

PLEASE TAKE NOTICE the following ordinance was introduced and passed on first reading at the June 3, 2024 meeting of the Mayor and Borough Council and will be considered for second reading and final passage during the meeting scheduled to begin at 7:00 p.m. on June 17, 2024 in the Municipal Building, located at 555 Brighton Avenue, Spring Lake Heights, at which time and place any person desiring to comment on this ordinance will be given the opportunity to be heard. A copy of the ordinance is available in the clerk's office.

Janine Gillis, Borough Clerk

**ORDINANCE NO. 2024-05
BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER III
ENTITLED REGULATIONS ENFORCED BY THE POLICE DEPARTMENT
WITH A NEW SECTION 3-29 ENTITLED "TREE REMOVAL-
REPLACEMENT" OF THE REVISED GENERAL ORDINANCES OF THE
SPRING LAKE HEIGHTS**

Chapter 3-29, formerly "Reserved" shall now be entitled "Tree Removal-Replacement" of the Revised General Ordinances of the Borough of Spring Lake Heights is hereby adopted with complete text as follows:

3-29 Tree Removal-Replacement

3-29.1. Purpose:

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

3-29.2. 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.
- 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 $CRR = 6'' \times 1.5' = 9'$.

- 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.
- 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. [Municipalities may choose to require a Licensed Tree Expert to make all Hazard tree determination]
 - 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 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.

3-29.3. Regulated Activities:

a. 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 3-X.4 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 per acre, unless otherwise detailed under Section 3-X.4, 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.

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. Shall not be located within the Right-of-Way on an improved street;
- 4. 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
- 5. 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)	Application Fee
----------	--------------------	--	-----------------

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	\$200
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$300
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$400
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$500

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 of (amount to be set by municipality) per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

3-29.4. 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 from a NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist, to the municipality by all persons claiming an exemption.

- 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. [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.]
- 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.

3-29.5. Enforcement:

This ordinance shall be enforced by the Zoning Official, Construction Official or the Police department during the course of ordinary enforcement duties.

3-29.6. 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 of not less than \$500 per tree that was improperly removed.

Appendix A

Approved list of Replacement tree Species and Planting Standards for the Borough of Spring Lake Heights

Appendix A. Table 1: Shade/ Street Trees with no overhead wires

<u>Common Name</u>	<u>Height</u>	<u>Width</u>	<u>Botanical Name</u>	<u>Characteristics</u>
Red Maple	40' - 60'	variable	<i>Acer rubrum</i>	found in swamps/uplands
Red Maple 'October Glory'			<i>Acer rubrum</i> 'October Glory'	excellent fall color
Red Maple 'Red Sunset'			<i>Acer rubrum</i> 'Red Sunset' <i>Acer</i>	excellent fall color
Red Maple 'Armstrong'			<i>Acer rubrum</i> 'Armstrong'	columnar-pyramidal form
Red Maple 'Bowhall'			<i>Acer rubrum</i> 'Bowhall'	columnar-pyramidal form
Sugar Maple	60'-75'	40'-50'	<i>Acer saccharum</i>	well drained, evenly moist, acidic soil
Sugar Maple 'Monumentale'			<i>Acer saccharum</i> 'Monumentale'	broad-columnar form
Sugar Maple 'Bonfire'			<i>Acer saccharum</i> 'Bonfire'	rapid growing
Hedge Maple	25'-35'	25'-35'	<i>Acer campestre</i>	up to 75'/resistant to heat & drought
Northern Red Oak	60'-75'	60'-75'	<i>Quercus rubra</i>	prefers acidic, well-drained sites
Willow Oak	40'-60'	30'-40'	<i>Quercus phellos</i>	tolerant of heat, drought & stress
Sawtooth Oak	35'-60'	35'-45'	<i>Quercus acutissima</i>	prefers well drained, moist, acidic soil
Scarlet Oak	70'-75'	40'-50'	<i>Quercus coccinea</i>	prefers well drained, moist, acidic soil
Crimean Linden	70'-75'	40'-50'	<i>Tilia x euchlora</i>	soft, pyramidal habit

Littleleaf Linden 'Greenspire'	40'-60'	20'-30'	<i>Tilia cordata</i> <i>Greenspire</i>	central leader/uniform branching
Silver Linden 'Sterling Silver'	60'-70'	30'-45'	<i>Tilia tomentosa</i> 'Sterling Silver'	broad pyramidal crown
American Linden 'Redmond'	50'-75'	40'-50'	<i>Tilia Americana</i> 'Redmond'	distinct pyramidal outline
Zelkova Green vase	60'-80'	20'-40'		
Hardy Rubber Tree	40'-60'	40'-60'	<i>Eucommia ulmoides</i>	Very soil tolerant, drought tolerant
Blackgum	30'-50'	20'-30'	<i>Nyssa sylvatica</i>	Prefers moist, well drained soils
Redspire Pear	30'-50'	25'-35'	<i>Pyrus calleryana</i> <i>Redspire'</i>	Pyramidal form
Whitehouse Pear			<i>Pyrus calleryana</i> 'Whitehouse'	Columnar pyramidal
Capital Pear			<i>Pyrus calleryana</i> 'Capital'	More upright than Whitehouse
Turkish Filbert	40'-50'	15'-35'	<i>Corylus colurna</i>	No serious insects or diseases
Aristocrat Pear			<i>Pyrus callervana</i> 'Aristocrat'	More horizontal branches
Yellowwood	30'-50'	40'-55'	<i>Cladrastis lutea</i>	Very few problems
Cleveland Select Pear	35'		<i>Pyrus calleryanna</i> 'Cleveland select'	Upright pyramidal form

