

BOROUGH OF PALMYRA

ORDINANCE 2024-09

Ordinance 2024-09, An Ordinance Amending the Borough of Palmyra Tree Ordinance to comply with the NJDEP requirements for a Tree removal/replacement as part of the Borough's MS4 permit requirements.

Borough of Palmyra, NJ / Part II, General Legislation Chapter 259. Trees

[HISTORY: Adopted by the Mayor and Council of the Borough of Palmyra 5-14-2012 by Ord. No.

2012-3. ^[u] Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch.

126.

Land development — See Ch. 158.

Parks and recreation areas — See Ch.

190.

Sewers — See Ch. 215.

Soil removal — See Ch. 226.

Stormwater management — See Ch.

236.

Streets and sidewalks — See Ch. 237.

Weed control — See Ch. 300.

§ 259-1 **Purpose**

§ 259-2 **Definitions.**

§ 259-3 **Exemptions**

§ 259-4 **Trees allowed to be removed without replacement**

§ 259-5 **Regulated activities**

§ 259-6 **Tree replacement requirements**

§ 259-7 **Creation of Palmyra Shade Tree Advisory Board.**

§ 259-8 **Creation of part-time position of Tree Officer.**

§ 259-9 **General protection and maintenance requirements.**

§ 259-10 **Planting requirements.**

§ 259-12 **Violations and penalties.**

§ 259-13 **Appeal procedures.**

§ 259-14 **Construal of provisions; liability.**

§ 259-1 Purpose

An ordinance to establish requirements for tree removal, replacement, and maintenance in Palmyra Borough to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, protect the environment, public health, safety, and welfare as well as enhance the visual and physical quality of life of its residents.

§ 259-2 Definitions

As used in this chapter, the following terms shall have the following meanings:

APPEAL - The process by which decisions of the Tree Officer are reviewed and resolved when a property owner wishes to dispute the decision.

APPLICANT - Any person who applies for approval to remove trees regulated under this ordinance.

BOARD - The Shade Tree Advisory Board of the Borough of Palmyra including any of its agents, employees and duly appointed members. Also referred to herein as the "PSTAB."

BOROUGH - The Borough of Palmyra.

BOROUGH TREE - Any tree, as hereinafter defined, which is situated in or along any public property, park, field, public right-of-way, easement, or encumbrance. Tree situation is evidenced by 50% more of the root collar or base of the trunk at the entry point to the ground being upon Borough land, regardless of the location of the crown, roots, tilt of the trunk, or other part of the tree in relation to the property line.

CALIPER – Standard measure of a tree taken at a height of 6 inches above the ground up to and including 4-inch caliper size, and 12 inches above ground for larger trees.

COMMERCIAL BUFFER AREA - A landscaped buffer area along all commercial side yard and rear yard lot lines.

CRITICAL ROOT RADIUS (or "CRR") - The zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the DBH of the tree by 1.5 feet. (Example: a tree with a 6" DBH would have a CRR = 6" x 1.5' = 9'.)

DIAMETER BREAST HEIGHT (or "DBH") - The diameter of a tree measured as a point on the tree four feet and six inches from ground level.

GUARD - A device placed on or about a tree with the purpose of preventing injury to such tree.

HAZARD TREE - 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 LTE.

LANDSCAPER - Any person engaged in the business of landscaping as a primary occupation.

LAND USE BOARD - The Land Use Board of Palmyra.

LARGE TREES - Tree species attaining a height of 50 feet or more at maturity.

LICENSED TREE CARE OPERATOR (or "LTCO") – An individual who is licensed by the New Jersey Board of Tree Experts to provide or supervise the provision of tree care operator services for hire in New Jersey pursuant to the Tree Expert and Tree Care Operator Licensing Act, N.J.S.A. 45:15C-11, *et seq.*

LICENSED TREE EXPERT (or "LTE") – An individual who is licensed by the New Jersey Board of Tree Experts to provide or supervise the provision of tree expert services for hire in New Jersey pursuant to the Tree Expert and Tree Care Operator Licensing Act, N.J.S.A. 45:15C-11, *et seq.*

MEDIUM TREES - Tree species attaining a height of 25 feet to 50 feet or more at maturity.

