

AN ORDINANCE ESTABLISHING STANDARDS FOR  
TREE AND WOODLAND STEWARDSHIP  
IN HOPEWELL TOWNSHIP, MERCER COUNTY, NEW JERSEY.

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 woodlands, 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 woodland diversity, further efforts to protect these woodlands are warranted, and the ERI states that the Township's valuable natural resources should be preserved and,

WHEREAS, the woodlands 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, in order to protect landscape level biodiversity, and manage the forest resource, New Jersey participates in a federal-state Forest Stewardship Program. Landowners with 5 acres or greater of forestland are encouraged to participate in the program. The New Jersey program meets the national guidelines as described in "Forest Stewardship Program

National Standards and Guidelines” and

WHEREAS a Goal of the Township of Hopewell as expressed in its Master Plan is to protect biological diversity through the maintenance of large contiguous tracts and corridors of forest, and

WHEREAS, as also expressed in its Master Plan, the Township of Hopewell 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, as stated in the Master Plan, the Township of Hopewell seeks to protect and maintain the prevailing rural character and unique sense of place of the Township, which includes woodlands, and

NOW THEREFORE BE IT ORDAINED by the Township of Hopewell Committee that the following ordinance provisions shall be adopted and shall apply to any person conducting land disturbance activities and wherever any trees are to be cut or woodlands and their understory are to be impacted in any way within the Township of Hopewell. This ordinance shall apply to the destruction of any Significant Tree and to any land disturbance activity by any person that would result in the cumulative removal within any ten year period of more than one acre of the crown cover or more than five per cent of the total property acreage, whichever is greater.

Section Two, Woodlands Stewardship

The following Ordinance shall be adopted in the General Ordinances of the Township of Hopewell as Chapter XXIV:

Section 24-1., DEFINITIONS

The following words and expressions shall have the following meanings, unless the context clearly indicates a different meaning:

Agricultural Activity - the production of agricultural and horticultural crops, trees and forest products, livestock, poultry and other commodities as described in the Standard Industrial Classification of agriculture, forestry, fishing and trapping.

Approved Forester - a consulting forester approved by the New Jersey State Forest Service; [www.state.nj.us/dep/parksandforests/forest/ACF.pdf](http://www.state.nj.us/dep/parksandforests/forest/ACF.pdf)

Caliper - the diameter of a tree trunk taken six inches above the ground for trees up to four inches in diameter, and taken 12 inches above the ground for trees larger than four inches in diameter.

Contiguous Forest- forested properties with crowns that are adjacent, bordering or in actual contact

Crown – the part of a tree or woody plant bearing live branches and foliage.

Crown Cover – also known as canopy cover, crown closure, or canopy closure, is the ground area covered by the crowns of trees or woody vegetation as delimited by the vertical projection of crown perimeters and commonly expressed as a percent of total ground area. Crown cover measures the extent to which the crowns of trees are nearing general contact with each other.

Diameter (at) breast height (DBH, dbh) - the diameter of the stem of a tree measured at breast height (4.5 feet or 1.37 meters) from the ground. On sloping ground the measure is taken from the uphill side.

Dripline – the line extending vertically from the exterior edge of a tree's live crown to the ground.

Farmland Assessment Act, - C. 48, L. 1964, N.J.S.A. 54:4-23:1, et seq. Additional information may be found at: <http://nj.gov/agriculture/divisions/md/pdf/primerfarm.pdf>

