

**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**

**April 8, 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
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

2024-06 AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) CHAPTER 4 "ADMINISTRATION OF GOVERNMENT", TO ADD SECTION "82-18 POLICE", SECTION "I" CONCERTS, FESTIVALS/OUTDOOR EVENTS, CARNIVALS

11. Consent Agenda

A. Resolutions

B. Minutes

January 16, 2024 - Inaug. & Reorg. - As Amended  
January 16, 2024 - Business Session - As Amended  
February 12, 2024 - Closed Session - As Amended  
February 26, 2024 - Business Session - As Amended  
March 4, 2024 - Business Session - As Amended

C. Bills & Claims

12. Items Removed from Consent Agenda

13. Recommendations from Administration and Council/Clerk

2024-R097 In Support of Senate Bill 2083 and Assembly Bill 1754 to Provide Income Tax Relief to Volunteer Firefighters and Volunteer First Aid Squad Members

2024-R098 Authorizing the Mayor and Clerk to Execute the Reimbursement Agreement with Avalon Watch Apartments for Solid Waste Collection Costs for 2022

2024-R099 Authorizing the Mayor and Clerk to Execute the Reimbursement Agreements with Various Condominium and Homeowner Associations for Refuse and Snow Removal Costs for 2022

2024-R100 Authorizing the Mayor and Clerk to Execute Memorandum of Understanding with the Mercer Area District of the Washington Crossing Council, Troop 40 (Boy Scouts) To Utilize One Bay of a Three Car Garage Located at the Schenck Farmstead

2024-R101 Authorizing the Mayor and Clerk to Execute Amendment #1 to the Fourth Renewal of a Two-Year Extension of the Memorandum of Understanding with the Historical Society of West Windsor (HSWW)

2024-R102 Authorizing the Business Administrator to Execute Change Order No. 2 with Scozzari Builders, Inc. for an Increase of \$5,867.51 for the Project Known as Metal Roof Installation at the Schenck Farmstead Project for a Total Not to Exceed \$57,831.26

2024-R103 Authorizing the Mayor and Clerk to Execute Amendment #1 with Roberts Engineering for Additional Survey and Engineering Design Services for the Project Known as North Post Road Bikeway Extension in the Amount of \$1,850.00 for a Total Not to Exceed \$31,610.00

2024-R104 Certifying Compliance with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964" in Accordance with N.J.S.A. 40A:4-5

14. Introduction of Ordinances

2024-07 ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) CHAPTER 113 "NOISE", SECTION 113-9 MOTOR VEHICLES TO ADD "D ENGINE BRAKING PROHIBITED"

PUBLIC HEARING: April 29, 2024

2024-08 AN ORDINANCE TO REPLACE CHAPTER 170 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR (1999) BY MODIFYING PROVISIONS PERTAINING TO TREE REMOVAL AND MITIGATION DUE TO STATE OF NJ STORMWATER POLLUTION PREVENTION REGULATIONS

PUBLIC HEARING: April 29, 2024

2024-09 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 82 "FEES" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR (1999) TO ADD SECTION 82-26 "TREE REMOVAL AND REPLACEMENT"

PUBLIC HEARING: April 29, 2024

2024-10 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK

PUBLIC HEARING: May 13, 2024

2024 BUDGET INTRODUCTION

PUBLIC HEARING: May 13, 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

**REQUEST FOR COUNCIL ACTION**

Date of Request: 3/13/2-24

Initiated By: Chief Robert Garofalo Division/Department: Police

**ACTION REQUESTED/ EXECUTIVE SUMMARY:** Change to Chapter 82 Fees to add a new section 82-18 Police for coverage during concerts, festivals/outdoor events, and carnivals where alcohol is served or sold. This will cover all organizations that conduct or sponsor public events in the Township of West Windsor.


**SOURCE OF FUNDING:**

**CONTRACT AMOUNT:**

**CONTRACT LENGTH:**

**OTHER SUPPORTING INFORMATION ATTACHED:**

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

  
\_\_\_\_\_  
Department/Division Head Date

APPROVED FOR AGENDA OF: March 26, 2024

By:  03/20/2024  
Marlena Schmid, Business Administrator

MEETING DATE: 3/26/24 Ordinance # 2024-06 Resolution # \_\_\_\_\_

Council Action Taken:

2024-06

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) CHAPTER 4 "ADMINISTRATION OF GOVERNMENT", TO ADD SECTION 1 "82-18 POLICE, I. CONCERTS, FESTIVALS/OUTDOOR EVENTS, CARNIVALS"

WHEREAS, there is a need to amend the Code of the Township of West Windsor Township to include a Special Events fees; and

WHEREAS, the Chief of Police has requested this to ensure the safety of all at events held in the Township.

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

82-18 Police.

