

Borough of Kinnelon

ORDINANCE NO. 14-2024

AN ORDINANCE AMENDING CHAPTER 186 OF THE CODE OF THE BOROUGH OF KINNELON AND ESTABLISHING TREE REMOVAL AND REPLACEMENT REQUIREMENTS

BE IT ORDAINED by the Borough Council of the Borough of Kinnelon, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 186, "Tree Removal," of the Revised General Ordinances of the Borough of Kinnelon, shall be amended by repealing the existing Chapter and replacing it with the following:

**ARTICLE 186
TREE REMOVAL AND REPLACEMENT**

§ 186-1 Purpose and intent.

A. The purpose of this chapter is:

- (1)** To preserve and protect trees within the Borough, which helps to preserve water quality, abate noise, and enhance the ambience and character of the community.
- (2)** To control the indiscriminate destruction of trees which has been shown to have severe detrimental environmental, ecological and economic effects including increased soil erosion and surface drainage problems, creation of insect breeding sites, decreased oxygen production, decreased property values and increased municipal costs and thereby to eliminate a threat to the public health, welfare and safety.
- (3)** To protect the semirural character and natural resources of the Borough, consistent with the goals and objectives of the Master Plan. This section is not intended to restrict homeowners from removing dead, diseased, or hazard trees. It is not intended to restrict homeowners from conducting routine pruning of trees or other maintenance procedures.
- (4)** To comply with the NJDEP Tier A MS4 permit renewal requirements established by the State of New Jersey.

B. This chapter places special emphasis on the preservation of trees around the perimeter of a property to create conservation areas based upon setback requirements pursuant to the Kinnelon Borough Zoning Code.^[1] The ordinance will also provide a sound management structure for the removal of trees in the Borough of Kinnelon.

[1] *Editor's Note: See Ch. 207, Zoning.*

§ 186-2 **Definitions.**

For the purpose of this chapter, the words and terms used herein are defined as follows:

AFFECTED PROPERTY

The lot or lots for which a tree removal permit is sought.

APPLICANT

Any "person," as described below, who applies for approval to remove trees regulated under this ordinance.

CHEMICAL CONTAMINATION

The application of a material, whether intentionally or accidentally, which has a toxic effect on a tree or trees.

CLEAR CUTTING

Removal of all the trees in a stand of timber in a certain area.

CONSERVATION AREA

That area created by the setback standards for a particular building zone and surrounding the perimeter of a property.

CRITICAL ROOT RADIUS (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 diameter at breast height (DBH) of the tree by one and a half feet (1.5'). For example: a tree with a six-inch (6") DBH would have a CRR = 6 x 1.5' = 9'.

DEAD TREE

A tree which has ceased to physiologically function. Dead trees typically are devoid of leaves and have loose bark.

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of the trunk of a mature tree generally measured at a point four and a half feet (4½') above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the four and a half foot (4½') height, the DBH shall be measured at the highest point before any division.

DISEASED TREE

A tree, which is terminally infected with a fungus or virus or terminally infested with insects.

DRIPLINE

The circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the outermost branches of the tree.

EROSION CONTROL

The planting of vegetation on steeply sloped lands in conformation with Soil Conservation Service standards, to prevent the loss of soil from wind, rain, flooding or traffic.

EXCESSIVE DRAINAGE ALTERATIONS

Grade changes which result in either a deficiency or overabundance of soil moisture within the dripline of a tree or trees.

GIRDLING

To remove or cut through a ring of bark and underlying tissue from a tree trunk in order to kill the tree.

GRADE CUT

The removal of soil within the dripline of an existing tree. Cuts in grades damage tree roots and affect the stability of a tree.

GRADE FILL

The placement of soil on the ground surface surrounding existing trees. The placing of fill inhibits gaseous exchange to tree roots and soil moisture.

HAND-OPERATED EQUIPMENT

Manual tools, including but not limited to a pick, shovel, hoe, iron rake, or air spade, which excavates with forced air.