Appendix A. Table 2: Street Trees with overhead utility wires or other height restrictions

Common Name	Height	Width	Botanical Name	Characteristics
Trident Maple	25'- 35'	15'- 25'	<i>Acer buergerianum</i>	withstands drought & infertile soils
Hedge Maple	25'- 35'	25'- 35'	<i>Acer campestre</i>	drought & heat tolerant
Globe Norway Maple	15'- 18'		<i>Acer platanoides</i> 'Globosum'	dense, formal globe habit
Globe European Ash	30'	20'	<i>Fraxinus excelsior</i> 'Globosa'	dense rounded head
Eastern Redbud	20'- 30'	25'- 35'	<i>Cercis canadensis</i>	does well in many soil types
Japanese Tree Lilac	20'- 30'	15'- 25'	<i>Syringa reticulate</i>	possibly the most trouble free lilac
Cleveland Select Pear	35'		<i>Pyrus calleryana</i> 'Cleveland select'	Upright pyramidal form

Appendix A. Table 3: Trees for Buffer

Common Name	Height	Width	Botanical Name	Characteristics
San Jose Holly	20'-30'		<i>Ilex x aquipernyi</i> 'San Jose'	Pyramidal-conical
Foster's Holly	20'-30'		<i>Ilex x attenuata</i> 'Foster's #2'	Pyramidal-conical
Meserve Hollies	10'-15'		<i>Rex x meserveae</i> 'Blue girl' 'Blue princess' 'Blue boy' 'Blue prince' 'China boy' 'China girl'	Hardy to -20F
Japanese False cypress			<i>Chamaecyparis</i> <i>pisifera</i>	

	10'		'Boulevard'	Tight columnar frame
	15'-20'		'Filifera'	Drooping stringy branches, fine textured.
			'Filifera aurea'	Similar to above with yellow foliage
			'Plumosa'	Can grow to 30' high
Chinese Juniper			<i>Juniperus chinensis</i>	
	15'-20'		'Hetzii Columnaris'	Blue-green needles
	15'		'Robusta Green'	Gray-green foliage
	20'		'Spartan'	Fast, dense, pyramidal or columnar
Yew Upright	30'-60'	15'-25'	<i>Taxus spp.</i>	Many varieties, very tolerant Easily pruned, overused
American Arborvitae	40'-60'	10'-15'	<i>Thuja occidentalis</i>	Easily pruned, many varieties
Emerald Arborvitae				
Nigra Arborvitae				

Appendix A. Table 4: Shrubs for Hedging or Screening

<u>Common Name</u>	<u>Height</u>	<u>Width</u>	<u>Botanical Name</u>	<u>Characteristics</u>
Japanese Holly	6'		<i>Ilex crenata</i> 'Compacta'	Fruit blackish
Inkberry	6'-8'		<i>Ilex glabra</i>	trouble free
Snowmound Spirea	3'-5'	3'-5'	<i>Spiraea nipponica</i> 'Snowmound'	white flowers in May & June
Vanhoutte Spirea	6'-10'	10'-12'	<i>Spiraea x vanhouttei</i>	arching habit, white flowers in May
Arrowwood Viburnum	6'-8'	6'-15'	<i>Viburnum dentatum</i>	white flowers, durable & salt tolerant
Doublefile Viburnum	8'-10'	9'-12'	<i>Viburnum plicatum var. tomentosum</i>	needs moist soil, beautiful white flowers, flowers sun & shade
Lantanaphyllum Viburnum	10'-15'	10'-15'	<i>Viburnum x rhytidophlloides</i> 'Allegheny'	superior selection, resistant to leaf spot, leaves tardily deciduous.
Leatherleaf Viburnum	10'-15'	10'-15'	<i>Viburnum rhytidophyllum</i>	best in heavy shade & protected from wind
Rusty Blackhaw Viburnum	10'-20'	10'-20'	<i>Viburnum rufidulum</i>	adaptable to dry soil, prefers sun but tolerates heavy shade.

Appendix A. Table 5: Trees that can be utilized for hedges

<u>Common Name</u>	<u>Height</u>	<u>Width</u>	<u>Botanical Name</u>	<u>Characteristics</u>
Japanese False cypress			<i>Chamaecyparis pisifera</i>	
	10'		'Boulevard'	Tight columnar frame
	15'-20'		'Filifera'	Drooping stringy branches, fine textured.
			'Filifera aurea'	Similar to above with yellow foliage
			'Plumosa'	Can grow to 30' high
Chinese Juniper			<i>Juniperus chinensis</i>	
	15'-20'		'Hetzii Columnaris'	Blue-green needles
	15'		'Robusta Green'	Gray-green foliage

	20'		'Spartan'	Fast, dense, pyramidal or columnar
Yew Upright	30'-60'	15'-25'	<i>Taxus spp.</i>	Many varieties, very tolerant Easily pruned, overused
American Arborvitae	40'-60'	10'-15'	<i>Thuja occidentalis</i>	Easily pruned, many varieties
Emerald Arborvitae				
Nigra Arborvitae				

SECTION 2

All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 3

If any word, phrase, clause, section or provision of this ordinance shall be found by any court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

SECTION 4

This Ordinance shall take effect after final adoption and publication in accordance with law.