**I. Concerts, Festivals/Outdoor Events, Carnivals**

1. **All organizations that conduct or sponsor public events within the Township of West Windsor shall utilize West Windsor Police Officers on site and equipment provided by the Township's Police Department. The requirement for Police on site is at the discretion of the Township's Chief of Police.**
2. **In the following instances, West Windsor Township has specified minimum staffing levels of required Police presence, which may be modified at the discretion of the Township's Chief of Police.**
  - a. **Concerts: Minimum one Officer (Security) per 500 attendees anticipated or one per 350 if alcohol is served or sold.**
  - b. **Festivals/Outdoor Events: Minimum one Officer (Security) per 500 attendees anticipated or one per 350 if alcohol is served or sold.**
  - c. **Carnivals: Minimum one Officer (Security) per 500 attendees anticipated or one per 350 if alcohol is served or sold.**

Section 2.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3.

If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 4.

This ordinance shall take effect twenty(20) days after action or inaction by the Mayor as approved by law or an override of a mayoral veto by Council, whichever is applicable, and upon publication in accordance with law.

INTRODUCTION:

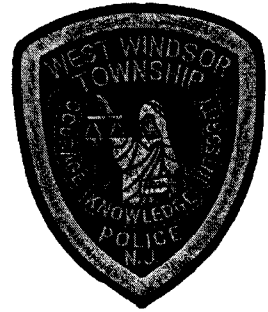
PUBLIC HEARING:

ADOPTION:

MAYOR APPROVAL:

EFFECTIVE DATE:

**WEST WINDSOR POLICE DEPARTMENT  
MEMORANDUM**



**SUBJECT:**  
Police Special Events Code Change

**Date:**  
January 2, 2024

**To:** Gay Huber, Township Clerk

**From:** Chief Robert Garofalo PhD(c)

A handwritten signature in black ink, appearing to read "R. Garofalo".

I am requesting the attached changes to the Special Events in order to provide the correct safety and security for all attendees. I met with the event coordinators for the Las Vegas Metro Police Department at the State Chiefs of Police training. Together, we outlined a plan along with documents to bring the safety and planning for special events to a more realistic standard based on the current events and trends.

What you have presented to you is the best practices modified for the crowd sizes in West Windsor.



RESOLUTION

- WHEREAS, Senate Bill 2083 and Assembly Bill 1754 were introduced on January 9, 2024 to provide income tax relief to volunteer firefighters and volunteer first aid squad members; and
- WHEREAS, both bills have been sent to the Law and Public Safety Committee for further review; and
- WHEREAS, these bills would allow under certain circumstances certain volunteer firefighters and volunteer first aid squad members to claim \$2,000.00 gross income tax exemption; and
- WHEREAS, if a volunteer firefighter or volunteer first aid squad member meet certain criteria they would be eligible for said tax exemption; and
- WHEREAS, the volunteer firefighters of the Princeton Junction Volunteer Fire Company #1 and the West Windsor Volunteer Fire Company #1 have asked for the Township's support on this legislation; and
- WHEREAS, the volunteers of both fire companies would ask that option 2 for duty hours remain in effect as this legislation moves forward since currently both fire companies have established duty crews; and
- WHEREAS, this type of incentive will help in retaining volunteers to serve their communities in these capacities and thereby provide a savings to taxpayers.
- NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Windsor that they support this legislation and respectfully request the Senate and Assembly to pass this legislation and ask the Governor receives it to sign the legislation; and
- BE IT FURTHER RESOLVED, this resolution should be sent to all the sponsors and co-sponsors of these bills as well as the members of the Law and Public Safety Committee.

Adopted: April 8, 2024

I hereby certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 8<sup>th</sup> day of April 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

Date of Request: March 28, 2024

Initiated By: John V. Mauder Division/Department: Finance

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Resolution providing for reimbursement of solid waste collection costs for the calendar year 2022 for Avalon Watch Apartments.

**SOURCE OF FUNDING:**

2022 Budget

**CONTRACT AMOUNT:**

\$93,359.50

**CONTRACT LENGTH:**

January 1, 2022 through December 31, 2022

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution, Agreements and copy of Certification of Funds

S:\AGENDA INBOX (file name) 2024 Resolution-Apt-Kelly2022B

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

John V. Mauder 3/22/24  
Department/Division Head Date

APPROVED FOR AGENDA OF: April 8, 2024

By: Marlena A. Schmid 04/02/2024  
Marlena A. 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: 4/8/24 Ordinance # \_\_\_\_\_ Resolution # 2024-R098

Council Action Taken:

RESOLUTION

WHEREAS, N.J.S.A. 40:66-1 et seq. establishes a policy and schedule of the reimbursement of costs for solid waste collection services incurred by qualified multifamily dwellings as defined by the law; and

WHEREAS, Avalon Watch Apartments qualified as such a community; and

WHEREAS, the Township of West Windsor has agreed to reimburse Avalon Watch Apartments solid waste collection costs for the calendar year 2022; and

WHEREAS, funds are available as evidenced by the Chief Financial Officer’s certification of funds;

Avalon Watch Apartments	
Refuse Collection – Multi Family Reimbursement. 101001	<u>\$ 93,359.50</u>
Total	\$ 93,359.50

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor, County of Mercer, and State of New Jersey that the Mayor and Township Clerk are hereby authorized to execute an agreement with Avalon Watch Apartments to reimburse them for certain solid waste collection costs pursuant of N.J.S.A. 40:66-1 et. seq. in the following amount for the calendar year 2022.