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.).
5. Is determined to be a threat to public health, safety, and/or welfare by a Licensed Tree Expert (LTE).
6. Is listed as an invasive tree per Appendix B, found on the Borough of Kinnelon Website and in the Borough Clerk's Office, and is thus considered a Hazard Tree.

HORTICULTURALLY ADVANTAGEOUS THINNING

The removal of dead, diseased, dying or undesirable trees in order to improve the quality of desirable existing trees or to create conditions where more desirable trees will be planted.

HORTICULTURALLY DISADVANTAGEOUS THINNING

The removal of dead, diseased, dying or undesirable trees or the disturbance of an area without an approved replacement planting plan and management program thus creating a void where invasive plant material could become established.

LIMBING

Removal of one third (1/3) or more of the living branches of a tree.

LIMIT OF DISTURBANCE

The area in which trees have been designated for cutting, obtained by traversing the outer periphery of those trees and taking into consideration the delineation of the natural boundaries located within the property.

MECHANICAL DAMAGE

Physical damage to the bark, branches, or roots of a tree. Such damage is usually caused by motor-driven excavation or other equipment.

PERMIT

Written authorization from the Borough of Kinnelon to remove a tree or trees. A placard for public display, issued by the Borough Forester, fixed to a wall, tree or fence, in plain view of the public.

PERSON

Any individual, resident, corporation, utility, company, partnership, firm, or association.

REPLACEMENT TREE(S)

All replacement trees shall be of a species approved by the Borough Forester and shall be nursery grade quality, properly balled, and burlapped. Minimum measurements of replacement trees shall be as follows: evergreen trees: seven feet (7') to eight feet (8') in height; ornamental trees: two inches (2") to three inches (3") in caliper; and shade trees: two inches (2") to three inches (3") in caliper. Caliper is measured one inch above the root flare of a balled and burlapped nursery grown tree.

RESIDENT

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.

SCREENING

A tree, trees, hedge, or privacy fence, which provides a visual barrier from one property to another.

SETBACK

All existing borough setbacks applicable to a given property as defined in the Kinnelon Borough Zoning Code §§**207-27** through **207-31**.

SILVICULTURE

The growing and cultivation of trees.

SOIL COMPACTION

The subsurface compression of soil by vehicles, equipment, and materials, which disrupts the movement of air and water to tree roots.

STREET TREE

A tree growing within the public right-of-way. In the Borough of Kinnelon, property owners are responsible for the maintenance of all trees within the public right-of-way adjacent to their property.

TREE

Any live or dead woody perennial plant within the confines of the Borough having a diameter of six inches (6") or greater measured at a point of four and a half feet (4½') above grade level. On sloped terrain, such measurement shall be made on the downhill side. Measurements shall be made and/or approved by the Borough Forester or the Borough Code Enforcement Officer.

TREE CALIPER

The diameter of the trunk of a young tree, measured six inches (6") from the soil line. For young trees whose caliper exceeds four (4") inches, the measurement is taken twelve inches (12") above the soil line.

TREE ENCROACHMENT

The storage of equipment or materials, the changing of grade including cutting or filling, or compacting of soil within the dripline of a tree.

TREE REMOVAL

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, insects, or disease.

TREE REMOVAL CONTRACTOR

Any person, company, corporation or other entity, whether compensated or not, who desires to cut down any tree in the Borough on property they do not own.

TREE TOPPING

The indiscriminate cutting back of tree branches in excess of one third (1/3) of total tree branches to stubs or lateral branches that are not large enough to assume the terminal role.

WETLANDS (including Wetland Transition Area and Stream Buffer)

Wetlands are areas where water covers the soil or is present either at or near the surface of the soil all year, or for varying periods of time during the year, including during the growing season.

A Wetland Transition Area is a strip of land bordering wetlands. It may vary from one hundred fifty feet (150') wide down to nothing depending on the value of the particular wetland.

A Stream Buffer is a vegetated area on either side of a stream or river.

