

**ORDINANCE OF THE TOWNSHIP OF LUMBERTON
AMENDING CHAPTER 117 OF
THE CODE OF THE TOWNSHIP OF LUMBERTON ENTITLED “CHRISTMAS TREE SALES”**

WHEREAS, Chapter 117 of the Township Code entitled “Christmas Tree Sales,” governs the limits upon which Christmas Trees can be sold within the boundaries of the Township of Lumberton; and

WHEREAS, the Township Committee wishes to make certain amendments and supplements to Chapter 117 in order for the Code to reflect certain changes as it relates to providing a generally accepted appeals process to this Code provision.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Mayor and Township Committee of the Township of Lumberton, County of Burlington, and the State of New Jersey that Chapter 117 of the Code of the Township of Lumberton, entitled “Christmas Tree Sales” be and is hereby amended as follows:

Section 1: Chapter 117, Christmas Tree Sales, of the Code of the Township of Lumberton is hereby amended and supplemented, as follows:

Chapter 117, CHRISTMAS TREE SALES

§ 117-1. Definitions

For purposes of this chapter the term Clerk/Administrator shall be considered either the Township Municipal Clerk, Township Administrator and/or his/her designee.

The term “person” shall refer to any person, partnership, corporation, limited partnership, association of persons, joint venture or any combination of the aforesaid..

§ 117-2. Permitted locations.

Christmas tree sales are limited to the following locations in the township:

- A. Qualified farm properties involving the sale of trees grown on site.
- B. Tax exempt properties owned by religious or non-profit organizations, provided that the property is in active use as a religious or non-profit facility.
- C. Commercial uses in the B-1 or B-2 Zoning districts, provided that the site can accommodate such sales based either on prior site plan approval which designated the location used for this purpose or based on the submission of satisfactory proof that the area to be used for the sale of Christmas trees is not needed to satisfy any of the requirements of the Zoning Ordinance with respect to parking and loading or other uses on the site. In evaluating this provision, the Clerk/Administrator may take into consideration whether the principal commercial use of the property is seasonal in nature and has reduced parking demands related to the principal use during the season of Christmas tree sales.

§ 117-3. License required.

No person shall sell Christmas trees in the township without first obtaining a license from the township's Clerk/Administrator and paying therefor the required fee.

§ 117-4. Application for license.

Application for such license shall be made, in writing, to the Clerk/ Administrator and shall set forth:

- A. The name and address of the applicant.
- B. The address where the Christmas trees are to be sold.
- C. A detailed plan showing the layout of the activity, traffic patterns and flow, additional lighting, if any, and provisions for parking on site.
- D. Such other pertinent information as the Clerk/Administrator may require to adequately review and act upon said application.

§ 117-5. Review of application.

The Clerk/Administrator and the Land Development Board, on appeal for a variance, shall review the application to determine if the sale of Christmas trees as described by the applicant will in any way be detrimental to the health, safety and general welfare of the public, and in making such review, the Clerk/Administrator and Land Development Board may be guided by the standards and prohibitions set forth in Chapter 265, Vehicles and Traffic, Chapter 152, Fire Prevention, and Chapter 130, Development Regulations, herein but need not be limited entirely to those chapters and may evaluate any application under general terms to protect the health, safety and general welfare of the public.

§ 117-6. License fee; term.

A nonrefundable administrative review fee of \$25 shall be assessed for each license, regardless of when it is issued, and said license shall expire on the 15th day of January each year.

§ 117-7. Appeal.

In the event of a denial of a license by the Clerk/Administrator, the applicant may appeal for a variance to the Land Development Board; provided, however, that notice of said appeal for a variance must be filed not later than 10 days following notification of denial of said license. The matter will then be reviewed by the Land Development Board at its next regularly scheduled meeting following receipt of the applicant's notice of appeal for a variance, provided that the applicant adheres to the notice provisions as prescribed in N.J.S.A 40:55D-12(b) and that portion of 40:55D-12(a) that concerns newspaper publication. Once the notice requirements are met and the appeal is considered by the Land Development Board at a regularly scheduled meeting, a decision thereon shall be made as expeditiously as possible but not later than 30 days from the date the matter was presented to the Land Development Board.

§ 117-8. Violations and penalties.

- A. Maximum penalty. For violation of any provisions of this chapter, the maximum penalty, upon conviction, shall be a fine not exceeding \$1,000 or imprisonment in the county jail for a term not exceeding 90 days or a period of community service not exceeding 90 days, or such combination of punishments as the Municipal Judge may, in his or her discretion, deem appropriate and just. Each and every day of sales without a permit shall be deemed a separate offense.
- B. Separate violations. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation, except in those instances where state law mandates a minimum penalty to be imposed.
- D. Minimum penalty. There shall be a minimum penalty of a fine fixed at an amount not exceeding \$100.

Section 2: Effective Date

This ordinance shall take effect 20 days after final adoption and publication as provided by law.

Section 3: Ordinance Provisions Repealed

Any ordinance provisions inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

Section 4: Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

LUMBERTON TOWNSHIP COMMITTEE

ACTION ON INTRODUCTION: August 25, 2015

Motion made by: Committeeman Conway

Motion seconded by: Committeeman Dinneen

VOTE:

Committeeman Conway:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Dinneen:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Earlen:	Yes	No	Abstain	<u>Not Present</u>
Committeeman Mansdoerfer:	<u>Yes</u>	No	Abstain	Not Present
Mayor Jackson.:	<u>Yes</u>	No	Abstain	Not Present

ACTION ON ADOPTION (after public hearing) September 22, 2015

Motion made by: Committeeman Earlen

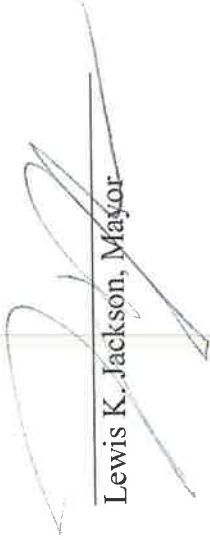
Motion seconded by: Committeeman Conway

VOTE:

Committeeman Conway:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Dinneen:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Earlen:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Mansdoerfer:	<u>Yes</u>	No	Abstain	Not Present
Mayor Jackson.:	<u>Yes</u>	No	Abstain	Not Present


Attest:


 Brandon E. Umba
 Township Administrator/Deputy Municipal Clerk


 Lewis K. Jackson, Mayor

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Lumberton Township Committee held on August 25, 2015 and adopted after a public hearing at a meeting of the Lumberton Township Committee held on September 22, 2015.


 Brandon E. Umba
 Township Administrator/Deputy Municipal Clerk

Introduced: August 25, 2015
 Published: September 3, 2015
 Adopted: September 22, 2015
 Published: September 29, 2015