

**TOWNSHIP OF HOPEWELL  
MERCER COUNTY, NEW JERSEY**

**ORDINANCE NO. 12-1554**

**AN ORDINANCE TO AMEND AND SUPPLEMENT  
CHAPTER 12 "ENVIRONMENTAL"  
AND CHAPTER 10 "FEES AND PERMITS"  
OF THE REVISED GENERAL ORDINANCES OF  
THE TOWNSHIP OF HOPEWELL**

**WHEREAS**, the Township of Hopewell is dedicated to preserving, protecting and enhancing its natural resources and promoting a sustainable future for the Township and region, and protecting the public health and safety of its residents, and this vision for managing change in Hopewell's future is reflected in the Guiding Principal of conserving community character and community health by retaining forestlands, and

**WHEREAS**, according to aerial imagery as digitized by NJDEP, non-wetland forested acres in Hopewell Township and in New Jersey as a whole have declined during the period 1986 to 2007, with a statewide decline from approximately 1.64 million acres in 1986 to 1.53 million acres in 2007, and

**WHEREAS**, the Hopewell Township Environmental Resource Inventory (ERI) identified deer damage, invasive insects and pathogens as threats which could lead to widespread, rapid changes that would be detrimental to the Township's forestland diversity, further efforts to protect these forestlands are warranted, and the ERI states that the Township's valuable natural resources should be preserved and,

**WHEREAS**, the forestlands protect water quality by assisting in the removal of pollutants, soil stabilization, and slowing the velocity of floodwaters, and

**WHEREAS**, tree cover is a positive factor in carbon sequestration, removing carbon from the air, thus offsetting greenhouse gas emissions,

**WHEREAS**, the loss of overall forested area in the Township and the State has been accompanied by an increasing fragmentation of remaining forested areas. The fragmentation of forests, particularly by urban uses, degrades watersheds, reduces wildlife habitat, increases site disturbances, and favors invasion by exotic plant species, and

**WHEREAS**, many wildlife biologists believe that fragmentation is a contributing factor in the decline of some bird and wildlife species, though fragmentation favors species such as raccoons, squirrels, and white-tailed deer, and

**WHEREAS**, Hopewell Township participates in the New Jersey Community Forest Management Program.

**WHEREAS**, a goal Hopewell Township's Master Plan is protecting biological diversity through the maintenance of large contiguous tracts and corridors of forest, and

**WHEREAS**, Hopewell Township's Master Plan seeks to protect sensitive environmental resources from destruction or degradation, including forests and other vegetation, soils, habitats or threatened and endangered species and unique natural systems; and

**WHEREAS**, Hopewell Township's Master Plan seeks to protect and maintain the prevailing rural character and unique sense of place of the Township, which includes forestlands.

WHEREAS, it is recognized that there is a strong interrelationship between the integrity of the Township's water resources, development on steep slopes, tree removal, soil disturbance, storm water management and the general use of the land resources.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hopewell, County of Mercer, State of New Jersey, that Chapter 12, "Environmental" of the Revised General Ordinances of the Township of Hopewell is hereby supplemented with a new section number 4 entitled "Forest Management and Tree Removal" as follows:

**12-4.1 Intent and Purpose**

Trees are declared to be an important cultural, ecological, scenic and economic resource. Proper management of this resource will ensure its maintenance and result in economic returns. Forestry management is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for the continued use of forest resources by ensuring management of forest and trees through the application of sound management practices.

It shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any trees covered by this subchapter, except in accordance with the provisions of this subchapter.

**12-4.2 Definitions.**

**ADMINISTRATIVE OFFICER** - The administrative officer is the individual appointed annually by the Township Committee who shall be responsible for the issuance of tree removal permits, in accordance with the procedures and standards set forth herein. The Administrative Officer shall consult with the municipal engineer with regard to engineering and technical issues. The administrative officer may consult with a Certified Tree Expert or Forester under contract with the Township Committee and the costs for said consultant shall be paid from the Tree Escrow Funds

**CALIPER: ANSI Z60 FOR NURSERY STOCK** - Caliper is a type of diameter measurement used in the nursery industry. The height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken six (6") inches above the top of root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches (4"), the caliper should be measured at twelve (12") inches above the top of root flare. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements.

**COMMUNITY FORESTRY MANAGEMENT PLAN** - A plan developed by a municipality that outlines the goals and objectives for managing trees on municipal property with the intent of minimizing liability to the municipality and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forest Service.



TREE PRESERVATION AND REMOVAL PLAN – A specific plan that contains tree locations and other information required by this subchapter.

