

ORDINANCE NO. 2024-18

**AN ORDINANCE OF THE TOWNSHIP OF
LACEY, COUNTY OF OCEAN, STATE OF NEW
JERSEY AMENDING CHAPTER 313 ENTITLED
“TREES”**

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Lacey, County of Ocean and State of New Jersey as follows:

SECTION 1. Chapter 313 of the Township Code entitled “Trees” is hereby amended and supplemented as follows:

ARTICLE I. [unchanged]

ARTICLE II. Tree Protection, Removal and Replacement.

§313-6. [unchanged]

§313-7. Findings.

The Township of Lacey finds that commercial and residential development has resulted in indiscriminate and excess cutting of trees upon tracts of land and has resulted in creating increased surface water runoff and soil erosion thereby increasing municipal costs to control drainage within the township. It further finds that such excessive removal and destruction of trees impairs the proper occupancy of existing residential areas and impairs the stability and value of improved and unimproved real property in such areas with the attendant deterioration of conditions affecting the health, safety and general welfare of the inhabitants of the township, and further finds that regulations for the indiscriminate removal of trees is within the police power of the township.

313-7. 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. The use of the word “shall” means the requirement is always mandatory and not merely directory.

APPLICANT

Any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

BUFFER AREA

[unchanged]

BUILDING PLOT

[unchanged]

CRITICAL ROOT RADIUS (CCR)

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'.

DIAMETER AT BREAST HEIGHT (DBH)

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.

HAZARD TREE

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.

- A. Has an infectious disease or insect infestation;
- B. Is dead or dying;
- C. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
- D. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
- E. Is determined to be a threat to public health, safety,

NURSERY, GARDEN CENTER, ORCHARD OR TREE FARM

[unchanged]

PERMITS

[unchanged]

PERSON

Any individual, resident, corporation, utility, company, partnership, firm, or association.

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PLANTING STRIP

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.

RESIDENT

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.

SHRUB

[unchanged]

STREET TREE

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 the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

TREE

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.

TREE CALIPER

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.

TREE REMOVAL

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.

313-9. Applicability.

The provisions of this Article shall apply to all lands within the Township.

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§313-10. Permit required; application.

- A. Permit required. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5" or more or any non-street tree with DBH of [REDACTED] or more on their property must obtain a Tree Removal Permit. No tree shall be removed until municipal officials have reviewed and approved the removal.
- B. Application fee. The Tree Removal Permit shall be obtained from the zoning office upon an application being made therefor and a fee of seventy -five dollars (\$75.) with each application.
- C. Application information where no building permit is requested. An application for a permit for removal or destruction of any tree or trees where no building permit is requested shall contain the name of the applicant, the name of the owner if different from the applicant, the location of the trees on a sketch of property and the reason for removal or destruction and a certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 if the application is for a permit in the Pinelands Area in the Township.
- D. Application information where building permit is sought. For an application for a permit for removal or destruction where a building permit for construction is being sought, the property owner shall file with the site plan a plan showing which trees on the property are to be removed, together with the species and condition of such trees shown on the plan by the architect or engineer, under the seal of such architect or engineer, and shall also provide the same information for the trees which are to remain on the land. The property owner shall also provide a certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 if the application is for a permit in the Pinelands Area of the Township.
- E. Issuance of permits. The Zoning Officer, after consultation with the Township Engineer, shall determine which trees may be removed and the permit for such removal shall be issued by the Zoning Officer.
- F. Referral to other agencies. The Township Engineer or Zoning Officer shall refer the application to the Environmental Advisory Commission for its review and comment when the application concerns property which is zoned commercial or when the applicant seeks to

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remove the majority of trees from a property in excess of one (1) acre.

- G. Appeal. In the event of denial of any permit, the applicant seeking appeal from the decision of the Township Zoning Officer may appeal to the Zoning Board of Adjustment.
- H. Notification to the Pinelands Commission of all permits in the Pinelands Area of the township shall be provided in accordance with Chapter 335, Zoning, of this Code.
- I. Tree removals requiring a permit pursuant to Subsection A undertaken by the Township shall only require the documentation detailed in Subsection C, to be maintained on file by the Township. No application fee or any other documentation shall be required of the Township.

§313-11. Tree removal and replacement standards.

The following standards shall apply to tree removal and tree replacement (if required).

A. Standards for Removal.

- (1) The Township Zoning Officer and/or Township Engineer shall view the land where the tree or trees are to be removed, as well as drainage, grade and other physical conditions existing on subject or adjoining property, and will consider the report from the Environmental Advisory Commission in determining whether to issue the permit.
- (2) The permit shall be granted if there is a finding that the removal and destruction will not impair the growth and development of remaining trees on the property of the applicant or adjacent properties and would not cause erosion of soil, impair existing drainage, lessen property values in the neighborhood or impair the aesthetic values of the area.
- (3) No structure, equipment or movable machinery shall be permitted to operate within the dripline of any tree which is to be saved in order not to disturb the soil and thereby injure the tree, except when the dripline of the tree is within the 15' area set forth in § 313-11A(9).