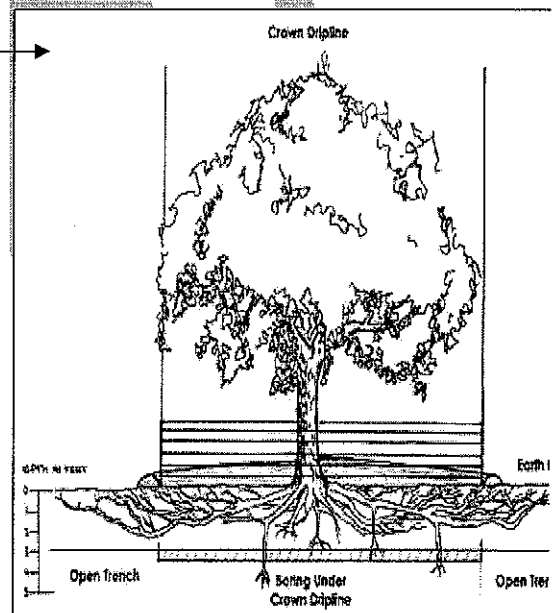
Forest Stewardship Act – P.L. 2009, chapter 256. Additional information may be found at: [ftp://www.njleg.state.nj.us/20082009/PL09/256\\_.HTM](ftp://www.njleg.state.nj.us/20082009/PL09/256_.HTM)

Invasive Species - a species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental damage or harm to human health.

Large Tree – a tree 14 inches or greater in diameter as measured at breast height.

Certified Tree Expert – a tree expert or arborist certified by the NJDEP Board of Tree Experts; [www.state.nj.us/dep/parksandforests/forest/community/cte.html](http://www.state.nj.us/dep/parksandforests/forest/community/cte.html)

Significant Tree: a tree that meets any one of the special requirements as defined below:



State Record Tree – the largest tree of each species found in New Jersey as listed on the NJ State Big Tree Register, available from the NJDEP Division of Parks & Forestry, State Forest Service, PO Box 404, Trenton, NJ 08625

Specimen Tree - an individual tree that measures 80% or more of the circumference of a State Record Tree for that species.

Historic Tree / Heritage tree - a tree, or stand of trees, having significant association with landmarks, a historical event, settlements, or heritage as described in a completed Application for Significant Tree Status reviewed and approved by the Township Committee, Historical Commission, or designee.

Landmark Tree – A tree that is known and recognized by its size, location, age, appearance, or other outstanding characteristic, as described in a completed Application for Significant Tree Status reviewed and approved by the Township Committee, Historical Commission, or designee.

Note: Procedure for nominating to achieve "Significant Tree(s)" status:  
Any citizen may apply to have a tree considered for designation as a "Significant Tree" by filling out the form included herein.

#### Section 24-2: APPLICABILITY

This ordinance shall apply to the following:

- A. The destruction of any Significant Tree
- B. Any land disturbance activity by any person that would result in the cumulative removal within any ten year period of more than one acre of the crown cover or more than five per cent of the total property acreage, whichever is greater.

Baseline forest cover shall be determined using the most recent aerial imagery available from NJDEP that predates the date of the application.

#### Section 24-3: Exceptions

The following activities are exempted from the provisions of this ordinance only to the extent, and for the number of years that they are actively managed:

- 1) Cutting trees that are part of an orchard, Christmas tree plantation, or nursery operation;
- 2) Harvesting, logging, timber operations and silvicultural practices conducted

under a Forest Management Plan, that meets the requirements of the Farmland Assessment Act, NJ Forest Stewardship Act P.L. 2009,chapter 256, or other forestry program and is approved by the State Forester, or if these practices meet the requirements of the Farmland Assessment Act for appurtenant woodland;

- 3) Trees which in the opinion of a Certified Landscape Architect, NJ Approved Consulting Forester, Certified Tree Expert, Township Engineer, or Township Health Officer, constitute a threat to the health, safety or welfare of the general public;
- 4) The cutting and clearing of public utility easements and road rights-of-way;
- 5) The cutting and clearing of trees to comply with requirements of the Federal Aviation Administration or other federal authority;
- 6) The selective removal of vegetative species designated as invasive. A list of invasive species may be available at: <http://www.invasivespeciesinfo.gov/>, or <http://www.nj.gov/dep/parksandforests/natural/heritage/InvasiveReport.pdf>, or <http://www.invasive.org/weedus/distribution.html>, or <http://nbi-nin.ciesin.columbia.edu/ipane/>, or <http://www.npsnj.org>.

