

**O:24-01**  
**Harmony Township**  
**Warren County, NJ**

**AN ORDINANCE TO ESTABLISH CHAPTER 401 OF THE CODE OF THE TOWNSHIP OF HARMONY ENTITLED “STORMWATER POLLUTION PREVENTION” PURSUANT TO THE REQUIREMENTS OF THE TOWNSHIP’S 2023 NJDEP MS4 PERMIT**

WHEREAS, the Township of Harmony is required by the State of New Jersey Department of Environmental Protection (NJDEP) to administer certain stormwater management requirements within the Township, and

WHEREAS, the State of New Jersey pursuant to N.J.A.C. 7:14A. on December 22, 2022 issued a New Jersey Pollutant Discharge Elimination System (NJPDES) Permit to the Township of Harmony as an operator of a Municipal Separate Storm Sewer System (MS4) within the State, and

WHEREAS, said NJPDES Permit is a renewal of the Township’s previous NJPDES permit with said new permit having an effective date of January 1, 2023; and

WHEREAS, the Township of Harmony under said new permit is required to adopt certain ordinances to protect water resources within the Township;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARMONY, COUNTY OF WARREN COUNTY, STATE OF NEW JERSEY, THAT THE CODE OF THE TOWNSHIP OF HARMONY IS HEREBY AMENDED TO ADD A NEW CHAPTER 401 ENTITLED “STORMWATER POLLUTION PREVENTION” AS FOLLOWS:**

**Section One**

A new Chapter 401 entitled “Stormwater Pollution Prevention” is established as follows:

**ARTICLE I – Pet Waste**

§121-1. Purpose.

An ordinance to establish requirements for the proper disposal of pet solid waste in the Township of Harmony, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§121-2. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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.

**IMMEDIATE**

Means that the pet solid waste is removed at once, without delay.

**OWNER/KEEPER**

Any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

**PERSON**

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

**PET**

A domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

**PET SOLID WASTE**

Waste matter expelled from the bowels of the pet; excrement

**PROPER DISPOSAL**

Placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

**§121-3. Requirement for Disposal:**

All pet owners and keepers are required to immediately and properly dispose of their pet’s solid waste deposited on any property, public or private, not owned or possessed by that person.

**§121-4. Exemptions:**

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

**ARTICLE II – Wildlife Feeding**

**§121-5. Purpose.**

An ordinance to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Township of Harmony, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

**§121-6. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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.

FEED

To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

WILDLIFE

All animals that are neither human nor domesticated.

§121-7. Prohibited Conduct.

No person shall feed, in any public park or on any other property owned or operated by the Township of Harmony, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers, or feral cats as part of an approved Trap-Neuter-Release program).

**ARTICLE III – Litter Control.**

§121-8. Purpose.

An ordinance to establish requirements to control littering in the Township of Harmony, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§121-9. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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.

LITTER

Any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

LITTER RECEPTACLE

A container suitable for the depositing of litter.

PERSON

Any individual, corporation, company, partnership, firm, association, or political

subdivision of this State subject to municipal jurisdiction.

§121-10. Prohibited acts and regulated activities.

- A. It shall be unlawful for any person to throw, drop, discard or otherwise place any litter of any nature upon public or private property other than in a litter receptacle, or having done so, to allow such litter to remain.
- B. Whenever any litter is thrown or discarded or allowed to fall from a vehicle or boat in violation of this ordinance, the operator or owner, or both, of the motor vehicle or boat shall also be deemed to have violated this ordinance.

**ARTICLE IV – Improper Disposal of Waste.**

§121-11. Purpose.

An ordinance to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the [insert name of municipality], so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§121-12. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by [insert name of municipality] or other public body, and is designed and used for collecting and conveying stormwater. **NOTE:** In municipalities with combined sewer systems, add the following: “MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.”