- (4) If the removal of or destruction of trees will impede or hamper the growth and vigor of the remaining trees, removal will not be permissible unless a stump grinder is utilized.
- (5) No soil material, equipment, temporary buildings and work areas, fuels, paints and other construction items shall be placed within the dripline of the tree. E. Trees to be saved shall be fenced in or heavily marked with ribbon so none are mistakenly bulldozed down or injured.
- (6) If it is necessary for equipment to move through the dripline of a tree, a protective fence must be placed at least 5' from the tree trunk and the remaining area covered with a wood chip mulch 4" to 6" deep. Interlocking metal sections are to be placed on top of the mulch for driveways.
- (7) If branches must be pruned to make room for construction, standard pruning techniques should be followed as set forth by the International Society of Arboriculture and be subject to inspection by the Township Zoning Officer or Engineer.
- (8) Any tree of historical significance or otherwise significant by reason of its rarity or environmental significance shall be given special consideration and shall not be cut or destroyed unless there is no possible alternative.
- (9) Any area to be occupied by a building, driveway, drainage field, septic tank, recreation area (tennis courts, swimming pools or similar facilities) may have the trees removed but for a distance of not more than 15' around the perimeter of such facilities, provided that the same does not violate any buffer requirements within the zone.
- (10) The spirit of the provisions of this Article shall be to grant permits in buffer areas only for compelling reasons as it is essential to maintain aesthetic values and preserve privacy and drainage control.
- (11) In the Pinelands Area of the township, the standards of Chapter 335, Zoning, of this Code must also be met.

B. Replacement Requirements.

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- (1) 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.
- (2) Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 12" or more per acre, unless otherwise detailed exempted, shall be subject to the requirements of the Tree Replacement Requirements Table.
- (3) Replacement tree(s) shall:
 - (a) Be in accordance with the species type and diversity as approved by the Land Use Boards or Township Official.
 - (b) 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;
 - (c) 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;
 - (d) 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
 - (e) Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table		
Category	DBH of Tree Removed (in inches)	Tree Replacement Criteria
1	2.5" (street trees) or 6" to 12.99" (non-street trees)	Replant 1 tree with a minimum tree caliper of 1.5" per tree removed.
2	13" to 22.99"	Replant 2 trees with a minimum tree caliper of 1.5" per tree removed.
3	23" to 32.99"	Replant 3 trees with a minimum tree caliper of 1.5" per tree removed.
4	33" or greater	Replant 4 trees with a minimum tree caliper of 1.5" per tree removed.

C. Replacement alternatives.

If the Township 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:

- (1) Plant replacement trees in a separate area(s) approved by the municipality.
- (2) Township Tree/General Improvement Fund. In the alternative, should the quantity of trees to be removed be greater than the tree replacement/landscaping plan due to limited available planting area, the applicant may make a contribution to be deposited in the Township Tree/General Improvement Fund. The contribution in lieu of planting of trees shall be \$300 per tree, but shall not exceed \$15,000 per cleared acre. Where the maximum dollar contribution is made, the amount of the contribution shall be reduced by \$300 for every shade tree of 2.5 inch caliper or greater planted on the site, including street/shade trees planted in excess of the minimum required street/shade trees.

D. 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 and shall include, in minimum, a statement from an arborist or tree expert licensed pursuant to N.J.S.A. 45:15C-11.

- (1) 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 rolling five-year period;
- (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 that is active and on file with the municipality;
- (4) Any trees planted as part of the construction and predetermined to be removed in the decommissioning plan removed as part of a municipal or state decommissioning plan;

- (5) 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;
- (6) Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- (7) Hazard trees may be removed with no fee or replacement requirement.

§313-12. Removal of diseased trees; expert fees.

- A. No fee shall be charged for a permit authorizing the removal of diseased or damaged trees or in applications where application is made for a building permit.
- B. In cases where the services of a Tree Expert or Township Representative are required, the cost thereof shall be borne by the applicant.

§313-13. Violations and penalties.

Any person, corporation, firm, partnership or other entity violating or causing to be violated any of the provisions of this Article shall be fined not more than one thousand dollars (\$1,000.), imprisoned in the county jail for not more than ninety (90) days and/or serve a period of community service for not more than ninety (90) days, for each violation of this Article. Each and every day that such violation continues shall be considered a separate violation. Each tree or shrub destroyed or removed in violation of this Article shall be considered a separate violation.

§313-14. Enforcement.

The provisions of this Article shall be enforced by the Township Zoning Officer, Code Enforcement Officer, Township Engineer, Township Planner and Township Police Department.

§313-14. [repealed]

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.


SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of

competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Lacey on the 11th day of **JULY, 2024**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the 1st day of **AUGUST, 2024**, at 6:00 PM. at the Municipal Building located at the Municipal Building located on Lacey Road in Forked River, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.



AMY MCGUCKIN, RMC, Clerk
Township of Lacey