Avalon Watch Apartments	<u>\$ 93,359.50</u>
Total	\$ 93,359.50

A copy of said Agreement is attached herein.

Adopted: April 8, 2024

I hereby certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 8th day of April, 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

Date of Request: March 28, 2024

Initiated By: John V. Mauder Division/Department: Finance

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Resolution providing for reimbursement of trash and recycling collection and disposal, and snow removal costs for various Condominium and Homeowner Associations for 2022. The Township is required to either provide certain services or reimburse Associations for trash and recycling collection and disposal, snow removal and street lighting costs.

**SOURCE OF FUNDING:**

2022 Budget and Snow Trust

**CONTRACT AMOUNT:**

\$36,070.40

**CONTRACT LENGTH:**

January 1, 2022 through December 31, 2022

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution, Agreements and copy of Certification of Funds

S:\AGENDA INBOX (file name) · 2024Resolution-2022KellyBill-A

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

John V. Mauder 3/27/24  
Department/Division Head Date

**APPROVED FOR AGENDA OF: April 8, 2024**

By: Marlena A. Schmid 04/02/2024  
Marlena A. 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: 4/8/24 Ordinance # \_\_\_\_\_ Resolution # 2024-R099

Council Action Taken:

## RESOLUTION

WHEREAS, C.299 of P.L. 1989 (N.J.S.A. 40:67-23.2 et seq.) establishes a policy and schedule of the reimbursement of costs for refuse and recycling collection and disposal, snow removal and street lighting costs incurred by qualified private communities as defined by the law; and

WHEREAS, Colonnade Pointe Condominium Association and The Elements at West Windsor Homeowners Association qualify as such community; and

WHEREAS, the Township of West Windsor has agreed to reimburse the above-mentioned Condominium and Homeowners Association for snow removal costs and refuse and recycling costs for 2022 ; and

WHEREAS, funds are available as evidenced by the Chief Financial Officer's certification of funds;

Colonnade Pointe Condominium Association		
Refuse Collection – 2022	101001	\$ 34,176.19
Snow Trust -2022	121407	\$ 752.11
The Elements at West Windsor Homeowners Assoc.		
Snow Trust -2022	121407	<u>\$ 1,142.10</u>
Total		<u>\$ 36,070.40</u>

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor, County of Mercer, and State of New Jersey that the Mayor and Township Clerk are hereby authorized to execute agreement with these Associations to reimburse them for certain snow removal and refuse and recycling costs pursuant of N.J.S.A. 40:67-23.2 et. seq. in the following amounts.

Colonnade Pointe Condominium Association		
Refuse Collection – 2022	101001	\$ 34,176.19
Snow Trust -2022	121407	\$ 752.11
The Elements at West Windsor Homeowners Assoc.		
Snow Trust -2022	121407	<u>\$ 1,142.10</u>
Total		<u>\$ 36,070.40</u>

A copy of said Agreements is attached herein.

Adopted: April 8, 2024

I hereby certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 8th day of April, 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

**Date of Request:** March 20, 2024

**Initiated By:** Brian E. Aronson **Division/Department:** Buildings & Grounds/Admin.

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Adoption of a resolution authorizing Township Clerk and Mayor to execute Memorandum of Understanding (MOU) for a two (2) year period between the Mercer Area District of the Washington Crossing Council, Troop 40 (Boy Scouts) and West Windsor Township to use one (1) garage bay at the Schenck Farm.

**SOURCE OF FUNDING:** N/A

**CONTRACT AMOUNT:** N/A

**CONTRACT LENGTH:** January 1, 2024 through December 31, 2025

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution  
3 Copies of the Memorandum of Understanding (MOU)  
Facility Maintenance Managers Memorandum

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

Brian Aronson 3-20-2024  
Department/Division Head Date

**APPROVED FOR AGENDA OF: April 8, 2024**

By: Marlena Schmid 04/02/2024  
Marlena Schmid, Business Administrator

**MEETING DATE:** 4/8/24 **Ordinance #** \_\_\_\_\_ **Resolution #** 2024-R100

**Council Action Taken:**

RESOLUTION

RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (“MOU”)  
WITH THE MERCER AREA DISTRICT OF THE  
WASHINGTON CROSSING COUNCIL, TROOP 40

WHEREAS, the Mercer Area District of the Washington Crossing Council, Troop 40, (“Troop 40”) with a primary mailing address of Dutch Neck Presbyterian Church, 154 South Mill Road, West Windsor, NJ 08550, seeks permission to utilize one (1) bay, of a three (3) car garage located at the Schenck Farmstead, 50 Southfield Road, West Windsor, New Jersey, that the Township owns, for storage purposes; and

WHEREAS, Troop 40 has leased this space from the Township for the past eleven (11) years and wants to rent the one (1) bay for an additional two (2) year period; and

WHEREAS, the Troop seeks to continue to aid the good and useful work conducted by Troop 40 in West Windsor.

