

**LONG HILL TOWNSHIP  
ORDINANCE 464-20**

**AN ORDINANCE REGULATING THE REMOVAL OF TREES, AMENDING CHAPTER  
XXIII OF THE TOWNSHIP CODE ENTITLED SHADE TREES IN ITS ENTIRETY**

**BE IT ORDAINED** by the Township Committee of the Township of Long Hill in the County of Morris, New Jersey that the Township Code and the Township Land Use Ordinance are hereby supplemented and amended as follows:

**Section 1. Title.** Chapter XXIII of the Township Code entitled "Shade Trees" is amended in its entirety to read as follows:

**Chapter 23 Shade Trees**

**Section 23-1 Purpose and Intent**

- A. The purpose of this section is:
1. To preserve and protect trees within the Township of Long Hill, which helps to preserve water quality, abate noise, and enhance the ambience and character of the community.
  2. To control the indiscriminate destruction of trees which has been shown to have severe detrimental environmental, ecological and economic effects including increased soil erosion and surface drainage problems, creation of insect breeding sites, decreased oxygen production, decreased property values and increased Township costs and thereby to eliminate a threat to the public health, welfare and safety.
  3. To protect the semirural character and natural resources of the Township, consistent with the goals and objectives of the Master Plan. This section is not intended to restrict homeowners from removing dead, diseased, or hazardous trees. It is not intended to restrict homeowners from conducting routine pruning of trees or other maintenance procedures.
- B. This section places special emphasis on the preservation of trees around the perimeter of a property to create Conservation Areas based upon setback requirement pursuant to the Township of Long Hill Zoning Code. The ordinance will also provide a sound management structure for the removal of trees in the Township.

**Section 23-2 Definitions**

**Diameter at Breast Height** shall mean the diameter of a tree measured 4'6" above the uphill/highest side above grade.

**Enforcement Officer** shall mean the Code Enforcement Officer.

**Hazardous Tree** shall mean a tree that must meet the following two criteria: (1) The tree, or a tree part, must be at an increased likelihood of failure, usually due to the presence of some structural defect e.g. the presence of a significant amount of decay in a portion of the tree, and (2) there must be one or more targets present. A target may be any person or property that could potentially be damaged or injured should a failure occur. If there are no targets present there is no risk and the tree will not be considered a hazard, even if it is structurally unsound and likely to fail at any time.

**Landmark Trees** shall mean any tree designated and identified by the Township Shade Tree Commission meeting the criteria for designation.

**Township Trees** shall mean trees located on Township property or within Township right-of-way.

**Private Trees** shall mean any tree other than a Township tree.

**Screening** shall mean one or more trees or hedges which provide a visual barrier between properties.

**Tree** shall mean any woody perennial plant having a diameter of six inches measured at a point 4'6" above grade.

**Tree Removal Permit** shall mean a permit issued by the Shade Tree Commission authorizing the applicant permission to remove a Township tree.

**Tree Removal Registration** shall mean a registration filed with the Township Clerk on the official Township form before a property owner or tenant removes a tree 12' in diameter or greater from private property.

**Section 23-3 Responsible Officials; Enforcement**

- A. Administration. The Shade Tree Commission shall be responsible for administration of this section.
- B. Enforcement Officer. The Code Enforcement officer is hereby authorized to enforce the regulations set forth within the Township Code.

**Section 23-4 Prohibition and Requirements with Respect to Township Trees**

- A. It shall be unlawful to commit any of the following acts with respect to Township Trees within parks and public property or within Township right-of-way without the prior written permission of the Shade Tree Commission.
  - 1. Cut, prune, break, injure, alter or remove any tree; or cut, unduly disturb or interfere in any way with any root of a tree or trees.
  - 2. Spray any tree with a chemical.
  - 3. Fasten any rope, wire, sign, or other device to a tree or trees or to any guard about such a tree or trees.
  - 4. Install, remove or injure any guard or device placed to protect any trees.
  - 5. Obstruct access of air, water, or fertilizer to the roots of such tree or trees.
  - 6. String any wires or lines through a public park.
- B. The Shade Tree Commission shall grant such written permission if the activity for which such permission is requested is in the public interest and is not likely to materially injure any Township tree. The Shade Tree Commission shall render its decision within 30 days after submission of a complete application. Failure of the Commission to render a decision within such 30-day period or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant.
- C. Any person or persons who cause damage to any tree(s) by machines, autos, etc. shall be held liable for damages to the tree or trees. Damages shall be corrected or repaired by the liable person or persons billed for the damages and shall be liable to the penalties set forth in section 1-5 of this Code.

**Section 23-5 Tree Protection with Respect to Township Trees**

**The following protections shall be required for any acts taken in connection with Township trees pursuant to Section 23-4 above:**

- A. Chain link fence may be required for tree protection if warranted by site conditions and relative rarity of the plant.
- B. Snow fencing used for tree protection shall be firmly secured along the dripline but shall be no less than six (6) feet from the trunk.

- C. The grade of land located within the dripline shall not be lowered or raised unless compensated by welling or retaining wall methods; and in no event shall be permitted within the dripline or within six (6) feet of any remaining trees, whichever is greater.
- D. Any excavation within the dripline, or within six (6) feet of the trunk of a remaining tree, whichever is greater, shall be done by airspade or hand-operated equipment.
- E. Where a tree that has been noted for preservation is severely damaged and unable to survive, tree replacement shall occur as provided in the Tree Replacement section of this ordinance.

