

Borough of Fair Lawn



ORDINANCE NO. 2694-2024

AN ORDINANCE REPEALING CHAPTER 226, TREES, AND REPLACING WITH A NEW CHAPTER 226, TREES ON PUBLIC LANDS, OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn that the Borough Code of Fair Lawn 2000 is amended and supplemented by inserting the text **underlined and marked in bold** as follows:

SECTION 1: Chapter 226, Trees, be and is hereby repealed in its entirety to be replaced with a new Chapter 226, Trees On Public Lands, to read as follows:

§ 226-1 Purpose.

A. The Borough of Fair Lawn shall support the goals and objectives outlined in the Borough Master Plan to preserve the existing residential character of the Borough and maintain the scale and streetscapes of residential neighborhoods and promote aesthetic improvement in the major commercial and industrial areas.

B. The Borough shall support the goals and objectives outlined in the Borough's Community Forestry Management Plan.

C. To enhance the quality of life and overall health of Fair Lawn residents, and foster a better environment, by preserving, protecting, planting and maintaining safe, healthy, and sustainable trees as follows:

- 1. Removing pollutants and replenishing oxygen;**
- 2. Providing shade and moderating the effects of temperature extremes;**
- 3. Reducing stormwater runoff;**
- 4. Replenishing and improving groundwater supplies;**
- 5. Stabilizing soil by preventing erosion and sedimentation;**
- 6. Providing visual screen and sound attenuation;**
- 7. Storing and sequestering carbon;**
- 8. Providing food and shelter for birds and beneficial wildlife; and**
- 9. Conserving energy.**

§226-2 Regulation of Public Trees.

A. The regulation of public trees shall be exercised by the Borough of Fair Lawn Superintendent of the Department of Public Works (DPW) in consultation with the

Shade Tree Advisory Committee and the Borough Arborist who shall have the power to:

1. Control the planting, care and protection of public trees;
2. Regulate the use of the ground surrounding public trees as far as may be necessary to ensure their proper growth, care and protection;
3. Approve the removal of public trees or parts thereof that are deemed to be dangerous to public safety, electric power, gas lines, waterlines or other public improvements, or which harbor a disease or infestation readily communicable to neighboring healthy trees;
4. Require, at the property owners' expense, the placement of protective devices around public trees so as to effectively prevent injury to such trees during the erection, razing, removal or alteration of any structure or during the excavation or alteration of any existing grade;
5. Recommend landmark trees pursuant to §226-4;
6. Approve the removal of dead trees;
7. Regulate the pruning of public trees according to accepted standards, including measures to prevent the spread of disease; and
8. Maintain a tree inventory of planted, removed and pruned trees;

§ 226-3. Prohibited Activities On Public Land.

A. No person shall:

1. Plant a tree or shrub unless such planting is authorized by the Borough of Fair Lawn Superintendent of DPW in consultation with the Shade Tree Advisory Committee and Borough Arborist;
2. Do or cause to be done any of the following acts: cut, trim, break or top a tree, climb a tree with spikes, damage or destroy the roots of a tree or in any way injure or spray with any chemical or remove any living tree or shrub, or destroy, mutilate or injure any tree, or misuse any structure or device placed to support any such trees or shrubs;
3. Fasten any object to a tree on public land including, but not limited to, electric wires, signs or other hardware, mailboxes, or lights.

§ 226-4. Protection of Landmark Trees.

A. Upon the recommendation of the Borough of Fair Lawn Superintendent of DPW, Borough of Fair Lawn Construction Official or Borough Engineer and Shade Tree Advisory Committee, the Council may determine whether any tree qualifies as a landmark tree. A tree may qualify as a landmark tree if it meets one or more of the following criteria, including, but not limited to:

1. The tree species is rare.
2. The tree is more than one hundred (100) years old.
3. The tree is of an unusual height or has an unusual trunk diameter or drip line for a tree of its species.
4. The location, shade value, fragrance, erosion control, aesthetic features, or scenic enhancement of such tree is of special importance to the Borough.
5. The tree has historic significance.