NOW, THEREFORE, BE IT RESOLVED the Township Council of the Township of West Windsor hereby authorizes the Mayor and Clerk to execute the Memorandum of Understanding with the Mercer Area District of the Washington Crossing Council, Troop 40 beginning January 1, 2024 and terminating December 31, 2025.

Adopted: April 8, 2024

I certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 8th day of April 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

Date of Request: March 20, 2024

Initiated By: Marlena A. Schmid

Division/Department: Building & Grounds/Admin.

**ACTION REQUESTED/ EXECUTIVE SUMMARY:** Approval of a Resolution Authorizing the Mayor and Township Clerk to Execute Amendment #1 (Amendment #1) to the 4<sup>TH</sup> Renewal of a Two (2) Year Extension of the Memorandum of Understanding (MOU) with the Historical Society of West Windsor (HSWW). The HSWW has agreed to continue managing the interior structures (Farm House, Wagon House, School House, Barn and two (2) of the three (3) garage bays), located at the Schenck Farm, also known as 50 Southfield Road, Block 28.02, Lots 8.01 and 31.03 in West Windsor Township, Mercer County, New Jersey.

The MOU, originally approved January 25, 2016 (2016-R039), allows for four (4) two (2) year extensions if both parties provide mutual consent. The new two (2) year extension is for the period January 1, 2024 through December 31, 2025 and is the Fourth and Final MOU Extension.

All terms and responsibilities of the original MOU date January 25, 2016 remain in effect and Amendment #1 sets forth the arrangement for use of publicly owned property and premises by the HSWW, a non-profit entity. Amendment #1 adds three (3) new provisions within Section IV. Responsibilities of the Parties. The new provisions pertain to Use of the Premises, Renovations and Improvements to the Premises, and Reporting Requirements.

**SOURCE OF FUNDING:** N/A

**CONTRACT AMOUNT:** N/A

**CONTRACT LENGTH:** January 1, 2024 through December 31, 2025

**OTHER SUPPORTING INFORMATION ATTACHED:**

Amendment #1 (Referenced Above)  
Resolution

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

Marlena A. Schmid 04/02/2024  
Department/Division Head Date

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

By: Marlena A. Schmid 04/02/2024  
Marlena Schmid, Business Administrator

MEETING DATE: 4/8/24 Ordinance # \_\_\_\_\_ Resolution # 2024-R101

Council Action Taken:



RESOLUTION

WHEREAS, the Township of West Windsor entered into an Memorandum of Understanding (MOU) in January 2016 with the Historical Society of West Windsor to manage the Schenck Farmstead; and

WHEREAS, the MOU allowed for four (4) two (2) year extensions if both parties provided mutual consent; and

WHEREAS, the third (3) extension of the MOU ended December 31, 2023 and the parties consent to a fourth (4<sup>th</sup>) and final two year extension of the MOU for the period from January 1, 2024 through December 31, 2025; and

WHEREAS, the parties mutually consent to additional responsibilities set forth in Amendment #1 to the Fourth (4<sup>th</sup>) Renewal of a Two (2) Year Extension of the MOU with the Historical Society of West Windsor.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of West Windsor approve of the fourth (4<sup>th</sup>) and final two (2) year extension (January 1, 2024 through December 31, 2025) of the MOU with the Historical Society of West Windsor.

BE IT FURTHER RESOLVED, the Mayor and Township Clerk are hereby authorized to execute Amendment #1.

Adopted: April 8, 2024

I certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 8<sup>th</sup> day of April 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

**Date of Request:** March 14, 2024

**Initiated By:** Brian E. Aronson **Division/Department:** Buildings & Grounds/Admin.

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Adoption of a resolution authorizing execution of Change Order No. 2 with Scozzari Builders, Inc. for supplemental work as needed for the **Metal Roof Installation at the Schenck Farmstead Project**. Change Order No. 2 represents an increase (12.16%) in the contract amount for the project. The Facilities Maintenance Manager and Architect of Record have reviewed and endorse the attached change order.

**SOURCE OF FUNDING:**

**Original Contract:**

<u>Schenck Farmstead Carriage House Barn</u>	<u>405-2009-14-013</u>	<u>\$48,243.00</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>
<u>Change Order No. 1: Schenck Farmstead Carriage House Barn</u>	<u>405-2009-14-013</u>	<u>\$3,720.75</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>

**Change Order No. 2:**

<u>Schenck Farmstead Carriage House Barn</u>	<u>405-2009-14-013</u>	<u>\$4,557.27</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>
<u>Schenck Historical Farmstead General Improvements</u>	<u>405-2020-14-007</u>	<u>\$1,310.24</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>

**CONTRACT AMOUNT:**

<u>Original Contract Amount:</u>	<u>\$ 48,243.00</u>
<u>Change Order 1:</u>	<u>\$ 3,720.75</u>
<u>Change Order 2 (increase):</u>	<u>\$ 5,867.51</u>
<u>Revised Contract Amount:</u>	<u>\$ 57,831.26</u>

**CONTRACT LENGTH:** N/A

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution	Change Order No. 2
Facility Maintenance Managers Memorandum	Certification of Funds
Resolution 2023-R200	Resolution 2024-R095

