

**MEETING TO BE  
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**AGENDA FOR A BUSINESS SESSION MEETING  
OF THE TOWNSHIP COUNCIL OF WEST WINDSOR TOWNSHIP  
WEST WINDSOR MUNICIPAL BUILDING  
271 CLARKSVILLE ROAD  
TO THE EXTENT KNOWN**

**February 26, 2024**

7:00 p.m.

1. Call to Order
2. Roll Call
3. Statement of Adequate Notice - January 19, 2024 to The Times and the Princeton Packet and posted on the Township web-site.
4. Salute to the Flag
5. Ceremonial Matters and/or Topics for Priority Consideration  
Proclamation for Colon Cancer Month  
Proclamation for Women's History Month  
Discussion on Draft Shade Tree Ordinance
6. Public Comment: (30 minutes comment period; 3-minute limit per person)
7. Administration Comments
8. Council Member Comments
9. Chair/Clerk Comments

10. Public Hearings

- 2024-03 AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999), CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR ENTITLED LAND USE, PART IV ENTITLED ZONING, ARTICLE XXIX ENTITLED REGULATIONS FOR RESEARCH/OFFICE/MANUFACTURING, RESEARCH/OFFICE AND RESEARCH AND DEVELOPMENT DISTRICTS, SECTION 200-209 ENTITLED ROM-1 INDUSTRIAL DISTRICT (RESEARCH, OFFICE, LIMITED MANUFACTURING) USE REGULATIONS AND SECTION 200-210 ENTITLED DISTRICT BULK AND AREA REGULATIONS
- 2024-04 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 168, "TRAFFIC AND PARKING," OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR

11. Consent Agenda

A. Resolutions

- 2024-R074 Approving the Refund of Construction Permit Fee for Solar System Installation to Tesla Energy Operations, Inc. in the Amount of \$665.00 for Permit 2023-0027
- 2024-R075 Approving the Refund of the Balance of Remaining Escrow for Development Plan Review for Various Planning and Zoning Board Applicants

B. Minutes

C. Bills & Claims

12. Items Removed from Consent Agenda

13. Recommendations from Administration and Council/Clerk

- 2024-R076 Approval of the Place to Place and Person to Person Transfer of Plenary Retail Consumption License to Eddie V's Holdings, LLC

2024-R077 Authorizing the Business Administrator to Purchase One (1) 2024 Ford F450 Regular Cab 4x4 Mason Dump from Cherry Hill Winner Ford Under New Jersey State Contract #A88215, T2101-\$86,402.00

2024-R078 Granting Reservation of Sewer Capacity for the Project Known as 400 Steps (PB23-05)

14. Introduction of Ordinances

2024-05 AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 82 "FEES".

Public Hearing: March 26, 2024

15. Additional Public Comment (15 minutes comment period; three-minute limit per person)

16. Council Reports/Discussion/New Business

17. Administration Updates

18. Closed Session

19. Adjournment



# WEST WINDSOR TOWNSHIP

## DEPARTMENT OF COMMUNITY DEVELOPMENT Shade Tree Commission

Date: February 1, 2024

To: **West Windsor Township Mayor and Administration**

From: **West Windsor Township Shade Tree Commission**  
Staff Liasion, Dan Dobromilsky, LLA, PP, LTE

Subject: February 2024 Draft of the West Windsor Township Shade Tree Commission  
**Proposed Revisions to Section 170 of the West Windsor Township Code,**  
Responding to NJDEP's Model Tree Removal – Replacement Ordinance (2023)

In the summer of 2023 the New Jersey Department of Environmental Protection (NJDEP) revised the Tier A Municipal Stormwater General Permit. The revised permit requirements included an obligation upon municipalities to adopt and enforce a community-wide ordinance covering tree removal/replacement, based upon a model ordinance, if towns did not already have an ordinance that met the requirements. The final model ordinance was issued on November 3, 2023.

West Windsor Township's current tree removal code, section 170, does not include provisions to meet the requirements offered in the NJDEP model. The significant differences generally include:

- Tree removal or all private property must be regulated. Whereas the West Windsor code exempts the vast majority of single-family residential properties.
- The regulations must address replanting of replacement trees to mitigate tree removal. Whereas the West Windsor code does not include provisions for replacement of trees to be removed, with some exception regarding tree clearing associated with land development projects.
- If a property owner cannot plant replacement trees on the property subject of the tree removal, than Township should collect a fee to implement replacement tree planting and care on other Township properties to address the mitigation.

A May 1, 2024 deadline was established for municipalities to adopt a Tree Removal Ordinance that addresses the provisions offered in the NJDEP model.

The West Windsor Township Shade Tree Commission was made aware of this requirement by staff and initiated a draft revision to the West Windsor Township code, section 170, regarding trees. At the January 24, 2024 meeting of the Shade Tree Commission the attached draft revision of the Township tree code was finalized and is hereby offered for consideration to the Township Mayor and Administration. This draft is intended to replace section 170 of the West Windsor Township code in total, delete existing, adopt proposed.

Additional documents offered for review in concert with this proposed draft include:

- Existing Township code section 170 – trees.
- NJDEP Model Ordinance, 11-3-2023
- Draft - Standard Tree Planting Detail and Prohibited Replacement Tree List
- Draft – Tree Removal Permit Application Form, reflecting the provisions of the proposed new code

End.

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February 2024 Draft of the  
West Windsor Township Shade Tree Commission  
Proposed Revisions to Section 170 of the West Windsor Township Code,  
Responding to NJDEP's Model Tree Removal - Replacement Ordinance (2023).

Final NJDEP Model 11/03/2023 found at:

<https://dep.nj.gov/wp-content/uploads/njdpes-stormwater/ordinances/model-tree-removal-replacement-final-2023.pdf>

**NOTE: Replace existing Chapter 170 Trees, in whole, with the following:**

## Chapter 170 Trees

### SECTION 170 Trees on Public and Private Property

Trees are a natural resource that provide environmental, aesthetic, health, and economic benefits to the municipality and its inhabitants. The proper care, management, and preservation of the community tree resource, both individual trees and woodlands including; the removal of dead, damaged, infested, or diseased trees; and the preservation of significant trees and woodland, on both public and private property, can have a significant positive impact on individual properties, neighborhoods, and the municipality as a whole. The adoption of this code is consistent with the Township's, State approved, Community Forestry Management Plan, and is appropriate to protect the environment, while promoting the public's health, safety, and welfare, including reduced soil erosion, reduction of air and water pollutants and increased infiltration of stormwater.

#### SECTION 170.1. Definitions:

For 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. "Applicant" means any "person", as defined herein, who applies for approval to undertake the removal of a tree or trees regulated under this ordinance.
- B. "Commercial Farm" means a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.; or a farm management unit of less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. A farm management unit is a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

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- C. "Critical Root Radius (CRR)" – means the zone around the base of a tree, measured from the outer trunk bark. It is where the majority of the tree root system typically grows. This zone is calculated by multiplying the diameter, in inches, at breast height (DBH) of the tree by 1.5 feet/inch, the product is in feet. For example: a tree with a six-inch DBH would have a CRR = 6 inches x 1.5 feet/inch = 9 feet.
- D. "Diameter at Breast Height (DBH)" means the diameter in inches of the trunk of a mature tree measured at a point four and a half feet above ground level, along a line parallel to the trunk, from the uphill side of the tree. A mature tree is a tree that measures six inches, or greater, at diameter breast height (DBH). For trees where the main trunk divides (multi-stem) below the four-and-a-half-foot height, but at least six inches above ground level, the DBH shall be measured at the highest point below any division, or shall be the average of the stems measured at breast height, whichever is less. Multi-stem trees that split or fork below six inches above grade shall be treated as multiple individual trees.
- E. "Dangerous Tree" means a tree or limbs thereof that meet one or more of the criteria below, as determined by a Licensed Tree Expert reported in writing, based upon accepted Arboricultural standards. Trees or limbs that do not meet any of the criteria below and are proposed to be removed solely for aesthetic, tree or landscape growth, or any type of construction purpose does not meet the definition of a dangerous trees.
1. Has an infectious disease or insect infestation that is likely to lead to the demise of the tree and/or nearby trees;
  2. Is dead, dying, severely declining, and /or severely damaged;
  3. Obstructs the operation or operational view of traffic signals and signs, streetlights, fire hydrants, sanitary sewer pipes, potable water pipes, or the safe passage of pedestrians or vehicles, where pruning attempts or protective measures have not been effective, or will cause demise of the tree;
  4. Is causing obvious damage to public or private structures and/or infrastructure, that cannot be pragmatically mitigated;
  5. Is otherwise determined, by a New Jersey Licensed Tree Expert, Certified Arborist, or an appropriate municipal representative, to be a threat to public health, safety, and/or welfare, which cannot be otherwise mitigated by an appropriate and pragmatic protection.
- F. "Licensed Tree Expert (LTE)" – A Licensed Tree Expert is a person who has been examined and proven competent in the science and art of diagnosing, treating and preventing tree injuries. The State of New Jersey license is a document that insures that the named individual has the expertise required to be presented to the public as a Licensed Tree Expert as established by N.J.S.A. 45:15C-11 et seq. . Licensed Tree Experts can perform tree expert services which means and includes: tree pruning, repairing, brush cutting or removal, tree removal, stump grinding or removal, tree establishment, fertilization, cabling and bracing, lightning protection, consulting, diagnosis, and treatment of tree problems or diseases, tree management during site planning and development, tree assessment and risk management, and lawful application of pesticides or any other form of tree maintenance.

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- G. "Licensed Tree Care Operator (LTCO)" – A Licensed Tree Care Operator is a person who has been examined and proven to be competent in the science and skills to perform tree care operator services which means and includes tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal. The State of New Jersey license is a document that insures that the named individual has the expertise required to be presented to the public as a Licensed Tree Care Operator as established by N.J.S.A. 45:15C-11 et seq.
- H. "Mulch" means the application of a ground treatment, e.g. shredded bark, wood chips, within the critical root radius of a tree. Over-mulch is the condition where mulch and/or soil is applied higher than four (4) inches in height above soil surface within the critical root radius, or against the tree trunk or stems. Maintain mulch 3 to 5 inches away from the stems of young plants or shrubs, and 8 to 12 inches away from mature tree trunks. Improper-mulch is where a substance which is harmful to the tree is applied within the critical root radius of a tree.
- I. "Permittee" means a "person" who has received a Tree Removal Permit from the Township.
- J. "Person" means any individual, resident, property owner, corporation, company, partnership, firm, property association, contractor, or subcontractor. Person shall not include a government agency or public utility, or the staff of these entities performing authorized work or actions on trees on property owned or operated by the agency or utility.
- K. "Planting Strip or Tree Lawn," means the part of a public or private street right-of-way or easement between the right-of-way, property, or easement line(s), and the cartway or portion of the street designed for vehicular traffic, exclusive of any sidewalk and driveways.
- L. "Public Property," means real property owned by Federal, State, County or Local governments or their agencies or departments.
- M. "Replacement Tree," means a tree of a species, cultivar, size and form appropriate for the location it will be planted and shall adhere to the American Standard of Nursey Stock (American National Standards Institute: ANSI Z60.1 most recent edition), published by the American Horticulture Industry Association, d/b/a AmericanHort, Columbus OH.
- N. "Resident" means an individual who resides on the residential property or a contractor hired by the property owner or individual who resides on the residential property, where a tree, subject to this ordinance, is proposed for removal or is removed.
- O. "Street Tree" means a tree located in the planting strip and/or in the public or private right-of-way or easement adjacent to the portion of the street designed for vehicular traffic. This also includes trees planted in planting strips within the street cart way, i.e., islands, medians, and pedestrian refuges.

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Trees adjacent to public or private driveways and parking lots, and outside the planting strip or tree lawn, are not street trees.

- P. "Tree" means a woody perennial plant (deciduous or coniferous), typically but not exclusively, having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground. A multi-stem tree shall be considered one tree.
- Q. "Tree Caliper" means the diameter in inches of the trunk of a young tree, measured six inches above the ground level for field grown trees and from the soil line for container grown trees, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, four and one-half inches). If the caliper measured at six inches is four and one-half inches or more, the caliper shall be measured at twelve inches above the ground level, soil line, or root flare, as appropriate. Multi-stem tree caliper shall be calculated as either one-half of the caliper of the three largest trunks, or the average caliper of all trunks.
- R. "Tree Removal" means to either purposefully 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 (CRR) that leads to the decline and/or death of a tree.