§ 186-3 **Responsible officials; enforcement.**

- A. *The Borough Forester.*** The Mayor, upon the advice and consent of the Council, may appoint a Forester who is a qualified tree expert, certified by the State of New Jersey pursuant to N.J.S.A. 45:15C-1 et seq. In the absence of such an appointment, the Borough Construction Official shall act as the Forester.
- B. *Administration.*** The Borough Forester and/or Code Enforcement Officer shall be responsible for administration of this chapter.
- C. *Enforcement.*** The Borough Forester, the Construction Official, the Zoning Officer, Code Enforcement Officer, and Borough Police Officers are hereby authorized to enforce the regulations set forth within the Code of the Borough of Kinnelon regulating the destruction and removal of trees.

§ 186-4 **Tree Removal Contractors.**

All tree removal contractors operating within the Borough of Kinnelon shall:

1. Be licensed in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act.^[1]
[1] *Editor's Note: See N.J.S.A. 45:15C-11 et seq.*
2. Maintain insurance as required by the State of New Jersey.
3. Hold a current valid registration with the Borough of Kinnelon.
4. Carry and provide proof of the following insurance coverage:
 - a.) At least \$1,000,000 property damage and bodily injury insurance per incident;
 - b.) At least \$300,000 automobile insurance per incident; and
 - c.) Workers' compensation insurance in such amounts as required by law.
5. Require their insurers to provide the Borough of Kinnelon with a minimum of thirty (30) days advance notice of the cancellation of any required coverage. Upon the cancellation of any of the required insurance coverage, the tree removal contractor's registration shall automatically be suspended, and the tree removal contractor shall thereafter be prohibited from performing work within the Borough of Kinnelon.
6. Upon the submission of satisfactory proof of insurance coverage; licensure in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act; payment of registration fee; and a certification that the tree removal contractor has read, understands, and will comply with applicable ordinances of the Borough of Kinnelon, then the Borough Clerk shall register the tree removal contractor as approved to do business in the Borough of Kinnelon. Registration shall be valid from the date of issuance to the end of the year in which it was issued.

7. Upon registration or renewal, Tree Removal Contractor shall be required to obtain a decal from the Borough for each of the contractor's vehicles, which must be affixed on the vehicles to indicate proof of registration.

§ 186-5 Prohibitions.

- A. No person shall remove or cause to be removed any tree(s) or engage in tree encroachment activities on any private, residential or commercial property within the Borough of Kinnelon without a permit.
- B. No person shall engage in activities which could cause trees to die. This activity includes but is not limited to: limbing, topping, grade cut or fill, soil compaction within the dripline, chemical contamination, girdling, excessive drainage alterations, and mechanical damage.
- C. No tree removal shall be permitted on slopes fifteen percent (15%) or greater in grade or on slopes where vegetation is presently stabilizing soils.
- D. The operation of wheeled or tracked motorized equipment within NJDEP designated wetlands to remove Hazard Trees is prohibited.
- E. The limbing or topping of trees shall not be conducted.
- F. Clear cutting of any property in the Borough is prohibited.
- G. The review and approval of any tree removal as part of any subdivision or site plan application before a Land Use Board, or any major development as defined in Stormwater Management Regulations of the Borough Code, shall be approved by the appropriate Land Use Board, Borough Engineer and the Forester.
- H. There shall be no extensive removal of trees or land clearance between April 1st and November 15th in any given year where Indiana Bat Maternity Colonies could be located.
- I. No Tree Removal Contractor shall operate in the Borough without having first been registered by the Borough Clerk as an approved contractor.

§ 186-6 Tree protection during construction.

- A. No person shall:
 - (1) Operate, place or maintain within the dripline of any tree any machinery, equipment, heavy object, stone, rocks, cement, earth, soil, or other substance which may harmfully affect such tree by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such tree; or

- (2)** Excavate around or remove earth or soil from, or cause any water to flow upon, the roots of any tree, except that if provisions of this section create any undue hardship in the appropriate use and enjoyment of property, the Borough Forester may waive in whole or part such provisions, but only to the extent absolutely necessary to alleviate such undue hardship.

Additional precautionary practices may be required by the Borough Forester.

