

TREE REMOVAL PERMIT PROCESS

- 1) **APPLICATION:** APPLICATION FORM TO BE COMPLETED AND SUBMITTED TO THE ENGINEERING DEPARTMENT.
- 2) **FEE:** TO BE PAID AT TIME OF APPROVAL BASED ON ORDINANCE #222-11. A NON-REFUNDABLE CHECK MADE PAYABLE TO FRANKLIN TOWNSHIP.
- 3) **PLANS:** SUBMIT 3 COPIES OF PLOT PLAN INDICATING LOCATION OF TREE(S) TO BE REMOVED.
- 4) **REVIEW:** SHADE TREE COMMISSION WILL REVIEW APPLICATION AND MAKE RECOMMENDATIONS AND DETERMINE PERMIT FEE TO ENGINEERING DEPARTMENT WITHIN 10 DAYS OF ITS REGULARLY SCHEDULED MEETING.
- 5) **GUARANTEE:** AT TIME OF APPROVAL, APPLICANT MAY BE REQUIRED TO POST A \$500.00 GUARANTEE (CHECK MADE PAYABLE TO FRANKLIN TOWNSHIP) TO BE RETURNED AFTER WORK IS COMPLETED. WAIVER OF THE PERFORMANCE GUARANTEE IS AT THE DISCRETION OF THE TOWNSHIP ENGINEER.
- 6) **PERMIT:** UPON APPROVAL OF APPLICATION AND RECEIPT OF GUARANTEE, THE ENGINEERING DEPARTMENT WILL ISSUE A ***TREE REMOVAL PERMIT***
- 7) **INSPECTION OF SITE:** APPLICANT IS TO CONTACT ENGINEERING DEPARTMENT FOR INSPECTION WHEN TREE REMOVAL HAS COMMENCED.
IF APPLICANT DOES NOT CONTACT ENGINEERING, THE GUARANTEE WILL BE FORFEITED.
- 8) **APPROVAL AND RETURN OF PERFORMANCE GUARANTEE:**

APPLICANT TO NOTIFY ENGINEERING FOR FINAL APPROVAL AFTER WORK HAS BEEN COMPLETED AND SITE HAS BEEN STABILIZED. RELEASE OF THE PERFORMANCE GUARANTEE IS TO BE MADE BY WRITTEN REQUEST OF THE APPLICANT TO THE TOWNSHIP CLERK.

SEE PAGE 2 OF ORDINANCE FOR EXEMPTIONS

FRANKLIN TOWNSHIP ENGINEERING DEPARTMENT

475 DEMOTT LANE

SOMERSET, NJ 08873

TELEPHONE: 732-873-2500 EXT 230

FAX: 732-873-1059

APPLICATION FOR TREE REMOVAL PERMIT

1 APPLICANT/CONTRACTOR NAME: _____ PHONE: _____

ADDRESS: _____

2 OWNER/PROJECT NAME: _____ PHONE: _____

ADDRESS: _____

3 LOCATION OF TREES TO BE REMOVED FROM: _____
BLOCK _____ LOT _____

4 REASON FOR REMOVING TREES: _____

5 NUMBER OF TREES TO BE REMOVED: _____

6 STARTING DATE OF REMOVAL: _____

7 COMPLETION DATE (PERMIT FOR 6 MONTHS ONLY) _____

8 IS PLAN ATTACHED TO APPLICATION? _____

FOR OFFICIAL USE PERMIT NUMBER CHECK#

DATE APPLICATION RECEIVED: _____ DOCKET#(IF APPLICABLE) _____

PERMIT FEE RECEIVED: _____ PERFORMANCE GUARANTEE _____

DATE APPLICATION DENIED _____

REASON FOR DENIAL _____

DATE APPLICATION APPROVED - PERMIT ISSUED (6 MONTHS) _____

DATE OF INITIAL INSPECTION _____ DATE OF FINAL INSPECTION _____

DATE PERFORMANCE GUARANTEE RELEASED _____

NOTE: A SUMMONS WILL BE ISSUED TO THE OPERATOR OF ANY VEHICLE FOUND TRACKING MUD ONTO PUBLIC STREETS.

