TOWNSHIP OF LUMBERTON

ORDINANCE NO. 2024 - 06

AN ORDINANCE AMENDING CHAPTER 262 OF THE LUMBERTON TOWNSHIP CODE ENTITLED "TREES" AND ADDING ARTICLE I "REPLACEMENT AND REMOVAL"

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") requires the Township to adopt regulations for tree replacement and removal.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lumberton that the Township Code shall be amended to include a new Chapter 262 entitled "Trees" as follows:

ARTICLE I. REPLACEMENT AND REMOVAL

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the Township of Lumberton to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

SECTION II. 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 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.

> A. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.
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> B. "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'.
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> C. "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.
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> D. "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.

1. Has an infectious disease or insect infestation;

2. Is dead or dying;

3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;

4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or

5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.

F. "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.

G. "Resident" means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

H. "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 shade or street tree easements and the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

I. "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.

J. "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.

K. "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.

SECTION III. Regulated Activities:

A. Tree Replacement Requirements

1. Where applicable, any person planning to remove a street tree as defined herein, with DBH of 2.5" or more or any non-street tree with DBH of 6" or more as part of a project requiring site plan approval shall submit the site plan application to the Zoning Officer for initial review."

2. 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.

3. 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 and Appendix B.

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)
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
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

B. 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 at the discretion of the Zoning Officer up to $500 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. 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. All justification provided shall be reviewed by the Zoning Officer.

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.

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.

SECTION V. Enforcement:

This ordinance shall be enforced by the Zoning Officer during the course of ordinary enforcement duties.

SECTION VI. 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 at the discretion of the Zoning Officer of up to $500 per tree to be established by the Township of Lumberton.

SECTION VIII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be 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.

SECTION VIII. 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.

LUMBERTON TOWNSHIP COMMITTEE

ACTION UPON INTRODUCTION:

COMMITTEE MEMBER	MOTION	2ND	YES	ABSTAIN	NO	ABSENT
l.. Faye			X			
G. LaPlaca			X			
R. Rodriguez		X	X			
K. Hatfield	X		X			
T. Benson			X			

ACTION UPON ADOPTION:

COMMITTEE MEMBER	MOTION	2ND	YES	ABSTAIN	NO	ABSENT
l.. Faye			X			
G. LaPlaca	X		X			
R. Rodriguez		X	X			
K. Hatfield			X			
T. Benson						X

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 April 4, 2024, and adopted after a Public Hearing held at the Lumberton Township Committee Meeting of May 2, 2024.

Bobbie Quinn

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Bobbie Quinn, RMC
Lumberton Township Clerk

Introduced:	April 4, 2024	Published:	April 11, 2024
Hearing:	May 2, 2024		
Adopted:	May 2, 2024	Published:	May 10, 2024

Appendix A

Approved list of Replacement tree Species and Planting Standards for The Township of Lumberton

Common Name	Botanical Name	Planting Strip
Amanogawa Cherry*	Prunus serrulate 'Amanogawa'*	3' or Less
Autumn Brilliance Serviceberry	Amelanchier x grandiflora 'Autumn Brilliance'	3' or Less
Robin Holl Pink Serviceberry	Amelanchier x grandiflora 'Robin Hill Pink'	3' or Less
European Hornbeam*	Carpinus betulus 'clvs'*	3' – 4' Wide
London Planetree	Plantus x acerifolia 'clvs'	3' – 4' Wide
Black Tupelo*	Nyssa sylvatica 'clvs'*	3' – 4' Wide
American Hophornbeam*	Ostrya virginia 'clvs'*	3' – 4' Wide
American Hornbeam*	Carpinus caroliniana*	3' – 4' Wide
Okame Cherry*	Prunus 'Okame'*	3' – 4' Wide
Magnifica Hackberry*	Celtis occidentalis "magnifica"*	4' or Wider
Ginkgo (Male Only)	Ginkgo biloba	4' or Wider
Willow Oak*	Quercus phellos*	4' or Wider
Pin Oak	Quercus palustris	4' or Wider
Red Maple (October Red or Red Sunset)	Acer rubrum 'clvs'	4' or Wider
Thornless Honeylocust	Gleditsia triacanthos var. inermis	4' or Wider
Sawtooth Oak*	Quercus acutissima*	4' or Wider
'Princeton' Elm	Ulmus americana 'Princeton'	4' or Wider
October Glory Maple	Acer rubrum 'October Glory'	4' or Wider
American Basswood	Tilia americana 'clvs'	4' or Wider
Littleleaf Linden	Tilia cordata 'clvs'	4' or Wider
Columnar Sargent Cherry*	Prunus sargentii columnaris*	Under or Near Electrical Utilities
Korean Stewartia	Stewartia koreana	Under or Near Electrical Utilities
Redbud	Cercis canadensis	Under or Near Electrical Utilities
Sourwood	Oxydendrum arboretum	Under or Near Electrical Utilities

* Fall Dig Hazard – Tree must only be planted in the spring
** Trees not listed as a Fall Dig Hazard may be planted in the spring or fall
** See Appendix B for planting requirements