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

<u>Brian Aronson</u>	<u>3-21-2024</u>
Department/Division Head	Date

**APPROVED FOR AGENDA OF:** April 8, 2024

By: Marlena Schmid 04/02/2024  
Marlena Schmid, Business Administrator

**MEETING DATE:** 4/8/24 **Ordinance #** \_\_\_\_\_ **Resolution #** 2024-R102

**Council Action Taken:**

RESOLUTION

WHEREAS, West Windsor Township awarded a construction contract in the amount of \$48,243.00 on October 24, 2023 (Resolution 2023-R200) to Scozzari Builders, Inc. of Trenton, New Jersey for the Metal Roof Installation at the Schenck Farmstead Project; and

WHEREAS, West Windsor Township executed Change Order No. 1 in the amount of \$3,720.75 on March 26, 2024 (Resolution 2024-R095) to Scozzari Builders, Inc. of Trenton, New Jersey adjusting the original contract amount of \$48,243.00 to a revised contract amount of \$51,963.75; and

WHEREAS, Certifications of Funds for the original contract as well as Change Order No. 1 was received from the Chief Financial Officer and funds for said contract were available in the following accounts:

<u>Schenck Farmstead Carriage House Barn</u>	<u>405-2009-14-013</u>	<u>\$48,243.00</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>
<u>CO-1: Schenck Farmstead Carriage House Barn</u>	<u>405-2009-14-013</u>	<u>\$3,720.75</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>

WHEREAS, the Contractor was required to perform supplemental work as needed; and

WHEREAS, Change Order No.2 which accounts for an increase of \$5,867.51 (12.16%) in the total contract amount for supplemental work has been submitted by the Contractor; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following accounts:

<u>Schenck Farmstead Carriage House Barn</u>	<u>405-2009-14-013</u>	<u>\$4,557.27</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>
<u>Schenck Historical Farmstead General Improvements</u>	<u>405-2020-14-007</u>	<u>\$1,310.24</u>
<i>Account Title</i>	<i>Account Number</i>	<i>Amount</i>

WHEREAS, the Facilities Maintenance Manager along with the Architect of Record have reviewed and endorse the change order.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor Change Order No. 2 for supplemental work as needed is hereby approved, adjusting the amended contract amount of \$51,863.75 to a revised contract amount of \$57,831.26.

BE IT FURTHER RESOLVED the Township Business Administrator is hereby authorized to execute Change Order No. 2 for quantity adjustment and supplemental work as needed.

Adopted: April 8, 2024

I hereby certify the above resolution was adopted by the West Windsor Township Council at their meeting held on the 8th day of April, 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

**Date of Request:** March 27, 2024

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

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Adoption of a resolution authorizing execution of Contract Amendment No. 1 with Roberts Engineering Group to provide professional surveying services for the North Post Road Bikeway Extension. The Township Engineer is recommending supplemental work to coordinate the preparation of a Proposed Easement Plan with Metes and Bounds description for the proposed bike path, and recommends the contract amendment for Roberts Engineering Group.

**SOURCE OF FUNDING:**

<i>Current Contract Amount</i>		
Roadway Improvements	405-2020-14 013	\$29,760.00

**ADDITION SOURCE OF FUNDING:**

Roadway Improvements	405-2020-14 013	\$1,850.00
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**CONTRACT AMOUNT:**

<i>Original Contract Amount:</i>	\$29,760.00
<i>Contract Amendment #1:</i>	\$ 1,850.00
Revised Contract Amount:	\$31,610.00

**CONTRACT LENGTH:**      Ninety (90) days from initiation of services

**OTHER SUPPORTING INFORMATION ATTACHED:**

Resolution	Engineers Memorandum	Amendment to Agreement for Professional Services
Certification of Funds	Resolution 2023-R147	Letter of Proposal (Exhibit A)

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

	<i>Francis Guzik</i>	
Department/Division Head	3/27/24	Date

**APPROVED FOR AGENDA OF:** April 8, 2024

By: *Marlena Schmid* 04/02/2024  
 Marlena Schmid, Business Administrator

**MEETING DATE:** 4/8/24 **Ordinance #** \_\_\_\_\_ **Resolution #** 2024-R103

**Council Action Taken:**

RESOLUTION

WHEREAS, the Township of West Windsor required professional services for surveying and engineering design services for the North Post Road Bikeway Extension Project; and

WHEREAS, Roberts Engineering Group was awarded a professional services contract on July 17, 2023, for the total contract amount of \$29,760.00; and

WHEREAS, there is presently a need to coordinate the preparation of a Proposed Easement Plan with Metes and Bounds description for the proposed bike path as outlined in the Roberts Engineering Group letter of March 6, 2024; and

WHEREAS, the amount of additional services is \$1,850.00 for a revised total compensation therefore not to exceed \$31,610.00; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

Roadway Improvements	405-2020-14 013	\$1,850.00
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WHEREAS, said Amendment #1 to the Agreement for Professional Services has been reviewed by the Township Engineer and is recommended to be executed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor as follows:

- (1) The Mayor and Clerk are hereby authorized to execute, on behalf of the Township Amendment #1 to the Agreement for Professional Engineering Services with Roberts Engineering Group of Hamilton, NJ.
- (2) This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law.
- (3) All other terms and conditions of the Agreement with Roberts Engineering Group, dated July 17, 2023 remain in full force and effect.
- (4) An executed copy of the revised Agreement between the Township and Roberts Engineering Group and a copy of this Resolution shall be on file and available for public inspection in the office of the Township Clerk.