**Section 23-6 Landmark Trees**

- A. The Shade Tree Commission or its Chair upon request, shall determine whether any tree qualifies as a “Landmark Tree”. A tree may qualify as a Landmark Tree if it meets one (1) or more of the following criteria:
  - 1. The tree species is rare.
  - 2. The tree is more than one-hundred (100) years of age.
  - 3. The tree is of an abnormal height or has an abnormal trunk diameter or dripline diameter for a tree of its species.
  - 4. The quality of the tree foliage is abnormal for a tree of its species.
  - 5. The location, shade value, fragrance, erosion control, aesthetic, features or scenic enhancement of such tree is of especial importance to the Township.
- B. All trees designated as Landmark Trees, shall be shown on a map with appropriate code marks signifying each tree’s designation, number, species, age, size and other distinguishing characteristics for ready reference and periodic monitoring.
- C. If the owner or owners of the property on which a Landmark Tree is located consents thereto, the Township may identify such tree as a Landmark Tree by the placement of a suitable marker thereon.
- D. If and when, any Landmark Tree is removed, the Shade Tree Commission shall arrange for the necessary changes to be made to the official Landmark Tree inventory records and Township Map.

**Section 23-7 Protection of Trees on Private Property**

- A. Any person wishing to remove one or more trees greater than 12” in diameter, shall file a registration form with the Township Clerk which shall include a description of the tree(s) to be removed, their species, their size, their health and their location on the property.
- B. No fee shall be charged for a tree removal registration, however, failure to file the registration form before removing the trees in accordance with paragraph “A” above shall subject a property owner and/or tenant to the penalties set forth in section 23-12 below.

**Section 23-8 Exemptions from Permit and/or Registration Requirement and Penalties**

The following lands, activities and uses shall be exempt from the terms and conditions of this section and shall also be exempt from any violations or penalties.

- A. Activities lawfully conducted on public lands or rights-of-way by or on behalf of a local, federal, state, county or other governmental agency or entity or utility company.
- B. Trees removed in compliance with a woodland management plan that has been approved by NJDEP pursuant to N.J.S.A. 54:4-23.3 and N.J.A.C. 18:15-2.7 as part of an approved farmland assessment and that is on file with the Township Tax Assessor.
- C. 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.
- D. Trees removed in accordance with a site plan or subdivision plan approved by the Township Planning Board or Zoning Board of Adjustment.
- E. Trees removed by a nursery or tree farm on its own property when that use is permitted in the zone and when the nursery has all required land development approvals.

**Section 23-9 Notice to Owner or Occupant to Remove or Maintain Dangerous Trees Outside the Right-of-Way**

The Enforcement Officer may require the removal or maintenance of a tree on private property that is dangerous to public safety, at the expense of the owner or occupant of a property, upon serving written notice that the same will be removed or pruned to make the situation safe within a 30 day period.

**Section 23-10 Nonliability of Township**

- A. Nothing in this section shall be deemed to impose any liability upon the Township or its officers or employees or agents or upon the Commission or any of the Commissioners.
- B. Nothing in this section shall be deemed to relieve the owner and/or occupant of any private property from the duty to keep trees and shrubs thereon in a safe condition.

**Section 23-11 Tree Replacement for Township Trees removed pursuant to Section 23-4**

The Shade Tree Commission may require that Township trees removed pursuant to Section 23-4 of this ordinance be replaced under the following guidelines:

- A. Trees should be replaced on a 1:1 basis.
- B. Deciduous replacement trees should be a minimum of 2 – 2.5” caliper, balled and burlapped and suitable for Zone 6 and guaranteed for two years.
- C. Evergreen replacement trees should also be balled and burlapped and of a minimum size of 7’ - 8’ in height and suitable for Zone 6 and guaranteed for two years.
- D. In some instances, it may be appropriate to plant hedges or other screening as an alternative to replacement tree(s) if same would provide a more suitable visual barrier and/or better serve the purpose of this section.
- E. The preferred tree replacement locations should be on the actual tree removal site, however in lieu of providing a replacement tree on site, the owner of the property must contribute \$300 per tree to the Township of Long Hill Tree Fund to be used for the replacement of trees on public property or Township right-of-way.

**Section 23-12 Violations and Penalties**

Any person violating or causing to be violated any of the provisions this section shall be subject to the penalties set forth in section 1-5 of the Township Code. Any person removing or destroying a Township tree in violation of this ordinance shall replace each tree destroyed or removed with another tree of the same species or a species approved by the Shade Tree Commission, at least two inches in diameter measured at a point four feet above the ground. Each tree destroyed or removed in violation of this section shall be considered a separate offense. Failure to secure a registration prior to removal or destruction of a tree on private property as required by Section 23-7 shall be a violation of this section.

**Section 2.** In case any article, section or provisions of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST

\_\_\_\_\_  
Megan Phillips, RMC  
Township Clerk

\_\_\_\_\_  
Brendan Rae, Mayor

*First Reading and Introduction: September 23, 2020*

*1<sup>st</sup> Publication: October 1, 2020*

*Amended: October 28, 2020*

*Amended Publication: Courier News October 31, 2020*

*Second Reading and Adoption: November 12, 2020*

*2<sup>nd</sup> Publication: November 19, 2020*