

**BOROUGH OF FRANKLIN LAKES
ORDINANCE NO. 1943**

**AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 300
“LAND USE AND DEVELOPMENT” OF THE CODE OF THE BOROUGH
OF FRANKLIN LAKES PERTAINING TO THE TREE ESCROW FUND**

BE IT ORDAINED by the Mayor and Council of the Borough of Franklin Lakes, in the County of Bergen and State of New Jersey, as follows:

Section 1. The definition of Tree Escrow Fund in Section 300-148 “Definitions” of Chapter 300 “Land Use and Development” of the Code of the Borough of Franklin Lakes is hereby amended to read as follows:

TREE TRUST FUND

A fund established for the maintenance, repair, replacement, removal and planting of trees on public property throughout the Borough, and the administration of Borough ordinances pertaining to trees. The fund may also be utilized for the administration and promotion of tree and shrubbery resource sustainability projects and practices consistent with the Community Stewardship Incentive Program as outlined in the New Jersey Shade Tree and Community Forestry Assistance Act.

Section 2. Paragraph D of Section 300-153 “Issuance of permits; fees; bonds” is hereby amended to read as follows:

D. Surety bond.

- (1) A cash or surety bond for tree preservation and tree removal is required in all cases where Planning Board, Zoning Board, Mayor and Council or soil removal approval is required; except that the Planning Board, Zoning Board, Mayor and Council, Construction Official, Borough Engineer or Tree Specialist may waive the bond requirement if there is minimal or no threat to trees on the property. The application to the Planning Board, Zoning Board, Mayor and Council or for soil removal shall be accompanied by a bond in the minimum amount of \$5,000 for each acre of the site on which the improvement is located. The amount of the bond can be increased by the Construction Official where the official feels it is justified based on the potential threat to the trees on the property. The bond shall be held by the Borough of Franklin Lakes to ensure compliance with the requirements imposed by the Borough Code related to the preservation of trees.
- (2) The bond shall be returned to the applicant upon completion of the project, issuance of a certificate of occupancy, and inspection of the property by the Construction Official to ensure compliance with the Borough Code and conditions of development approval relating to tree preservation and tree removal. Where trees have been damaged, improperly removed, or destroyed in violation of the Borough Code or conditions of development approval, in addition to other enforcement options, some or all of the cash bond shall be retained, and said cash bond shall be deposited in the Borough's Tree Escrow Fund. Failure to comply with the Borough Code and conditions of development approval relating to tree preservation and tree removal shall also be considered a violation of the provisions of this article.

- (3) In the event that the applicant fails to request an inspection to confirm that the improvements are completed and that ordinances have not been violated within two years from the Borough's receipt of the cash bond, and fails to request a refund of the cash bond, the amount of the cash bond shall be transferred to the Borough's Tree Trust Fund.

Section 3. Section 300-154 “Waiver of tree replacement requirements” is hereby amended to read as follows:

§ 300-154 Waiver of tree replacement requirements.

Where, in the discretion of the Construction Official, Tree Specialist, Planning Board, Zoning Board or Mayor and Council, new plantings are required by the ordinances of the Borough but are not necessary due to the existence of a sufficient number of trees presently on the property, the Construction Official, Tree Specialist, Planning Board, Zoning Board or Mayor and Council may waive any or all requirements for new plantings. If the requirement for new plantings is waived, for each replacement tree that would have been required in accordance with Section 300-152 hereof, the applicant shall pay a fee in the amount of \$500 per replacement tree, which fee shall be deposited in the Tree Trust Fund.

Section 4. Repealer. All ordinances or parts of Ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflict.

Section 5. Severability. If any section, part of any section, or clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this Ordinance. The Governing Body of the Borough of Franklin Lakes declares that it would have passed the Ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 6. Effective Date. This Ordinance shall take effect immediately upon passage and publication according to law.

APPROVED: _____
Charles J. X. Kahwaty, Mayor

ATTEST: _____
Gail M. Rulli, Borough Clerk

Introduced: 03-19-2024
Adopted: 04-16-2024