SIGNATURE OF APPLICANT & DATE

SIGNATURE OF TOWNSHIP ENGINEER & DATE

ORDINANCE NO. 3681

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET AND STATE OF NEW JERSEY, MORE PARTICULARLY CHAPTER 222, TREES

SUMMARY

An ordinance amending the Code, Chapter 22, Trees with the following changes: (1) Change all references of the Environmental Commission to the Shade Tree Commission; (2) the Shade Tree Commission will forward their recommendations on tree removal permits within ten (10) days of its regularly scheduled meeting; (3) increase the fees for tree removal permits when there is no building permit, subdivision or site plan approval involved from \$10 tot \$25 per plot on land that has been or is about to be subdivided, and on all other land from \$5 to \$30 per tree for individual removals and from \$25 to \$500 per acre for clearing land of trees.

BE IT ORDAINED by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey that the Code of the Township of Franklin be and it is hereby amended as follows:

SECTION I

Chapter 222, Trees, is amended as follows:

ARTICLE I
Tree Removal

§ 222-1. Purpose.

This article shall apply throughout the entire area of Franklin Township, so as to preserve trees and woodlands from unjustifiable destruction; to preserve soil from erosion and sedimentation; and to protect the use and transfer of topsoil, all for the general well-being of the residents of Franklin Township and neighboring downstream areas.

§ 222-2. Definitions and word usage.

A. As used in this article, the following terms shall have the meanings indicated:

APPLICANT -- A person, partnership, association, organization, company, firm, corporation, industry, public agency, legal entity, or other party requesting authorization to remove trees or to engage in land-disturbing activities.

APPOINTED OFFICER -- The person designated by the Township Council to act upon applications for permit under this article and to enforce this article.

CROWN OF A TREE -- The upper part of a tree, including the branches and foliage.

FARM -- A tract of land being used for the production of agricultural or horticultural produce, as food, fiber, nursery stock, livestock, poultry, or dairy products, or that has been so used and has not since been put to other use, including use as woodland as defined herewith.

FARMER -- A person who operates a farm.

MANAGEMENT PLAN -- A plan for the management of timbered land, developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, or similar

state or federal agency or Township Forester if the Township names one.

NURSERY, GARDEN CENTER, ORCHARD or CHRISTMAS TREE PLANTATION -- Only such land within the municipality actually being used and managed for horticultural purposes under controlled agricultural practices.

PERMIT -- A license to remove or destroy trees or to engage in a land-disturbing activity, issued by the officer designated to enforce this article.

TOWNSHIP ENGINEER -- The person appointed to that position or one acting for him and under his authority.

TREE SPECIALIST -- A professional who understands trees and good cultural practices in their care and management, such as a landscape architect, ornamental horticulturist, forester, arboriculturist, or other.

TREE; TREES -- Any and all single and multi-trunked plants having diameters of four inches or more at heights of three feet above the base of the trunk or of one or multi-trunks, except flowering dogwood (*Cornus florida*) which is to be considered a tree if the diameter is two inches or more at three feet above the base of the trunk.

WOODED AREA/WOODS -- Any area that is 10% or more covered by crowns of trees as trees are defined herein.

B. The term "shall" in this article always is mandatory and not discretionary; the word "may" is permissive.

§ 222-3. Regulations.

Except as otherwise provided herein, no tree shall be damaged, removed, or destroyed by cutting, girdling, bulldozing, grading of land, or otherwise by any person, association, corporation, or public agency without a tree removal permit first having been obtained as provided in this article.

§ 222-4. Exemptions.