MEMBERS - Duly appointed members of the PSTAB.

OVERGROWN TREE - A tree that has exceeded a confined space as evidenced by less than 15% of the DBH as clearance between the root collar at ground level and a confining border such as a curb or sidewalk.

(Example: A tree with 20 inches DBH would require three inches between the root collar where it enters the ground and the sidewalk or curb.)

PERSON - This definition varies from the model ordinance, which defines it as: "any individual, resident, corporation, utility, company, partnership, firm, or association.

PLANTING STRIP- The part of a street ROW between the public ROW adjacent to the portion of the street reserved for vehicular traffic, the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

PRIVATE TREE - Any tree, as hereinafter defined, which is situated in land other than Borough Land. Tree situation is evidenced by 50% or more of the root collar or base of the trunk at the entry point to the ground being upon private land, regardless of the location of the crown, roots, tilt of trunk, or other part of the tree in relation to the property line.

PROPER JUSTIFICATION - Prior to removal of any tree exempted under § 259-4 of this ordinance, the resident shall submit a Tree Removal Permit Application describing the reason for seeking removal of the tree. The request will be followed up with an inspection by the Borough Tree Officer.

RESIDENT - means an individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

RIGHT-OF-WAY ("ROW") - The property in the Borough owned by the Borough of Palmyra or over which the Borough of Palmyra has an easement as shown on the Tax Map of the Borough of Palmyra or by a review of the land records maintained by the County Clerk or the Borough.

SMALL TREES - Tree species attaining a height of less than 25 feet at maturity.

STREET - Any road, avenue, street or highway in the Borough dedicated to the public use.

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.

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 GUARD - A permanent enclosure used to protect the trunk of a tree from injury.

TREE OFFICER - An individual appointed annually by the Mayor with the advice and consent of the Council, who may, but need not be, a Licensed Tree Expert, or a certified ISA Arborist. No person shall be reappointed or redesignated as Tree Officer unless the individual has completed the NJ DEP CORE Training within 12 months of the initial appointment.

TREE PERMIT – A permit issued by the Tree Officer for removing, planting, or maintenance of a tree or trees on Borough or private land.

TREE PIT - A specially prepared area of land, which is surrounded by paving, curbs, sidewalks, or other impervious surfacing, and with specific requirements for protection and pedestrian safety.

TREE REMOVAL - Killing or to causing 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.

TREE REMOVAL APPLICATION – An application to be submitted for review by the Tree Officer, for removal of a tree or trees on Borough or private land.

TREE REMOVAL PLAN - A Plan containing information listed in §259-5C of this ordinance.

TREE PLANTING REQUIREMENT - A requirement to plant new trees when trees are removed, or under other conditions of this chapter.

TREE TOPPING - The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown, to such a degree so as to remove the normal canopy and disfigure the tree except where other pruning practices are impracticable or impossible with respect to trees severely damaged or causing obstructions to wires or cables subject to cable and utility company exemption.

UTILITY AND CABLE COMPANY - Public utility or cable television companies entering the Borough for the purpose of erecting, installing, moving, removing, altering, or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication, or cable television, cellular communications, or internet service.

§ 259-3 Exemptions.

Tree removal in areas under the jurisdiction of the following entities shall be subject to their review and otherwise exempt from the requirements of this chapter:

- A.** State of New Jersey roads and ROWs located in the Borough;
- B.** County of Burlington roads and ROWs located in the Borough;
- C.** Utility and cable companies undertaking emergency tree work to restore service or spot work to prevent interruption of electrical, telephone, telegraph, cable TV, Internet, or other wire or cellular services, provided that such utility or cable company has complied with notice provisions.

