

Ordinance # 0-6-24

– Tree Removal-Replacement Ordinance SECTION I. Purpose:

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

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. The 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'(feet)
- 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. "Tree of Significance" means any tree that is recognized by the municipal governing body or local historical organization(s) as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological, and historical value.
- E. "Homeowner" means a person(s) who owns a residence. "Person" means any individual, resident, corporation, utility, company, partnership, firm or association. "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.
- F. "Hazard tree" means any 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. (Municipalities may choose to require a Licensed Tree Expert to make all hazard tree determinations)
 - has an infectious disease or insect;
 - is dead or dying;
 - Obstructs the view of traffic signs or the free passage of pedestrians or vehicles; where pruning attempts have not been effective.
 - Needs to be removed due to a new well installation or septic system installation for an existing dwelling as required by the applicable regulations.
 - is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
 - Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- G. "Person" means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

- H. "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.
- I. "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.
- J. "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.
- K. "Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees who caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.
- L. "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 tree treatments intended to manage invasive species.
- M. Any tree removal required for a well or septic system install as part of the construction of a new dwelling, is not considered a hazard tree unless it meets the other criteria identified in this chapter.

SECTION III. Regulated Activities:

A. Application Process:

1. Any person planning to remove a street tree 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 Franklin Township, Gloucester County. ***No tree shall be removed until municipal officials have reviewed and approved the removal.*** ** For larger scale clearing projects, applicants can submit a tree survey as part of the application identifying the number, sizes and exemptions of trees for the assessment of fees. * Removal of a "tree of significance" must be certified by a Licensed Tree Expert (LTE) hired by the Township to examine said tree and then the removal passed via resolution by the Township Committee.
2. Applicants will be subject to an application fee as per Table 1 below.

B. Tree Replacement Requirements

1. Within a five-year period, 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 Street 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.
3. For applicants, other than "Homeowners":
 Within a five-year period, any person, other than a homeowner, who removes one or more street tree(s) with a DBH of 6" or more per acre, unless exempt under Section IV, shall be subject to the requirements of the

Street Tree Replacement Requirements Table below.

4. For Homeowner applicants:

Within a five-year period, any person that removes more than three (3) street trees per acre that fall into categories 1, 2, or 3, combined, or anyone (1) street tree in categories 4 or 5 in the Street Tree Replacement Requirements table below, unless exempt under Section IV, shall be subject to the requirements of the Street Tree Replacement Requirements Table below.

The species type and diversity of replacement trees shall be in accordance with the list of invasive trees which cannot be planted in appendix A.

Replacement tree(s) shall meet the Required Actions in Table below, and:

1. Be replaced in kind with a tree that has an equal or greater DBH than the tree removed or meet the Tree Replacement Criteria in the table below;
2. Shall be planted within twelve (12) months of the date of removal of the original tree(s), or at an alternative date specified by the Township.
3. Replacement tree(s) shall 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. Trees 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)	Required Action	Application Fee
1	DBH of 2.5" (for street trees) or 6" (for other trees) to 12.99"	Replant 1 tree in accordance with Appendix A, with a minimum DBH of 1.5" for each tree removed	\$35.00 per tree
2	DBH of 13" to 22.99"	Replant 2 trees in accordance with Appendix A, with minimum DBHs of 1.5" for each tree removed	\$35.00 per tree
3	DBH of 23" to 32.99"	Replant 3 trees with minimum DBHs of 1.5" for each tree removed	\$35.00 per tree
4	DBH of 33" or greater	Replant 4 trees with minimum DBHs of 1.5" for each tree removed	\$35.00 per tree
5	Tree of Significance*	Replant 5 trees with minimum DBHs of 1.5" for each tree removed	\$200.00 per tree

***Tree of Significance removals shall be approved by the Franklin Township Mayor.**

C. Replacement Alternatives:

1. If the Township 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 Township.
 - b. Pay a fee as indicated in the table below for each tree which has been removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of trees and surrounding space.

