



**ORDINANCE NO.**

**AN ORDINANCE TO AMEND CHAPTER 173-3 OF THE DEWEY BEACH TOWN CODE REGARDING THE REPLACEMENT OF TREES REMOVED UNDER PERMIT**

**WHEREAS**, in January of 2010, the Town Council amended the municipal code by adding Chapter 173 to regulate the removal or destruction of trees in order to preserve the visual appeal and healthy environment of Dewey Beach; and

**WHEREAS**, in April of 2023, Chapter 173 was amended to include the regulations for replacement of trees under permit; and

**WHEREAS**, concerns have been raised regarding the minimum size requirements and the mandated number of replacement trees, including the logistical and practical challenges associated with sourcing, transporting, and successfully planting larger caliper trees; and

**WHEREAS**, on June 3, 2025, the Dewey Beach Charter & Code Review Committee recommended to the Town Council amendments to §173-3.

**NOW THEREFORE, BE IT ENACTED AND ORDAINED**, by the Commissioners of the Town of Dewey Beach, Sussex County, Delaware, in session met, as follows:

**Section 1.** Amend Chapter 173-3 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

§ 173-3 Replacement of trees removed under permit.

A. Each tree removed or destroyed under a permit approved according to the criteria in § 173-2C(1) or (4) must be replaced with a new tree satisfying the following minimum requirements:

- 1) Native species included on the Delaware Department of Agriculture list of recommended trees, or other similar authoritative list; the Town Building Official shall maintain and provide a copy of the current list;
- 2) Minimum ~~circumference~~ **diameter** measured one foot above ground of ~~15~~ **3** inches; and
- 3) Minimum height of 12 feet when planted.
- 4) **A tree root barrier will be installed prior to the planting of the tree if deemed necessary by a licensed arborist.**

B. Replacement shall be completed within 90 days after removal. The Town Building Official may extend this period if weather or other conditions warrant.

42 C. If the cost of replacing the tree would exceed \$5,000, with prior documentation to and  
43 approval from the Building Official, the replacement tree may be of smaller circumference  
44 size than specified above, provided the tree was removed under a permit. The replacement  
45 tree must be the largest size commercially available under \$5,000.

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47 D. Replacement trees must be properly maintained and may be inspected by the Town one  
48 year after replacement. The Town Building Official may consult with a licensed arborist and  
49 may require replacement of any tree for which, in the arborist's judgement, survival of the  
50 tree is threatened because of improper maintenance.

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52 E. If more than 5 trees are removed for a single construction project under the criteria of 173-  
53 2C(4), the Town Building Official may approve a request to replace a smaller number of  
54 trees. Such request must be accompanied by a signed statement from a licensed arborist  
55 selected by the Town that the requirement to replace all trees removed may not be  
56 practically satisfied with native species trees that satisfy the minimum requirements for  
57 replacement trees. The statement must provide a justification for this determination that  
58 includes specific statements related to adverse consequences due to proximity to the  
59 structure or threats to the survivability of the replacement tree(s). The statement shall  
60 specify the maximum number of native species trees satisfying the minimum requirements  
61 that should be replaced. All costs associated with this request shall be borne by the  
62 applicant.

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64 **Section 2.** If any provisions of this Ordinance shall be deemed or held to be invalid or unenforceable for  
65 any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of  
66 this Ordinance which may be given effect without such invalid or unenforceable provision, and to this  
67 end, the provisions of this Ordinance are hereby declared to be severable.

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69 **Section 3.** This Ordinance shall take effect immediately upon its passage by a majority vote of the  
70 Commissioners of the Town of Dewey Beach.

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72 Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this -- day of --,  
73 2025.

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75 SYNOPSIS

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77 PENDING

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81 Mayor, William Stevens

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81 Town Manager, Bill Zolper

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