Section 24-4: APPLICATION for PERMIT

- A. Any person or entity seeking approval to remove trees beyond limits as set forth above, shall submit an application for a permit and shall be subject to regulations as set forth below.
- B. Notice of all applications for permits shall be sent by certified mail to all property owners within 200 feet of the property subject to the application. Such notice shall be made by the Applicant at his/its own expense, with proof provided to the Township.
- C. The Township Committee or its designee shall hear and decide all applications for the requirements of this section within sixty (60) days of the filing or within such further time as shall have been agreed to by the applicant. .
- D. Any applicant seeking approval of woodlands removal regulated under this chapter, shall file the requisite application, plans and fees with the Township Committee or its designee. Said application shall include the following information:
- 1) The importance of and expected benefits of the services provided by the proposed activity or development to the public;
  - 2) The availability of alternative locations for the proposed activity or development;
  - 3) A true and accurate plot plan drawn to scale of not less than one (1) inch equals fifty (50) feet with contour lines at intervals of not more than two (2) feet and showing the location of all existing on-site structures, easements and utilities.
  - 4) A Site Key Map (1"=200') for vicinity and within 1000' of the property.
  - 5) The exact size, shape, location and elevation of existing and/or proposed structures and of any fill or regrading.
  - 6) Boundaries of stream corridors in accordance with definition of stream corridors in Township ordinance.
  - 7) Steep slopes as defined by the Township land use ordinance.
  - 8) Extent of forest and tree cover, which includes the outside perimeter of individual trees crowns.
  - 9) Locations of individual Significant Trees.

10) The presence of rare, threatened, or endangered plants or animals as evidenced on the site or as listed by the Natural Heritage Program.

E. In reviewing such applications, the Township Committee or its designee, shall consider, the following:

1. Whether the tree removal activities will result in negative effects including:

a. Fragmentation of Contiguous Forest,

b. Loss of trees in critical areas, including, but not limited to steep slopes, stream corridors, wetlands, conservation easements, critical habitats, and proximity to neighboring forest.

2. Whether the tree removal activities applied for are expected to result in positive effects including significant improvements in on-site generation of renewable energy or in energy-related or other environmental benefits to the property involved

F. Upon consideration of the factors listed above and the purposes of this section, the Township Committee or its designee may attach such conditions to the granting of their approval as they deem necessary to further the purpose of this section.

G. Any and all permits approved by the Committee or its designee shall be declared null and void if the tree removal is not completed within a reasonable time, not to exceed twenty-four (24) months after permit issuance. In no case shall the permit be valid for more than twenty-four (24) months. Permits not used within this period shall require a new application and the payment of new fees. For purposes of this section, a permit shall no longer be valid when the work authorized by the permit is completed.

#### Section 24-5. PROTECTION DURING CONSTRUCTION

A. Trees must be protected from damage during construction activities and related land disturbances in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.

B. Photographic Documentation

- 1) All woodland and forest areas adjacent to the limits of disturbance and those proposed to remain during any construction requiring Township approval shall be documented by photographs before the start of construction.
- 2) Photographs shall be kept on record in the municipal offices.

C. A clear identification of the locations of proposed soil stockpile areas must be documented before the start of construction and such stockpiles shall not be placed in areas that may cause damage to trees.

D. Tree Fencing.

- 1) All woodland and forest areas that could be damaged by construction activities shall be enclosed with fencing, 3 feet high minimum, and a warning sign placed every 100 linear feet along the fenced area stating "Protected Woodland – Do Not Disturb". Fencing shall encompass the dripline.
- 2) No clearing, grading, or land disturbance may begin until the tree fencing has been installed, inspected and approved by the Township Committee or designee.
- 3) No construction activity may take place inside the fenced area. No soil stockpiling, storage of building materials, construction equipment or vehicles shall be permitted within the drip line or within six (6) feet of any remaining trees, whichever is greater.
- 4) Any clearing as allowed by the Township within the drip line, or within six (6) feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.
- 5) Fencing shall be maintained throughout the duration of construction and until final grading has been completed
- 6) Fencing shall be removed after completion of final grading.