Removal does not include responsible pruning and maintenance of a tree, in accordance with industry accepted standards, or the responsible application of treatments, including removal intended to manage exotic species pursuant to the "Prohibited Replacement Tree List," adopted by the West Windsor Township Shade Tree Commission, or findings and official publication of a State of New Jersey agency. The Prohibited Replacement Tree List shall be available from the Township and shall be posted on the Township internet web page.

- S. "Tree Removal Permit" means approval, issued by West Windsor Township, to conduct tree removal or other regulated activities upon a tree or trees. Tree Removal Permit applications, information, forms, and standard details, shall be available from the Township and shall be posted on the Township internet web page.

## **SECTION 170.2 Regulated Activities:**

It shall be a violation of this code for any person to conduct purposeful tree removal, destruction, damage, injury, excavation, grinding, girdling, over-mulch, improper-mulch, soil compaction, fill application, or construct structures within the critical root radius of any tree in West Windsor, not exempt from these regulations as described in Section 170.3., without first obtaining a Tree Removal Permit as provided herein:

### **A. Tree Removal Permit Required:**

1. Any person planning actions that include or may result in tree removal of a tree with a DBH of six inches or greater, or any size street tree, shall submit a Tree Removal Permit Application, and



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prescribed initial application fee, to the Township on a complete form to be provided for this purpose.

2. West Windsor shall review and approve or deny the application within twenty (20) business days, (days that Township offices are officially open), of the date of receipt. If the application is determined to be incomplete, then the review period shall reset at (20) business days, from the date of re-submission. If not acted upon within (20) business days, the application will be considered approved. No regulated tree removal shall take place unless and until the Township has approved the Tree Removal Permit application for the tree to be removed.
3. If the applicant is the owner or operator of a commercial farm, as defined in the New Jersey Department of Agriculture regulations, then the Township may review the application with the Agricultural Advisory Committee, or appropriate staff liaison to the Agricultural Advisory Committee, to determine if the application is being made to benefit an anticipated land development proposal or application, in which case the Tree Removal Permit application shall be denied and the applicant shall be advised to submit a land use application to the Township.
4. Activities related to land development projects that require Zoning Permit, Planning Board and/or Zoning Board of Adjustment approval shall provide an inventory of existing tree resources and a tally of proposed tree removal; and replacement; or replanting; or planting; for review by the Township with the land development application. The land development application shall also include a calculation of anticipated applicable Additional Application Fees, as prescribed herein regarding tree removal. Issuance of the approved Zoning Permit to construct the approved land development work shall serve as the approved Tree Removal Permit for tree removal activities, as detailed in the land development application, and shall include the Additional Application Fees, calculated pursuant to Section 170.2. B, and C. Regulated tree removal shall not occur prior to the payment of applicable fees, including fees prescribed herein regarding tree removal, and the issuance of a Tree Removal Permit or Zoning Permit.
5. If Section 170.2 A. 3. and/or 4. above is applicable to the Tree Removal Application, the review periods detailed in Section 170.2 A. 2. do not apply.
6. Tree care and removal is further regulated by the New Jersey Tree Experts and Tree Care Operators Licensing Act (N.J.S.A. 45:15C-11 et seq.). Businesses and individuals that provide tree care services are legally required to be appropriately insured, registered with the State, and must have individuals on staff that are licensed and appropriately trained to perform such services.

## **B. Tree Replacement Quantity Requirements:**

Any person who removes one or more street trees of 2.5 inches or greater at DBH, or who removes one or more trees six (6) inches or greater DBH, unless exempt under Section 170.3., shall be subject to the Tree Replacement Requirements in Table 1. below.

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**Tree Replacement Requirements Table 1.:**

| Category | Size of Tree to be Removed, in Inches DBH                | Replacement trees to be planted In Inches Caliper  |
|----------|--|--|
| 1        | 6 to 12.99 <u>DBH</u> and Street Tree under 6 <u>DBH</u> | Plant one (1) tree with a minimum tree <u>caliper</u> of 1.5 for each tree removed   |
| 2        | 13 to 22.99 <u>DBH</u>                                   | Plant two (2) trees with minimum tree <u>caliper</u> of 1.5 for each tree removed  |
| 3        | 23 to 32.99 <u>DBH</u>                                   | Plant three (3) trees with minimum tree <u>caliper</u> 1.5 for each tree removed   |
| 4        | 33 or greater <u>DBH</u>                                 | Plant four (4) trees with minimum tree <u>caliper</u> of 1.5 for each tree removed   |
|          |  | NOTE: A coniferous tree measuring 5 foot height shall be considered equal to a deciduous tree measuring 1.5 caliper for replacement requirement. |

**C. Tree Replacement Planting Requirements:**

1. The species and type of Replacement trees shall not be of a species, type, cultivar, or selection, known to be invasive, pursuant to the "Prohibited Replacement Tree List," adopted by the West Windsor Township Shade Tree Commission, or the findings and official publication of a State of New Jersey agency. The Prohibited Replacement Tree List shall be available from the Township and shall be posted on the Township internet web page.
2. Replacement trees shall be planted on the same property as the trees removed or at another location agreed upon by the Township, and shall be subject to post-planting observation by the Township to confirm code compliance.
3. Replacement trees shall be planted, during an appropriate season and weather conditions, within twelve (12) months of the date of tree removal of the original tree(s) or at an alternative date agreed upon by the Township.
4. Replacement trees planted on private property shall be maintained and monitored by the permittee for a period of two (2) years from planting date. Any tree that does not survive for that two (2) year period, or that upon observation by the Township has been determined to have been planted improperly, shall be replaced consistent with the replacement requirements herein.
5. Replacement trees shall be planted in accordance with the standard Township tree planting detail. Replacement trees shall not be planted in temporary containers and shall be planted in soil in a manner that will support tree health and survival. The standard tree planting detail shall be available from the Township and shall be posted on the Township internet web page.
6. Replacement trees shall not be planted in planting strips or tree lawns that measure less than sixteen square feet in surface area, or less than three feet and six inches in any dimension.

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7. Replacement trees planted within six feet of a paved sidewalk, path, or plaza, shall include the installation of a twelve-inch deep root barrier for a length of six feet, centered upon the trunk of the tree, along the edge of the walk or path.
8. If tree replacement on the Permittee's property is not feasible, then the fees listed below for each tree category shall be paid to the Township in the form of a Tree Removal Permit Additional Application Fee, to be deposited to a Township account or fund exclusively dedicated for the purposes of implementing community forestry arboricultural practices, including tree planting. When the Township plants trees with fees collected under this Section, every effort will be made by the Township to plant the replacement trees at locations where the trees will result in environmental protection or enhancement, reduce soil erosion or pollutant runoff, and improve stormwater transpiration and infiltration.

**Tree Removal Permit Fee Table 2.:**

| Category | Size of Tree to be Removed, in Inches DBH                | Additional Application Fee, Cumulative per tree |
|----------|--|---|
| 1        | 6 to 12.99 <u>DBH</u> and Street Tree Under 6 <u>DBH</u> | \$300.00  |
| 2        | 13 to 22.99 <u>DBH</u>                                   | \$1,000.00                                      |
| 3        | 23 to 32.99 <u>DBH</u>                                   | \$1,500.00                                      |
| 4        | 33 or greater <u>DBH</u>                                 | \$2,000.00                                      |

**D. Conservation Areas and Township Property:**

No person shall purposefully cause to occur any disturbance to land or vegetation, including the injuring, girdling, removing and destroying of living trees, on any Township property, or right of way, or in any area on private property, designated for conservation by an approval of a Township land use board, whether such area is established by specific delineation or by application of principles and processes set forth in the approval and application documents, and in any other area for which conservation restrictions are in place by virtue of easements, deed restrictions, or other instruments. Conservation areas created by land use board approvals may be established by Greenbelt or other easement or deed restriction, but shall also be subject to this chapter and potential penalties pursuant to Chapter 200-254 of the Township code if no deed restrictions or easements are recorded, whether or not the intent of the approval was to have such instruments recorded.

**SECTION 170.3. Exemptions:**

All persons shall comply with the tree replacement standards described herein, except in the cases detailed below. Justification shall be provided to the Township by all persons claiming an exemption, prior to undertaking any regulated activity.

- A. Tree removal, within residential property with one single-family or two-family dwelling, that involves the removal of up to three (3) trees on an individual property, or per acre of an individual property, that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year

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period. The number of trees removed is a rolling count across a five-year period. For example, if three trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if one tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.

- B. Educational Institution or Commercial Tree farms in active operation, including nurseries, fruit orchards, and garden centers.
- C. Properties used for the practice of silviculture under a State approved forest stewardship or woodland management plan that is active and on file with the Township.
- D. Any tree removal as part of a Township or State decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any tree removal 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.
- F. State approved game management practices, as recommended by NJDEP.
- G. Tree removal, maintenance or land management by the Township or its authorized contractors or subcontractors.
- H. Dangerous trees shall not be counted in the determination of exemptions under Section 170.4.A., and may be removed without incurring any replacement tree planting or replacement tree additional fee requirement, pursuant to Sections 170.2.B., and C. respectively.

## **SECTION 170.4. Enforcement, Appeals:**

The Township shall designate staff to enforce Chapter 170. The designated staff person(s) may confer with the Township Administration and Shade Tree Commission regarding enforcement of this Chapter 170. Applicants are hereby granted the right to appeal the aforesaid determination by the enforcement staff person to the Business Administrator, in which event the applicant must submit a written notice of appeal to the Township within ten (10) days after receipt of the enforcement staff persons notification to the applicant. Thereupon, the Business Administrator will, upon notice to the applicant, proceed to hear the matter within thirty (30) days after receipt of the appeal by the Township. The decision of the Business Administrator may affirm, reverse or modify the aforesaid determination and shall constitute the final administrative determination of the application.

## **SECTION 170.5. Reporting:**

Township staff shall report to the Township Administration and to the Shade Tree Commission on a quarterly basis on all application fees collected, all approved expenditures of such fees and the locations of replacement trees on public property, related to fees collected under this Chapter.

**SECTION 170.6. Violations and Penalties:**

Any person who is found to be in violation of the provisions of this ordinance shall, upon conviction, be liable to the penalty established in Township code Chapter 1, General Provisions, Article II, Penalty, 1-3., in addition to the applicable Tree Removal Permit application fee. The Township may, based upon individual circumstances, require the planting of additional trees in lieu of a fine.

**SECTION 170.7. Removal of Dangerous Trees:**

If a tree becomes dangerous, or develops dangerous limbs, as established by the standard of this Chapter, than the owner of the property on which the tree stands, shall implement appropriate protections and/or barriers as soon as possible. The property owner shall also promptly act to cause safe removal of the tree or the dangerous part thereof on receipt of written notice to that effect from the Township Business Administrator or duly authorized personnel.

- A. Standard established; clear vision at intersection. The owner or tenant of any lands lying within the township shall keep all brush, hedges and other plant life, growing within 10 feet of any street and within 25 feet of the intersection of two streets cut to a height of not more than 2 1/2 feet, as deemed necessary and expedient for the preservation of public safety after a determination by the Chief of Police or any subordinates acting under the Chief's direction.
- B. Removal by township; If a property owner fails to remove the tree or portion thereof within thirty (30) days after receipt of written notice to do so, the work may be performed by the Township under the advisement of the Township Business Administrator who shall also certify the cost to the Township Mayor and Council.
- C. Costs charged against land, lien established; upon determining the certified costs, the Township Mayor or designee shall examine them and shall cause the reasonable cost to be charged against the lands. The amount so charged shall become a lien upon the lands and shall be added to and become part of the taxes next to be assessed and levied on the lands, the same to bear interest at the same rate as other taxes and be collected and enforced by the same officer and in the same manner as taxes.

**SECTION 170.8. Severability:**

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

**SECTION 170.9. Effective Date:**

This Ordinance shall be in full force and effect upon six (6) months after final and full adoption.

