

ORDINANCE 10-2023

**ORDINANCE OF THE BOROUGH OF BROOKLAWN,
COUNTY OF CAMDEN AND STATE OF NEW JERSEY
ADDING ARTICLE IV., TREE REMOVAL AND
REPLACEMENT, IN CHAPTER 114, PROPERTY
MAINTENANCE, IN THE CODE OF THE BOROUGH OF
BROOKLAWN**

BE IT ORDAINED by the Borough Council of the Borough of Brooklawn, County of Camden, and State of New Jersey, that Article IV., Tree Removal and Replacement, is added to Chapter 114, Property Maintenance, in the Code of the Borough of Brooklawn, as follows:

**Article IV.
Tree Removal and Replacement**

ARTICLE I. ARTICLE IV. SECTION 114-18 Purpose.

The purpose of this ordinance is to establish requirements for tree removal and replacement and penalties for noncompliance in the Borough of Brooklawn to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

ARTICLE II. ARTICLE IV. SECTION 114-19 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 Chapter 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 word “shall” is always mandatory and not merely directory.

APPLICANT - means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

DIAMETER AT BREAST HEIGHT (DBH) - means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.

HOMEOWNER - means a person(s) who owns a residence.

NUISANCE TREE - means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc); or threatens public health, safety, and welfare.

PERSON - means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

PLANTING STRIP - means the part of a street right-of-way 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 or a planting strip in the public right-of-way.

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 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.

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, and improper grading and/or soil compaction 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.

ARTICLE III. ARTICLE IV. SECTION 114-20 Regulated Activities.

A. Optional Application Process: 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 the Borough Clerk or his/her designee. No tree shall be removed until municipal officials have reviewed and approved the removal.

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 Tree Replacement Requirements Table below.

2. For Non-Homeowner applicants: Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6” or more per acre, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.

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

4. The species type and diversity of replacement trees shall be in accordance with (insert municipality provided tree list). The Borough shall provide a list of approved trees that are acceptable to be planted as replacement trees and/or a list of trees that shall not be used as replacement trees. The Borough may, in its discretion, upon application and good cause, approve the planting of a replacement tree not on the approved list.

5. Replacement tree(s) shall meet the Required Actions in Table below and shall be planted within twelve (12) months of the date of removal of the original tree(s). 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. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

6. Tree Replacement Requirements Table: (insert table)

7. Replacement Alternatives: If the Borough 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) as approved by the Borough, or

b. Pay a fee in an amount to set by Borough per tree removed. This fee shall be placed into a fund dedicated to tree planting.

ARTICLE IV. ARTICLE IV. SECTION 114-21 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 [the municipality shall define what “proper justification” is such as photos, statements from licensed tree expert or arborist]:

A. Clearing, cutting, and/or removal of trees which is necessary to service, maintain, or ensure the continued safe use of a lawfully existing structure, right- of-way, field, park, and/or garden.

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;

D. 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;

E. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

F. Nuisance trees may be removed with no fee or replacement requirement.

ARTICLE V. ARTICLE IV. SECTION 114-22 Enforcement.

This ordinance shall be enforced by the Brooklawn Police Department, the Brooklawn Property Maintenance Officer, and/or other Municipal Officials of the Borough of Brooklawn during the course of ordinary enforcement duties.

ARTICLE IV. ARTICLE IV. SECTION 114-23 Violations; penalties.

Any person, firm or corporation who or which shall violate any of the provisions of this Chapter shall, upon conviction thereof, be liable for penalties or any combination thereof as set forth in Chapter 1-15 of the Code of the Borough of Brooklawn, in the discretion of the Judge of the Municipal Court before whom such violation is heard and conviction made. Each day that a violation occurs shall be deemed a separate and distinct violation, subject to the penalty provisions of this Chapter.

ARTICLE VII. 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.

ARTICLE VIII.

All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

ARTICLE IX.

This Ordinance shall take effect immediately after its passage and publication in accordance with law.

THE BOROUGH OF BROOKLAWN

BY: _____
JULIE A. McCLEARY , MAYOR

ATTEST:

RYAN GILES, BOROUGH CLERK

The foregoing ordinance was introduced by Mayor and Council at a meeting held on June 20, 2023. This Ordinance will be considered for adoption on final reading and public hearing to be held on July 11, 2023 at 6:30 pm in the Council Meeting Room, Brooklawn Borough Hall, 301 Christiana Street, Brooklawn, New Jersey.

The purpose of this Ordinance is to adopt certain regulations as required by the NJDEP relating to the removal and/or replacement of trees. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Mondays through Thursdays (Legal Holidays excluded), at the Office of the Borough Clerk, Brooklawn Borough Hall, 301 Christiana Street, Brooklawn, New Jersey.