

**BOROUGH OF INTERLAKEN
MONMOUTH COUNTY, NEW JERSEY**

ORDINANCE NO. 2014-4

AN ORDINANCE OF THE BOROUGH OF INTERLAKEN AMENDING AND SUPPLEMENTING CHAPTER XI OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF INTERLAKEN TO ADD SECTION 11-3 “REMOVAL OF DEAD, DISEASED OR DAMAGED TREES OR TREE LIMBS THAT PRESENT HAZARDS TO LIFE OR PROPERTY”

WHEREAS, in furtherance of its powers to enact Ordinances it deems necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, pursuant to N.J.S.A. 40:48-2, and its powers to enact Ordinances necessary and expedient for the preservation of the public health, safety, and general welfare regarding the removal of dead and dying trees, stumps and roots , pursuant to N.J.S.A. 40:48-2.13, the Borough Council deems it necessary, proper and expedient to enact this Ordinance; and,

WHEREAS, it is in the interest of public safety to ensure that dead, diseased or damaged trees or tree limbs be removed where they present hazards to persons or properties;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Interlaken as follows:

1. Section 1. A new section of the Revised General Ordinances of the Borough of Interlaken be added to be designated as Section 11-3 and entitled “Removal of Dead, Diseased or Damaged Trees or Tree Limbs that Present Hazards to Life or Property”.

2. Section 2. Section 11-3.1 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Definitions

a. "Potential Hazard" shall mean "Any tree or tree limb that is, by reason of its position, condition, angle or other perceptible factors, in reasonably discernable danger of falling upon adjacent lots , overhead utility lines, public streets or other public rights of way, homes or other structures, due to disease, damage or death." If in doubt as to whether a tree is diseased, the Code Enforcement Officer shall consult the certified tree expert of the Borough.

b. "Imminent Hazard" shall mean "a 'Potential Hazard' as previously defined which, based on discernable, observable factors, may imminently fall upon adjacent lots, overhead utility lines, public streets or other public rights of way, homes or other structures, due to disease, damage or death." If in doubt as to whether a tree is diseased, the Code Enforcement Officer shall consult the certified tree expert of the Borough.

c. "Felled Tree" shall mean "Any tree, or part thereof, including, but not limited to a tree trunk, branch or limb that has fallen and is laying on an adjacent lot, public street or other public right of way, sidewalk or public park."

3. Section 3. Section 11-3.2 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Removal of Potential and Imminent Hazards

a. Upon a finding of the Code Enforcement Officer of a potential hazard, he or she will issue a notice to the owner, occupant or controller of the property on which the base of the tree is situated to remove said potential hazard within 30 days. Upon the property owner's, occupant's or controller's failure to comply, the Code Enforcement Officer may issue a summons to appear in Municipal Court, as hereinafter provided, and/or said removal may be undertaken by the Borough

with the cost thereof to be charged against the dwelling or land, and become a lien upon such dwelling or land, as hereinafter provided. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

b. Upon the finding of the Code Enforcement Officer of an imminent hazard, he or she will issue an immediate notice to abate such a violation to the owner, occupant or controller of the property on which the base of the tree is situated. If such removal does not occur within ten (10) days of the notice, as hereinafter provided, the Code Enforcement Officer may issue a summons to appear in Municipal Court, and/or said removal may be undertaken by the Borough with the cost thereof to be charged against the dwelling or land, and become a lien upon such dwelling or land, as hereinafter provided. In situations where the Code Enforcement Officer reasonably determines that ten (10) days may not be allowed for removal because of the nature of the hazard, he or she may determine a shorter period of time. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

4. Section 4. Section 11-3.3 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Felled Trees

The Code Enforcement Officer shall issue a notice to any property owner, occupant or controller of property from which a Felled Tree has fallen onto an adjacent lot, public street or other public right of way, sidewalk or public park, to remove any such Felled Tree, including any trunk, branch or limb thereof, within ten (10) days of such notice. If such removal does not occur within ten (10) days of the notice, as hereinafter

provided, the Code Enforcement Officer may issue a summons to appear in Municipal Court, and/or said removal may be undertaken by the Borough, with the cost thereof to be charged against the dwelling or land, and with said cost to become a lien upon such dwelling or land, as hereinafter provided. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

5. Section 5. Section 11-3.4 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Interpretation Consistent with Chapter XXII, Protection of Trees

Nothing stated in this Section shall be construed in such a way as to be inconsistent with the provisions Chapter XXII of the Revised General Ordinances of the Borough of Interlaken, "Protection of Trees". Nothing in this Section shall be construed to be an abrogation of the responsibilities, duties and powers of the Shade Tree Commission. It is the intent of this section that the Code Enforcement Officer should refrain from taking any action in enforcement of this section, which encroaches upon the exclusive jurisdiction and authority of the Shade Tree Commission.

6. Section 6. Section 11-3.5 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Penalties for Violations

Any person convicted of a violation of this Section shall have imposed upon him or her a penalty consistent with the provisions of Section 1-5 of the Revised General Ordinances of the Borough of Interlaken. Each violation of the provisions of this section and each day of the violation shall be deemed to be a separate and distinct violation.

7. Section 7. Section 11-3.5 if hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Assessment of Costs for Removal by the Borough

In any case where the property owner, occupant or controller has failed to act in accordance with the dictates of this section, the Borough is authorized to enter the property and destroy and remove the trees, trunk, branches, limbs or stumps. Where such action has occurred, the Code Enforcement Officer shall certify the cost thereof to the governing body, which shall examine the certificate, and if found correct, shall cause the cost as shown thereon to be charged against the dwelling or lands. The amount so charged shall forthwith become a lien upon such dwelling or lands and shall be added to and become a part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

8. Section 8. Section 11-3.7 is hereby added to the Revised General Ordinances of the Borough of Interlaken and shall state as follows:

Felled Trees Falling Into Deal Lake or Its Watershed

Upon a finding of the Code Enforcement Officer that a felled tree, including, but not limited to, the entire tree or a tree trunk, branch or limb, has fallen upon or in Deal Lake, its watershed or onto the banks adjacent to the lake, he or she will issue a notice to the owner, occupant or controller of the property on which the base of the tree is or was located to remove said tree, or component part, within 30 days. Upon the property owner's, occupant's or controller's failure to comply, the Code Enforcement Officer may issue a summons to appear in Municipal Court and/or said removal may be undertaken by the Borough with the cost thereof to be charged against the dwelling or land, and become a lien upon such dwelling or land. The Code Enforcement Officer is authorized to grant extensions of time for compliance in the exercise of reasonable discretion.

In addition, the provisions of Sections 11-3.5 and 11-3.6 will apply for any violations of this section.

9. Section 9. The provisions of this Ordinance are declared to be severable. Any invalidation of any provision of this Ordinance by a court of law shall not be deemed to affect the validity of the remaining provisions.

10. Section 10. Except as provided herein, any Ordinance(s) inconsistent with this Ordinance are repealed.

11. Section 11. This Ordinance shall take effect upon adoption and publication as provided by law.

APPROVED:



MICHAEL NOHILLY, MAYOR

ATTEST

 LORI REIBRICH, Borough Clerk

ORDINANCE READING	DATE
1 ST READING BY TITLE:	August 6, 2014
2 ND READING BY TITLE:	August 20, 2014

Record of Vote	Mayor Nohilly	Council President White	Councilman Miller	Councilman Napoli	Councilman Cohen	Councilman Handerhan	Vacancy
Motion To Approve				X			
Motion to Second						X	
Approved		X	X	X	X	X	
Opposed							
Not Voting/Recuse							
Absent/Excused							