Adoption Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

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Approved By: \_\_\_\_\_

# State Sample

## NJDEP Model Tree Ordinance 11-3-2023

*[Trees play a critical, often overlooked, role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects. This ordinance is intended to ensure that permittees are considering these undervalued assets in their stormwater management efforts.]*

*The 2023 Tier A MS4 permit renewal requires permittees to, at a minimum, adopt and enforce a community-wide ordinance to control tree removal and replacement for all types of properties where the municipality has jurisdiction. This model ordinance, developed by the Department, can be used by each municipality for consideration in reviewing and/or updating their existing tree ordinance, or adopting a new tree ordinance. This model may also be modified by the municipality to meet the needs of their community.]*

### **Ordinance # [ ] – Tree Removal-Replacement Ordinance**

#### **SECTION I. Purpose:**

An ordinance to establish requirements for tree removal and replacement in ***[insert name of municipality]*** to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

*[Municipalities that are accredited with the NJ Urban and Community Forestry Program may continue to follow their town's established forestry program requirements provided their accredited program addresses tree removal and replacement.]*

*The details of a municipality's forestry program shall be incorporated by reference or contained within the municipality's adopted ordinance. Please contact the NJ Urban and Community Forestry Program to obtain further information regarding becoming an accredited municipality and the associated requirements.]*

*[Municipalities with an existing tree ordinance may contact the Department at [stormwatermanager@dep.nj.gov](mailto:stormwatermanager@dep.nj.gov) to determine if their ordinance requires modification.]*

#### **SECTION II. 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.

# State Sample

- A. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.
- B. "Critical Root Radius (CRR)" – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CRR = 6"x1.5' = 9'.
- C. "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.
- D. "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. [Municipalities may choose to require a Licensed Tree Expert to make all Hazard tree determination]
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 causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
  5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.
- F. "Planting strip" means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.
- G. "Resident" means 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.



# State Sample

- H. "Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.
- I. "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.
- J. "Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.
- K. "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, 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.

## SECTION III. Regulated Activities:

[Application review and approval can be conducted along with existing business practices and permit application review such as, but not limited to, site plan approvals, building permit approvals, planning board application approval, etc. A separate application process is not required, but the Department has included sample language below for municipalities that prefer to do so.]

### A. Optional Application Process:

1. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to ***[Municipal Officials]***. ***No tree shall be removed until municipal officials have reviewed and approved the removal. [ For larger scale clearing projects, municipalities may choose to require a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees]***

***[The municipality may choose to impose application fees. If so, the following language may be used, with revisions as deemed appropriate.]***

***[Optional for municipalities: Applicants will be subject to an application fee as per the Table below.]***

### B. Tree Replacement Requirements

# State Sample

1. 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. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with Appendix A (***insert municipality provided tree list as Appendix A of this ordinance***). *[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. This list will be included as "Appendix A". It is permissible for a municipality to include a procedure for approval of a tree not on the approved list. The list shall also contain approved planting times/seasons and proper planting standard procedures or a reference to available literature containing this information.]*

Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Tree Replacement Criteria in the table below;
2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
3. 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; and
4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

**Tree Replacement Requirements Table:**

| Category | Tree Removed (DBH)  | Tree Replacement Criteria (See Appendix A)                               | Application Fee<br><i>[Municipality may choose to include and determine appropriate fees.]</i> |
|----------|---|--|--|
| 1        | DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99" | Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed | <i>TBD by town</i>   |
| 2        | DBH of 13" to 22.99"  | Replant 2 trees with minimum tree calipers of 1.5" for each tree removed | <i>TBD by town</i>   |

# State Sample

|   |                       |  |                    |
|---|-----------------------|--|--------------------|
| 3 | DBH of 23" to 32.99"  | Replant 3 trees with minimum tree calipers of 1.5" for each tree removed | <i>TBD by town</i> |
| 4 | DBH of 33" or greater | Replant 4 trees with minimum tree calipers of 1.5" for each tree removed | <i>TBD by town</i> |

## C. Replacement Alternatives:

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

## SECTION IV. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption [the municipality shall define what "proper justification" is such as photos or statements from NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist.]:

- A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]
- 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 that is active and on file with the municipality;
- D. 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.

# State Sample

- E. 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;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement.

## **SECTION V. Enforcement:**

This ordinance shall be enforced by the *[Police Department and/or other Municipal Officials of insert name of municipality]* during the course of ordinary enforcement duties.

## **SECTION VI. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$ [amount per tree to be established by municipality but shall not be less than the amount of the required replacement tree(s) and cost of planting] [Municipalities may require the planting of additional trees in lieu of a fine].

## **SECTION VII. Severability:**

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

## **SECTION VIII. Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Adoption Date: \_\_\_\_\_

Approved By: \_\_\_\_\_

# State Sample

## **Appendix A**

### Approved list of Replacement tree Species and Planting Standards for (Insert Municipality Name)

*[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. The list shall include approved planting times/seasons and proper planting standard procedures or a reference to available literature containing this information.]*

| Tree Species | Planting Season | Planting Procedure<br>(soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc) |
|--------------|-----------------|---|
|              |                 |   |
|              |                 |   |
|              |                 |   |

# Current Ordinance

## § 170-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**COMMERCIAL FARM — [Added 2-27-2006 by Ord. No. 2006-02]**

- A. A farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.); or
- B. A farm management unit less than five acres producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.).

**DRIPLINE —** The line formed by water dripping from the outermost circumference of the branches of the tree.

**HOMESITE —** The land under the dwelling and such additional land actually used in connection with a single-family dwelling, such as land used for lawns, flower gardens, shrubs, swimming pools, tennis courts and similar uses customarily accessory and appurtenant to the use of a dwelling, but in no event more than the amount of land equal to the minimum lot size provided for the zoning district in which the property is located, subject to any other restrictions or easements which may apply to the planting or removal of trees. **[Amended 7-7-2008 by Ord. No. 2008-15]**

**MERCER COUNTY AGRICULTURE DEVELOPMENT BOARD or BOARD —** A board established to regulate commercial farm practices and to consider any application by commercial farm owners or operators to conduct permissible farming activities, pursuant to the Right to Farm Act, N.J.S.A. 4:1/C-1 et seq. **[Added 2-27-2006 by Ord. No. 2006-02]**

**OWNER —** Any person as defined herein having title to or lawful possession of any lot, plot or parcel of land within the Township.

**PERSON —** Any individual, association, partnership, company, corporation, agency or combination thereof.

**PRIVATE TREE —** Any living tree having a trunk diameter of five inches or more as measured at a point 4 1/2 feet above the ground within the Township of West Windsor and located on private land. **[Amended 6-22-1981 by Ord. No. 81-24]**

# Current ordinance

§ 170-1

§ 170-2

**PUBLIC TREE** — Any living tree or shrubbery located on lands owned by the Township of West Windsor or any other governmental body. **[Amended 6-22-1981 by Ord. No. 81-24]**

**STATE AGRICULTURE DEVELOPMENT COMMITTEE** — A committee established to regulate commercial farm practices and to advance and regulate farmland preservation pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. **[Added 2-27-2006 by Ord. No. 2006-02]**

## **§ 170-2. Permit required for certain acts.**

The following acts are prohibited except upon issuance of a permit by the Township of West Windsor:

- A. No person shall injure, girdle, remove, destroy or cause or allow to be removed or destroyed any living tree.
- B. No person shall place salt, brine, oil, chemicals or other substances injurious to plant growth within the dripline or in any other place or manner as to injure any tree growing thereon or nearby.
- C. It shall be unlawful to operate or park heavy machinery, e.g., trucks, bulldozers, graders, etc., within the dripline of any tree as defined above, or to carry out scraping or excavation in any such manner as to expose or endanger the roots of such trees, except for approved alteration of grade as in Subsection G of this section.
- D. No fill, gravel, sand or other such material shall be dumped, deposited or stored within the dripline of any tree.
- E. No person shall build a fire or station any tar kettle or engine in such a manner that heat or noxious fumes will penetrate the dripline of any nearby tree.
- F. No person shall dam or obstruct any watercourse so as to result in flooding of adjacent wooded areas and thereby cause damage to trees therein.
- G. Existing grade surrounding a tree may not be altered by more than six inches without construction of an appropriate masonry well or wall to provide retention of original grade around the tree. Such masonry structure shall encircle the tree at a distance of at least three feet from the trunk at any point.
- H. No person shall cause to occur any disturbance to land or vegetation, including the injuring, girdling, removing and

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§ 170-2

§ 170-3

destroying of living trees, in any area designated for conservation by an approval of a Township land use board, whether such area is established by specific delineation or by application of principles and processes set forth in the approval and application documents, and in any other area for which conservation restrictions are in place by virtue of easements, deed restrictions, or other instruments. Conservation areas created by land use board approvals may be established by Greenbelt or other easement or deed restriction, but shall also be subject to this chapter and to § 200-254 if no deed restrictions or easements are recorded, whether or not the intent of the approval was to have such instruments recorded. **[Added 7-7-2008 by Ord. No. 2008-15]**

**§ 170-3. Application for permit; issuance. [Amended 4-19-1999 by Ord. No. 99-07; 2-27-2006 by Ord. No. 2006-02; 4-7-2008 by Ord. No. 2008-02]**

- A. Any person, including the owner or operator of a commercial farm, desiring to remove, injure, girdle or destroy one or more trees defined in § 170-1 shall file an application therefor with the Manager, Division of Land Use (Manager), on a form to be provided for this purpose. The owner or operator of a commercial farm is not exempt from making such an application. The application shall identify the lot or tract of land upon which the tree or trees are located, shall disclose the name and address of the owner and/or tenant or duly authorized agent of the owner or shall show the actual location, species and diameter of the tree or trees sought to be destroyed, as well as the location of any existing buildings or proposed construction.
- B. If the applicant is the owner or operator of a commercial farm, then the Manager shall refer the application, together with any previous applications for removal of trees from the tract of land, to the Mercer County Agriculture Development Board (Board) with the Manager's recommendations. If the Manager determines that the application is made to benefit a land developer, then the application shall be denied, subject to review by the Board.
- C. The Manager shall refer all other applications, together with any previous application for removal of trees from the tract of land, to the Township Shade Tree Commission for consideration as detailed below.
- D. Upon referral of an application from the Manager, Shade Tree Commission or its authorized representatives shall examine the



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§ 170-3

§ 170-4

premises referred to in the application and inspect the trees referred to therein and the physical condition of the lands and the vicinity thereof.

- E. After completing the examination, the Shade Tree Commission or its representatives shall make a determination with respect to whether or not the permit should be granted in accordance with the standards provided for herein. If this determination is to grant the permit, it shall be endorsed upon the application and returned to the Manager, who shall either issue or deny the permit within one week thereafter. Issuance of permits shall not be approved for trees within Township land use board-created conservation areas set forth in § 170-2H unless such trees are dead or diseased and in the opinion of the Shade Tree Commission should be removed or unless the Township land use board that established such areas has agreed that the acts for which the filed application seeks approval may be undertaken by approving an amendment to the prior land use approval barring such acts. Issuance of permits shall not be approved for trees within such other conservation areas as are set forth in § 170-2H unless permits for tree removal, pruning, or trimming are permitted by the instrument creating such conservation areas. Issuance of permits shall not be approved for trees outside of the conservation areas set forth in § 170-2C unless one or more of the following conditions is found to exist: **[Amended 7-7-2008 by Ord. No. 2008-15]**
- (1) The tree or trees in question are in areas to be occupied by buildings, driveways, recreation areas, streets or drainage or underground utility easements as determined from plat maps for site construction as approved by the Township Planning Board.
  - (2) The tree or trees are located within 15 feet of any of the aforesaid structures or are within utility easements.
  - (3) The area requires an approved cut or fill of land deemed injurious or dangerous to the trees in question and no alternative grading methods are available.
  - (4) Presence of the tree shall in any way constitute a danger to the property owner or the public.
  - (5) Other adequate and special reason within the intent of this chapter.

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§ 170-4

§ 170-5

### **§ 170-4. Appeal. [Amended 4-19-1999 by Ord. No. 99-07; 2-27-2006 by Ord. No. 2006-02]**

If the applicant is a commercial farm owner or operator, then any appeal from a permit denial by the Manager should be made to the Board in accordance with the rules and resolutions of the State Agriculture Development Committee. All other applicants are hereby granted the right to appeal the aforesaid determination by the Manager to the Business Administrator, in which event the applicant must file a written notice of appeal with the Manager within 10 days after receipt of the Manager's notification to the applicant. Thereupon, the Business Administrator will, upon notice to the applicant, proceed to hear the matter within 30 days after the filing of the appeal. The decision of the Business Administrator may affirm, reverse or modify the aforesaid determination and shall constitute the final administrative determination of the application.

