

Introduced On: July 11, 2024			
Council	Motion	Second	Vote
Sohmer			X
Yoon			X
Suh			X
Drumgoole			X
Kasofsky		X	X
Cervieri	X		X

Adopted On: August 15, 2024			
Council	Motion	Second	Vote
Sohmer		X	X
Yoon			X
Suh			Absent
Drumgoole			X
Kasofsky			X
Cervieri	X		X

**BOROUGH OF FORT LEE
309 Main Street
Fort Lee, New Jersey 07024**

ORDINANCE # 2024-16

**AN ORDINANCE ESTABLISHING TREE REMOVAL AND
REPLACEMENT IN THE BOROUGH OF FORT LEE**

SECTION I. Purpose:

It is the purpose of this ordinance to establish requirements for tree removal and replacement in the Borough of Fort Lee to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare. This ordinance will also serve to prevent environmental degradation; to preserve existing natural resources; to control the indiscriminate and excessive cutting and destruction of trees; to prevent the destruction of the aesthetic character of established neighborhoods within the Borough.

SECTION II. 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"x1.5' = 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.
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 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.

SECTION III. Regulated Activities:

A. Application Process:

1. General Requirements: Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to the Borough's Construction Official. It shall be unlawful to remove, destroy or substantially alter in such a way as to impair or endanger the life of any tree without first obtaining a tree removal permit. The cutting, pruning or trimming of trees in a manner which is not harmful to the health of the tree and which will not endanger the tree's continued vitality is permitted. Applicants shall be required to submit the following information: name and address; tax block and lot; description of the property; purpose for the proposed tree removal; tree species, size and condition; and a sketch, indicating the location of the tree(s) proposed for removal in relation to all structures on the property. Applicants will be subject to a filing fee in the amount of \$75 per tree to be removed. The filing fee (not the application) is hereby waived for all owner-occupied single- and two-family homeowners, in the event that

only one tree is being removed. No tree shall be removed until municipal officials have reviewed and approved the removal.

2. General Tree Removal Criteria and Permit: Upon the filing of an application for a tree removal permit, and prior to the issuance of a tree removal permit, the Borough's Construction Official shall inspect the property which is the subject of the application, and in particular the tree(s) to be removed. Notwithstanding the foregoing criteria, owners of single-family and two-family residences may remove one tree each three years, without satisfying the criteria below. The Construction Official shall issue a tree removal permit, provided one or more of the following criteria are met:
 - a. The tree is dead or is categorized as a hazard tree;
 - b. The tree interferes with necessary utility service or obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
 - c. The tree creates an unsafe condition or poses a threat to public health and safety as determined by a certified arborist or Borough Construction Official;
 - d. The tree conflicts with other municipal ordinances or regulations.

3. Permit for Site Plan and Subdivision: Upon application for site plan/subdivision approval which would cause the removal or destruction of any tree, an applicant shall be required to submit the following: a plot plan or survey showing the location of all trees on the property and any other existing or proposed structures; and identification of all trees to be retained and/or removed, including their species, size and condition. For any site plan or subdivision application requiring Planning Board or Zoning Board of Adjustment approval that also involves an application for a tree removal permit, the application shall be submitted to either the Planning Board or Zoning Board of Adjustment, as applicable, which shall have the responsibility for approving any tree removal and which shall advise the Borough's Construction Official in writing of any such approval. The Construction Official shall be responsible for issuing the tree removal permit.

4. Permit for Other Development: Upon application for a building permit which would cause the removal or destruction of any tree, an applicant shall be required to submit an application to the Borough's Construction Official for a tree removal permit, together with a plot plan or survey showing the location of the trees to be removed, and indicating their species, size and condition. The Construction Official shall be responsible for issuing the tree removal permit, provided the

applicant complies with the requirements set forth in Section III B. For any development application that requires an application for a tree removal permit and also requires variance approval from the Zoning Board of Adjustment (but does not also involve an application for site plan or subdivision approval), the application shall be submitted to the Zoning Board of Adjustment, together with a plot plan or survey showing the location of tree(s) to be removed and indicating their species, size and condition. The Zoning Board of Adjustment shall have the responsibility for approving any tree removal and shall advise the Borough's Construction Official in writing of any such approval. The Construction Official shall be responsible for issuing the tree removal permit, provided the applicant complies with the requirements set forth in Section III B.

B. 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 IV, 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 IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees 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. 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
4. 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	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	\$75 per tree to be removed
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	\$75 per tree to be removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	\$75 per tree to be removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	\$75 per tree to be removed

C. 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 \$500 per tree with a diameter of six inches to 24 inches or \$1,000 per tree with a diameter greater than 24 inches removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. 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, to the municipality by all persons claiming an exemption. Proper justification includes a statement and photos from a NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist.:

- 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.
- 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.

SECTION V. Enforcement:

This ordinance shall be enforced by the Borough's Construction Official during the course of ordinary enforcement duties.

SECTION VI. 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 \$2,000 or a jail term not to exceed 90 days, or both. Each tree removed without a permit shall be considered a separate violation.

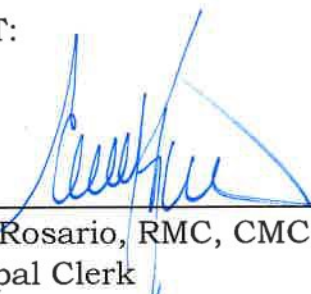
SECTION VII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION VIII. Effective Date:

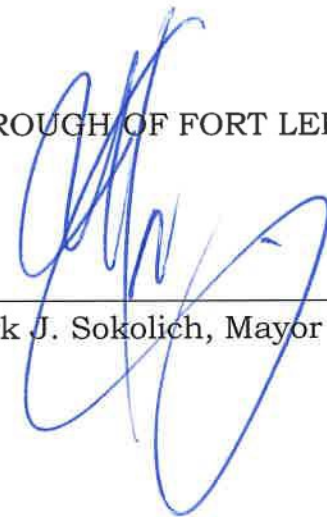
This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

ATTEST:



Evelyn Rosario, RMC, CMC, MMC
Municipal Clerk

BOROUGH OF FORT LEE



Mark J. Sokolich, Mayor