**PERSON**

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

**STORMWATER**

Water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

§121-13. Prohibited Conduct:

The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Township of Harmony is prohibited. The spilling, dumping,

or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

§121-14. Exceptions to Prohibition:

- A. Water line flushing and discharges from potable water sources
- B. Uncontaminated ground water (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising ground waters)
- C. Air conditioning condensate (excluding contact and non-contact cooling water)
- D. Irrigation water (including landscape and lawn watering runoff)
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows
- F. Residential car washing water, and residential swimming pool discharges
- G. Sidewalk, driveway and street wash water
- H. Flows from firefighting activities
- I. Flows from rinsing of the following equipment with clean water:
  - (1) Beach maintenance equipment immediately following their use for their intended purposes; and
  - (2) Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded. Rinsing of equipment as noted in this situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

**ARTICLE V – Yard Waste Collection Program.**

§121-15. Purpose.

An ordinance to establish a yard waste collection and disposal program in the Township of Harmony, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§121-16. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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.

**CONTAINERIZED**

Means the placement of yard waste in a trash can, bucket, bag or other vessel, such as to

prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

#### PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

#### STREET

Means any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

#### YARD WASTE

Means leaves and grass clippings.

#### §121-17. Yard Waste Collection

Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven (7) days prior to a scheduled and announced collection, and shall not be placed closer than 10 feet from any storm drain inlet. Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this ordinance. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this ordinance.

### **ARTICLE VI – Private Storm Drain Inlet Retrofitting.**

#### §121-18. Purpose.

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Township of Harmony so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

#### §121-19. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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.

#### MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by [insert name of municipality] or other public body, and is designed and used for collecting and conveying stormwater. **NOTE:** In

municipalities with combined sewer systems, add the following: “MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.”

#### PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

#### STORM DRAIN INLET

An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

#### WATERS OF THE STATE

Means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

#### §121-20. Prohibited Conduct.

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in Section 121-21 below prior to the completion of the project.

#### §121-21. Design Standard.

Storm drain inlets identified in Section 121-20 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 121-21.C. below.

- A. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
  - (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
  - (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the

grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
- C. This standard does not apply:
  - (1) Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
  - (2) Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
    - (a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
    - (b) A bar screen having a bar spacing of 0.5 inches.
  - (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars; or
  - (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

## **ARTICLE VII – Illicit Connections**

### **§121-22. Purpose.**

An ordinance to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Township of Harmony, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

### **§121-23. 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 Chapter clearly demonstrates a different meaning. When not inconsistent 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. The definitions below are the same as or based on corresponding definitions in



the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

#### DOMESTIC SEWAGE

Waste and wastewater from humans or household operations.

#### ILLICIT CONNECTION

Any physical or non-physical connection that discharges domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the [insert name of municipality], unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852). Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

#### INDUSTRIAL WASTE

Non-domestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act (33 U.S.C. §1317(a), (b), or (c)).

#### MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by [insert name of municipality] or other public body, and is designed and used for collecting and conveying stormwater. **NOTE:** In municipalities with combined sewer systems, add the following: “MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.”

#### NJPDES PERMIT

A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A

#### NON-CONTACT COOLING WATER

Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Non-contact cooling water may however contain algaecides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

#### PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

#### PROCESS WASTEWATER

Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water.

## STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

### §121-24. Prohibited Conduct.

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Township of Harmony any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater).

## **ARTICLE VIII – Privately Owned Salt Storage.**

### §121-25. Purpose.

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in the Township of Harmony to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

### §121-26. 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 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.

## DE-ICING MATERIALS

Means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

## IMPERVIOUS SURFACE

Means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

## STORM DRAIN INLET

Means the point of entry into the storm sewer system.

## PERMANENT STRUCTURE

Means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;

2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
3. The structure shall be erected on an impermeable slab;
4. The structure cannot be open sided; and
5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

#### PERSON

Means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

#### RESIDENT

Means a person who resides on a residential property where de-icing material is stored.

#### §121-27. Deicing Material Storage Requirements.

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15<sup>th</sup> and April 15<sup>th</sup>:
  - (1) Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
  - (2) Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
  - (3) Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
  - (4) Loose materials shall be covered as follows:
    - (a) The cover shall be waterproof, impermeable, and flexible;
    - (b) The cover shall extend to the base of the pile(s);
    - (c) The cover shall be free from holes or tears;
    - (d) The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
    - (e) Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.  
  
Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used.
  - (5) Containers must be sealed when not in use; and
  - (6) The site shall be free of all de-icing materials between April 16<sup>th</sup> and October 14<sup>th</sup>.

- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.
- C. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.

Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§121-28. Exemptions.