### **§ 170-5. Exceptions.**

- A. This chapter shall not apply to the homesite of any resident owner except as provided in § 170-2H and § 170-6. **[Amended 6-22-1981 by Ord. No. 81-24; 7-7-2008 by Ord. No. 2008-15]**
- B. This chapter shall not apply to normal operations in commercial orchards or tree nurseries as carried out by the owners or their employees.
- C. This chapter shall not apply to a public utility company when that company performs routine line clearance for overhead utility wires. **[Amended 4-19-1999 by Ord. No. 99-07]**
- D. This chapter shall not apply to standard selective forestry practices which will benefit both the owner and the intent of this chapter, such as pruning and trimming to enhance growth. Any such activity, however, which entails injury to or destruction of trees shall require an application and permit as provided for herein and shall be in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry or other professional forester.
- E. This chapter shall not apply to any tree cut on any homesite for personal use as firewood by the owner. **[Amended 6-22-1981 by Ord. No. 81-24]**
- F. This chapter shall not apply to any person who, on or prior to the effective date hereof, was engaged in the bona fide business of cutting and selling firewood from lands within the township,

## Current Ordinance

§ 170-5

§ 170-7

provided that the lands so used for such purposes shall not be extended or enlarged except upon issuance of a permit as provided for herein.

### § 170-6. Dangerous trees and shrubs.

- A. Removal required; notice. If a tree or any part thereof along a street becomes dangerous or a hazard to public safety, the owner of the property on which the tree stands shall remove the tree or the required part thereof on receipt of written notice to that effect from the Township Administrator. **[Amended 6-22-1981 by Ord. No. 81-24]**
- B. Standard established; clear vision at intersection. The owner or tenant of any lands lying within the township shall keep all brush, hedges and other plant life, growing within 10 feet of any street and within 25 feet of the intersection of two streets cut to a height of not more than 2 1/2 feet, as deemed necessary and expedient for the preservation of public safety after a determination by the Chief of Police or any subordinates acting under the Chief's direction.
- C. Removal by township. If the owner fails to remove the tree or portion thereof within 10 days after receipt of written notice to do so, the work shall be performed by the township under the supervision of the Administrator who shall certify the cost to the Township Council.
- D. Costs charged against land; lien established. Upon determining the certified costs, the Mayor or designee shall examine them and shall cause the reasonable cost to be charged against the lands. The amount so charged shall become a lien upon the lands and shall be added to and become part of the taxes next to be assessed and levied on the lands, the same to bear interest at the same rate as other taxes and be collected and enforced by the same officer and in the same manner as taxes. **[Amended 4-19-1999 by Ord. No. 99-07]**

### § 170-7. Violations and penalties.

Any person found guilty of violating any provision of this chapter shall, upon conviction, be liable to the penalty established in Chapter 1, General Provisions, Article II, Penalty, § 1-3. Each day any violation of this chapter continues shall constitute a separate offense, as shall injury to or destruction of each tree without a permit.<sup>1</sup>

# Current Ordinance

§ 170-7

§ 170-7

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- 1. Editor's Note: Former Section 16-7, Administration, which immediately followed this section, was deleted 4-19-1999 by Ord. No. 99-07.**

# West Windsor Township, New Jersey

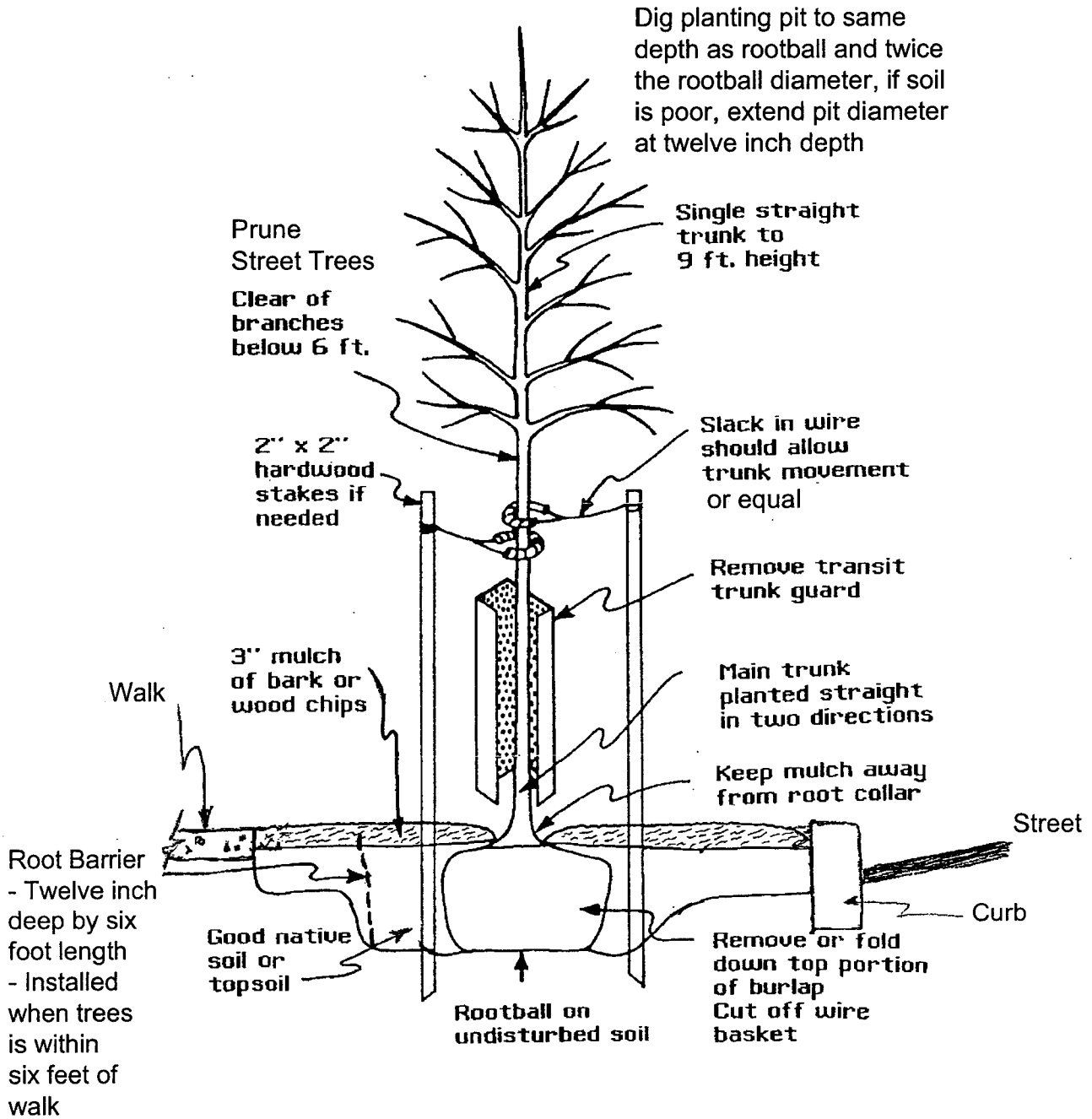
12/18/2023

## DO NOT PLANT LIST - Exotic Invasives & Street Trees

Exotic Invasive Species are prohibited as required replacement trees anywhere including as street trees

| PLANT SPECIES AND VARIETY   |   | ✓ DO NOT Plant                                |  |
|---|---|---|--|
| Botanical Name  | Common Name(s) and Cultivar Name(s)                     | Exotic Invasive Genus, species, and cultivars |  |
| <b>DO NOT PLANT - EXOTIC SPECIES KNOWN TO HAVE PROBLEMATIC, INVASIVE TENDENCIES</b>             |   |   |  |
| Acer palmatum   | Japanese Maple  | ✓   | Highly invasive, all exotic species and cultivars prohibited |
| Acer platanoides  | Norway Maple, Crimson King, Princeton Gold              | ✓   | Highly invasive, all exotic species and cultivars prohibited |
| Ailanthus altissima   | Tree of Heaven, Varnish Tree, Paradise Tree, Chouchun   | ✓   | Primary Host for Spotted Lantern Fly                         |
| Albizia julibrissin   | Mimosa, Silk Tree                                       | ✓   |  |
| Elaeagnus angustifolia  | Russian Olive, Autumn Olive, Oleaster, Silverberry      | ✓   | Highly invasive, all exotic species and cultivars prohibited |
| Euonymus alatus   | Burning Bush, Winged Euonymus, Spindle Tree             | ✓   | Highly invasive, all exotic species and cultivars prohibited |
| Ilex crenata  | Japanese Holly, Convex Leaf Holly, Sky Pencil Holly     | ✓   | Seeds spread by birds into natural areas                     |
| Morus alba  | Mulberry, White Mulberry, Silkworm Mulberry             | ✓   | Highly invasive, all exotic species and cultivars prohibited |
| Paulownia tomentosa, et. al.  | Empress Tree, Royal Empress, Princess Tree              | ✓   | All species of the genus Paulownia prohibited                |
| Phyllostachys   | Bamboo  | ✓   | All invasive species and cultivars prohibited                |
| Pyrus calleryana  | Bradford, Chanticleer, Redspire, Whitehouse, Aristocrat | ✓   | Highly invasive, all exotic species and cultivars prohibited |
| Ulmus pumila  | Siberian Elm  | ✓   | Highly invasive species, indigenous species permitted        |
|   |   |   |  |
|   |   |   |  |
| <b>DO NOT PLANT - STREET TREES - Township Approval Required to Plant in Street Right of Way</b> |   |   |  |
| Acer sacharinum   | Silver Maple, Swamp Maple                               |   | Highly likely to lift adjacent pavements                     |
| Fraxinus americana, penn.   | Ash   |   | Highly susceptible to decline due to insect infestation      |
| Ginkgo biloba   | Ginkgo, Maidenhair Tree,                                |   | Fruit is malodorous, "male" cultivars can produce fruit      |
| Juglans nigra   | Black Walnut  |   | Fruit presents concerns for tripping and staining walk       |
| Liquidambar styraciflua   | Sweetgum  |   | Highly likely to lift adjacent pavements                     |
| Populus nigra, tremuloides  | Aspen, Poplar, Cottonwood                               |   | Highly likely to lift adjacent pavements                     |
| Salix nigra, alba, babylonica   | Willow, Weeping Willow                                  |   | Highly likely to lift adjacent pavements                     |
| Zelkova serrata   | Zelkova, Japanese Elm, Green Vase, Village Green        |   | Likely to lift adjacent pavements                            |
|   |   |   |  |
|   |   |   |  |

## Planting Diagram



## TREE PLANTING DETAIL

# DRAFT

# WEST WINDSOR TOWNSHIP



## DEPARTMENT OF COMMUNITY DEVELOPMENT

## TREE REMOVAL PERMIT APPLICATION

( APPLICANT: FILL IN )

**TODAY'S DATE:**

**PROPERTY OWNER :**  
(PRINT NAME)

**APPLICANT'S NAME:**  
(IF OTHER THAN OWNER – PRINT NAME or COMPANY NAME)

**APPLICANT CONTACT INFORMATION:**  
(E-mail ADDRESS) (PHONE NUMBER)

**CONTRACTOR'S NAME:**  
(PRINT NAME)

**CONTRACTOR'S LICENSE NO.:**  
(NJ Licensed Tree Expert / Tree Care Operator)

( OFFICIAL USE ONLY )

**APPLICATION FEE: \$25.00 + \_\_\_\_\_ = \$ \_\_\_\_\_**  
(FILL IN ADDITIONAL APPLICATION FEES)

**PERMIT NUMBER:** \_\_\_\_\_  
(YEAR / NUMBER : e.g. 24 / 101)

Date Received: \_\_\_\_\_

Review Date (+ 20 Business Days): \_\_\_\_\_

**APPROVAL:** \_\_\_\_\_  
(STAFF NAME / INITIAL / DATE)

**PAID: Check No.:** \_\_\_\_\_ **or Cash:** \_\_\_\_\_

( APPLICANT: FILL IN )

**PROPERTY ADDRESS:**  
(ADDRESS NUMBER and STREET)

**PROPERTY TAX I.D.:**  
(TAX BLOCK and LOT(s))

**Applicant: SHALL CONSPICUOUSLY IDENTIFY EACH TREE(s) to be REMOVED with a RIBBON or SIMILAR AROUND the TRUNK. IF MULTIPLE TREES, Include a TREE NUMBER MARKED on the RIBBON.**

| TREE(S) REMOVAL DESCRIPTION |  |  |   |   |  |               |             |
|-----------------------------|--|--|---|---|--|---------------|-------------|
| Tree Number                 | Tree Species<br>Genus / Species / Common | DBH<br>Inches<br>Diameter<br>Breast Ht | LOCATION<br>Front / Side /<br>Rear Yard | REMOVAL REASON<br>CODE<br>1.Tree Dead 2.Tree Diseased<br>3.Insects 4.Structural | OR OTHER<br>REMOVAL<br>REASON<br>Describe Reason | APPROVED<br>✓ | DENIED<br>✓ |
|                             |  |  |   |   |  |               |             |
|                             |  |  |   |   |  |               |             |
|                             |  |  |   |   |  |               |             |
|                             |  |  |   |   |  |               |             |
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|                             |  |  |   |   |  |               |             |
|                             |  |  |   |   |  |               |             |
|                             |  |  |   |   |  |               |             |