Adopted: April 8, 2024

I hereby certify the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 8th day of April 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

**REQUEST FOR COUNCIL ACTION**

Date of Request: March 28, 2024

Initiated By: John V. Mauder Division/Department: Finance

**ACTION REQUESTED/ EXECUTIVE SUMMARY:**

Resolution certifying compliance with certain Federal civil rights requirements pursuant to P.L. 2017, c. 183.

The governing body must certify that the municipality's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964".

The Municipal Clerk shall maintain and make available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

In order to submit the budget to the Division of Local Government Services, the Chief Financial Officer must certify that the governing body's executed certification is on file and available for inspection.

**SOURCE OF FUNDING: N/A**

**CONTRACT AMOUNT: N/A**

**CONTRACT LENGTH: N/A**

**OTHER SUPPORTING INFORMATION ATTACHED:**

LFN 2017-27

S:\AGENDA INBOX: Governing Body Certification Resolution

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

John V. Mauder 3/28/24

Department/Division Head

Date

APPROVED FOR AGENDA OF: April 8, 2024

By: Marlena A. Schmid 04/02/2024  
Marlena A. 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: 4/8/24 Ordinance # \_\_\_\_\_ Resolution # 2024-R104

Council Action Taken:

GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE  
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S  
"Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment  
Decisions Under Title VII of the Civil Rights Act of 1964"

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the Township Council of the Township of West Windsor hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183 by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

Adopted: April 8, 2024

I hereby certify the above resolution was adopted by the West Windsor Township Council at their meeting held on the 8th day of April 2024.

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Gay M. Huber  
Township Clerk  
West Windsor Township

2024-07

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) CHAPTER 113 "NOISE", SECTION 113-9 MOTOR VEHICLES TO ADD "D ENGINE BRAKING PROHIBITED"

WHEREAS, the Township Council of the Township of West Windsor wants to add a section to the code prohibiting engine breaking.

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

Section 1.

**Section 113-9 d.**

**No person shall use or operate a mechanical exhaust device designed to aid in braking, decompression, or deceleration of any motor vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle. Engine Braking shall be prohibited in all of West Windsor Township by the driver of any motor vehicle, at any time and on any road, with any mechanical exhaust or decompression device.**

**Noise created by applying engine compression brakes, otherwise known as "engine braking", which is effectively muffled or if the application is necessary for the health, safety, and welfare of the community, is exempt from the provisions of this section. Sounds created by emergency equipment for emergency purposes are also exempt. The provisions of this subsection, shall not apply to the application of unmuffled compression brakes where necessary for the protection of persons and/or property that cannot be avoided by application of an alternative braking system.**

Section 2.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3.

If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 4.

This ordinance shall take effect twenty(20) days after action or inaction by the Mayor as approved by law or an override of a mayoral veto by Council, whichever is applicable, and upon publication in accordance with law.

INTRODUCTION: April 8, 2024

PUBLIC HEARING:

ADOPTION:

MAYOR APPROVAL:

EFFECTIVE DATE:



**To: Council**

**From: Council Vice President Andrea Mandel, Council Member Sonia Gawas**

**Subject: Engine Braking Ordinance Background Information**

In 2023 Council members received complaints about truck noise from residents along several residential roads in West Windsor. Council members Sonia Gawas and Andrea Mandel took the lead in researching what could be done to help resolve this problem across the whole town. There is substantial truck traffic that goes through West Windsor due to large businesses in surrounding towns, as well as construction and other traffic from across Route 1.

One of the loudest and most annoying sounds comes from engine braking (also known as jake braking or compression braking), particularly from large diesel engines, as was pointed out by a resident on Princeton-Hightstown Road. A reduction or elimination in engine braking will be very helpful in reducing noise from trucks who use any roads within West Windsor.

After discussion and research, we learned that several towns, including adjacent East Windsor, have ordinances to limit engine braking. Trucks coming through Princeton-Hightstown Road and other East Windsor access points will already be aware of the law in East Windsor and will continue to follow the law as they travel through West Windsor roads. Signs can be put at entry points to town from all directions to make all truck drivers aware of the law.

As some sources indicated the need for truck drivers to use engine braking in special safety situations, the West Windsor ordinance provides for exceptions in these cases. Emergency vehicles and properly muffled engine braking systems are also exempted.

For reference, the following are links to engine breaking ordinances in two other NJ towns.

