTTING* - the removal of most or all trees on a property at one time for the purpose of a creating lawn or graded areas on that property.

*HAZARD TREE* - 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 located near an existing structure and poses a threat to that structure since the structure is located in the fall zone of said tree;
5. Has a root system that is causing or has the potential to cause damage to structures (such as building foundations, sidewalks, etc.); or

*LOT DISTURBANCE* – includes all areas disturbed for the purpose of the construction of buildings and structures as well as all graded areas and lawns. The total shall include disturbed areas both inside and outside of the building envelope.

*PERSON* - any individual, resident, corporation, utility, company, partnership, firm, or association.

*RESIDENT* - 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.

*STREET TREE* - a tree planted within a Municipal right-of-way strip.

*TRACT DISTURBANCE* - Any lot improvement, including construction or expansion of buildings, decks, sheds, garages, driveways, lawns, pools, septic fields, land clearing, tree removal, terracing and other land improvements.

*TREE* - 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.

*TREE REMOVAL* - 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.

### **171-3 *Clear Cutting or Tree Harvesting is Prohibited***

With the exceptions of the exemptions established in this article, no person shall cut or remove, or cause to be cut or removed, any existing trees for the purpose of clear cutting or harvesting unless the cutting and removal can be accomplished in accordance with the provisions set forth in this chapter.

### **171-4 *Exemptions***

The following shall be exempted from the requirements of this article:

- A. Commercial nurseries or fruit orchards.
- B. Christmas tree farms.
- C. Any tree which is a part of a cemetery.
- D. Trees directed to be removed by the Township, County, State or Federal authority pursuant to law.
- E. Removal of hazard trees.
- F. Pruning or removal of street trees by utility companies or maintenance of utility wires or pipelines and the pruning of trees within sight easements.
- G. Trees removed in conjunction with the Right to Farm Act, on qualifying farms.
- H. Parcels of land with a forest management plan or woodland management plan that has the required approval by the NJDEP Division of Forestry or the appropriate State agency. These plans are on file in the Tax Assessors office.



- I. Tree removal on a property for the purpose of constructing a firebreak that will create a strip of ground where vegetation will be removed to stop the progress of forest fires.
- J. Street trees which are required to be removed by property owners due to said trees interfering with driver sight distances or are dead or dying and need to be removed to preserve the public health, safety and general welfare.
- K. Parcels of land with preliminary site plan or subdivision approval, major or minor. Removal of trees prior to Township Land Use Board approval is prohibited, unless it is part of site investigation such as percolation test for septic system suitability.
- L. Trees to be removed as necessary to permit the construction of buildings, structures, decks, pools, driveways, septic field, lawn area for recreational use for the residents of the dwelling and any other improvements approved by way of a Zoning Permit issued by the Township Zoning Officer.
- M. Trees removed as required to install a new and/or repair an existing septic system as approved by the Sussex County Health Department or the New Jersey Department of Environmental Protection.

#### **171-5 *Review and Design Standards***

- A. Healthy trees outside of the approved building disturbance areas should be retained to maintain resource protection and buffering to neighboring properties, unless the trees pose a hazard to person or property or whereby the approved construction grading or disturbance would cause damage to a tree creating an unsafe condition.
- B. Trees and vegetation shall not be removed in wetlands, wetland buffers, slopes in excess of 25 percent, flood plains, stream buffers, dedicated conservation easements or other environmentally protected areas unless approvals from the New Jersey Department of Environmental Protection (NJDEP) and/or Andover Township have been obtained.
- C. No trees shall be removed, unless exempted as defined in Section 171-4, from steep slope areas unless the disturbance area is less than the allowable disturbance areas as defined by Section 190-32.3, Regulations for Development Within Steep Slope Areas of the Township's Zoning Code. Approval from the Township Land Use Board will be required for any removal of trees from areas that exceed the allowable disturbance area as defined by Section 190-32.3. Any cutting that

occurs prior to receiving the necessary approvals being granted will be considered not authorized.

- D. Commercial properties removing trees, planting of trees and landscaping are part of any Land Use Board approval and shall be in accordance with Section 131, Site Plan Review of the Code of Andover Township, as well as addressed in Section 190, Zoning. Any cutting that occurs prior to receiving the necessary approvals being granted will be considered not authorized.

#### **171-6 *Enforcement***

This ordinance shall be enforced by the Township's Zoning Officer, or designee of the Township Administrator during the course of ordinary enforcement duties. It shall be unlawful for any reason to violate any part of this section adopted by the Township of Andover Committee.

#### **171-7 *Violations and Penalties***

- A. Any removal of trees that is not part of a zoning permit or Land Use Board approval or are exempt as defined in Section 171-4 will be considered not permitted and disturbed areas will need to be restored in a manner approved by the Land Use Board by resolution.
- B. Penalty. The Township Administrative Code Section 1-3 shall apply to any violation of the tree removal regulations contained in this article.

#### **Section 2. *Severability:***

Each section, subsection, sentence, clause, and phrase of this Section is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Section to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Section.

#### **Section 3. *Inconsistency/Repealer:***

All prior ordinances or parts of the same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

#### **Section 4. *Effective Date:***

This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

## NOTICE OF PENDING ORDINANCE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced and passed at first reading at a Regular Meeting of the Township Committee of the Township of Andover held on June 20, 2024. A public hearing regarding same will be held at a hybrid meeting scheduled for July 18, 2024, beginning at 7:00PM, to be held both in person and virtually via Zoom, which details for accessing the meeting are as follows:

### Zoom Meeting

<https://us02web.zoom.us/j/85385763939?pwd=Y0xXTzRKSGorZmVpWWpYbmttSVJ6QT09>

Webinar ID: 853 8576 3939

Passcode: 814400

Phone: +1 929 205 6099

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same. Copies of said Ordinance will be made available at the Clerk's office in the Township of Andover Municipal Building to the members of the general public who shall request the same.



Patricia L. Bussow, RMC  
Administrator/Municipal Clerk



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**NOTICE OF FINAL ADOPTION**

PUBLIC NOTICE is hereby given that the foregoing Ordinance was adopted at a public hearing held at a Hybrid Meeting of the Township Committee of the Township of Andover on July 18, 2024. Said Hybrid Meeting was held virtually via Zoom and in person at the Municipal Building, 134 Newton Sparta Road, Newton, NJ 07860, at which time all persons were given the opportunity to be heard concerning same. This Ordinance shall take effect immediately upon publication, as required by law.

*Patricia L. Bussow*

Patricia L. Bussow, RMC  
Administrator/Municipal Clerk