# DRAFT

# WEST WINDSOR TOWNSHIP

## TREE REMOVAL PERMIT APPLICATION

**Applicant: Complete the Following Calculator Reflecting Proposed Removal, Replanting, and/or Fees**

| TREE(S) REPLACEMENT or IN LIEU of REPLANT ADDITIONAL FEES CALCULATOR (see 170.2.B.&C.) |  |   |  |   |  |                                   |                               |
|--|--|---|--|---|--|-----------------------------------|-------------------------------|
| CATEGORY   | SIZE OF TREE<br>To be Removed<br>in Inches DBH | QUANTITY<br>of Tree<br>Removals<br>Proposed | REQUIRED<br>REPLACEMENT/<br>REPLANT<br>RATIO | SUBTOTAL<br>QUANTITY<br>of Replacements<br>Proposed or<br>Planted | SUBTOTAL<br>QUANTITY<br>Not<br>REPLANTED | ADDED FEE<br>Per Not<br>Replanted | SUBTOTAL<br>ADDITIONAL<br>FEE |
| 1  | Street Tree(s) to<br>12.99 DBH                 |   | x One (1) =                                  |   |  | x \$300.00 =                      |                               |
| 1  | 6 to 12.99 DBH                                 |   | x One (1) =                                  |   |  | x \$300.00 =                      |                               |
| 2  | 13 to 22.99 DBH                                |   | x Two (2) =                                  |   |  | x \$1,000.00 =                    |                               |
| 3  | 23 to 32.99 DBH                                |   | x Three (3) =                                |   |  | x \$1,500.00 =                    |                               |
| 4  | 33 or Greater DBH                              |   | x Four (4) =                                 |   |  | x \$2,000.00 =                    |                               |
| <b>TOTAL Proposed Replacement Planting:</b>  |  |   |  |   |  | <b>TOTAL Additional Fee:</b>      |                               |

**Applicant: List the Proposed Replanting or Submit Separate Landscape Plan with Equivalent.**  
**Please reference the Tree Replacement Planting Requirements and PROHIBITED REPLACEMENT TREE LIST**  
**to assure compliance (see 170.2.C.)**

| REPLACEMENT TREE(S) REPLANTING LIST          |                                  |                        |         |        |                   |          |
|--|----------------------------------|------------------------|---------|--------|-------------------|----------|
| QTY.   | PLANT SPECIES & VARIETY          |                        | SIZE    |        | ✓ ROOT<br>BARRIER | COMMENTS |
|  |                                  |                        | Caliper | Height |                   |          |
|  | Botanical Name (Genus - species) | Common Name / Cultivar |         |        |                   |          |
|  |                                  |                        |         |        |                   |          |
|  |                                  |                        |         |        |                   |          |
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|  |                                  |                        |         |        |                   |          |
|  |                                  |                        |         |        |                   |          |
| <b>TOTAL REPLACEMENT TREES to be PLANTED</b> |                                  |                        |         |        |                   |          |



# DRAFT

# WEST WINDSOR TOWNSHIP

## TREE REMOVAL PERMIT APPLICATION

*Applicant: Attach Copy of Property Survey Plot Plan, or Landscape Plan, with Tree(s) to be Removed/Planted Marked or Use the Diagram Below to Show Location(s)*

**TREE (S) LOCATION DIAGRAM**

1. Draw Location of Buildings/Drive/ Pools/Fences 2. Draw Trees to be Removed ☉ 3. Draw Trees to be Planted X

Rear

Side

Side

Address # \_\_\_\_\_ Street Name \_\_\_\_\_

**REQUEST FOR COUNCIL ACTION**

**Date of Request:** 1/22/24

**Initiated By:** Samuel J. Surtees **Division/Department:** Comm. Dev./Land Use

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Introduction and subsequent adoption of an ordinance amending Sections 200-209; 200-210; Use, Bulk & Area Regulations for the ROM-1 (Research, Office, Limited Manufacturing) Zoning District

**SOURCE OF FUNDING:** NA

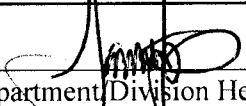

**CONTRACT AMOUNT:** NA

**CONTRACT LENGTH:** NA

**OTHER SUPPORTING INFORMATION ATTACHED:**

- Ordinance Summary
- Memorandum from Samuel J. Surtees dated 12/19/23
- Ordinance
- Map

**COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW**


1. 2024

1/22/24  
 Department/Division Head \_\_\_\_\_ Date \_\_\_\_\_

**APPROVED FOR AGENDA OF: 1/29/2024**

By:   
 \_\_\_\_\_  
 Marlana Schmid, Business Administrator

**MEETING DATE:** 1/29/24 **Ordinance #** 2024-03 **Resolution #** \_\_\_\_\_

**Council Action Taken:**

**ORDINANCE 2024-03**

**AN ORDINANCE TO AMEND AND SUPPLEMENT  
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)  
CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR ENTITLED  
LAND USE, PART IV ENTITLED ZONING, ARTICLE XXIX ENTITLED  
REGULATIONS FOR RESEARCH/OFFICE/MANUFACTURING,  
RESEARCH/OFFICE AND RESEARCH AND DEVELOPMENT DISTRICTS, SECTION  
200-209 ENTITLED ROM-1 INDUSTRIAL DISTRICT (RESEARCH, OFFICE,  
LIMITED MANUFACTURING) USE REGULATIONS AND SECTION 200-210  
ENTITLED DISTRICT BULK AND AREA REGULATIONS**

**WHEREAS**, the ROM-1 Industrial District permits, amongst other uses, mixed-use planned developments which may include affordable housing as an integral part of any such development; and

**WHEREAS**, the standards set forth for affordable housing as an integral part of a mixed-use planned development have been found to be vague and therefore been misinterpreted; and

**WHEREAS**, the inclusion of affordable housing as an integral part of a mixed-use planned development as a permitted use in the ROM-1 Industrial District has not in fact contributed to the production of affordable housing in the Township of West Windsor; and

**WHEREAS**, the Township adopted a Housing Element and Fair Share Plan (HE&FSP) which was prepared pursuant to a Settlement Agreement between the Township of West Windsor and the Fair Share Housing Center (FSHC) dated October 9, 2018 and amended October 30, 2018; and

**WHEREAS**, the Township's HE&FSP outlines the manner in which the Township of West Windsor will address its affordable housing obligation; and

**WHEREAS**, neither the Township's HE&FSP nor its Settlement Agreement with FSHC rely upon the ROM-1 Industrial District as a means to address its affordable housing obligation so the inclusion of affordable housing as a part of a mixed-use planned development in the zoning standards is recommended to be removed; and

**WHEREAS**, additional modifications are provided to better clarify the permitted uses and required standards of the ROM-1 District.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-209, ROM-1 Industrial District (research, office, limited manufacturing) use regulations, Subsection A, Permitted Uses, Item (8) is amended as follows. Added text is use planned underlined, and text being eliminated is ~~struck-through~~.

(8) Commercial Mixed-use development, notwithstanding any other requirements of this Part 4, except as changed herein, shall also be subject to the following special requirements:

(a) Permitted uses:

- [1] All those permitted and accessory uses within the ROM-1 District.
- [2] Research and business development incubator facilities, providing flexible designed spaces that can accommodate shared administrative, laboratory, computer and related research support services, including limited manufacturing facilities.
- [3] Conference center.
- [4] Hotel.
- [5] Business support uses primarily intended to service the commercial mixed-use park tenant needs, to include, but not be limited to, health clubs, child-care facilities, ~~convenience~~ retail, professional offices and ~~service uses~~, branch banks (excluding drive-through facilities), restaurants, package shipment collection points, business libraries, travel agencies, recreational facilities and similarly related activities.
- [6] ~~Affordable housing as an integral part of a mixed-use planned development, subject to the following provisions:~~
  - [a] ~~Dwelling unit type, bulk and density standards shall be governed by the criteria contained in § 200-183, regarding the R-4B District, of this Part 4.~~
  - [b] ~~Affordable housing units shall comply with the affordability criterion and other provisions governing such units as contained in § 200-237, Application and interpretation of low/moderate income housing provisions, of this Part 4.~~
  - [c] ~~There shall be no more than one affordable housing project located within any one mixed-use planned development.~~

- ~~[d] Location of housing within a planned development shall be conducive to fostering a residential neighborhood environment and shall be accessible to the development's common open space and public facilities or shopping services, if provided.~~
- ~~[e] Recreational uses shall be appropriately buffered from nonresidential uses within the planned development and shall comply with landscape buffer requirements contained in Part 3, Subdivision and Site Plan Procedures, of this chapter. To the extent practicable, residential uses shall be in proximity to other residentially zoned areas of comparable dwelling unit type and density which may be adjacent to the ROM-1 District. Accessibility to public transportation or provisions for such accessibility shall be provided within the overall site design of such residential uses.~~
- ~~[f] Residential areas shall be provided with appropriate active recreational facilities as governed by recreational design criteria contained in § 200-36C of Part 1, Site Plan Review, of this chapter.~~

- (b) Minimum commercial mixed-use planned development area: 20 acres in contiguous parcels not separated by an existing street, and served by public water and sewer systems.
- (c) Minimum lot area within commercial mixed-use development: four acres.
- (d) Minimum commercial mixed-use development and lot frontage: 300 feet.
- (e) Commercial Mixed-use development design, building arrangement, lot width, frontage, depth and yards.

[1] The mixed-use design shall be based on a planned development concept providing for a unified Master Plan governing the land use, circulation, open space and utility needs of the development. Comprehensive design guidelines for building and site layout as well as landscape treatment shall be provided along with provision for maintenance of common areas and spaces. The Plan shall also contain a staging component to ensure the orderly completion of the project in relationship to the capacity of the existing or planned infrastructure to absorb a particular stage or stages of the development. Such staging component shall be consistent with any Township timed growth control ordinance that may be in effect.

- [2] Buildings, lots, yard sizes and dimensions may be freely disposed and arranged and shall conform to the provisions of Part 1, Site Plan Review, of this chapter, and subject to the minimum standards below. The Planning Board may reduce the following standards for setback requirements from internal access roads of a commercial mixed-use development based on an approved Master Plan for the planned development, provided that such reduction does not create undesirable visual and spatial impacts on abutting properties or when viewed from the public right-of-way.
- [a] Minimum setback from the street line: 100 feet for lots located along a commercial mixed-use development internal access road with a fifty-foot landscape area at the street right-of-way; and 125 feet with a seventy-five-foot landscape area at the street right-of-way when located along arterial roads as designated on the Township's Circulation Master Plan.
  - [b] Minimum setback from side and rear property lines: 40 feet, except where such yards are located on the perimeter of the commercial mixed-use development, they shall be 50 feet. Yards that abut a residential zone district line shall be increased according to the requirements set forth within the bulk standards for the ROM-1 District.
  - [c] Where more than one structure is located on a lot within the planned development, the structures shall be no closer to each other than 35 feet or the average height of the structure, whichever is greater.
- (f) Maximum building height and placement: six stories, but not more than 75 feet, provided that four or more storied buildings conform to the following standards, notwithstanding other provisions of this article to the contrary:
- [1] Four or more storied buildings shall be located only within a band 1,800 feet in width as measured from the right-of-way line of Route 1. An optional band width plan may be proposed to achieve an average width across the entire development tract of 1,800 feet, provided that such optional plan does not exceed 2,000 feet at its widest when measured parallel to the Route 1 right-of-way line. However, where such an averaging plan is proposed, those portions of a development tract abutting or opposite the plan projection of a residential zone district shall be located in a band width containing not more than 1,800 feet.