Tree Replacement Fee Table:

Category	Tree Removed (DBH)	Required Action	Application Fee
1	DBH of 2.5" (for street trees) or 6" (for other trees) to 12.99"	Replant 1 tree in accordance with Appendix A, with a minimum DBH of 1.5" for each tree removed	\$25.00 per tree
2	DBH of 13" to 22.99"	Replant 2 trees in accordance with Appendix A, with minimum DBHs of 1.5" for each tree removed	\$50.00 per tree
3	DBH of 23" to 32.99"	Replant 3 trees with minimum DBHs of 1.5" for each tree removed	\$75.00 per tree
4	DBH of 33" or greater	Replant 4 trees with minimum DBHs of 1.5" for each tree removed	\$100.00 per tree
5	Tree of Significance*	Replant 5 trees with minimum DBHs of 1.5" for each tree removed	To Be Determined by Township Committee

SECTION IV. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption. Franklin Township defines "proper justification" as a written statements from licensed tree expert or arborist describing why the tree(s) must be removed (disease / hazard etc.):

- 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 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 Township;
- 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 Police Department and/or other Municipal Officials of Franklin Township, Gloucester County during the course of ordinary enforcement duties.

SECTION VI. Panel for Appeal Process:

The Township designates that the appeal committee for this ordinance, any application decisions and violations shall be comprised of the Township Administrator, Department of Public Works Supervisor and the Zoning Officer. Their determination of appeal shall be made in writing within fourteen (14) days of hearing.

SECTION VII. 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 \$250.00 (per tree removed), any business, corporation who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$500.00 up to \$1,000 (per tree removed) and the actual cost of replacement trees (1 for 1) to be planted elsewhere within the township The removal of a tree of significance is not subject to a fine limit.

SECTION VIII. 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 IX. 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:

Township of Franklin

BARBARA FREIJOMIL, RMC

MAYOR JOHN BRUNO, MAYOR

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, County of Gloucester, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the Township of Franklin held on June 11, 2024, 2024 and thereafter duly advertised in the legal newspaper of the Township at least seven (7) days prior to it being considered for final passage and adoption at a subsequent meeting to be held on July 9, 2024 , at which time any person interested therein will be given an opportunity to be heard.

BARBARA FREIJOMIL, RMC
Township Clerk

Introduced June 11, 2024

Name	Motion	Second	Yes	No	Abstain	Absent
Doyle						
Fiorella						
Keen						
Marsh						
Bruno						

Adopted July 9, 2024

Name	Motion	Second	Yes	No	Abstain	Absent
Doyle						
Fiorella						
Keen						
Marsh						
Bruno						

Appendix A

The following trees, as well as their cultivars are known or believed to be invasive to natural ecosystems in New Jersey and are prohibited for planting as replacement trees. All species listed are nonindigenous. While many of these species may be available at commercial nurseries for landscaping, because of their invasive nature, they are not suitable for landscaping of capital improvements, replanting of facilities, or ecological restorations administered by the Department. For each species the common name, scientific name and authority (the person or persons who formally described the plant) are provided. Scientific names should be consulted for accuracy in identifying species. Note that several species may be included under a single common name. The list will be periodically updated based on new information.

Trees

Black locust	<i>Robinia pseudoacacia</i> L.
Callery pear	<i>Pyrus calleryana</i>
Catalpa	<i>Catalpa bignonioides</i> Walter.
Chinese elm	<i>Ulmus parvifolia</i>
Crack willow	<i>Salix fragilis</i> L.
Devil's walking stick	<i>Aralia spinosa</i> L.
Empress tree Paulownia	<i>tomentosa</i> (Thunb.) Steudel.
Japanese cork tree	<i>Phellodendron japonicum</i> Maxim.
Mimosa	<i>Albizia julibrissin</i> Durazz.
Norway maple Acer	<i>platanoides</i> L.
Paper-mulberry	<i>Broussonetia papyrifera</i> (L.) Vent.
Scotch pine	<i>Pinus sylvestris</i> L.
Siberian elm	<i>Ulmus pumila</i> L.
Sweet cherry	<i>Prunus avium</i> L.
Tree of heaven Ailanthus	<i>altissima</i> (Miller) Swingle.
Umbrella tree Magnolia	<i>tripetala</i> (L.) L.
White mulberry	<i>Morus alba</i> L.
White poplar	<i>Populus alba</i> L.
White willow	<i>Salix alba</i> L.
Yellow buckeye	<i>Aesculus flava</i> Ait.