B. All trees. The following additional provisions shall apply to all trees:

- (1)** Tree protection measures and the limit of disturbance line shown on the site plan or grading plan shall be provided in the field with snow fencing or other durable material and verified by the Borough Forester prior to soil disturbance.
- (2)** Protective barriers shall not be supported by the plants/trees they are protecting but shall be self-supporting. Barriers shall be a minimum of three feet (3') in height and shall last until construction is complete.
- (3)** Chain link fence may be required for tree protection if warranted by site conditions and relative rarity of the plant.
- (4)** Snow fencing, or other substantial fencing used for tree protection, shall be firmly secured along the dripline but shall be no less than twelve feet (12') from the trunk and a minimum of three feet (3') in height.
- (5)** The grade of land located within the dripline shall not be lowered or raised unless compensated by welling or retaining wall methods; and in no event shall be permitted within the dripline or within twelve (12') feet of any surrounding trees, whichever is greater.
- (6)** Any excavation within the dripline, or within twelve feet (12') of the trunk of a remaining tree, whichever is greater, shall be done by air-spade or hand-operated equipment.
- (7)** Where a tree that has been noted for preservation is severely damaged and unable to survive, tree replacement shall occur as provided in the tree removal permit.
- (8)** Prior to construction and any tree removals, suitable tree protective barriers shall be erected and this protection, where required, shall remain until such time as the protection is authorized to be removed by the Borough of Kinnelon. In addition, during construction no attachments or wires shall be attached to any of said trees so protected. Where some grading must take place within the dripline of trees in the protection zone, appropriate measures shall be taken to minimize impact to the trees. Any trees seriously damaged during construction must be professionally treated by a N.J. Licensed Tree Expert or replaced if the damage is beyond treatment.
 - (a)** A detail of the existing tree self-supported protective barrier shall be provided on all applications. The protective barrier shall be a minimum of three feet (3) in height.

- (b) The self-supported protective barrier shall be placed, as determined by the Borough Forester or designee, at the dripline of any tree along the limit of clearing and around the entire dripline for trees to remain undisturbed within the limit of clearing.
- (c) It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery, or temporary soil deposits within the dripline.
- (9) Street right-of-way and utility easements should be delineated by placing stakes a minimum of fifty feet (50') apart and tying ribbon, plastic tape, rope, etc., from stake to stake along the outside perimeters of such areas to be cleared.
- (10) Large tree protection areas separate from construction and land-clearing areas, into which no equipment will venture, may also be delineated as determined by the Borough Forester or designee following a field evaluation.

§ 186-7 **Application for tree removal or tree encroachment permit; fees; procedure.**

A. Filing of application.

- (1) An application for a tree removal or tree encroachment permit shall be filed in the Borough Clerk's Office or other designated recipient and forwarded to the attention of the Borough Forester. Any required New Jersey Department of Environmental Protection approvals shall be attached to the application when submitted to the Borough Forester. After reviewing said application, the Borough Forester will issue or deny a tree removal permit within ten (10) business days.
- (2) The removal of all living and/or dead trees requires a tree removal permit.
- (3) Upon receiving a tree removal or tree encroachment permit, as required hereunder, the respective permit shall be prominently displayed and clearly visible from the road at the site and shall remain posted during the entire tree removal process and/or tree removal period, but in no case shall the permit be displayed for less than ten (10) days from issuance.
- (4) In an emergency or hazardous, non-hazardous situation a tree removal application shall be submitted and a permit granted in the Borough Clerk's Office for up to two (2) trees.

B. Fees.

- (1) There shall be submitted, simultaneously with the filing of the tree removal or tree encroachment permit application, a nonrefundable application fee in the amount

of fifty dollars (\$50.00) to cover the costs of processing the application, including the requisite inspections of the site and the issuance of a tree removal permit.