§ 259-4 Trees allowed to be removed without tree replacement

If permitted as set forth below, any "tree" as defined in this chapter (and any smaller trees) may be removed from a privately owned lot or tract of land, subject to submitting a Tree Removal Application, except in the case of an emergency. All persons shall comply with the tree replacement standard except in the cases detailed below. Proper justification shall be provided, in writing, to the Borough by all persons claiming an exemption. Proper justification shall be verified by the Tree Officer and include, but not be limited to photos or statements from a NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist.

1. Residents who remove less than four (4) trees that have a DBH of less than 33 inches and are not classified as Specimen Trees. 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.
2. Any trees removed as part of a Borough or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
3. Farms in active operation, nurseries, fruit orchards, and garden centers;
4. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the Borough;
5. 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;
6. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.
7. Construction of a new home, an addition to an existing home, construction of an accessory structure to the home, such as a patio, deck, tennis court and/or swimming pool, but only to the extent reasonably required, after due consideration of the property owner's design needs, for the construction of the home, the addition, the repair/replacement of the septic system or an accessory structure.
8. Hazard trees, as defined in § 259-2 above, may be removed immediately. However, the property owner shall, upon request of the Tree Officer, be required to provide documentation confirming said conditions, which will include photographs of the trees removed and the property, and a certification from a duly licensed LTCO or LTE, or from an ISA- certified arborist.
9. Any tree may be removed as part of the operation of an agricultural or horticultural use on property that is five acres or more, and that is assessed for local property taxes pursuant to the New Jersey Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.
10. Any tree recognized as Invasive by the New Jersey Department of Environmental Protection or listed on the most recent New Jersey Invasive Strike Team "Do Not Plant List" may be removed without replacement.

§ 259-5 Regulated Activities

- A. Any person planning to remove a street tree with DBH of 2.5" or more or any private tree with a

DBH of 6” or more on their property shall submit a Tree Removal Permit Application and/or Tree Removal Plan for review by the Borough Tree Officer. No tree shall be removed until Borough officials have reviewed and approved the removal. For clearing projects in excess of one acre, and site plan applications, a tree survey shall be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees.

- B. Tree Removal Permit Application and accompanying fees shall be submitted to the construction code office.
- C. The Tree Removal Plan shall include the following information:
 - (1) The subject property where the tree(s) is/are to be removed shall be identified by street address, tax block and lot number(s) and approximate acreage;
 - (2) The name, address and telephone number of the owner of the subject property or the owner's duly authorized agent;
 - (3) The name, address, and state license identification number of the NJ licensed tree contractor who will be performing the tree removal work. All tree contractors must comply with the Tree Experts and Tree Care Licensing Act, N.J.S.A. 45:15C-11 *et seq.*, and the contractor must carry a current and valid LTCO or LTE credential from the New Jersey Board of Tree Experts. Unless the tree removal is being performed by the landowner, the tree removal must be performed by a LTCO or LTE as defined herein;
 - (4) The tree(s) proposed to be removed shall be clearly marked on the subject property for review by the Borough Tree Officer;
 - (5) To the extent deemed necessary by the Tree Officer to make an appropriate decision, the following information shall be shown on a map, legal survey or site plan which is drawn to scale and is of a suitable size to depict the required information:
 - (a) The total number and the location and size of each tree proposed to be removed;
 - (b) The total number and approximate location of any trees removed from the lot in the preceding 12 months, if known;
 - (c) The location of the principal building and all accessory buildings on the subject property;
 - (d) The location of any driveway on the subject property;
 - (e) The location of any deed restricted areas, scenic buffers, and/or HOA restricted areas on the subject property.
 - (f) In larger wooded areas to be cleared, tree sampling in the form of representative 100' x 100' sample areas shall be permitted to determine compensation that may be required for tree removal.

