

ORDINANCE NO. 05-2024

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE
BOROUGH OF SEA BRIGHT, CHAPTER 130, "LAND USE", AND TO ESTABLISH
"TREE PRESERVATION AND REPLACEMENT REGULATIONS"

SECTION ONE: Chapter 130 of the Code of the Borough of Sea Bright is amended and supplemented to add Article XIX "TREE PRESERVATION AND REPLACEMENT REGULATIONS" as follows:

§ 130-122. Purpose:

An ordinance to establish requirements for tree removal and replacement and penalties for noncompliance in Sea Bright Borough to protect the environment, public health, safety and welfare.

§ 130-123. 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.

- A. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.
- B. "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.
- C. "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.
- D. "Homeowner" means a person(s) who owns a residence.
- E. "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.
- F. "Person" means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

- G. "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.
- H. "Street Tree" means a tree planted in the sidewalk or a planting strip in the public right-of-way.
- 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 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.

§ 130-124. Regulated Activities:

A. Tree Replacement Requirements

- 1. 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 130-125, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 2. For non-Homeowners:
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 Section 130-125, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 3. For Homeowners:
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 any one (1) tree in categories 4 or 5 in the Tree Replacement Requirements table below, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.

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 property owner 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. The planting season will be March 15 – June 15 or September 15 – December 15. See Appendix A for replacement tree list.

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 Appendix A, with a minimum DBH of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees in accordance with Appendix A, 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 Code Enforcement Officer.

4. 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 \$25 per tree removed. This fee shall be placed into a fund dedicated to tree planting.

§ 130-125. 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 municipality by a licensed tree expert or arborist, from all persons claiming an exemption.

- A. 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.
- 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;
- D. 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;
- E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- F. Nuisance trees may be removed with no fee or replacement requirement.

§ 130-126. Enforcement:

This ordinance shall be enforced by the Code Enforcement Officer and/or other Municipal Officials of the Borough of Sea Bright during the course of ordinary enforcement duties.

§ 130-127. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to the following:

- A. First offense: Warning issued.
- B. Second offense: \$100 fine.

SECTION TWO: All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION THREE: If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

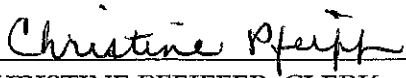
SECTION FOUR: This Ordinance shall take effect immediately upon its passage and publication according to law and upon filing with the Monmouth County Planning Board.

I **HEREBY CERTIFY** this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on March 19, 2024 and will be further considered after a Public Hearing held on April 16, 2024 in the Municipal Building at 1099 Ocean Avenue at 7:00 p.m.

INTRODUCED: March 19, 2024
PUBLIC HEARING: April 16, 2024
ADOPTED: April 16, 2024

Witness:

BOROUGH OF SEA BRIGHT



CHRISTINE PFEIFFER, CLERK



BRIAN P. KELLY, Mayor

APPENDIX A

Approved list of Replacement Tree Species and Planting Standards for the Borough of Sea Bright

Planting Season shall be March 15 thru June 15 or
September 15 thru December 15

Redspire Pear

Aristocrat Pear

Red Maple

Sugar Maple

Pin Oak

Red Oak

Willow Oak

White Oak

Littleleaf Linden "Greenspire"

Zalcova Green Vase

River Birch (salt tolerant)