TREE REMOVAL PERMIT – A permit issued by the Administrative Officer.

TREE REPLACEMENT PLAN – A specific plan for replacement of removed trees in accordance with the provision of this subchapter.

TREE EXPERT – A Forester qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey, a Conservation Officer qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey or an arborist qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey.

#### § 12-4.3      **Applicability.**

The terms and provisions of this chapter shall apply as follows:

- a. It shall be unlawful for any person to remove or cause to remove trees above and beyond a combined total of 150 inches of DBH within a 10 year period unless a tree removal permit has first been obtained. (e.g. combined total of 150 inches of DBH equals 15 trees of 10 inches DBH; 5 trees of 30 inches DBH; 10 trees of 15 DBH; etc.)
- b. It shall be unlawful for any person to remove or cause to remove trees which are state record trees or specimen trees unless a tree removal permit has first been obtained..
- c. Exceptions. The provisions of this chapter shall not apply to the following:
  1. Any property upon which no trees are located, as confirmed by a site visit of the Administrative Officer.
  2. Any tree less than ten (10") inches DBH.
  3. Any tree or trees removed or cut in accordance with a forest management plan, provided that such plan is filed with the Tax Assessor.
  4. Any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District, provided that such plan has been filed with the Tax Assessor.
  5. Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantations or tree orchards.
  6. Any tree growing in a utility right-of-way or clear areas as established by the FAA for runway safety.
  7. Weather emergencies such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster.
  8. Dead or diseased trees which are a hazard to persons or property.
  9. Qualified Right-To-Farm activities.

**12-4.4 Tree removal permits; general.**

- a. Any person wishing to obtain a tree removal permit shall make application to the Administrative Officer by filing a written application which shall include a Tree Preservation and Removal Plan and payment of application fees as set forth in Chapter 10. No application shall be considered without the payment of the required fees.
- b. Removal of state record trees and specimen trees shall require approval of the Township Committee with consideration of recommendations by the Environmental Commission.
- c. Where an application as required by this chapter has been submitted, no permit shall be issued until an application for a Tree Removal Permit meeting all of the criteria of this subchapter has been reviewed and approved by the Administrative Officer.
- d. Where an application for a Tree Removal Permit is made in connection with the construction of a building or other improvement, no building permits shall be issued until the tree removal permit has been issued.
- e. All fees, including outstanding permit fees, inspection fees and tree escrow fund contributions, shall be paid prior to the issuance of the tree removal permit.
- f. The Administrative Officer shall approve or deny the tree removal permit within ten (10) business days after receipt of a completed application and payment of application fees. An additional ten (10) business days shall be added to the review period if the Administrative Officer requests additional information as may reasonably be required to review a Tree Removal Permit within the original review period.
- g. A tree removal permit shall require the Administrative Officer to inspect the site from time to time to enforce the permit conditions. An inspection fee shall be paid as a condition of any tree removal permit in accordance with Chapter 10, Fees and Permits.
- g. The Administrative Officer shall notify the applicant in writing of the factual basis and criteria for any denial.
- h. The final decision of the Administrative Officer may be appealed to the Township Administrator by filing written notice within ten (10) days of the final decision. The Township Administrator shall issue its decision within sixty (30) days after notice of appeal is filed. The Township Administrator may delegate its appeal responsibilities to the Environmental Commission. The Township Administrator's decision may be appealed to the Hopewell Township Committee who shall render a final decision within 45 days after a public hearing on the appeal.

**12-4.5 Tree Preservation and Removal Plan.**

Tree preservation and removal plans shall contain the following minimum information. The Administrative Officer reserves the right to request additional information as may reasonably be required to review a Tree Removal Permit:

- a. The name and address of the applicant.
- b. The name and address of the owner of the property from which the trees are to be removed.
- c. The street address and lot and block of the property.
- d. A certification from the lot owner that the applicant is specifically authorized to make the application for tree removal.

- e. The shape and dimensions of the lot or parcel, including the location of all existing and proposed easements.
- f. Tree removal plans shall consist of a tree location sketch containing at least the minimum amount of pertinent information to enable the determination of compliance with the regulations in this subchapter.
- g. Tree preservation limits.
- h. Limits of all tree protection with appropriate construction details.
- h. All state record and specimen trees to be removed. The applicant shall provide documentation demonstrating that all reasonable efforts have been made to preserve state record and specimen trees, including, but not limited to, if feasible, relocation of existing and proposed infrastructure, roadways and buildings.
- i. Tree replacement plan in accordance with this chapter. A tree replacement plan may be integrated with landscape plans submitted for other separate land use approvals.
- j. A North arrow.
- k. The location of existing and proposed infrastructure, roadways and buildings, if any.