§ 259-6 Tree Replacement Requirements

- A. Each tree removed pursuant to a submitted and approved Tree Removal Permit Application/Tree

Replacement Plan and not otherwise required to provide replacement pursuant to § 259-3, above, shall be replaced with a new tree planted either on the subject property or as directed by the Tree Officer. All newly planted trees shall meet the following minimum standards and requirements:

B. Removed tree(s) shall:

1. Be replaced with a deciduous tree having a minimum caliper of 1 ½ inches for non-street trees and 2 ½ inches for street trees. On private lots, an evergreen tree having a minimum height of 6 feet may be planted as a replacement. The number of replacement trees shall correspond with the ratio listed in 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 Borough;
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;
4. Not be planted in temporary containers or pots, as these do not count towards tree replacement requirements;
5. Comply with the species listed in Appendix A unless an alternate species is approved by the Tree Officer.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria	Fee in lieu of tree replacement
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Plant 1 tree for each tree removed	<i>\$450.00</i>
2	DBH of 13" to 22.99"	Plant 2 trees for each tree removed	<i>\$900.00</i>
3	DBH of 23" to 32.99"	Plant 3 trees for each tree removed	<i>\$1,350.00</i>
4	DBH of 33" or greater	Plant 4 trees for each tree removed	<i>\$1,800.00</i>

6. Replacement Alternatives

1. If the municipality or applicant determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall pay a fee per tree removed according to the Tree

Replacement Requirements Table. This fee shall be placed into a Tree Bank Trust account, maintained by the Borough Finance Office and dedicated to tree planting and maintenance of the trees on public property.

§ 259-7 **Creation of Palmyra Shade Tree Advisory Board.**

A. The Mayor, with the advice and consent of the Council shall annually appoint six members and two alternate members for the Palmyra Shade Tree Advisory Board. The initial term for each member shall be for the balance of the year 2012 and thereafter for a one-year term commencing January 1 until December 31 of each successive year. The Members of the PSTAB shall be residents of the Borough and shall serve without compensation. Any vacancy shall be filled for the remainder of the unexpired term by the Mayor with the advice and consent of Borough Council. [Amended 3-16-2015 by Ord. No. 2015-1]

B. Power and duties. The PSTAB organized under this chapter shall serve as an advisory board and shall:

- (1) Investigate complaints made about Borough trees located on Borough property or within the public rights-of-way.
- (2) Make recommendations to the Tree Officer regarding the planting, trimming, spraying, moving, removing, and protection of Borough trees as well as private trees that are dangerous to public safety.
- (3) Encourage arboriculture.
- (4) Monitoring compliance with the Borough's Community Forestry Management Plan.
- (5) Assisting the Tree Officer in administering the TREE CITY USA program for the Borough.

§ 259-8 Creation of part-time position of Tree Officer.

A. The Mayor with advice and consent of the Council shall annually appoint a Tree Officer. The initial term of the Tree Officer shall be for the balance of the year 2012 and thereafter for a one-year term commencing January 1 until December 31 of each successive year. Upon initial appointment, the Tree Officer may, but need not be, a LTCO or LTE or an ISA Certified Arborist. No person shall be reappointed or redesignated as Tree Officer unless the individual has completed the NJ DEP Core Training under the New Jersey Shade Tree and Community Forestry Assistance Act within 12 months of the initial appointment.

B. Power and duties. The Tree Officer shall have the following duties:

- (1) Review all Tree Removal Applications.
- (2) Determine the species and planting location for replacement trees.
- (3) Receive and review any recommendations from the PSTAB.
- (4) Exercise full and exclusive control over the regulation and care of Borough trees including the planting, trimming, spraying, and protection thereof.
- (5) Regulate and control the use of the ground surrounding the Borough trees, so far as may be necessary for their proper growth, care and protection.
- (6) Move or require the removal of any tree, or part thereof, dangerous to public safety.
- (7) Administer treatment to or remove any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Borough and enter upon private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by certificate issued by or on behalf of the New Jersey Department of Agriculture.
- (8) Work with the PSTAB regarding the satisfaction of all requirements to comply with the TREE CITY USA program and the Borough's Community Forestry Management Plan.

§ 259-9 General protection and maintenance requirements.