- [2] The minimum setback requirements from arterial or collector roads as designated in the Township's Circulation Master Plan shall be increased an additional three feet of setback for every one foot of building height which exceeds 45 feet.
- [3] Building heights may vary up to six stories, provided that the maximum floor area of the stories above a three-storied building shall not exceed 25% of the total FAR for the planned development as may be approved on a preliminary development application.
- (g) Common open space design covenants, conditions and restrictions: The organization, administration and financial arrangements and guaranties governing the common open space or other common facilities which may be a part of the park shall be subject to the requirements set forth for planned residential developments in Article XVII of this Part 4. Furthermore, a document containing the design covenants, conditions and restrictions governing the internal implementation of the commercial mixed-use Master Plan shall be prepared by the applicant, addressing the following items: regulation of operations and uses permitted within the planned development, design guidelines for site improvements and buildings, a design review procedure, restrictions during construction and maintenance guidelines and standards regarding common open space, on-site landscaping and all paved surfaces.
- (h) Development staging program.
- [1] A program identifying the various stages of the development, including the necessary on-site, off-site and off-tract improvements to support each stage of the development shall be prepared by an applicant. In addition, the plan shall include:
- [a] Adequate protection to ensure the completion of each stage through the use of maintenance and performance guaranties, covenants and other formal agreements.
- [b] Proof that the stage is substantially self-functioning and self-sustaining with regard to access, utility services, parking, common open space, all amenities and other similar physical features. Further, each stage shall be capable of occupancy, operation and maintenance upon completion of construction and development of that stage or, in the case of subsequent stages, such subsequent stages shall likewise be in harmony with those under construction or in place. It is not intended that the creation of a tract-wide stormwater management system or

other common elements be precluded by the above individual stage self-sustaining requirement. If a particular stage is dependent upon a common ~~detention~~ stormwater management system located in another stage, then adequate assurances are to be provided so that its construction supports the development stage for which approval is being sought.

[c] Proof that each stage is properly related to every other segment of the planned development and to the community as a whole and to all necessary community services which are available or which may be needed to serve the planned development in the future

[d] A description of the off-tract and off-site improvements that would be necessitated by each respective stage and proposed responsibility for construction of such improvements, including pro rata share computations, according to the Township's Off-Tract Improvement Ordinance, if as appropriate. ~~If the proposed development is located within a designated transportation improvement district (TID), then the applicable regulations of that TID shall govern the calculation of the pro rata share for off-tract road improvements.~~

[2] The Planning Board in its review of the adequacy of the length and timing of the staging program and the extent of off-site and off-tract improvements associated with the initial stage of development or a subsequent stage seeking final approval shall be guided by any Township timed growth control ordinance as well as traffic management or trip reduction policies and/or ordinances that may be in effect.

(i) ~~Affordable housing incentives:~~

[1] ~~At least 100 affordable housing units may be provided within a mixed use planned development. For every unit constructed on-site, an additional 550 square feet of nonresidential use over and above the maximum development program proposed by an applicant shall be permitted. Such additional nonresidential square footage shall not be utilized in the calculation of either off-tract improvement obligations or pro rata contributions for off-tract infrastructure improvements.~~

[2] ~~In lieu of on-site affordable housing construction, dedication to the Township of a suitable area for such housing construction by a Township designee of at least 15 acres for each 100 affordable units or~~



~~portion thereof within the planned development may be offered. For the provision of such a site area, an additional 50 square feet of nonresidential use over and above the maximum development program proposed by an applicant shall be permitted for each dwelling unit to be constructed. Such additional nonresidential square footage development potential shall not be utilized in the calculation of either off-tract improvement obligations or pro rata contributions for off-tract infrastructure improvements.~~

Section 2. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-210, ROM-1 District Bulk and Area Standards, Subsection E, Minimum Yards, is amended as follows. Added text is underlined, and text being eliminated is ~~struck through~~.

E. Minimum yards:

- (1) Front yard: 125 feet with a seventy-five-foot landscape area at the street right-of-way.
- (2) Rear yard: 40 feet.
- (3) Side yards: There shall be two side yards with a minimum of 40 feet each.
- (4) Yards abutting residential districts.
  - (a) The above yards, including the landscape transition buffer and screen requirements, shall be increased by 35 feet in those instances where they abut, in whole or in part, a residential zone district or lot line.
  - (b) Furthermore, in those instances involving greater than a two-story building or structure with an associated parking facility ~~for both nonresidential and residential uses~~, the minimum setbacks as measured to the nearest residential district zone line shall be as set forth below. These increased setback requirements shall apply only to a development application which contains a planned commercial development.
    - [1] For buildings and structures the minimum setback shall be 500 feet.
    - [2] For pervious surfaces and impervious surfaces the minimum setback shall be 300 feet.
  - (c) The Planning Board may reduce these setback standards, but in no event shall the setback be reduced by more than 50%, upon a satisfactory showing by the applicant that, through the provision of berming and landscaping, or in combination with building site placement, a complete

visual screen of all ~~the nonresidential~~ uses is achieved when viewed from existing grade level at an adjacent residential property line. The following criteria shall be used as a guide by the Planning Board in its review of a request to relax the increased setback standards:

- [1] The height of berm and its associated landscaping, including the density of plant material on the berm, shall be increased above the minimum buffer requirements established by the Township's landscape standards contained in § 200-91P of Part 3, Subdivision and Site Plan Procedures, of this chapter. Such increase in berm height or plant materials or combinations thereof shall be provided so that the proposed structure is not visible above the proposed buffer at the reduced setback line when viewed from existing grade level at the adjacent residential property line. An effective visual buffer shall be established within two growing seasons of its initial installation.
- [2] Grading and planting plans, together with site section drawings showing lines of sight from a residential property line, shall be provided to demonstrate a site plan's conformance with these requirements.

Section 3. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.


Section 4. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction:  
Planning Board Approval:  
Public Hearing:  
Adoption:  
Mayor Approval:  
Effective Date:

# **TOWNSHIP OF WEST WINDSOR**

## ***Community Development Department Division of Land Use***

TO: Marlena Schmid  
Business Administrator

FROM: Samuel J. Surtees   
Manager, Division of Land Use

SUBJECT: Proposed Ordinance Revisions to:  
Section 200-209; 200-210  
(ROM-1 Use, Bulk, Area Regulations)

DATE: December 19, 2023

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The proposed ordinance is intended to update and better clarify the permitted uses and required standards of the ROM-1 District, predominately by removing “affordable housing as an integral part of a mixed use planned development” from the list of permitted uses.

By way of background, the ROM-1 District had previously encompassed a significantly greater portion of the Township. At that time, the ROM-1 District had identified affordable housing as, “an integral part of a mixed used planned development” as a mechanism to encourage the production of affordable housing. Such units, the entirety of which are to be affordable, are only permitted to be developed in conjunction with a mixed-use planned development consisting of other permitted non-residential units. This provision is not intended to permit any market – rate residential units.

Since the adoption of the provision, the ROM-1 District has not in fact, contributed to the production of affordable housing. Furthermore, the Township adopted a Housing Development and Fair Share Plan (HE & FSP) in 2018 which was prepared pursuant to a Settlement Agreement between West Windsor Township and the Fair Share Housing Center. This agreement outlines the manner in which the Township will address its affordable housing obligation. Neither the Settlement Agreement nor the HE & FSP rely upon the ROM-1 District as a means to address the Township’s affordable housing obligations. Gerry Muller, Township Planning Board & Affordable Housing Attorney, has confirmed this and has no objection to the provision of the code being removed as shown in the proposed ordinance.

Furthermore, this language for affordable housing has been found to be vague and has been misinterpreted. In order to prevent developers from continually misinterpreting the code and since it is not a productive nor required component to address the Township’s affordable housing obligation, the proposed ordinance removes this provision from the ROM-1 District.

Finally, the proposed ordinance provides additional minor updates and clarifications to the code, including: modifying the types of business support uses permitted specifying “stormwater management” systems as opposed to just “detention” systems; removing reference to a “Transportation Improvement District” (the T.I.D. program was replaced with the current “Off-Tract Road Assessment Program”); and specifically identifying “pervious surfaces and impervious surfaces”.

If you have any questions or require further clarification, please advise.

Thank you

## Gay Huber

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**From:** Sam Surtees  
**Sent:** Monday, February 12, 2024 9:24 AM  
**To:** Gay Huber  
**Cc:** Lisa Komjati  
**Subject:** ROM-1 ordinance 2024-03

Gay,

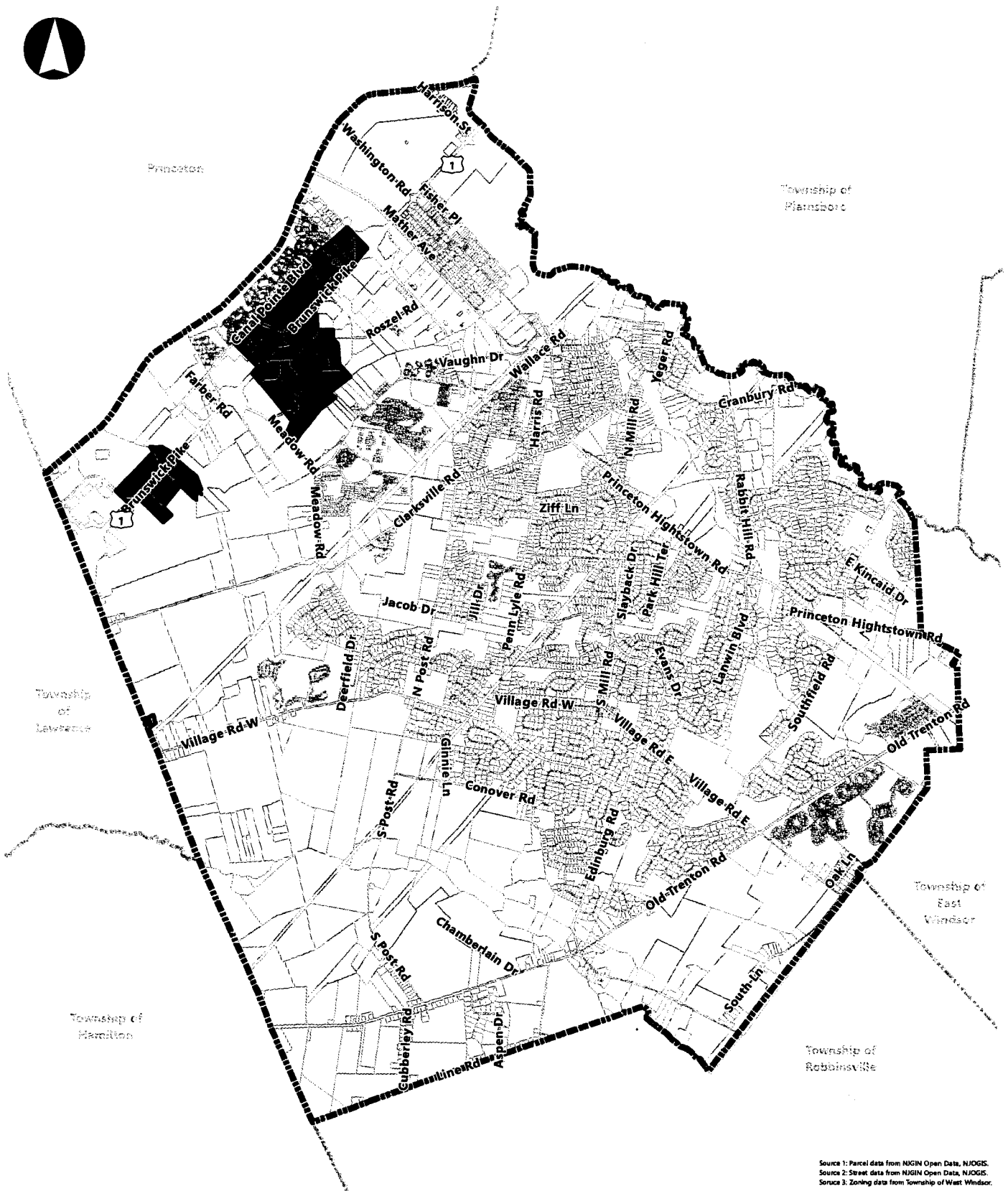
The planning board at their February 7, 2024 meeting voted unanimously to advise Township Council that Ordinance 2024-03 was consistent with the West Windsor Township Master Plan.

If you require any additional information please advise.

Thank you

Sam

Please be advised that the Township of West Windsor is subject to the New Jersey Open Public Records Act. As such, any email sent or received by the Township may be subject to a records request.