E. The destruction or damage of any trees designated to be saved shall subject the person causing such destruction or damage to the penalties and enforcement provisions of this ordinance.

F. Inspections

- 1) All work performed under this section shall be inspected by the Township or its designee.
- 2) The Applicant shall post an Inspection escrow in the amount of \$500.00 to cover any applicable review by the Township Engineer, if necessary, to determine compliance.

Section 24-6. PENALTIES AND ENFORCEMENT

A. Penalties

- 1) For each Significant Tree cut without a permit or not protected from damage by construction activities: \$4200.00
- 2) For trees other than Significant Trees that are removed without a permit or not protected from damage by construction activities, penalties shall be assessed based on either of the following, whichever results in the lesser total penalty:
  - i. For each acre or portion of an acre of woodland cleared beyond limits as set forth above without a permit: \$25,000.00 per acre (pro-rated to nearest one-tenth (1/10<sup>th</sup>) acre), or
  - ii. Each tree cut down, removed, destroyed, or subjected to conditions causing serious damage or injury likely to result in its destruction, or premature death, in violation of this section shall constitute a separate violation thereof, for which a separate penalty shall be imposed, according to the following table:

Diameter in inches at breast height	Dollar amount of penalty
Greater than 6" & less than or equal to 10"	\$240
Greater than 10" & less than or equal to 16"	\$480
Greater than 16" & less than or equal to 23"	\$840
Greater than 23" & less than or equal to 30"	\$1680
Greater than 30"	\$2100

B. The Township Committee and its designees are hereby authorized to enforce the regulations set forth in the Township Code regulating the destruction and removal of trees.

C. Any funds collected as penalties shall be placed into a designated and separate trust fund to be spent by the Township for tree-planting and maintenance and enforcement

of this Chapter.

Section 24-7: Severability

If any Section of this Ordinance is found to be invalid by a court of competent jurisdiction, the remaining sections shall continue to be valid and in full force and effect, notwithstanding an adjudication to the contrary.

This ordinance shall take effect immediately upon approval by the Township Committee in accordance with law.

**DRAFT**

**Application for Significant Tree Status**

Any citizen may apply to have a tree designated a "Significant Tree" by filling out this application form and submitting it to the Environmental Commission at 201 Washington Crossing - Pennington Rd., Titusville, NJ 08560. This form can also be found on the township website at .....Historic/Heritage and Landmark trees submitted must have property owner's consent.

The Environmental Commission will assess the application and place the item on the meeting agenda. Following review, the Environmental Commission will forward its recommendations to the Township Committee for final approval.

The property owner will be notified of approval. Once a tree is deemed a Significant Tree, it shall remain a Significant Tree until such time as its natural death or unavoidable destruction.

Applicant: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant's Phone number: \_\_\_\_\_

Applicant's E-mail: \_\_\_\_\_

**Tree/Property Owner:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Indicate below, the reason for Significant Tree designation:

\_\_\_ State Record Tree – the largest tree of each species found in New Jersey as listed on the NJ State Big Tree Register, available from the NJDEP Division of Parks & Forestry, State Forest

Service, PO Box 404, Trenton, NJ 08625

\_\_\_ Specimen Tree - an individual tree that measures 80% or more of the circumference of a State Record Tree for that species.

\_\_\_ Historic Tree / Heritage tree - a tree, or stand of trees, having significant association with landmarks, a historical event, settlements, or heritage.

\_\_\_ Landmark Tree – a tree that is known and recognized by its size, location, age, appearance, or other outstanding characteristic.

Tree Statistics:

Type of tree: \_\_\_\_\_

Tree Location: \_\_\_\_\_

General Condition or health: \_\_\_\_\_

Circumference in inches at DBH: \_\_\_\_\_

Height in feet (approximate): \_\_\_\_\_

Crown width in feet (approximate): \_\_\_\_\_

History/Tree Facts: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_