[Township of Lafayette, NJ Traffic: § 7-13 ENGINE BRAKING. \(ecode360.com\)](#)

[Township of East Windsor, NJ General Police Regulations: § 5-2.3.2.13 Engine braking prohibited. \(ecode360.com\)](#)

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

**ORDINANCE NO. 2024-08**

**AN ORDINANCE TO REPLACE CHAPTER 170 OF THE REVISED GENERAL  
ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR (1999) BY MODIFYING  
PROVISIONS PERTAINING TO TREE REMOVAL AND MITIGATION  
DUE TO STATE OF NJ STORMWATER POLLUTION PREVENTION REGULATIONS**

**WHEREAS**, the New Jersey Department of Environmental Protection (NJDEP) has developed the Municipal Stormwater Regulation Program as a result of the US Environmental Protection Agency's (USEPA) Phase II rules addressing pollutants entering into our water tributaries; and

**WHEREAS**, the Township was required to obtain a Tier "A" Municipal Stormwater Discharge Permit as part of these new regulations; and

**WHEREAS**, the Township was required to develop a Stormwater Pollution Prevention Program; and

**WHEREAS**, the Township is required to periodically adopted or amend certain Ordinances aimed to prevent Stormwater Pollution as the State reauthorizes the Municipal Stormwater Discharge Permit; and

**WHEREAS**, the State is requiring the adoption of regulations pertaining to tree removal and the potential impact upon the community forest, tree canopy cover, and related environmental impacts upon pollutants, soil erosion, and flooding.

**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 1.** Chapter 170, Trees (§ 170-1 -§ 170-7), of the Code of the Township of West Windsor (1999), is hereby deleted in its entirety and replaced by the following text:

**Part II: General Legislation  
Chapter 170 Trees**

**§ 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.

#### **§ 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.

#### **APPLICANT**

Any "person", as defined herein, who applies for approval to undertake the removal of a tree or trees regulated under this ordinance.

#### **COMMERCIAL FARM**

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.

#### **CRITICAL ROOT RADIUS (CRR)**

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.

#### **DIAMETER AT BREAST HEIGHT (DBH)**

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.

## **DANGEROUS TREE**

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 do 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, including severely storm damaged and tree(s) felled by natural causes;
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.

## **LICENSED TREE EXPERT (LTE)**

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.

## **LICENSED TREE CARE OPERATOR (LTCO)**

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.

**MULCH**

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.

**PERMITTEE**

A "person" who has received a Tree Removal Permit from the Township.

**PERSON**

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.

**PLANTING STRIP OR TREE LAWN**

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.

**PUBLIC PROPERTY**

Real property owned by Federal, State, County or Local governments or their agencies or departments.

**REPLACEMENT TREE**

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.

**RESIDENT**

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.

**STREET TREE**

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 cartway, i.e., islands, medians, and pedestrian refuges. Trees

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

### **TREE**

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. Multi-stem trees that split or fork below six inches above grade shall be treated as multiple individual trees, otherwise they shall be considered one tree.

### **TREE CALIPER**

The diameter in inches of the trunk of a young tree, measured six inches above the ground level for field grown trees; and measured from the soil line for container grown trees, which soil line 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, then 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.

### **TREE REMOVAL**

To either purposefully kill or to cause irreparable damage that leads to the decline and/or death of a tree. Tree removal is typically the process of safely and methodically cutting down and removing a tree from its location. This can also include, but is not limited to, one or more of the following: digging, spading, 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.

Tree Removal does not include responsible pruning and maintenance of a tree, in accordance with industry accepted standards, the responsible application of treatments, and removal of exotic species intended to manage their spread 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.

### **TREE REMOVAL PERMIT**

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.

### **§ 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 the 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 by the Township within (20) business days, the application will be considered approved. No regulated, non-emergency, tree removal shall take place without an approved Tree Removal Permit for the tree(s) involved.
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 a land development project that requires a 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 Zoning Permit, or a separate Tree Removal Permit.
5. If Section 170.2.A.3 and/or 170.2.A.4 above is applicable to the Tree Removal Permit Application, the review periods detailed in Section 170.2.A.2 do not apply.

6. Tree care and removal are 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. Where Tree Removal Permit Application is filed by a property owner or resident it must include information for the LTCE/LTCO involved with the removal.

**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.

**Table 1. Tree Replacement Requirements**

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 2.5 to 12.99 <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 compliance with this Chapter.
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.
7. Replacement trees planted within six feet of a paved sidewalk, path, or plaza, shall include the installation of a tree root barrier at least 12 inches in depth for a length of six feet, centered upon the trunk of the tree, along the edge of the paved walk, path or plaza.
8. If tree replacement on the Permittee's property is not feasible, then the fees listed below in Table 2 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.

**Table 2. Tree Removal Permit Additional Application Fee**

<b>Category</b>	<b>Size of Tree to be Removed, in Inches DBH</b>	<b>Additional Application Fee, Cumulative per tree</b>
1	6 to 12.99 <u>DBH</u> and Street Tree 2.5 to 12.99 <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 harming, 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 land use board approval and application documents, and in any other area for which conservation restrictions are in place by virtue of easements, deed restrictions, or other legal 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.

