

**AN ORDINANCE TO AMEND CHAPTER 114 OF THE  
MUNICIPAL CODE OF THE TOWN OF HENLOPEN ACRES,  
BY AMENDING SECTIONS 114-4, 114-9, AND INSERTING A NEW SECTION  
114-5.1 RELATING TO THE PROTECTION OF TOWN TREES.**

**WHEREAS,** The Mayor and Commissioners desire to promote tree canopy through the protection of Town trees.

**BE IT ORDAINED,** by the Commissioners of the Town of Henlopen Acres, in session met, in the manner following to wit:

**Section 1.** Chapter 114, Section 114-4, of the Municipal Code of Henlopen Acres, as amended, be and the same is hereby further amended by alphabetically inserting new definitions of DRIP LINE, PROTECTED TREES, AND TOWN, as follows:

**DRIP LINE**

The area directly located under the outer circumference of the tree branches. This definition also applies to the terms, "critical root zone" and "root protection zone".

**PROTECTED TREES**

Any tree on Town property. **Protected trees** may not be trimmed, topped, otherwise damaged or removed without a permit obtained from the Town in advance of the work.

**TOWN**

Anyone or combination thereof, of the following: Town Manager, Zoning Officer, Environmental Approval Committee, Tree Committee, the Town's designated ISA Arborist

**Section 2.** Chapter 114 of the Municipal Code of Henlopen Acres, as amended, be and the same is hereby further amended by inserting a new Subsection 114-5.1, as follows:

**§ 114-5.1 Protection of Trees on Town Property During Construction.**

Protected trees adjacent to a permitted construction site shall be subject to the following provisions:

- A. No person shall encroach or place solvents; temporary storage units; trash dumpsters; construction materials, equipment, trailers or machinery; or temporary soil deposits within one-half the distance between the drip line and the trunk of any protected tree, but no less than ten feet from the trunk of any protected tree; or such other distance as determined by the Town in writing.

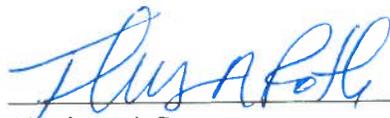
- B. Before development, land clearing, filling or any land alteration, the contractor shall be required to erect suitable protective barriers around the base of protected trees as required by the Town, including tree fences and erosion barriers until completion of work. Authorization to remove the protective devices shall be permitted only in writing by the Town or by the issuance of a final certificate of occupancy. Inspection of tree protection barriers by the Town is required prior to any land disturbance or development. The Town shall be contacted to schedule an inspection time.
- C. Materials for active tree protection shall consist of chain link, orange laminated plastic, wooden post and rail fencing or other equivalent restraining material. In addition to fencing, where active tree protection is required, each tree to be saved shall be marked at the base of the trunk with blue-colored water-based paint.
- D. Any protected tree which is damaged during construction or as a result of construction, as determined by the Town, shall be treated in accordance with accepted ANSI Standards, or replaced by those responsible for the damage, with a tree or trees equal to the caliper value of the damaged tree.

**Section 3.** Chapter 114, Subsection 114-9(A), of the Municipal Code of Henlopen Acres, as amended, be and the same is hereby further amended by deleting the figure “\$200” as such figure appears therein, and inserting in lieu thereof the figure “\$750”.

**Section 4.** If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

**Section 5.** This Ordinance shall take effect immediately upon its adoption by the Commissioners of the Town of Henlopen Acres.

I, Thomas A. Roth, (Assistant) Secretary of the Commissioners of the Town of Henlopen Acres, do hereby certify that the foregoing is a true and correct copy of the ordinance passed by the Commissioners at their meeting held on July 12, 2019, at which a quorum was present and voting throughout and that the same is still in full force and effect.

  
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(Assistant) Secretary

**Synopsis:** This Ordinance amends Chapter 114 to provide for the increased protection of Town trees.