

**BOROUGH OF FRANKLIN
ORDINANCE NO. 09-2024**

**AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX,
AND STATE OF NEW JERSEY CREATING
CHAPTER 245, TREES**

BE IT ORDAINED by the Mayor and Council of the Borough of Franklin, County of Sussex, and State of New Jersey that the Code of the Borough of Franklin is hereby amended as follows:

SECTION I.

Chapter 245, Trees is hereby created as follows:

§ 245-1. Purpose.

An ordinance to establish requirements for tree removal and replacement in Borough of Franklin to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§ 245-2. Definitions.

“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 $CRR = 6 \times 1.5 = 9'$.

“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.

“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).

“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.

“Street Tree” means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) 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.

“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.

“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.

“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.

§ 245-3 Tree Replacement Requirements

- A. Replant one (1) tree with a minimum tree caliper of 1.5” for each tree removed.
- B. Replacement tree(s) 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.
- C. Replacement Alternatives. 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 \$100.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§ 245-4 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.

- 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. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the ‘count’ resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]

- 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.

§ 245-5 Enforcement:

This ordinance shall be enforced by the Police Department and/or other Municipal Officials of the Borough of Franklin during the course of ordinary enforcement duties.

§ 245-6 Violations and Penalties:

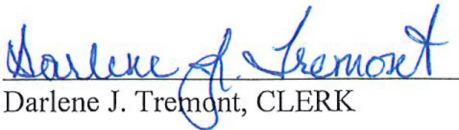
Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$200.00.

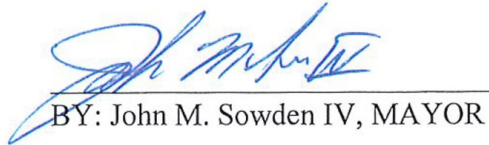
SECTION II. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.

SECTION III. This Ordinance shall take effect immediately upon (1) adoption; and (2) publication in accordance with the laws of the State of New Jersey.

ATTEST:

BOROUGH OF FRANKLIN


Darlene J. Tremont, CLERK


BY: John M. Sowden IV, MAYOR

DATED: May 28, 2024