### **§ 170.3. Exemptions:**

All persons shall comply with the tree replacement and permit standards described within this Chapter, 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 a residential property with one single-family or two-family dwelling, that involves the removal of up to three (3) trees that fall into categories 1, 2, or 3 of the Tree Replacement Requirements Table 1 on an individual property, or per acre of an individual property exceeding one acre in size, with any partial acreage being pro-rated accordingly, within a five-year period. The number of trees removed is a rolling count across any five-year period. For example, if three trees from category 1 are removed in July 2024, the 'count' resets to zero in July 2029. However, if one tree from category 1 is removed in July 2024 and another in July of 2026 the first tree will come off the count in July 2029 and the second in July 2031. A Tree Removal Permit Application and fee shall be required for these trees in order to justify and record the exemption.
- B. Dangerous trees shall not be counted in the determination of exemptions under Section 170.3.A and may be removed without incurring any replacement tree planting or Tree Removal Permit Application Fee requirement, pursuant to Sections 170.2.B and 170.2.C, respectively. Any tree(s) with a base located within 25' of the applicant's residential structure (home and garage) on residential property with one single-family or two-family dwelling will be considered a dangerous tree(s) for purposes of this Chapter. A Tree Removal Permit Application must be submitted to the Township to justify and record the removal of one or more dangerous trees. There shall be an exception from filing a Tree Removal Permit Application for dangerous trees located on residential property with one single-family or two-family dwelling, determined as dangerous by a Licensed Tree Expert in a written report, even in the cases of storm damaged trees and trees felled by natural causes. The written report must be retained at the property for a minimum of five years, in case verification is necessary to be provided.
- C. Educational Institution tree farms and Commercial Tree farms in active operation, including nurseries, fruit orchards, and garden centers.

- D. 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.
- E. 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.
- F. 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.
- G. State approved game management practices, as recommended by NJDEP.
- H. Tree removal, maintenance or land management by the Township or its authorized contractors or subcontractors.

**§ 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 person's 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.

**§ 170.5. Reporting:**

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

**§ 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 accordance with the provisions of this Chapter in lieu of a fine.

### **§ 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 sight distance for 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 Mayor and Township Council.
- C. 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.

### **§ 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.

### **§ 170.9. Effective Date:**

**Section 1.** This ordinance shall take effect one hundred and eighty (180) days after action or inaction by the Mayor as approved by law, or an override of a mayoral vote by the Council, whichever is applicable; and upon publication according to law.

**Section 2.** SEVERABILITY. Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

**Section 3.**

INTRODUCTION: April 8, 2024

PUBLIC HEARING:

ADOPTION:

MAYORAL APPROVAL:

EFFECTIVE DATE:



# WEST WINDSOR TOWNSHIP

## DEPARTMENT OF COMMUNITY DEVELOPMENT Shade Tree Commission

Date: March 26, 2024

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

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

Subject: March 26, 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 reviewed and appropriately 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 a draft revision of the Township tree code was finalized and submitted to the Township Administration and Governing Body for conceptual consideration. This current final draft includes adjustments in response to specific questions and comments offered as a result of the conceptual consideration.

This final draft is intended to replace section 170 of the West Windsor Township code in total, delete existing, adopt proposed.

End.

ORDINANCE 2024-09

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 82 "FEES" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR (1999) TO ADD SECTION 82-26 "TREE REMOVAL AND REPLACEMENT"

WHEREAS, Chapter 170 "TREES" is being revised to comply with new regulations from the New Jersey Department of Environmental Protection (NJDEP); and  
WHEREAS, as part of this there are fees to be collected.

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 1.

82-26 Tree Removal and Replacement

- A. Tree Removal Permit Application Fee \$25.00
- B. Tree Removal Permit Additional Application Fees see section 170 C. Tree Replacement Planting Requirements Table 2.

Section 2.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3.

If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 4.

This ordinance shall take effect twenty(20) days after action or inaction by the Mayor as approved by law or an override of a mayoral veto by Council, whichever is applicable, and upon publication in accordance with law.

INTRODUCTION: April 8, 2024

PUBLIC HEARING:

ADOPTION:

MAYORAL APPROVAL:

EFFECTIVE DATE:

ORDINANCE 2024-10

TOWNSHIP OF WEST WINDSOR

COUNTY OF MERCER

CALENDAR YEAR 2024

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND  
TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5 percent unless authorized by ordinance to increase it to 3.5 percent over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5 percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Township Council of the Township of West Windsor in the County of Mercer finds it advisable to increase its CY 2024 budget by up to 3.5 percent over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Township Council hereby determines that a 1.0 percent increase in the budget for said year, amounting to \$363,103.91 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Township Council hereby determines that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Windsor, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2024 budget year, the final appropriations of the Township of West Windsor shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50 percent, amounting to \$1,270,863.69 and that the CY 2024 municipal budget for the Township of West Windsor be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED, that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and



BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, is filed with said Director within 5 days after such adoption.

This Ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable. Publication will be according to law.

Introduction: April 8, 2024

Public Hearing: May 13, 2024

Adoption:

Mayor's Approval:

Effective Date: