

Ordinance # []- Stormwater Ordinance Package

*Municipalities may use this ordinance package to adopt all required Community-Wide Measures ordinances at one time.

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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 Chapter 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 word “shall” is always mandatory and not merely directory.

- “Applicant” means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.
- “Containerized” means the placement of yard waste in a trash can, bucket, bag, or other container to prevent yard waste from spilling or blowing out into the street and contaminating stormwater.
- “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’.
- “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- “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.
- “Domestic sewage” means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.
- “Feed” means to distribute or scatter any edible material with the intention of feeding or attracting wildlife. Feeding does not include baiting in the legal taking of fish and/or game.
- “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]**

- Has an infectious disease or insect infestation;
 - Is dead or dying;
 - Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
 - Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
 - Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- “Illicit connection” means, any physical or non-physical connection that discharges the following to a municipal separate storm sewer system (unless that discharge is authorized under a NJPDES permit other than the NJPDES permit for discharges from that system):
 - Domestic sewage;
 - Non-contact cooling water, process wastewater, or other industrial waste (other than stormwater); or
 - Any category of non-stormwater discharges that a permittee for the MS4 identifies as a source or significant contributor of pollutants pursuant to 40 C.F.R. 122.26(d)(2)(iv)(B)(1) or 122.34(b)(3)(iii).
 - Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.
- “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- “Industrial waste” means non-domestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act.
- “Litter Receptacle” means a container suitable for the depositing of litter.
- “Litter” means any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

- “Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by **[insert name of municipality]** or other public body, and is designed and used for collecting and conveying stormwater.
 - NOTE: In municipalities with combined sewer systems, add the following: “MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.”
- “NJPDES permit” means a permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.
- “Non-contact cooling water” means water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Non-contact cooling water may however contain algaecides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.
- “Owner/Keeper” means any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.
- “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall). A fabric frame structure is a permanent structure if it meets the following specifications:
 - Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
 - The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
 - The structure shall be erected on an impermeable slab;
 - The structure cannot be open sided; and
 - The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.
- “Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

- “Pet solid waste” means feces from any domesticated animal.
- “Pet” means any domesticated animal kept for companionship.
- “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.
- “Process wastewater” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water.
- “Proper disposal” means placement in a designated waste receptacle, or other suitable container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.
- “Resident” means an individual who resides on a residential property or contractor hired by the individual who resides on a residential property.
- “Storm drain inlet” means the point of entry into the storm sewer system.
- “Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities or is conveyed by snow removal equipment.
- “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.
- “Street” means an improved or unimproved public road in a city or town which includes driving lanes, shoulders, gutters, curbs, sidewalks, and parking areas.

- “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.
- “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.
- “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.
- “Wildlife” means any undomesticated animal and includes all organisms that live wild in an area.
- “Yard Waste” means loose leaves and grass clippings.

SECTION I. Pet Waste

Purpose:

An ordinance to establish requirements for the proper disposal of pet solid waste in **[insert name of municipality]** to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

Regulated Activities:

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

Exemptions:

Any owner or keeper who requires the use of a disability assistance animal for disabilities such as vision or hearing loss, or other physical disabilities, shall be exempt from the provisions of this section while such animal is being used for that purpose. This exemption is not applicable to pets that are exclusively emotional support animals.

Enforcement:

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

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 not to exceed **[insert amount]**.

SECTION II. Wildlife Feeding

Purpose:

An ordinance to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by **[insert name of municipality]** to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

Regulated Activities:

No person shall feed, in any public park or on any other property owned or operated by **[insert name of municipality]**, any wildlife.

Exemptions:

Exemptions include unconfined wildlife at environmental education centers and feral cats as part of an approved Trap-Neuter-Release program.

Enforcement:

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

Any person found to be in violation of this ordinance shall be ordered to cease the feeding immediately.

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 not to exceed **[insert amount]**.

SECTION III. Litter Control

Purpose:

An ordinance to establish requirements to control littering in **[insert name of municipality]** to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

Regulated Activities:

- A. It shall be unlawful for any person to throw, drop, discard or otherwise place any litter of any nature upon public or private property other than in a litter receptacle.
- B. Whenever any litter is thrown or discarded or allowed to fall from a vehicle or boat in violation of this ordinance, the operator or owner, or both, of the motor vehicle or boat shall also be deemed to have violated this ordinance.

Exemptions:

None

Enforcement:

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

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 no less than \$100 and not to exceed \$500.

SECTION IV. Improper Disposal of Waste

Purpose:

An ordinance to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by **[insert name of municipality]** to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

Regulated Activities:

The spilling, dumping, or disposal of materials other than stormwater that causes the discharge of pollutants to the municipal separate storm sewer system operated by **[insert name of municipality]** is prohibited.

Exemptions:

- A. Potable water line flushing and discharges from potable water sources, excluding the discharge of filter backwash and first flush water from potable well development/redevelopment activities utilizing chemicals in accordance with N.J.A.C. 7:9D. The volume of first flush water, which is a minimum of three times the volume of the well water column, shall be handled and disposed of properly;
- B. Uncontaminated ground water (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising ground waters);
- C. Air conditioning condensate (excluding contact and non-contact cooling water; and industrial refrigerant condensate);
- D. Irrigation water (including landscape and lawn watering runoff);
- E. Flows from springs, riparian habitats, wetlands, water reservoir discharges and diverted stream flows;
- F. Residential car washing water and dechlorinated swimming pool discharges from single family residential homes;
- G. Sidewalk, driveway, and street wash water;
- H. Flows from firefighting activities including the washing of fire fighting vehicles;
- I. Flows from clean water rinsing of beach maintenance equipment immediately following use and only if the equipment is used for its intended purpose;

- J. Rinsing of beach maintenance equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.
- K. Flows from clean water rinsing of equipment and vehicles used in the application of salt and deicing materials. Prior to rinsing, all equipment shall be cleaned using dry methods such as shoveling and sweeping. Recovered materials are to be returned to storage or properly discarded; and
- L. Rinsing of deicing equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

Enforcement:

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

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 no less than \$100 and not to exceed \$500 for each incident.

SECTION V. Yard Waste

Purpose:

An ordinance establishing proper management of residential yard waste in **[insert name of municipality]** to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

Regulated Activities:

- A. No person shall sweep, rake, blow, or otherwise place yard waste into the street unless it is for a scheduled collection.
- B. For non-containerized (loose) yard waste collection: Placement of loose yard waste must be at least 10 feet away from any storm drain inlet and no sooner than 7 days prior to a scheduled and announced collection.
- C. For containerized yard waste collection: Yard waste shall be placed in an appropriate container at the curb or along the street for collection.

Placement of such yard waste on the street at any other time or in any other manner is a violation of this ordinance. If such placement of yard waste occurs, the person responsible for placement of the yard waste shall be in violation of this ordinance and must remove the yard waste immediately.

Exemptions:

None

Enforcement:

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

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 not to exceed **[insert amount]**.

SECTION VI. Private Storm Drain Inlet Retrofitting

Purpose:

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by **[insert name of municipality]** to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply. Installation of all new storm drain inlets must include a catch basin or other BMP designed for solids collection in areas which drain to surface waters and that do not have any other downstream BMPS prior to the surface water discharge.

Regulated Activities:

- A. No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:
 - 1. Already meets the design standard below to control passage of solid and floatable materials; or
 - 2. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.
- B. The below design standard applies to the following types of storm drain inlet retrofit projects unless a more stringent standard is specified by the municipality's Stormwater Control Ordinance:
 - 1. Privately-owned or operated storm drain inlets (e.g., condominium association) must be retrofitted where the storm drains are:
 - a. In direct contact with any repaving, repairing (excluding individual pothole repair), or resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen); or
 - b. In direct contact with any reconstruction or alteration of facilities. This does not include single family homes.
- C. Grates in pavement or other ground surfaces shall meet either of the following standards:

1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate standards described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (see www.state.nj.us/transportation/about/publicat/pdf/BikeComp/introtofac.pdf); or
2. A grate where each individual clear space in that grate has an area of no more than seven (7.0) square inches or is not greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.
 - a. Examples of grates subject to this standard include grates in grate inlets; the grate portion (noncurb opening portion) of combination inlets; grates on storm sewer manholes; ditch grates; trench grates; and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads, (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors used to collect stormwater from the surface into a storm drain or surface water body.
 - b. For curb-openings inlets, including curb-opening inlets in combination inlets, the clear space in the curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches or be no greater than two (2.0) inches across the smallest dimension.

Exemptions:

The following exemptions from the design standard apply:

- A. Where each individual clear space in the curb opening in existing curb-opening inlets does not have an area of more than nine (9.0) square inches;
- B. Where the review agency determines that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- C. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 1. A rectangular space four and five-eighths inches long and one and one-half inches wide; or
 2. A bar screen having a bar spacing of 0.5 inches;

- a. Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).
- D. Where flows are conveyed through a trash rack that has parallel bars with one inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in N.J.A.C. 7:8; or
- E. Where the Department determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet the standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

Enforcement:

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

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 not to exceed **[insert amount]** for each storm drain inlet that is not retrofitted to meet the design standard.

SECTION VII. Privately-Owned Salt Storage

Purpose:

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in **[insert name of municipality]** to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

Deicing Material Storage Requirements:

A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:

1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
2. Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
4. Loose materials shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible;
 - b. The cover shall extend to the base of the pile(s);
 - c. The cover shall be free from holes or tears;
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

(1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a

suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;

5. Containers must be sealed when not in use; and
 6. The site shall be free of all de-icing materials between April 16th and October 14th.
- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 - April 15.
- C. **[Municipality may add optional language here requiring that all such temporary and/or permanent structures must also comply with all other local ordinances, including building and zoning regulations.]**
- D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.
1. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

Exemptions:

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in Section III above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

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.

Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows: **[insert penalty schedule]**.

SECTION VIII. Tree Removal-Replacement Ordinance

[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.]

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 to determine if their ordinance requires modification.]

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

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 [Municipality may choose to include and determine appropriate fees.]
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	TBD by town
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	TBD by town
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	TBD by town
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	TBD by town

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.

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.
- 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.

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.

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].

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 (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc.)

SECTION IX. Illicit Connections

Purpose:

An ordinance to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the **[insert name of municipality]** to protect the environment, public health, safety, and welfare, and to prescribe penalties for failure to comply.

Regulated Activities:

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the **[insert name of municipality]** any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater).

Exemptions:

None

Enforcement:

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

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 not to exceed **[insert amount]**.

SECTION XI. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the 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 XII. 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: _____