- A.** The Borough shall have the exclusive right to plant, prune, maintain, move, or remove any Borough tree. Without the express written permission of the Tree Officer, no person shall plant, prune, maintain, move, or remove any Borough tree.
- B.** Except as set forth below, the Borough shall pay all costs associated with Borough trees.
- C.** The Borough may notify in writing any property owners of any private tree(s) which may, for any reason, threaten public safety, and require the removal of any such tree(s), or pruning of such tree limbs, at the owner's expense and in accordance with the requirements of this chapter with such removal to occur within 30 days of the date of such notice. The Borough may remove such tree(s), or prune such tree limbs, in the event of owner's failure to cause such removal, and the costs thereof shall be included in the next property tax bill rendered to the owner and shall be a lien against the property owner's property until payment. The Borough Tree Officer shall give reasonable notice of its intention to remove or prune or cause the removal or pruning of

any tree(s), or part thereof, unless public safety requires immediate removal, in which case no notice shall be necessary.

D. The Borough shall have the power to administer treatment to or remove any tree(s) situated upon private land which is believed to harbor a disease or insects or is within the recommended radius of a tree which is believed to harbor a disease or insects, readily communicable to neighboring healthy trees in the care of the Borough. The Borough shall have the right to enter upon private land for that purpose, with notice to the property owner thereof, provided that the suspected condition is first confirmed by a certificate by or on behalf of the Department of Agriculture. The cost of such treatment or removal shall be borne by the property owner and, if not paid within 30 days from the presentation of the bill, shall be included in the next property tax bill to the property owner and shall be a lien against the property owner's property until payment.

E. All sewer service mains from private improvements to the point of tap at the public sewer main are the responsibility of the property owner to maintain regardless of the origination of any tree roots or other tree-related problem. The Borough shall not be responsible for clearance of tree roots, or replacement of sewer piping, or any other affiliated expense of sewer service mains. In the event that repair or replacement of the sewer main pipe would destabilize a Borough tree(s) and cause it (them) to become a hazard tree(s) according to the USDA Forestry guidelines, then the property owner must remove and replace the Borough tree(s) at the property owner's expense. The replacement tree must comply with the planting requirements of this chapter.

F. Overhead utility lines. Property owners shall not prune or cause to be pruned any portion of any tree within 10 feet vertical or horizontal distance of a utility wire, inclusive of electric, cable and telephone wiring. Issues pertaining to such wires shall be reported to the utility company.

G. Sidewalk repairs and replacements.

(1) Property owners are responsible for the maintenance of sidewalks at all times. In the event that sidewalk work for repair or replacement becomes necessary for any reason, the property owner must obtain a permit from the Borough Zoning Officer. The permit process shall include a review by the Tree Officer of any Borough tree(s) within the ROW.

(2) In the event that repair or replacement of the sidewalk, in like and kind, would destabilize the

Borough tree(s) and cause it (them) to become a hazard tree(s) as defined above, then the property owner must remove and replace the Borough tree(s), on a one-for-one basis, at the property owner's expense unless the property owner meets both of the following two requirements of proof:

(a) Proof satisfactory to the Tree Officer that one, or a combination of the following options cannot be done to avoid creating a hazard tree condition:

[1] (Reserved)^[1][1] *Editor's Note: This subsection (prior to inclusion in the Code), regarding rerouting of the sidewalk within the right-of-way, was repealed 7-6-2015 by Ord. No. 2015 .*

[2] Regrade soils and the sidewalk, but the new sidewalk slope shall not exceed 1:12 ratio, or current ADA handicapped accessibility standards, and the soil height shall not be increased more than six inches.

(b) Proof that the Borough tree(s) meet the definition of an "overgrown tree" or "invasive tree."

(3) The property owner must provide such proof along with any notice to the Tree Officer that the Borough tree(s) require removal at Borough expense. The Tree Official will then determine whether the Borough shall remove the Borough tree(s) at Borough expense, provided that the property owner meets both of the requirements of proof set forth above.

(4) Any replacement tree(s) must comply with §259-6 of this chapter.

§ 259-10 Planting requirements.