Source 1: Parcel data from NJGIS Open Data, NJGIS.  
 Source 2: Street data from NJGIS Open Data, NJGIS.  
 Source 3: Zoning data from Township of West Windsor.

|   |  |   |                  |                      |                      |
|---|--|---|------------------|----------------------|----------------------|
| Dep. Title<br><b>ROM-1 District Location Map</b>  |  | Project No.<br>4028.15  | Date<br>12.18.23 | Drawn By<br>DN       |                      |
| BURGIS ASSOCIATES, INC.<br><small>COMMUNITY PLANNING   LAND DEVELOPMENT AND DESIGN   LANDSCAPE ARCHITECTURE</small><br>25 Westwood Avenue<br>Westwood, New Jersey 07675<br>p: 201.666.1811<br>f: 201.666.2599 |  | Project Title<br><b>Proposed ROM-1 Ordinance Amendment</b><br><small>Township of West Windsor   Mercer County, New Jersey</small> |                  | Scale<br>1" = 4,600' | Dep. No.<br>location |

**REQUEST FOR COUNCIL ACTION**

Date of Request: January 17, 2024

Initiated By: Francis Guzik, PE, CME Division/Department: Comm. Dev./Engineering

**ACTION REQUESTED/ EXECUTIVE SUMMARY:** An Ordinance to amend Chapter 168 of Township Code to add Title 39 enforcement action to the Woodstone development per a request by Woodstone at West Windsor, the Developer, and the Princeton Theological Seminary, the Owner. Other Chapter amendments include a change to the STOP intersection of Emmons Drive, Canal Pointe Boulevard and Wheeler Way. Finally, a change to add Canal Pointe Boulevard to the schedule of No Parking Anytime streets is required with the bicycle lanes added to this roadway as part of the road diet.

SOURCE OF FUNDING: N/A

CONTRACT AMOUNT: N/A

CONTRACT LENGTH: N/A

**OTHER SUPPORTING INFORMATION ATTACHED**

|               |                |
|---------------|----------------|
| Ordinance     | Request Letter |
| Engineer Memo | Exhibit        |

**COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW**

Francis Guzik 1/31/24  
Department/Division Head Date

APPROVED FOR AGENDA OF: February 12, 2024

By: Maflena Schmid 02/06/2024  
Maflena Schmid, Business Administrator

MEETING DATE: 2/12/24 Ordinance # 2024-04 Resolution # \_\_\_\_\_  
Council Action Taken:

**TOWNSHIP OF WEST WINDSOR**  
*Community Development Department*  
*Division of Engineering*

**MEMORANDUM**

**TO:** Gay M. Huber  
Municipal Clerk

**FROM:** Francis A. Guzik, PE, CME  
Director of Community Development / Township Engineer

**DATE:** January 18, 2024  
Revised February 7, 2024

**SUBJECT:** Title 39 Enforcement Request  
Woodstone at West Windsor  
PB17-08

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Woodstone at West Windsor, LLC have requested the provisions of Title 39 be made applicable to the project currently known as Woodmont Way at West Windsor. The project was reviewed and approved by the Planning Board under project PB17-08, at which time the project's signage, striping, parking and circulation elements were reviewed and approved by the Board's Professional Traffic Engineer and Timothy M. Lynch, Chief of Fire & Emergency Services of the West Windsor Township Fire and Emergency Services Division. I have reviewed the proposed Exhibit to the Title 39 request (to be kept on file at the Township Police Division) and find it accurately depicts the requirements of the Planning Board approval as it applies to traffic operations on the private property. The Exhibit has also been reviewed with the Police Traffic Sergeant and approved.

Additionally, the Developer was required to implement changes to the STOP intersection of Emmons Drive with Canal Pointe Boulevard and Wheeler Way at the start of construction. The Developer's Traffic Engineer has provided an assessment of the function of the now-existing condition and finds it to be improved over the pre-development condition. Therefore, it is recommended by their Engineer as well as this office that the current 4-way STOP intersection be made permanent and enforceable. This change also requires an amendment to Chapter 168.

Finally, with the Township's implementation of the road diet along Canal Pointe Boulevard several years ago, there were installed bicycle lanes and No Parking signage along the roadway. A change to Chapter 168 is required to reflect this current No Parking provision along this roadway.

I have prepared a draft Ordinance for these amendments to Township Code Chapter 168 "Traffic" for consideration by the Township Council.

Should you have any questions or comments, please do not hesitate to contact me.

FG

Enclosures

Cc: Marlena Schmid, Business Administrator  
Robert Garofalo, Police Chief  
Kevin Loretucci, Police Traffic Sergeant

**TOWNSHIP OF WEST WINDSOR  
MERCER COUNTY, NEW JERSEY**

**ORDINANCE NO. 2024-04**

**AN ORDINANCE TO AMEND AND SUPPLEMENT  
CHAPTER 168, "TRAFFIC AND PARKING," OF THE  
REVISED GENERAL ORDINANCES  
OF THE TOWNSHIP OF WEST WINDSOR**

**WHEREAS,** Woodstone at West Windsor, LLC is the Developer of Woodmont Way at West Windsor, formerly known as Woodstone at West Windsor, a multi-family inclusionary development located on Emmons Drive and Canal Pointe Boulevard; and

**WHEREAS,** the Developer has submitted under Title 39 (N.J.S.A. 39:5A-1) a request for the enforcement of certain traffic regulations within the development and located on private property; and

**WHEREAS,** the Princeton Theological Seminary is the Owner of record for the property and has consented to the request for enforcement; and

**WHEREAS,** as a condition of the Development approval the Developer's Traffic Engineer has submitted a supplemental study recommending that the 4-way stop condition implemented at the intersection of Canal Pointe Boulevard, Emmons Drive and Wheeler Way be made permanent due to its improvement over the pre-development condition; and

**WHEREAS,** the Township's installation of bikelanes along Canal Pointe Boulevard in this area also requires the addition of this roadway to the No Parking Anytime Schedule XIV in Chapter 168; and

**WHEREAS,** the requests, recommendations and associated mapping have been reviewed by the Township Engineer and the Police Traffic Sergeant and they support the request for enforcement and the proposed Code amendments to Chapter 168.

**NOW, THEREFORE, BE IT ORDAINED,** by the West Windsor Township Council, County of Mercer, State of New Jersey, that the Code of West Windsor Township, be amended and supplemented as follows:

**SECTION I.**

CODE OF THE TOWNSHIP OF WEST WINDSOR, NEW JERSEY

PART II: GENERAL LEGISLATION

CHAPTER 168: TRAFFIC AND PARKING

ARTICLE V: TRAFFIC AND PARKING REGULATIONS ON PRIVATE PROPERTY

Section 168-37: Control of movement and parking on public and private property,



C. Regulation for the movement and the parking of traffic on all other private property in accordance with the provisions of N.J.S.A. 39:5A-1, the regulations of Subtitle 1 of Title 39 are hereby made applicable to the properties listed.

(1) Schedule A, is amended to add the following new underlined language:

| <b>Property</b>                               | <b>Regulation</b>  | <b>Movement</b>   |
|---|--|---|
| <u>Woodmont Way</u><br><u>At West Windsor</u> | <u>25 mph</u><br><br><u>STOP signs</u><br><br><u>Parking in designated areas</u><br><u>between the painted lines</u><br><br><u>No Parking anytime</u><br><u>including hatched areas</u><br><br><u>One Way</u><br><br><u>Do Not Enter</u> | <u>As shown on sketch on file</u><br><u>with Township Police</u><br><u>Division</u> |

**SECTION II.**

PART II: GENERAL LEGISLATION  
CHAPTER 168: TRAFFIC AND PARKING  
ARTICLE VII: Schedules

Section 168-59: Schedule IV: Stop Intersections, is to be amended to read as follows, with text underlined being added:

| <b>Intersection</b>   | <b>Stop Sign On</b>   |
|---|---|
| <u>Emmons Drive, Canal Pointe</u><br><u>Boulevard and Wheeler Way</u> | <u>Emmons Drive, Canal Pointe Boulevard</u><br><u>and Wheeler Way</u> |

**SECTION III.**

PART II: GENERAL LEGISLATION  
CHAPTER 168: TRAFFIC AND PARKING  
ARTICLE VII: Schedules

Section 168-69: Schedule XIV: No Parking Anytime, is to be amended with text underlined being added and text in [brackets] deleted as follows:

| <b>Name of Street</b>         | <b>Sides</b> | <b>Location</b>      |
|-------------------------------|--------------|----------------------|
| <u>Canal Pointe Boulevard</u> | <u>Both</u>  | <u>Entire length</u> |
| [Loetscher Place]             | [Southeast]  | [Entire length]      |

**SECTION IV.**

PART II: GENERAL LEGISLATION  
CHAPTER 168: TRAFFIC AND PARKING  
ARTICLE VII: Schedules

Section 168-81: Schedule XXVI: Handicapped Parking on All Other Private property, is amended to add the following new underlined language:

| <b>Property</b>     | <b>Number of Spaces</b> | <b>Location</b>                                 |
|---------------------|-------------------------|---|
| <u>Woodmont Way</u> | <u>16</u>               | <u>As per sketch on file in Police Division</u> |

**SECTION V.**

In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

**SECTION VI.**

This ordinance shall take effect upon final passage and publication in accordance with the law.

INTRODUCTION: February 12, 2024

PUBLIC HEARING:

ADOPTION:


MAYORAL APPROVAL:

EFFECTIVE DATE:



**REQUEST FOR COUNCIL ACTION**

Date of Request: January 31, 2024

Initiated By: Jason Harris 

Division/Department Code Enforcement

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Refund of Solar System permit fee to Tesla Energy Operations, Inc. for 3 Arnold Drive.

**SOURCE OF FUNDING:** N/A

**CONTRACT AMOUNT:** N/A

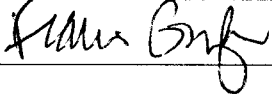
**CONTRACT LENGTH:** N/A

**OTHER SUPPORTING INFORMATION ATTACHED:**

Memo to Marlena Schmid, Business Administrator for permit refund

**COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW**

Department/Division Head

 2/8/24

Date

APPROVED FOR AGENDA OF: \_\_\_\_\_

By:  02/17/2024

Marlena Schmid, Business Administrator

MEETING DATE: 2/26/24 Ordinance # \_\_\_\_\_ Resolution # 2024-R074

Council Action Taken:

RESOLUTION

WHEREAS, said Construction Official, Jason Harris, has certified the following Applicant has paid \$736.00 for a permit to install a Solar System (#2023-0027); and

WHEREAS, said Applicant permit for 3 Arnold Drive was cancelled by the homeowner; and

WHEREAS, said Applicant is entitled to a refund of \$665.00 which is the permit fees minus the Plan Review fees and the DCA fees, which are nonrefundable.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of West Windsor that the following refund be made:

| <b>Applicant</b>   | <b>Refund</b> |
|--|---------------|
| Tesla Energy Operations, Inc.<br>1001 Lower Landing Rd, Suite 601<br>Blackwood, NJ 08012 | \$665.00      |

Adopted: February 26th, 2024

I hereby certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 26<sup>th</sup> day of February, 2024

\_\_\_\_\_  
Gay M. Huber  
Township Clerk  
West Windsor Township

REQUEST FOR COUNCIL ACTION

Date of Request: February 26, 2024

Initiated By: Sam Surtees Division/Department: Community Development

ACTION REQUESTED/ EXECUTIVE SUMMARY:

Resolution authorizing refund for development plan review project per memo from Sam Surtees, Manager of Division of Land Use.

SOURCE OF FUNDING: Trust Fund

CONTRACT AMOUNT: N/A

CONTRACT LENGTH: N/A

OTHER SUPPORTING INFORMATION ATTACHED:

Plan review escrow account statements.

S:\AGENDA INBOX (file name) escrowrelease02262024

COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW

Department/Division Head

2-12-24

[Signature]

Date

APPROVED FOR AGENDA OF:

By:

[Signature] 02/16/2024

Marlena Schmid, Business Administrator

**\*\* PLEASE NOTE \*\* DEADLINE FOR SUBMISSION TO THE CLERK'S OFFICE FOR REVIEW AND APPROVAL BY THE BUSINESS ADMINISTRATOR IS 10:00 A.M. ON THE FRIDAY ONE WEEK PRECEDING THE COUNCIL MEETING.**

MEETING DATE: 2/26/24 Ordinance # \_\_\_\_\_ Resolution # 2024-2075

Council Action Taken:

RESOLUTION

WHEREAS, the following applicant(s) filed application(s) with West Windsor Township Planning/Zoning Board; and

WHEREAS, in conjunction with such application(s), the following applicant(s) deposited with the Township of West Windsor escrow deposits pursuant to Section 82-3D(1) of the Revised General Ordinances of the Township of West Windsor; and

WHEREAS, professional services undertaken on behalf of the Township in conjunction with said application(s) have been withdrawn and the costs thereof have been listed below; and

WHEREAS, there remains a partial balance in the applicant(s) escrow account, which applicant(s) is entitled to be refunded.

| Date of Deposit | Project No. | Project Name                  | Total Escrow        | Total Disb.           | Balance of Escrow  |
|-----------------|-------------|-------------------------------|---------------------|-----------------------|--------------------|
| 18-Apr-2019     | PB 19-04    | Nassau Park-Gateway Outparcel | \$ 30,597.47        | \$ (28,159.46)        | \$ 2,438.01        |
| 24-Jan-2022     | ZB 22-03    | Ramesh Janga                  | \$ 7,022.06         | \$ (6,438.25)         | \$ 583.81          |
| 22-Feb-2021     | PB 21-01    | Starbucks Drive-Thru          | \$ 34,550.33        | \$ (34,415.69)        | \$ 134.64          |
| 9-Dec-2022      | ZB 22-06    | Alison & Nathan Prussing      | \$ 3,500.00         | \$ (1,930.00)         | \$ 1,570.00        |
| 12-Jul-2023     | ZB 23-05    | Brian Young                   | \$ 3,500.00         | \$ (1,630.00)         | \$ 1,870.00        |
| 14-Apr-2023     | ZB 23-03    | Daniel Tello-Flores           | \$ 4,000.00         | \$ (1,731.25)         | \$ 2,268.75        |
|                 |             |                               | <u>\$ 83,169.86</u> | <u>\$ (74,304.65)</u> | <u>\$ 8,865.21</u> |

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the Chief Financial Officer is hereby authorized and directed to refund to the applicant(s) the portion of the escrow deposits which the applicant(s) is entitled to be refunded as set forth above.