- (2)** Application fees shall be waived for the removal of up to two (2) dead, diseased or hazardous trees. However, no such trees shall be removed without prior notice by the property owner to the Borough Forester and the issuance of a permit for such removal.
- (3)** Permit fee schedule:
 - (a)** Application - \$50.00
 - (b)** Each living tree - \$10.00
 - (c)** Permit - \$5.00
- (4)** Annual Tree Removal Contractor Registration - \$75.00

C. Procedure.

- (1)** All tree removal and/or tree encroachment permit applications shall be reviewed by the Borough Forester, or his delegate, to determine whether there is a basis for the issuance of a tree removal or tree encroachment permit. The Borough Forester, or his delegate, shall consider numerous factors, including but not limited to:
 - (a)** Whether the activity is proposed for an area which is to be occupied by or surrounds a structure or some other improvements;
 - (b)** Whether the potential effect of the proposed tree removal activity would disturb an area that is five thousand (5,000) square feet or more, thus requiring prior permission from the Morris County Soil Conservation District, or would disturb an area which would require a grading permit or steep slope variance from the Borough of Kinnelon;
 - (c)** Whether the purposes of this chapter will be met by permitting the tree removal requested;
 - (d)** Whether the proposed number and density of trees removed would result in any permanent reduction in screening or the subject property from the surrounding properties;
 - (e)** Whether the proposed activity would result in a horticulturally advantageous or disadvantageous thinning of an existing wooded or naturally screened area;
 - (f)** The potential hardship that would be imposed upon the applicant if the permit is denied;
 - (g)** Whether the tree(s) proposed for removal or tree encroachment is located within a conservation area; and
 - (h)** Whether other trees have been removed from the property within the preceding three years.

- D. The filing of the tree removal or tree encroachment permit application shall be deemed to constitute consent for Borough officials or agents to enter upon the subject land to inspect the designated site(s).
- E. **Issuance of tree removal or tree encroachment permits.**
- (1) A tree removal or tree encroachment permit shall be granted or denied in writing by the Borough Forester or his/her delegate. Such response shall be within ten (10) business days after submittal of a deemed complete application to an enforcing officer which complies with the terms and conditions of this chapter, or within such further time as may be consented to by the applicant.
 - (2) When a tree removal or tree encroachment permit application is filed in conjunction with work for which an application for a construction permit or for approval(s) from the Planning Board, Board of Adjustment, Board of Health or Borough Engineer will be filed, the tree removal or tree encroachment permit shall be conditioned upon the receipt of the construction permit or other requisite approvals and shall not be effective until such permit or approvals have been obtained.
 - (3) The enforcing officer shall be enabled to require replacement plantings for screening or erosion control purposes.
- F. In reviewing any such application, the Borough Forester may at his/her discretion consult the Borough Engineer, Construction Official, or other individual or municipal entity, as he/she may deem necessary or advisable.
- G. **Reasons for Tree Removal Application Denial.** The Borough Forester or designee can deny a tree removal permit should the requested removal cause or contribute to the below conditions if such conditions are not otherwise satisfactorily abated as determined by the Enforcement Agent:
- (1) Additional runoff of surface water onto adjacent properties;
 - (2) Erosion, silting, excessive dust, or anything that may contribute to soil or property instability;
 - (3) Significant and adverse environmental impact;
 - (4) Impairment to the growth or development of remaining trees on the applicant's property or upon adjacent properties;
 - (5) Drainage or sewerage problems;
 - (6) Dangerous or hazardous conditions;
 - (7) Borough Forester's denial is in agreement/conjunction with a utility company when said company is cited as a reason for removal; or
 - (8) Such removal is contrary to the mission and purposes of this Ordinance.

§ 186-8 **Duration of permit.**

Permits granted under the terms and conditions of this chapter shall run with the land and shall remain in force and effect for the following periods of time:

- A.** When no other permits or approvals are involved, must renew after six (6) months from the date of issuance.
- B.** When issued in conjunction with a construction permit, six (6) months from the date of issuance.
- C.** When issued in conjunction with Borough Planning Board or Board of Adjustment approval, until the later of the six (6) months from issuance or the expiration of construction permits issued thereunder.

§ 186-9 Nonliability of Borough.

- A.** Nothing in this chapter shall be deemed to impose any liability upon the Borough or its officers or employees or agents.
- B.** Nothing in this chapter shall be deemed to relieve the owner and/or occupant of any private property from the duty to keep trees and shrubs thereon in a safe condition.