Exempted from the provisions of § 222-3 shall be the following:

- A. The clear cutting of any area of trees in an area of 2,500 square feet or less located on a tract of land on which a single-family dwelling has been erected and constitutes the primary use.
- B. Any tree located on a tract of land already in use by a church, nonprofit camp, or other public or quasi-public organization, when the removal of said tree will be for a purpose in landscaping or to facilitate the program of said church, camp, or organization.
- C. Any tree growing on land actually used and managed as a nursery, garden center, Christmas tree plantation or orchard.
- D. Any tree to be cut for personal use by the owner as firewood or for observance of a holiday and any tree to be cut from a farm woodlot by the farmer for farm use as firewood, posts, fencing or other farm needs.
- E. Any tree cut or removed in accordance with a management plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, or other professional forester, and filed with the appointed officer. Such a management plan could include cutting of trees for sale as firewood or timber.

- F. Any tree growing on land being used or to be used with Township approval for quarrying or similar operations.
- G. Any dead, diseased, or other tree with which there is risk to life or property.

§ 222-5. Application for tree removal permit where subdivision and/or site plan approval or building permit is required.

- A. All applications for development shall be accompanied by a tree conservation plan as required by this section. The tree conservation plan shall be reviewed and approved by the approving boards as part of the development application. That portion of the tree conservation plan dealing with trees located upon Township property or rights-of-way or upon land to be transferred or dedicated to the Township shall further be reviewed and approved by the Shade Tree Commission in accordance with guidelines and best management practices established by the Shade Tree Commission as provided by this article.
- B. For the removal of trees in conjunction with an application for development of property as either a minor or major subdivision or site plan, or in any other form of development where the approval of the Planning Board and Board of Adjustment will be required, the applicant shall submit to the board simultaneously with the application for approval of such development, in a form and manner which complies with Chapter 112, Land Development, a tree conservation and replacement plan consisting of a map having a scale of one inch equals 50 feet or less showing the location of existing wooded areas and clearly marked boundaries of the plots used to determine the average wooded acre for the site. A copy of the tree conservation and replacement plan shall also be provided to the Shade Tree Commission. The map shall be prepared by a professional licensed in the State of New Jersey and authorized pursuant to state law to submit such plans. The map or site plan shall also show:
 - (1) Location of streams and watercourses;
 - (2) Location of slopes greater than 10% where any tree removal is proposed;
 - (3) Total acreage of the tract;
 - (4) Locations of the tract where tree removal is to take place;
 - (5) The location of each 0.1 acre plot used to determine the average wooded acre as defined above;
 - (6) For each plot inventoried to determine the average wooded acre, the application shall provide a list identifying the species of tree, the number of trees of each species and the site of each individual tree in that plot;
 - (7) The total number by species of existing trees with a DBH of four inches or greater on the tract;
 - (8) The total number by species of trees with a DBH of four inches or greater, which are to be removed;
 - (9) For tracts greater than two acres, the applicant may make an estimate of the total quantity of trees by species, based upon the inventory of 0.1 acre plots. For tracts less than two acres or where less than two acres are proposed to be cleared, the number and species of trees to be removed shall be based on actual count;
 - (10) All trees with a DBH of 16 inches or greater, significant and historic trees shall be specifically identified by location on the map and listed on a separate schedule showing species and common name and size. All efforts shall be made to preserve such trees, including, if necessary, relocation of infrastructure, roadways and buildings.
 - (11) A specific replacement plan for the replanting of removed trees in accordance with § 222-5.1;