B. All trees designated as landmark trees by the Council shall be shown on an official Borough 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 and when any landmark tree is removed, the Borough Construction Official or Borough Engineer shall arrange for the necessary changes to be made to the official landmark tree inventory records and Borough map.

D. No person shall cut down or remove any landmark tree without first obtaining the approval of the Council and a permit issued pursuant to this section.

§ 226-5. Planting of Trees with Public Right-of-Way.

A. The Borough shall develop and maintain a healthy street tree canopy cover by requiring trees not more than thirty-five (35') feet apart upon every public right-of-way within the Borough. Trees of at least one and one-half (1 ½") inches in diameter shall be planted upon every public right-of-way. Street trees and shade trees shall be planted not more than thirty-five (35') feet apart within the Borough's right-of-way so as not to interfere with the utilities and sidewalks. The species and cultivar of tree to be planted shall be decided by the Borough Superintendent of DPW, Borough Construction Official or Borough Engineer in consultation with the Shade Tree Advisory Committee and Borough Arborist.

1. The Borough shall have an ongoing Shade Tree Planting Program to develop and maintain a healthy community forest. The Borough shall plant trees not more than thirty-five (35') feet apart upon every public

right-of-way within the Borough. Trees shall be planted annually by the Borough in the right-of-way at the request of the property owner(s).

2. In connection with any construction, prior to the issuance of a building permit or start of construction, the Borough Construction Official or Borough Engineer shall determine if the public right-of-way fronting a private property complies with the minimum requirements of at least one (1) existing tree at a spacing of not more than thirty-five (35') feet.

(a) Before a building permit is issued by the Building Department of the Borough, every applicant shall be required to deposit the sum of two hundred fifty (\$250) dollars per tree, or as otherwise set from time to time by resolution of the Borough Council, to cover the cost of the purchase and the planting of the trees required to provide at least one (1) existing or proposed tree at a spacing of not more than thirty-five (35') feet. The tree(s) shall be planted by the Borough.

(b) Nothing herein shall be construed to require the planting of trees where it is determined by the Borough Construction Official or Borough Engineer in consultation with the Shade Tree Advisory Committee and Borough Arborist that trees complying with the minimum requirements already exist nor shall it be construed to relieve a subdivider of land of providing the installation of trees as required by the land subdivision ordinance.

§ 226-6. Enforcement, Violations, Penalties.

A. This ordinance shall be enforced by the Borough's Property Maintenance Official and Fair Lawn Police Department who may issue notifications of violations and take any other actions necessary to enforce this ordinance.

B. Any person found to be in violation shall be subject to a penalty of one or more of the following: imprisonment in the county jail for any term not exceeding 90 days; or by a fine not exceeding two thousand (\$2,000) dollars; or by a period of community service not exceeding 90 days. Each tree damaged, removed or destroyed in violation of this section 226-6 shall be considered a separate offense, and a separate fine shall be levied for each tree.

SECTION 2: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or

constitutionality of any other section or part hereof, and to this end, the provisions of this Ordinance are hereby declared severable.

SECTION 3. All other ordinances, codes or parts thereof that are in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Borough ordinances, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Borough's ordinances are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4: This Ordinance shall take effect upon passage and publication as required by law.

Introduced: March 26, 2024

	Motion	Second	Aye	Nay	Abstain	Absent
Salinas			X			
Krause	X		X			
Reinitz			X			
Cutrone		X	X			
Rottenstrich			X			

Adopted: April 30, 2024

	Motion	Second	Aye	Nay	Abstain	Absent
Salinas	X		X			
Krause			X			
Reinitz		X	X			
Cutrone			X			
Rottenstrich			X			

Attest:

Nicholas J. Magarelli, RMC
Municipal Clerk

Approved:

Gail Rottenstrich
Mayor