**12-4.6 Criteria for issuance of permits.**

The tree removal permit shall be approved by the Administrative Officer following his determination that the following criteria have been met:

- a. A Tree Preservation and Removal Plan has been provided meeting all of the criteria in Section 12-4.5;
- b. A Tree Replacement Plan has been provided meeting all of the criteria in Section 12-4.9;
- c. The Administrative Officer, after consultation with the municipal engineer, has determined that the proposed tree removal will NOT:
  - 1. Result in additional stormwater runoff which will impact adjacent properties;
  - 2. Create new erosion or will not require a soil erosion and sediment control plan approval by the Mercer County Soil Conservation District; or
  - 3. Impair growth or impair development of remaining trees on the applicant's property or upon adjacent properties;
  - 4. Create unusual dust or other nuisances during tree removal;
  - 5. Cause damage to on or off site utilities including but not limited to wastewater discharge and treatment systems, water supply and distribution systems;
  - 6. Result in dangerous or hazardous conditions.

**12-4.7 Term of permit.**

Approved tree removal permits shall be valid for a period not-to-exceed 12 calendar months from the date of issuance by the Administrative Officer and shall be conditioned upon payment of all permit and inspection fees. An extension may be granted by the Township Administrator for a period not to exceed 3 months for good cause shown. All work not completed within the term of permit or term of extension shall be the subject a new application and the payment of new fees.

**12-4.8 Display of Permit and Right of Entry.**

- a. The tree removal permit shall be prominently displayed on the site continuously while trees are being removed or replaced or work done as authorized by the tree removal permit and for ten (10) days thereafter.
- b. All persons cutting or removing trees, if other than the applicant, shall carry with him/her authorization from the owner and applicant authorizing such person to cut or remove trees.
- c. In the event that trees are being cut or removed in accordance with a forest management plan or a soil conservation plan, a copy of said plans shall be in the possession of the person cutting or removing such trees, if not the owner of the lot.
- d. As a condition for the issuance of the permit, the applicant shall agree in writing to the entry onto his/her premises by the Administrative Officer or his designee as necessary to inspect the site in review of the application for a tree removal permit and to inspect the permitted tree removal work to effectuate the provisions of this chapter. Failure to allow such entry shall constitute a violation of the permit and this chapter.

**12-4.9 Tree Replacement Plan.**

Unless deemed an exception by 12-4.3.c, trees to be removed shall be replaced in accordance with a tree replacement plan which shall be prepared in accordance with the following:

- a. For each tree ten (10") inches in DBH or greater that is removed, the applicant shall prepare a replanting plan for other areas on the same tax lot which is subject to the tree removal.
- b. Tree replacement on the subject tax lot to compensate for the tree removals shall be as follows:
  - 1. Number and size of replacement trees to be used for each tree ten (10") inches in DBH or larger that is to be removed beyond a combined total of 150 inches (150") DBH and replacement shall be as follows:
  - 2.

Diameter of Removed Trees at Breast Height in Inches	Number of Replacement Trees for Each Tree Removed	Size of Replacement Trees
Greater than 10" up to 16"	2	2 - 2½"
Greater than 16" up to 23"	2	3"
Greater than 23" up to 30"	4	3½ - 4"
Greater than 30"	5	3½ - 4"