- C. Where individual lots are to be created by the application, individual plot plans shall be prepared showing the location of trees to be removed and replaced.
- D. The Planning Board or the Zoning Board shall forward the proposed tree removal plan to the ~~Environmental~~ *Shade Tree* Commission and the Division of Engineering for review and comment. The Township Engineer or his designee shall certify that the plan is accurate and so advise the Planning or Zoning Board.
- E. A copy of the signed resolution approval and a copy of the fully executed site plan or subdivision indicating all conditions of approval have been met shall be submitted to the appointed officer before a tree removal permit shall be issued.
- F. The tree removal permit issued by the appointed officer shall be valid so long as the approved application is valid. The removal or damage to trees not approved for removal shall be considered a violation of this article.
- G. Any substantial change in a tree removal and replacement plan shall necessitate the submission of a revised plan to the appropriate board for review.
- H. The tree removal permit issued by the appointed officer shall be displayed or be available for inspection at the site where tree removal and replacement is to take place. Failure to display or make available the tree removal permit at the site of removal shall be a violation of this article. Any person may examine the application for tree removal permit on file with the appointed officer upon request made in writing or in person to that office. Copies of the application submission shall be made available at the usual charge.
- I. Prior to the issuance of a building permit by the Zoning and Building Inspector, the developer shall designate on all relevant lots the trees to be retained, which designation shall be based upon the tree removal permit.
- J. Prior to the issuance of the certificate of occupancy, the Building Inspector shall receive a release from the appointed officer or his or her designee that all trees to be retained and all trees to be replaced under the tree removal permits are in fact in existence and that all debris (trash) generated as a result of these activities have been removed.

§ 222-5.1. Tree replacement plan.

For all replacement requirements, the following formulas shall apply:

- A. For trees with a DBH equal to or greater than four inches and less than 16 inches, replacement shall be based upon the percentage of the trees removed as set forth below:

Percentage of Trees Removed from Entire Development	Percentage of Trees to be Replaced with Trees of Minimum Size 2.5 Inches' Caliper
80% to 100%	80%
60% to 79%	60%
40% to 59%	40%
20% to 39%	20%
Less than 20%	10%

- B. For trees with a DBH equal to or greater than 16 inches, the removed tree shall be

replaced:

Existing Tree to be Removed (inches' caliper)	Number of Replacement Trees (minimum size 2.5 inches' caliper)
Less than 18	3
Less than 21	4
Less than 24	5
Less than 27	6
Less than 29	7
Less than 31	8
Less than 33	9
Less than 35	10
Less than 37	11
Less than 39	12
Less than 40	13
Less than 41	14
41 inches or greater	15

- C. The species or type of replacement tree, the mix of replacement tree types and the manner of planting shall be in accordance with the best practices guidelines established by the Shade Tree Commission and as approved by the Planning and Zoning Board.
- D. On parcels to be developed where less than 10% of site is wooded, in addition to any trees that must be replaced or provided under this chapter, there shall be required the addition of one tree for every 1,000 square feet of impervious coverage. Trees incorporated in a landscaping plan or required for rights-of-way may not be credited toward this requirement.
- E. Except where specifically prohibited, any trees required by a landscaping plan may be credited toward the number of replacement trees at the discretion of the Township Planner. However, the purpose and intention of this chapter shall be taken into consideration in granting this credit. No credit shall be granted for shade trees required under this chapter.

§ 222-5.2. Shade trees (street and parking area trees).

- A. The Shade Tree Commission shall, as part of its best practices guidelines, establish the minimum requirement for trees to be planted along proposed Township rights-of-way.
- B. In addition to the trees required to be replaced by this article, there shall be planted that number and type of shade tree required by the Shade Tree Commission on proposed rights-of-way.
- C. Where development includes the construction of off-street parking for 10 vehicles or more, shade trees shall be planted around the perimeter and along parking slots of the parking spaces in accordance with the standard in Subsection A of this section.

- D. The types and locations of shade trees to be planted shall be shown in the plans submitted to the Planning Board and Zoning Board of Adjustment in conjunction with the application for development.

§ 222-5.3. Tree replacement; contributions to Tree Fund.