A. Approved trees for planting. The Tree Officer shall maintain a list of approved small, medium or large trees for planting on Borough property and ROWs. The Tree Officer may, at his discretion, consult with the PSTAB as to the addition or deletion of any such approved trees.

B. Planting distances.

	Small Tree (feet)	Medium Tree (feet)	Large Tree (feet)
Small tree distance to the nearest	15	15	15
Medium tree distance to the nearest	15	30	30
Large tree distance to the nearest	15	30	40

C. Confining elements. When practicable, the planting distance from curbs or curblines and sidewalks or other paved areas shall be in accordance with the three size classes listed under Definitions,^[1] as follows: for a small tree, shall be one foot and three inches; for a medium tree shall be two feet and for a large tree shall be four feet. [1]Editor's Note: See § 259-1, Definitions.

D. Distance from utilities. The distance from the center of the tree to the vertical plane through a utility line shall be as follows:

	Small Tree (feet)	Medium Tree (feet)	Large Tree (feet)
Underground water, gas or sewage mains, or oil fill pipes, or coal fill chute	6	12	16
Overhead electric, telephone and cable wires	0	4	4

E. Tree collar damage prevention. There shall be kept clear of lawn, vegetation and weeds an area of a minimum of one foot around the base of newly planted trees. The intent of this section is to prevent injury to the newly planted trees from lawn mowers and trimmers.

F. Fire safety. No street trees, or other woody plant material shall be planted, or allowed to branch into the ROW within:

- (1) Fifteen feet of a fire plug, a standpipe connection, or any other water connection point for Fire Department use; or
- (2) The area directly in front of the entrance and egress doors to a building.

G. Traffic and pedestrian safety. No street trees, or other woody plant material shall be planted, or allowed to branch into the ROW within:

- (1) Twenty feet of the midpoint of the curb corner at any intersection.
- (2) Seven feet of a curb cut.
- (3) A location where the roadbed curves, in such a manner to block the view of drivers exiting any curb cut.
- (4) Twenty-five feet of a streetlight.
- (5) Thirty feet of a stop sign, traffic light.
- (6) Six feet of other traffic signs.
- (7) The area between five feet and 15 feet behind a parking meter where car doors are anticipated to open.

(8) A zone where such tree or woody plant material does not allow a clear three-foot-wide pedestrian walkway to be maintained.

(9) A zone within five feet from the curb at bus stops, for the full length of the bus in the stopped position.

§ 259-11 Violations and penalties.

A. It shall be a violation of this chapter for any person to do any of the following to a Borough tree:

- (1)** To remove any such tree without a valid Tree Permit issued by the Tree Officer.
- (2)** To deface, write graffiti upon, paint, or vandalize any such tree.
- (3)** To cut, break, injure, disturb, install nails or other metal objects into, to put stickers upon, to put writings upon, or otherwise interfere in any material manner with any such tree.
- (4)** To cut the roots of any such tree without the written permission of the Tree Officer.
- (5)** To conduct any excavation within the Critical Root Radius of the tree (without the express written permission of the Tree Officer).
- (6)** To engage in any tree topping of any such tree.
- (7)** To build fires or station any kettle, road roller, fuel oil dispensing truck, or other engine in any street or other public place in such a manner that the heat, vapors, fuel or fumes may injure any such tree.
- (8)** To install mulch to more than three inches deep at the base of any such tree or cover the root flare of the tree.
- (9)** To utilize motorized trimmers and lawn mowers in such a way to damage the bark or cambium layer of any such tree.
- (10)** To apply soil in excess of three inches deep on top of the soil at the area under the dripline of any such tree.
- (11)** To remove or damage any guard or device placed to protect any such tree.
- (12)** To place salt or other substances injurious to plant growth in any street, park, and public place in such a manner to injure any such tree.
- (13)** To fasten any rope, wire, sign, or other device to any such tree or to any guard about such tree.
- (14)** To close or obstruct any open space about the base of any such tree which would prevent access of air, water, and fertilizer to the roots of any such tree;
- (15)** To place or maintain in any street or ROW or park, any stone, cement, or other sidewalk or other

substance which may impede the free access of air and water to the roots of any such tree, and, where any such tree is surrounded by pavement of stone, placement of cement or asphalt or any other substance tending to impede the free access of air and water to the roots of any such tree.

