

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**Ordinance # 2024-02-
Tree Removal and Replacement Ordinance**

WHEREAS, the removal of trees throughout the Borough contributes to soil erosion and pollutant runoff; and

WHEREAS, such removal without replacement diminishes infiltration of rain water into the soil, among other negative impacts on the Community, and

WHEREAS, the requirement for the replacement of removed trees in the Borough of Lebanon will reduce soil erosion and pollutant runoff, promote infiltration of rain water into the soil, and protect the environment, and public health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey, that a tree removal and replacement Ordinance be enacted as follows:

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in Borough of Lebanon 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" indicates that 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.
- B. "Critical Root Zone (CRZ)" – means the region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. At a minimum, the area shall be shown as a circular area around the tree trunk extending 1.5 feet of radial distance for every inch of tree DBH, with a minimum of eight feet. For trees over 24 inches DBH, a probe shall be used in the field to determine the extent of the root zone.
- C. "Diameter at Breast Height (DBH)" means the diameter of the trunk diameter measured at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

- 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, as confirmed to the satisfaction of the Borough's Shade Tree Committee.
 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 in close proximity to a residential structure that if the tree were damaged or uprooted as the result of extreme weather conditions, it would likely result in damage to that structure and/or injury to the occupants, as determined by a certified arborist or Licensed Tree Expert (LTE); 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. "Invasive Species" means any specific species listed in Section VI of the ordinance, or confirmed in writing by the Borough's Landscape Architect to be considered invasive, that are not native to New Jersey and that have been recognized to overwhelm native species.
- F. "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 the roadway right-of-way, i.e., islands, medians, pedestrian refuges.
- I. "Tree" means large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.
- 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. Application Process:

1. Any person planning to remove a street tree, as defined as Tree removal, with a DBH of 2.5" or more or any non-street tree with a DBH of 6" or more on their property shall submit a Tree Removal Permit Application to the Borough Clerk. No tree shall be removed until municipal officials have reviewed and approved the removal.
2. A review fee of \$25 shall accompany each application for tree removal. For the development of vacant property, or redevelopment of a property with a demolished dwelling, an additional fee of \$100 per acre or portion thereof shall be paid. The maximum additional fee under this section is eight \$500.

B. Tree Replacement Requirements

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 6" or more, unless otherwise exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.
3. All required replacement tree(s) shall be of nursery grade quality, balled and burlapped and planted on the site from which trees were removed.
4. The genus of the replacement tree(s) shall be the same as the genus removed from the site; other genera in accordance with the list of plants contained in Section V below; or as approved by the Shade Tree Committee. Planting times/seasons and planting standards shall be in accordance with standard procedures established or as approved by the Borough's Landscape Architect.
5. Replacement tree(s) shall:
 - a. Be replaced in kind with a tree that has an equal or greater DBH than the tree removed or meet the Tree Replacement Requirements in the table below;
 - b. 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;
 - c. 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
 - d. 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)	Number of Replacement Trees with a Minimum 2-inch Tree Caliper
Street Tree	DBH of 2.5" or greater	1

1	DBH of 6" to 12.99"	2
2	DBH of 13" to 17.99"	3
3	DBH of 18" to 23.99"	5
4	DBH of 24" to 29.99"	6
5	DBH of 30" or greater	7

C. Replacement Alternatives:

1. If the Shade Tree Committee 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 contribution of \$150.00 to the Borough Tree Trust Fund for each required replacement tree that is not planted, or part thereof if a tree credit calculation is being used for larger replacement trees. All contributions to the Borough Tree Trust Fund shall be deposited in a separate interest-bearing Tree Trust Fund. The Tree Trust Fund and all interest accrued in the Tree Trust Fund shall only be used on eligible tree replacement and maintenance activities.
 - c. Plant replacement trees with a tree caliper that is larger than the minimum 2-inch requirement. Larger replacement plantings shall receive a replacement credit in accordance with the Larger Replacement Tree Credit table below.

Larger Replacement Tree Credit Table

Replacement Tree Caliper	Equivalent Number of Replacement Trees
3" to 3.49"	1.5
3.5" to 3.99"	2
4" to 4.49"	2.5
4.5" to 4.99"	3.5
5" or larger	4

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 and shall be accompanied by photographs and a statement from a NJ licensed tree expert, per NJ Statue 45:15C-11 or arborist. Proper justification can also be considered by conformation from the Borough's Landscape Architect or the Shade Tree Committee pursuant to a field inspection.

Residents who remove less than four (4) trees per acre within a five-year period, where the number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028.

However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.

- A. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- B. Any activity protected by the Right to Farm Act, N.J.S.A. 4:1 C-9 et seq. or any other State statute or regulation in an area in which local regulation has been preempted.
- 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, subject to a tree removal permit application being filed and verification by the Shade Tree Committee that the intended removal(s) are invasive species as defined above.
- H. Invasive species may be removed with no fee or replacement requirement, subject to a tree removal permit application being filed and verification by the Shade Tree Committee that the intended removal(s) are invasive species as defined above.
- I. Trees within the limits of cemeteries.
- J. Any tree that negatively impacts an existing sanitary sewer lateral or main, subject to the written confirmation of the Lebanon Borough Sewer Authority Engineer.

