

24-03
ORDINANCE

**AMENDING CHAPTER 240 OF THE CODE OF THE
TOWNSHIP OF POHATCONG
ENTITLED, "STORMWATER MANAGEMENT"
TO ADD A NEW ARTICLE ENTITLED,
"TREE REMOVAL"**

BE IT RESOLVED, by the Township Council of the Township of Pohatcong, County of Warren, State of New Jersey that Chapter 240 entitled, "Stormwater Management" is hereby amended to provide a new Article entitled, "Tree Removal," with the following provisions.

SECTION I.

Article XI
Tree Removal

§240-52. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Township of Pohatcong to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§240-53. 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.

A. "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.

B. "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; or,

2. Is dead or dying; or,
3. Obstructs the view of traffic signs, sight line or the free passage of pedestrians or vehicles, where pruning attempts have not been effective; or,
4. May cause damage to structures (such as building foundations, sidewalks, etc.); or,
5. Any trees whose angle or growth makes them a hazard to a structure of human life; or,
6. Is determined to be a threat to public health, safety, and/or welfare.

C. “Invasive Trees” means non-native to the New Jersey ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. A list of these plants can be obtained from in Appendix 2 of “An Overview of nonindigenous Plant Species in New Jersey” published by NJDEP. https://dep.nj.gov/wp-content/uploads/invasive-species/2004_invasiveplantsreport.pdf

D. “Person” means any individual, resident, corporation, utility, company, partnership, firm, or association.

E. “Tree” means a woody plant having one erect perennial stem (trunk) that can support itself.

§240-54. Regulated Activities:

A. Tree Replacement Requirements

1. Any person who removes one or more tree(s), with a DBH of 18" or more, within 300 feet of a designated C-1 stream, and/or within 300 feet of a wetlands classified as “high value” by NJDEP.
2. The clearing/removal of greater than ten (10) trees per acre with a DBH of 18" or more. For purposes of this restriction, clearing/removal shall not include areas cleared for the construction of buildings, accessory structures, driveways, stormwater facilities, septic systems and other ancillary structures erected pursuant to valid zoning and building permits or site plan/subdivision approval.

The species type and diversity of replacement trees shall be in accordance with Appendix A.

Replacement tree(s) shall:

1. Be replaced in accordance with kind with the Tree Replacement Criteria in the table below; and,
2. Be planted within eighteen (18) months of the date of removal of the original tree(s); and,
3. In the event a regulated tree should be removed prior to measurement, the DBH will be taken at the stump, but no higher than 4 feet from the ground.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 0” to 18”	Replacement not required
2	DBH of 18” to 36”	Replant 2 trees with minimum tree calipers of 1.5” or tree height of 3-4 feet for each tree removed
3	DBH of 36” to 48”	Replant 3 trees with minimum tree calipers of 1.5” or tree height of 3-4 feet for each tree removed
4	DBH of 48” or greater	Replant 4 trees with minimum tree calipers of 1.5” or tree height of 3-4 feet for each tree removed

§240-55. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below:

- A. Farms in active operation.
- B. 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.
- C. 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.
- 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. Hazard trees.
- G. Invasive trees.
- H. Any tree which is part of cemetery.
- I. A tree directed to be removed by municipal, County, State or Federal authority pursuant to law.
- J. Pruning or removal of trees within the right-of-way by utility companies for the maintenance of utility wires or pipelines.
- K. Trees removed in conjunction with farmland greater than five (5) acres in size that will be actively devoted primarily to agricultural uses.
- L. Fallen trees due to exceptionally high winds, a snowstorm, a hurricane or any other kind of natural disaster.

SECTION II.

Existing Article XI entitled, "Enforcement," is hereby renumbered Article XI and the provisions thereof designated as §240-56 and §240-57.

SECTION III. Severability. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION IV. Repealer. All Ordinances or parts of Ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

SECTION V. Codification. This Ordinance shall be a part of the Code of the Township of Pohatcong as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Pohatcong in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION VI. Effective Date. This ordinance shall take effect twenty (20) days upon passage and publication as required by law.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced at a meeting of the Township Council of the Township of Pohatcong in the County of Warren and State of New Jersey, held on June 18, 2024, and will be further considered for final passage after public hearing thereon at a regular meeting of said Township Council on July 16, 2024.

Wanda L. Kutzman, RMC
Township Clerk

Introduced: June 18, 2024
Adopted: July 16, 2024

Appendix A

Recommended Replacement Tree Species and Planting for Pohatcong Township

Tree Species	Planting Season	Planting Procedure (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc)
<u>American Basswood</u>	<u>Spring</u>	
<u>American Elm</u>	<u>Spring</u>	
American Witch-Hazel	Spring or Fall	
American Hornbeam	Spring	
American Beech	Spring	
<u>Bald Cypress</u>	<u>Spring or Fall</u>	
<u>Black Locust</u>	<u>Spring or Fall</u>	
Black Gum, Black Tupelo	Spring	
<u>Common Alder</u>	<u>Spring or Fall</u>	
<u>Common Hackberry</u>	Spring	
Dogwood	Spring	
Eastern Red Cedar	Spring or Fall	
Eastern Redbud	Spring	
Ginkgo	Spring	
Pink Oak	Spring	
Red Maple	Spring	
Red Oak	Spring	
River Birch	Spring	
Swamp White Oak	Spring	
Sweetgum	Spring	
Scarlet Oak	Spring	
Sassafras	Spring or Fall	
Shadbush, Serviceberry	Spring or Fall	
Sugar Maple	Spring	
Sweetbay Magnolia	Spring	
White Pine	Spring or Fall	