B. Any person who violates any of the above provisions or any other provisions of this chapter or who fails to comply with the terms and provisions of any permit issued pursuant hereto shall upon conviction in Municipal Court thereof, be liable for a fine not to exceed \$1,000 and may be incarcerated for up to 30 days in the discretion of the Court. Each day that a violation shall continue shall constitute a separate offense. In the case of an illegal tree removal, the person shall in addition to the fine, be required to pay a tree replacement fee in accordance with the Tree Replacement Requirements Table provided in §259-6.

§ 259-12 Appeal procedures.

A. Property owners may appeal decisions of the Tree Officer under the following procedures:

- (1) The property owner must submit an appeal in writing to the Clerk of the Borough of Palmyra inclusive of their reasons and third-party evidence upon which the appeal will be based. Examples of third-party evidence are photographs, surveys, authoritative documents, expert reports by a LTCO, LTE or an ISA Certified Arborist or other evidence in support of the appeal.
- (2) The Borough Council PSTAB liaison shall have 30 days from the date of receipt of the written documents from the Borough Clerk to review the information and shall either grant or deny the property owner's appeal with the reasons stated. If additional information is subsequently submitted, then the Borough Council PSTAB liaison shall have an additional 30 days from the date of submission of the additional information to either accept or reject, with reasons stated, the property owner's appeal.
- (3) In the event that the above conditions are met, and the Borough Council PSTAB liaison has rejected the property owner's appeal, then the property owner may present the same request and the same information to the governing body by delivering same to the Administrator. The governing body shall have 30 days from the date of receipt of the written documents from the Administrator to review the information and shall either grant or deny the property owner's appeal with the reasons stated.
- (4) In the event that the above conditions are met, and the governing body has rejected the property owner's appeal, then, and only then, will all administrative remedies be considered

exhausted, and the property owner may pursue other legal options.

B. The cost of obtaining and submitting any reasonably requested information shall be at the expense of the property owner regardless of the outcome of the appeal.

§ 259-13 Construal of provisions; liability.

Nothing in this chapter shall be construed to make the Borough, any Borough employee, the PSTAB, any PSTAB member, or the Tree Officer responsible for the death or injury of any person, or for injury to any property or tree. Liability for any such death, injury or property damage shall be governed by relevant provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1).

Approved for introduction at the regular meeting of the Borough of Palmyra Mayor and Council on **April 15, 2024** Public Notice of the second reading and public hearing was published in the Burlington County Times on **April, 19, 2024** Public Notice and second reading will be held **May 6, 2024**.

RECORDED VOTE	MOTION	SECOND	INEAVOR	AGAINST	ABSTAIN	ABSENT
DR. CLOUD						X
MS. LATIMORE			X			
MR. LIEBE						X
MRS. MCCANN		X	X			
MS. OCONNOR			X			
PRESIDENT HOWARD	X		X			
MAYOR GINA RAGOMO TAIT						

Approved for final adoption at the regular meeting of the Borough of Palmyra Mayor and Council on **May 6, 2024** after a public hearing was held. Public Notice was given for the public hearing by being published in the Burlington County Times on April 19, 2024.

RECORDED VOTE	MOTION	SECOND	INEAVOR	AGAINST	ABSTAIN	ABSENT
DR. CLOUD			X			
MS. LATIMORE			X			

MR. LIEBE		X	X			
MRS. MCCANN			X			
MS. O'CONNOR			X			
PRESIDENT HOWARD	X		X			
MAYOR GINA RAGOMO TAIT						

DATE OF FINAL PUBLICATION: May 12, 2024

ATTEST:

SIGNED:

Doretha R Jackson
Municipal Clerk

Gina Ragomo Tait
Mayor