SECTION V. Replacement Plant Selection:

The following list of plants is provided as a guide to species selection and is intended that selected species are native to the region and non-invasive, as determined by the Shade Tree Committee:

Canopy Trees

Red oak (<i>Quercus rubra</i>)	White Oak (<i>Quercus alba</i>)
Black oak (<i>Quercus velutina</i>)	Chestnut oak (<i>Quercus prinus</i>)
Pin oak (<i>Quercus palustris</i>)	Red maple (<i>Acer rubrum</i>)
Sugar maple (<i>Acer saccharum</i>)	American beech (<i>Fagus grandifolia</i>)
Sweet birch (<i>Betula lenta</i>)	River birch (<i>Betula nigra</i>)
Paper birch (<i>Betula papyrifera</i>)	Black gum or sour gum (<i>Nyssa sylvatica</i>)
Basswood (<i>Tilia americana</i>).	

Ornamental/Understory Trees

Common witchhazel (<i>Hamamelis virginiana</i>)	Flowering dogwood (<i>Comus florida</i>)
Shadtrees (<i>Amelanchier canadensis</i>)	Sassafras (<i>Sassafras albidum</i>)
Sweetbay magnolia (<i>Magnolia virginiana</i>)	Eastern Hophornbeam (<i>Ostrya virginiana</i>)
American Hornbeam (<i>Carpinus carolinian</i>)	Red cedar (<i>Juniperus virginiana</i>) EG
American Holly (<i>Ilex opaca</i>) EG	White pine (<i>Pinus strobus</i>) EG
Red pine (<i>Pinus resinosa</i>) EG	

Note: EG = evergreen

SECTION VI. List of Invasive Species:

The following list of invasive and non-native species are not to be included in any tree replacement planting selection process in the Borough. The removal of species on the list of invasive species are provided certain exemptions under Section IV H of this ordinance:

<u>Species - Common Name</u>	<u>Scientific Name</u>
Norway maple	Acer platanoides
Amur maple	Acer ginnala
Amur corktree	Phellodendron amurense
Tree of Heaven	Ailanthus altissima
Mimosa	Albizia julibrissin
Paper mulberry	Broussonetia papyrifera
White mulberry	Morus alba
Camphor tree	Cinnamomum camphora
Princess tree	Paulownia tomentosa
Winged spindle tree	Euonymus alata
Sweet Cherry	Prunus avium
Black locust*	Robinia pseudoacacia
Common Buckthorn	Rhamnus cathartica
Amur honeysuckle	Lonicera maackii
Autumn olive	Elaeagnus umbellata
Russian olive	Elaeagnus angustifolia

* Native to North America but not New Jersey and on the NJDEP List of non-native problem species.

SECTION VII. Enforcement:

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

SECTION VIII. Violations and Penalties:

Any person violating any provision of this chapter shall be subject to the penalties set forth in Chapter 1 § 1-20 of the Borough Code, except that the minimum fine which may be imposed for a violation shall be \$100 per tree removed without a tree removal permit. The destruction, cutting or removal of each tree in violation of the provisions of this chapter shall be considered as a separate offense and subject to a separate penalty for each offense.

In addition to the penalties listed above, when regulated tree(s) are removed without a tree removal permit or when regulated tree(s) not permitted to be removed under the terms of an issued permit are removed, the affected areas shall be replanted to the satisfaction of the appropriate municipal authority in accordance with Section III B of this chapter. In the case of such a removal on a construction site, the Zoning Enforcement Officer shall immediately issue a "stop work" notice which will remain in force until the property owner provides a replanting plan which is satisfactory to the appropriate municipal authority. In addition, a certificate of occupancy shall not be issued on same property until the Shade tree Committee has verified that replanting has been satisfactorily completed.

SECTION IX. 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 X. 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.

Vote after public hearing and upon final adoption:

Burton __ 1 __

Berger __ 1 __

Crawford __ 1 __

Kirchofer __ 1 __

Baldinger __ 1 __

Porcello __ 1 __

Ordinance approved by the Governing
Body and presented to the Mayor on

_____, 2024

Veto in Whole or Part:

Approved:

_____ {or}

James Pittinger, Mayor

James Pittinger, Mayor

Date:

Date:

Returned to Borough Clerk with statement attached on _____, 2024

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on April 17, 2024 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Lebanon to be held on May 15, 2024 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey

 _____

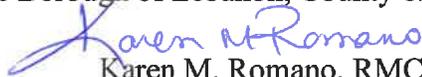
Karen M. Romano, Borough Adm/Clerk

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE 2024-03

TREE REMOVAL AND REPLACEMENT ORDINANCE

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Lebanon, in the County of Hunterdon, State of New Jersey, held in the Municipal Building on the 17th day of April 2024, and the same came up for final passage at a meeting of the said Borough Council on the 15th day of May 15, 2024 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey.



Karen M. Romano, RMC
Borough Administrator/ Clerk

INTRODUCED: April 17, 2024

ADOPTED: May 15, 2024