3. Tree replacement species shall be indigenous to the area and site.
4. Trees planted within other existing natural stands of trees on-site may be spaced five (5') feet to twenty (20') feet on center.
- c. Unless otherwise set forth in this subchapter, Tree replacement shall follow the guidelines set forth in the "New Jersey No Net Loss Reforestation Act", P.L. 1993, c.106 (c:13:1L-14.2).
- d. All proposed replacement tree species shall be selected from Trees For New Jersey Streets as published by the New Jersey Shade Tree Federation; Street Tree Factsheets, a publication of the Municipal Tree Restoration Program; and the adopted Hopewell Township Community Forestry Plan.
- e. Tree replacement materials shall be provided in accordance with the standards set forth in ANSI Z60.1, American Standard for Nursery Stock.
- f. Removal of state record trees or specimen trees requires approval of the Hopewell Township Committee. Replacement requirements for any state record tree or specimen tree approved to be removed shall be established by the governing body.
- g. Credits for tree replacement shall be given on a one-to-one basis when one of the following conditions are proposed on the Tree Replacement Plan:
  1. Preservation of stands of ten (10) or more trees with a DBH of six (6") inches or greater within the limit of the disturbance line. Credit will only be given for native trees located within the stand.
  2. Preservation of one (1) acre or more of on-site areas having stands of trees with a DBH of six (6") inches or greater which are to be left in natural condition. Preservation shall be provided by a deed of conservation easement from the lot owner to Hopewell Township which deed shall be filed with the Mercer County Clerk's Office by the applicant as a condition of the tree removal permit after approval by the Township Committee. This credit excludes all previous dedicated easements.
- h. Soils disturbed during tree replacement shall be stabilized in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
- i. All replacement trees shall be maintained in healthy condition for no less than two years from the date of planting.
- j. When the site in question cannot physically accommodate the total replacement amount of trees required by the this subchapter, as certified by the applicant and verified by the Administrative Officer, tree replacement may be accomplished by a by a contribution of the monetary value of non-replaced trees to the Township Tree Escrow Fund in an amount as set forth in Chapter 10, Fees and Permits. Payment shall be a condition of the tree removal permit.

**12-4.10 Tree Protection During Construction.**

- a. Prior to any tree removal protection shall be installed. Tree protection shall remain until tree removal is complete.

- b. Tree Protection shall be provided, as a minimum, in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
- c. There shall be no wires or attachments to trees being protected.
- d. Protection is required for any soil disturbance within the drip line of any tree not being removed.
- e. Any trees damaged during construction must be inspected and treated if required in accordance with written guidance from a Tree Expert. If the damage is unable to be treated as certified by the Tree Expert the damaged tree shall be removed and replaced in accordance with this subchapter.
- f. No materials of any kind shall be stored and no construction machinery shall be placed within the drip line of any tree to be protected.
- g. When the tree protection area is adjacent to street rights-of-way and utility easements, the location said street rights-of-way and utility easements shall be identified during construction.

**12-4.11 Tree Replacement Escrow Fund.**

A Tree Escrow Fund shall be established to receive and disburse replacement tree contributions.

The primary purpose of the Tree Escrow Fund is to provide for the planting and maintenance of trees and shrubs on public property. The fund will also pay administrative costs to implement the provisions of this subchapter, including but not limited to fees for processing of permits, site inspections, consultants, and supervision of tree replacements. Administrative costs imposed in accordance with this chapter shall not exceed thirty (30%) percent of the fund, as determined on an annual basis.

Appropriations from the Tree Fund shall be authorized by the Township Committee in accordance with a municipal tree planting plan with consideration of recommendations made by the Environmental Commission. The Tree Escrow Fund shall maintained by the Chief Financial Officer.

**12-4.12 Violations and penalties.**

A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation be punished by a fine of up to two thousand (\$2,000.00) dollars for each offense, in the discretion of the Judge before whom conviction may be had. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this chapter and each day the same is violated shall be defined and taken to be a separate and distinct offense. In addition, the court may order restitution (fine and/or appraised value, whichever is greater) and/or replacement of the tree illegally removed.

B. In addition to other remedies, the Tree Specialist or other authorized official may institute any appropriate legal action to prevent a continuing violation of the terms of this chapter.

**BE IT FURTHER ORDAINED** that Chapter 10, entitled "Fees and Permits" be supplemented with a new section number 18 entitled "Forest Management and Tree Removal" as follows:

**10-18 FOREST MANAGEMENT AND TREE REMOVAL**

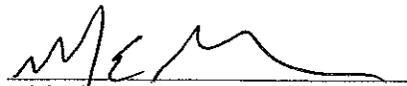
- a. Application Fees
  - 1. Twenty-Five (\$25.00) dollars for each tax lot.
- b. Inspection Fees
  - 1. Fifty (\$50.00) dollars for each tax lot.
- c. Tree Escrow Fund Contribution

Diameter of Removed Trees at Breast Height in Inches	Tree Escrow Fund Contribution (Value For Each Tree To be Removed and Not Replaced)
Greater than 10" up to 16"	\$ 480.00
Greater than 16" up to 23"	\$ 840.00
Greater than 23" up to 30"	\$1,680.00
Greater than 30"	\$2,100.00

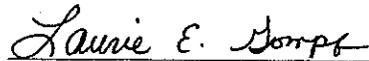
**SECTION 2.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Date Introduced: June 11, 2012  
Date Advertised: June 14, 2012  
Date Adopted: July 9, 2012

  
Michael Markulec  
Mayor

Attest:

  
Laurie E. Gompf  
Municipal Clerk