§ 186-10 Appeals.

Any applicant aggrieved by a determination to grant or deny a tree removal permit shall have the right to appeal such decision to the Mayor and Council. Such appeal shall be by written notice stating the reasons upon which the appeal is based and filed with the Borough Clerk within ten (10) business days from the date of determination. The Mayor and Council shall hear the matter, upon notice to the applicant, at the first regularly scheduled public meeting of the Mayor and Council held no less than twenty (20) business days after receipt of the notice of appeal. The Mayor and Council may, in its discretion and upon complete review of the application and after hearing the testimony of the Borough Forester and the applicant, reverse, modify or affirm the prior decision in the matter.

§ 186-11 Violations and penalties.

- A.** The illegal removal of trees will invoke an automatic suspension of any existing tree removal or tree encroachment permits associated with a property and freeze the issuance of any future permits until the case is adjudicated and unwanted effects of the removal mitigated.

- B.** Any person violating any provision of this chapter shall, upon conviction, be subject to a fine of between one hundred dollars (\$100.00) and one thousand dollars (\$1,000.00) per tree.
- C.** Each tree cut or removed in violation of this chapter shall be considered a separate violation.
- D.** Persons failing to replace a tree(s), or replace a dead tree(s) over the twelve (12) month guarantee period, will be issued a summons and will be subject to a fine of between one hundred dollars (\$100.00) and one thousand dollars (\$1,000.00) plus the requirement to replace the tree(s).
- E.** A Registered Tree Removal Contractor who violates any provision of this ordinance may, at the discretion of municipal authority, have their registration suspended or revoked, in addition to any other penalties described in this section.
- F.** Any Tree Removal Contractor who operates in the Borough without having been first registered by the Borough Clerk shall, upon conviction, be subject to a fine of between one hundred dollars (\$100.00) and one thousand dollars (\$1,000.00), in addition to any other penalties described in this section.

§ 186-12 **Replacement of illegally removed trees.**

- A.** In addition to the penalties set forth in § 186-11, each person who removes or otherwise destroys a tree(s) in violation of the Borough ordinances will be required to replace the tree(s) with another of like or superior species as defined herein under definition "replacement tree(s)," on the property from which they were removed, at his/her/their own expense, subject to **APPENDIX A, B and/or C** found on the Borough of Kinnelon Website and in the Borough Clerk's Office.
- B.** Replacement trees must be guaranteed for two (2) full growing seasons. The replacement of trees are on a one to one (1:1) basis on the subject property to the greatest extent possible.

§ 186-13 **Tree Replacement Requirements.**

- A.** Any person who removes one or more living tree(s), unless exempt, as defined by § 186-14, with a DBH of six inches (6") or larger, shall be subject to the requirements of **APPENDIX A, B and/or C** found on the Borough of Kinnelon Website and in the Borough Clerk's Office.
- B.** The species type and diversity of replacement trees shall be in accordance with the list of approved trees and planting requirements as shown in **APPENDIX A, B and/or C** found on the Borough of Kinnelon Website and in the Borough Clerk's Office.
- C.** Replacement tree(s) shall:
 - (1)** Be replaced in kind, to the greatest extent possible, with a tree that meets the tree replacement criteria.

- (2) Be planted within twelve (12) months of the date of removal of the original tree(s) or on an alternative date specified by the municipality;
- (3) Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

D. 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 the following:

- (1) Plant replacement trees in a separate area(s) approved by the municipality.

§ 186-14 Exemptions.

Proper justification shall be provided when requested by the Borough of Kinnelon, in writing, by all persons claiming an exemption. All persons shall comply with the tree replacement standard outlined above, except in cases detailed below:

1. Tree farms in active operation, nurseries, fruit orchards, and garden centers.
2. 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.
3. 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.
4. 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.
5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.

Section 2. Severability.

If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. Ordinance replacement.

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. Effective date.

This Ordinance shall take effect 60 days after final passage and publication in the manner provided by law.

Adopted this _____ day of
_____, 2024.

Karen Luele, Borough Clerk

James Freda, Mayor

