

**“AN ORDINANCE OF THE BOROUGH OF LAKEHURST, COUNTY OF OCEAN,
STATE OF NEW JERSEY, AMENDING CHAPTER XXV OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF LAKEHURST, ENTITLED “LAND
DEVELOPMENT”, TO CREATE A NEW SUBSECTION ENTITLED “TREE REMOVAL-
REPLACEMENT”**

Ordinance # 2023-15

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Lakehurst, County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter 25 of the Borough Code of the Borough of Lakehurst entitled “Land Development” is hereby amended to create new subsection entitled “Tree Removal-Replacement” which shall read as follows:

25-27.54 Tree Removal-Replacement

- a) **Purpose:** An ordinance to establish requirements for tree removal and replacement and penalties for noncompliance in the Borough of Lakehurst to protect the environment, public health, safety and welfare

- b) **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" mean the requirement is always mandatory and not merely directory.
 - 1. “Applicant” means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.
 - 2. “Diameter at Breast Height (DBH)” means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.
 - 3. “Tree of Significance” means any tree that is recognized by the municipal governing body or local historical organization(s) as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological, and historical value.
 - 4. “Homeowner” means a person(s) who owns a residence.
 - 5. “Nuisance tree” means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or threatens public health, safety, and welfare.

6. "Person" means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.
7. "Planting strip" means the part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.
8. "Street Tree" means a tree planted in the sidewalk or a planting strip in the public right-of-way.
9. "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.
10. "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, and improper grading and/or soil compaction 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 tree treatments intended to manage invasive species.

c) Regulated Activities:

1. Tree Replacement Requirements

- a. Within a five-year period, any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under Section V, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- b. For applicants, other than "Homeowners":
 - i. Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under (e) exemptions, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- c. For Homeowner applicants:
 - i. Within a five-year period, any person that removes more than three (3) trees per acre that fall into categories 1, 2, or 3, combined, or anyone (1) tree in categories 4 or 5 in the Tree Replacement Requirements table below, unless exempt under (f) enforcement, shall be subject to the requirements of the Tree Replacement Requirements Table below.

The species type and diversity of replacement trees shall be in accordance with the following regulations:

1. In the upland, plantings shall be one of the following kinds of trees, the maximum size and characteristics of which follow:

- (a) Hop hornbeam (*Ostrya virginiana*): 30 to 40 feet tall; leaves turn yellow in fall; broad rounded crown.
 - (b) Bradford callery pear (*Pyrus calleryana* Bradford): grows 30 to 40 feet high; masses of white flowers; glossy green foliage turns bright crimson in fall.
 - (c) Mount hope norway maple (*Acer platanoides* f. *erectum*): grows 30 to 40 feet high; globe-shaped top.
 - (d) Japanese zelkova (*Zelkova serrata* village green): grows to greater than 40 feet tall; dark green foliage turning rusty red color in fall.
 - (e) Scholar tree (*Sophora japonica* regent): 30 to 40 feet tall; with creamy white flowers from July through September; lovely spreading tree.
 - (f) Red oak (*Quercus rubra*): 60 to 80 feet tall; leaves turn deep red or orange in fall; broad symmetrical crown.
 - (g) Pin oak (*Quercus palustris*): 60 to 80 feet tall; grows rapidly in well-drained soils; pyramidal crown; excellent autumn foliage.
 - (h) Willow oak (*Quercus phellos*): 70 to 80 feet tall; leaves turn yellow in fall; dense rounded crown.
 - (i) Summershade norway maple (*Acer platanoides*): grows to heights greater than 40 feet; dark green foliage; shapely upright head.
 - (j) Ginkgo biloba (*Salisburia*): 50 to 75 feet high; picturesque, exotic stately.
 - (k) Green spire linden (*Tilia cordata* greenspire): 30 to 40 feet high; attractive fragrant flowers; small leathery dark green foliage.
2. In areas adjacent to streams, wetlands and lakes, plantings shall be one of the following kinds of trees, the maximum size and characteristics of which follow:
- (a) Sweet gum (*Liquidambar styraciflua*): 80 to 120 feet high; rich red foliage in fall; tall and symmetrical.
 - (b) Willow oak (*Quercus phellos*): 70 to 80 feet tall; pyramidal shape; leaves turn yellow in fall.
 - (c) London plane tree (*Platanus acerifolia*): 70 to 100 feet tall; grows rapidly, especially on moist sites.
 - (d) Crimson king maple (*Acer platanoides*); height to 50 feet; brilliant crimson leaves; color retained throughout summer.
 - (e) Thornless honey locust (*Gleditsia triacanthos* var. *inermis*): 60 to 70 feet high. Acceptable varieties are:
 - [1] Skyline honey locust, pyramid form with ascending branches (60° to 90° angle); compact dark green leaves.
 - [2] Shademaster (Plant Patent No. 151) ascending branches, dark green leaves.
 - (f) Marshall's green ash (*Fraxinus Pennsylvania* Marshall's): deep rooted; glossy foliage; can withstand moist soils.

Replacement tree(s) shall meet the Required Actions in Table below, and shall be planted within twelve (12) months of the date of removal of the original tree(s). Replacement tree(s) shall 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. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Required Action
1	DBH of 2.5” (for street trees) or 6” (for other trees) to 12.99”	Replant 1 tree in accordance with Section III.B., with a minimum DBH of 1.5” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees in accordance with Section III.B., with minimum DBHs of 1.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum DBHs of 1.5” for each tree removed
4	DBH of 33” or greater	Replant 4 trees with minimum DBHs of 1.5” for each tree removed
5	Tree of Significance*	Replant 5 trees with minimum DBHs of 1.5” for each tree removed

*Tree of Significance removals shall be approved by the Borough of Lakehurst.

d) Replacement Alternatives:

- a. 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 plant replacement trees in a separate area(s) approved by the municipality.

e) Exemptions: All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification shall be provided, in writing, to the Borough by all persons claiming an exemption, including color photographs of the existing conditions, and a statement from a licensed tree expert or arborist verifying that the appropriate exemption qualifications have been met:

1. Clearing, cutting, and/or removal of trees which is necessary to service, maintain, or ensure the continued safe use of a lawfully existing structure, right-of-way, field, park, and/or garden.
2. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
3. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan;

4. 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;
 5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
 6. Nuisance trees may be removed with no fee or replacement requirement.
- f) **Enforcement:** This ordinance shall be enforced by the Lakehurst Code Enforcement Officer during the course of ordinary enforcement duties.
- g) **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 determined by the Borough of Lakehurst officials. The removal of a tree of significance is not subject to a fine limit.

SECTION 2. 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 3. This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Hon. Harry Robbins Mayor

NOTICE

NOTICE IS HEREBY GIVEN that an ordinance #2023-15 entitled “AN ORDINANCE OF THE BOROUGH OF LAKEHURST, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER XXV OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF LAKEHURST, ENTITLED “LAND DEVELOPMENT”, TO CREATE A NEW SUBSECTION ENTITLED “TREE REMOVAL-REPLACEMENT”” was finally adopted after a public hearing and Council approval at a meeting of the governing body held on the seventeenth day of August 2023.

Maryanne Capasso, RMC
Municipal Clerk