Adopted: February 26, 2024

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 26th day of February, 2024.

\_\_\_\_\_  
 Gay M. Huber  
 Township Clerk  
 West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor has received a Retail Liquor License Application from Eddie V's Holdings, LLC for a Place to Place and Person to Person Transfer of Liquor License 1113-33-018-001 from Market Fair Holdings II LLC; and

WHEREAS, the West Windsor Police Department has conducted a background investigation and approved the Place to Place and Person to Person Transfer of the Plenary Retail Consumption License; and

WHEREAS, in accordance with N.J.A.C. 13:2-7.4, the applicant has provided the Township Clerk's Office the proof of publication of the notice of the application in the Princeton Packet on October 20, 2023 and October 27, 2023; and

WHEREAS, no objections to the application have been received; and

WHEREAS, the Alcoholic Beverage Retail License Clearance Certificate to transfer has been received by the Township Clerk; and

WHEREAS, pursuant to N.J.A.C. 13:2-7.7, the Township Council makes the following findings and certifies that:

1. The submitted application form is complete in all respects; and
2. The applicant is qualified to be licensed according to standards established by Title 33 of the Jersey State Statutes, regulations promulgated thereunder as well as pertinent local ordinances and conditions consistent with Title 33; and
3. New Jersey Division of Alcoholic Beverage Control has reviewed the application and finds no reason not to permit the transfer.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the Place to Place and Person to Person Transfer of the Plenary Retail Consumption License 1113-33-018-001 to Eddie V's Holdings, LLC location at 3535 U.S. Highway #1, Suite 100 C, West Windsor, New Jersey 08540 is hereby approved.

Adopted: February 26, 2024

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 26<sup>th</sup> day of February, 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township



**REQUEST FOR COUNCIL ACTION**

**Date of Request:** 2/9/2024

**Initiated By:** Anthony Esposito **Division/Department:** Department of Public Works

**ACTION REQUESTED/ EXECUTIVE SUMMARY:** Resolution authorizing purchase of new 2024 Ford F450 Regular Cab 4x4 Mason Dump purchased from Cherry Hill Winner Ford, 250 Berlin Rd Cherry Hill, NJ 08034.

**SOURCE OF FUNDING:** 405202114028

**CONTRACT AMOUNT:** \$86,402.00

**CONTRACT LENGTH:** N/A

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution 2024-R , bid sheets, and certification of funds

S:\AGENDA INBOX (file name)

*[Handwritten signature]* 2/16/2024

**COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW**

Madlena Schmid 02/16/2024  
Department/Division Head Date

**APPROVED FOR AGENDA OF:** \_\_\_\_\_

By: Madlena Schmid 02/16/2024  
Madlena Schmid, Business Administrator

**\*\* PLEASE NOTE \*\* DEADLINE FOR SUBMISSION TO THE CLERK'S OFFICE FOR REVIEW AND APPROVAL BY THE BUSINESS ADMINISTRATOR IS 10:00 A.M. ON THE FRIDAY ONE WEEK PRECEDING THE COUNCIL MEETING.**

**MEETING DATE:** 2/26/24 **Ordinance #** \_\_\_\_\_ **Resolution #** 2024-2077

**Council Action Taken:**

## RESOLUTION

WHEREAS, the Township of West Windsor needs to purchase One (1) 2024 Ford F450 Regular Cab 4x4 Mason Dump for the Department of Public Works; and

WHEREAS, Cherry Hill Winner Ford, 250 Berlin Road, Cherry Hill, NJ 08034 has been Awarded New Jersey State Contract #A88215, T2102; and

WHEREAS, Factory Options built into the vehicle:

|  |              |
|--|--------------|
| 2024 Ford F450 Cab & Chassis Crew Cab 4x4 Mason Dump   | \$ 53,192.00 |
| Regular Cab 4X4  | (1,025.00)   |
| TGK LT225/70Rx19.5G BSW Max Traction (4x4)   | \$ 215.00    |
| X8L Limited Slip Rear Axle   | \$ 395.00    |
| 18B Cab Steps (Reg Cab)  | \$ 320.00    |
| 67B 410 Amp Alternator   | \$ 115.00    |
| 86M Dual Batteries   | \$ 210.00    |
| - Requires 67B 410 Amp Alternator  |              |
| 96V XL Chrome Package  | \$ 225.00    |
| - Bright chrome hub covers, chrome front bumper,<br>Bright grille, power sliding rear glass w/ rear defrost (xcab<br>& crew only), remote start, halogen fog lamps |              |

Additional Options:

|              |             |
|--------------|-------------|
| Boss 9' Plow | \$ 7,851.00 |
|--------------|-------------|

Noncontract Items:

|   |             |
|---|-------------|
| 9' 3-4CU YD Dump                                      | \$12,567.00 |
| PTO Powered Hoist                                     | \$ 6,957.00 |
| Manual Tarp   | \$ 395.00   |
| Steel stone shields in front of rear wheels           | \$ 175.00   |
| 18"x18"x36" Aluminum Tool Box Under Dump              | \$ 895.00   |
| Full Plate Combo Hitch w/ 2" Ball                     | \$ 795.00   |
| Trailer Plug Flat 7 Prong                             | \$ 195.00   |
| Grille Mounted Jump Start Kit                         | \$ 735.00   |
| DOT 6, 4 LED strobes in cab shield, 2 at rear of body | \$ 1,995.00 |
| Weather Tee Floor Liners                              | \$ 195.00   |

WHEREAS, the Chief Financial Officer has certified funds available in the following account:

Public Works - Acquisition of Vehicle **405 2021 14 028 \$86,402.00**

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor that the Business Administrator, Marlena A. Schmid, is authorized to purchase one (1) 2024 Ford F450 Regular Cab 4x4 Mason Dump under the New Jersey State Contract #: 88215, T2102 and factory options not under State Contract for a total of \$86,402.00 from Cherry Hill Winner Ford, 250 Berlin Road, Cherry Hill, NJ 08034.

Adopted: February 26, 2024

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 26<sup>th</sup> day of February, 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

Date of Request: February 14, 2024

Initiated By: Francis Guzik Division/Department: Comm. Dev./Engineering

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Adoption of a Resolution granting reservation of sewer capacity for the residential redevelopment project known as 400 Steps (PB23-05) located at Block 5, Lot 19. The request for reservation is for 180 residential units. The improvements are estimated to generate 35,932 gallons per day (gpd) total wastewater flow from the site upon construction and occupation of the project.

SOURCE OF FUNDING: N/A

CONTRACT AMOUNT: N/A

CONTRACT LENGTH: N/A

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution  
Engineer's Memorandum  
Request Letter  
Map

**COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW**

Department/Division Head

*Francis Guzik*

2/14/2024

Date

APPROVED FOR AGENDA OF: February 26, 2024

By:

*Marlena Schmid*  
Marlena Schmid, Business Administrator

02/16/2024

MEETING DATE: 2/26/24 Ordinance # \_\_\_\_\_ Resolution # 2024-2078

Council Action Taken:

RESOLUTION

WHEREAS, ACT Engineers has submitted a request for a reservation of sewer capacity in the public sewer system for the inclusionary residential redevelopment project known as 400 Steps (PB23-05) located at Block 5, Lot 19; and

WHEREAS, the request for reservation is for 180 residential units and 5,320 s.f. of common area, which are estimated to generate 35,932 gallons per day (gpd) of wastewater flow upon construction and occupation of the project; and

WHEREAS, the proposed flow and expansion of the collection system on the property as part of the project requires a Treatment Works Approval permit from the New Jersey Department of Environmental Protection; and

WHEREAS, the Township Engineer has certified that there is sufficient capacity in the existing downstream sanitary sewer system to accommodate the average daily flow of 35,932 gpd of wastewater that is estimated to be generated by the proposed improvements.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor that a reservation of sewer capacity in the total amount of 35,932 gallons per day, is hereby granted for the inclusionary residential redevelopment project known as 400 Steps (PB23-05); and

BE IT FURTHER RESOLVED that this allocation of Township sewer capacity shall be in effect for a period of one (1) year; and

BE IT FURTHER RESOLVED that the Township Engineer be and hereby is authorized to execute the endorsement of the New Jersey Department of Environmental Protection Treatment Works Approval Permit application, as required to implement this Resolution, upon submission of final design/construction plans and specifications acceptable to the Township Engineer.

Adopted: February 26, 2024

I hereby certify this is a true copy of a Resolution adopted by the West Windsor Township Council at their meeting held on the 26th day of February 2024.

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Gay M. Huber  
Township Clerk  
Township of West Windsor

**REQUEST FOR COUNCIL ACTION**

Date of Request: February 1, 2024

Initiated By: Jill Swanson Division/Department: Health

**ACTION REQUESTED/ EXECUTIVE SUMMARY:** Requesting amendments to recently adopted fee structure under Chapter 82, Fees, Section 82-26, Lead-safe rentals adding 82-26F. This new provision will allow the Township to enter into a professional services agreement with a certified lead evaluation contractor who will be able to collect fees directly from the property owner for inspection services and filing fees. This arrangement will streamline the process for both the property owner and the Township. There are no additional revisions proposed at this time. Since this program is new state-wide and continues to evolve, I also recommend the Township retain the established fee structure for direct payment.

We are currently in process of preparing an agreement with a contractor. There will be no cost to the Township associated with the agreement. The contractor will forward the certificates and the filing fee to the Township. The Township in turn submits \$20/inspection to NJDCA.

**SOURCE OF FUNDING:** NA

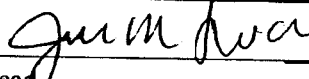
**CONTRACT AMOUNT:**

**CONTRACT LENGTH:**

**OTHER SUPPORTING INFORMATION ATTACHED:**

Proposed Ordinance Amendment  
Memorandum February 1, 2024

**COMPLETE AND READY FOR ADMINISTRATOR'S REVIEW**

Jill Swanson   
Department/Division Head

Date: 2/1/24

APPROVED FOR AGENDA OF:

By: Marlena Schmid  02/20/2024  
Marlena Schmid, Business Administrator

MEETING DATE: 2/26/24 Ordinance # 2024-05 Resolution # \_\_\_\_\_  
Council Action Taken:

2024-05

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 82 "FEES".

WHEREAS, pursuant to P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 et seq.), municipalities are required to implement a lead-safe inspection program for certain single-family, two-family and multiple rental dwellings constructed prior to 1978;

WHEREAS, Township Council established standards for inspection conducted within the Township through adoption of Chapter 100, Article II Lead Safe Residential Rental Requirements and Chapter 82-26 Lead-safe Rentals, and

WHEREAS, the Township desires to streamline the administrative processes associated with implementation of the program for property owners and the Township;

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Windsor, in the County of Mercer and State of New Jersey, Chapter 82, "Fees" by adding thereto section 82-26F "Lead-paint Rental Requirements" as follows:

**82-26 F.**

In the event, the Township enters into a Professional Services Agreement with a third-party lead evaluation contractor to offer the Township-facilitated inspection option, and such agreement specifies a fixed fee structure, all fees shall be paid by the property owner directly to the contracted professional, or as specified in the professional services agreement. Filing fees required by 82-26A, collected by the contracted professional shall be remitted to the Township as specified by the terms of the executed agreement.