- A. Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.
- B. If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in Section 121-27 above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.
- C. This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

**ARTICLE IX – Tree Removal and Replacement.**

§121-29. Purpose.

An ordinance to establish requirements for tree removal and replacement and penalties for noncompliance in the Township of Harmony to protect the environment, public health, safety and welfare.

§121-29. 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.

**APPLICANT**

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

**DIAMETER AT BREAST HEIGHT (DBH)**

Means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.

**TREE OF SIGNIFICANCE**

Means any tree that is recognized by the municipal governing body or local historical organization(s) as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological, and historical value.

#### HOMEOWNER

Means a person(s) who owns a residence.

#### NUISANCE TREE

Means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc); or threatens public health, safety, and welfare.

#### PERSON

Means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

#### PLANTING STRIP

Means the part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

#### STREET TREE

Means a tree planted in the sidewalk or a planting strip in the public right-of-way.

#### 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.

#### 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, and improper grading and/or soil compaction 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 tree treatments intended to manage invasive species.

### §121-30. Regulated Activities.

#### A. Tree Replacement Requirements

- (1) Within a five-year period, any person who removes one or more street tree(s) with a DBH of 2.5” or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- (2) For applicants, other than “Homeowners”:  
Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6” or more per acre, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- (3) For “Homeowner” applicants:

Within a five-year period, any person that removes more than three (3) trees per acre that fall into categories 1, 2, or 3, combined, or anyone (1) tree in categories 4 or 5 in the Tree Replacement Requirements table below, unless exempt under Section 121-31, shall be subject to the requirements of the Tree Replacement Requirements Table below.

- (4) Acceptable species of replacement trees are as follows:
  - (a) October Glory Maple
  - (b) Green Mountain Sugar Maple
  - (c) Princeton Sentry Ginkgo
  - (d) Sour Gum
  - (e) Swamp White Oak
  - (f) Willow Oak
  - (g) Red Oak
  - (h) Sawleaf Zelkova
  
- (5) Replacement tree(s) shall meet the required actions in table below, and shall be planted within twelve (12) months of the date of removal of the original tree(s). Replacement tree(s) shall 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. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

**Tree Replacement Requirements Table:**

Category	Tree Removed (DBH)	Required Action
1	DBH of 2.5” (for street trees) or 6” (for other trees) to 12.99”	Replant 1 tree in accordance with Appendix A, with a minimum DBH of 1.5” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees in accordance with Appendix A, with minimum DBHs of 1.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum DBHs of 1.5” for each tree removed
4	DBH of 33” or greater	Replant 4 trees with minimum DBHs of 1.5” for each tree removed
5	Tree of Significance*	Replant 5 trees with minimum DBHs of 1.5” for each tree removed

\*Tree of Significance removals shall be approved by the Township Committee.

**B. Replacement Alternative.**

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:

- (1) Plant replacement trees in a separate area(s) approved by the municipality.
- (2) Pay a fee (amount to be set by municipality) per tree removed. This fee shall be placed into a fund dedicated to tree planting.

§121-31. Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Justification shall be provided, in writing, to the municipality by all persons claiming an exemption:

- A. Clearing, cutting, and/or removal of trees which is necessary to service, maintain, or ensure the continued safe use of a lawfully existing structure, right- of-way, field, park, and/or garden.
- 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;
- D. 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;
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- F. Nuisance trees may be removed with no fee or replacement requirement.

**Section Two**

**Severability.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**Section Three**

**Repealer.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

ATTEST:

Township of Harmony

\_\_\_\_\_  
Kelley Smith,  
Township Administrator

By: \_\_\_\_\_  
Brian Tipton, Mayor

I, Kelley D. Smith, Registered Municipal Clerk of the Township of Harmony, County of Warren, State of New Jersey, do hereby certify that this is a true copy of an Ordinance introduced by Title Only by the Township Committee of the Township of Harmony at their regular meeting held on January 9, 2024 and will be considered for adoption on second reading at their regular meeting held on February 6, 2024, at or near 6:00 PM in the Harmony Township Municipal Building located at 3003 Belvidere Road, Phillipsburg, New Jersey 08865. This Ordinance shall take effect upon final passage and publication as required by law.

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Kelley D. Smith  
Township Clerk/Administrator

Adopted: February 6, 2024