- A. All required replacement trees shall be planted on the site from which trees were removed. A waiver from any portion or all of the required on-site replacement shall be granted by the board with jurisdiction, shall be based upon practical physical difficulties and undue hardship related to conditions of the site from which trees are to be removed. The comments and recommendations of the Shade Tree Commission and ~~Environmental~~ *Shade Tree* Commission shall be solicited in determining whether the requested waiver is required.
- B. In lieu of replanting trees on the removal site, applicant shall have the option of planting replacement trees of type(s) selected by the Shade Tree Commission from the approved list of trees as established by it at an off-site location chosen by the Township in consultation with the Shade Tree Commission. Such off-site locations shall be public property and rights-of-way, including but not limited to public parks, public schools and public buildings.
- C. In the alternative, the applicant may make contribution to be deposited in the Township Tree Fund as established by this article. The contribution in lieu of planting of trees shall be based on a fixed rate of material and installation costs for those trees. This rate shall be adjusted annually and based on estimates by the Township Engineer. No more than 25% of tree replacement may be by way of contribution.

§ 222-5.4. Tree Fund.

- A. There shall be established by this article a Township Tree Fund for the purposes set forth in this article.
- B. All funds collected as contribution in lieu of replanting shall be deposited in a dedicated account clearly designated as the Township Tree Fund. All funds so deposited shall be used solely for the planting of trees. This fund may be used to plant trees in public parks, property surrounding public buildings and rights-of-way.
- C. The Tree Fund shall be administered by the Township Manager, who shall report to the Township Council and the Shade Tree Commission on a quarterly basis detailing the use of the fund.

§ 222-5.5. Historic and significant tree register; removal of historic and significant trees.

- A. The Shade Tree Commission shall establish and maintain an official register of historic and significant trees in Franklin Township. "Historic trees" are defined as trees linked to an historic time or event. "Significant trees" are trees which, because of size, species or age, contribute to the beauty of the Township. Historic and significant trees are suitable for Township register nomination if they are located on either public or private land. The property owner upon which the historic or significant tree is located shall be formally notified by the Shade Tree Commission of any such designation.
- B. Before any tree designated, in accordance with this article, as historic or significant can be removed, the property owners shall obtain a permit from the Township. At the time of the issuance of the permit, the issuing authority, as designated by the

Township Manager, shall advise the property owner of any alternatives available to the removal of the tree. There shall be no fee associated with the issuance of this permit.

§ 222-5.6. Contractors' registration.

All commercial contractors employed to perform tree pruning and tree removal, including work in utility rights-of-way, shall register with the Township Clerk by providing the business name and address of the business and a contact person directly responsible for work crews in the Township. All tree contractors shall be responsible for obtaining and complying with all applicable ordinances, best management practices, permits and fees associated with performing regulated tree work in the Township. Registration shall be valid for one year and shall be renewed annually if work is performed during that time period. Failure to properly register shall be considered a violation of this article and shall be cause to issue a stop-work order on any work being performed in the Township.

§ 222-6. Application for tree removal permit not involving site plan and/or subdivision approval or building permit.

An application for a permit for removal of trees where site plan and/or subdivision approval or a building permit is not involved shall be made directly to the appointed officer and shall contain the name of the applicant, location of the property, a plot plan as aforesaid, including a statement of what trees would be removed, and the purpose for which the application is being made, including but not limited to the following: clearing for agricultural use, harvesting of timber, fire protection, private parks, scenic improvement, hardship or danger to adjacent property, removal of trees for growth in other locations, and installation of utilities or sewer lines after, and only after, permits for the same have otherwise been obtained. A copy of the plot plan shall be filed with the ~~Environmental~~ *Shade Tree* Commission.

§ 222-7. Criteria for approval or disapproval of permit.

In determining whether to approve or disapprove an application for a tree removal permit, the appointed officer shall consider the following facts:

- A. In reviewing building site plans and applications for tree removal permits, the ~~Environmental~~ *Shade Tree* Commission, prior to making recommendations, and the appointed officer, prior to issuing or denying permits, shall inspect or otherwise learn about the trees which are under consideration and shall similarly check the soil, drainage, and other pertinent conditions. They shall consider protection of trees to remain on the property during and after construction and grading; and they shall consider also whether the destruction or removal of trees would result in soil erosion, would impair existing drainage patterns, would lessen property values in the neighborhood, would adversely affect adjacent properties by removal of screening or in other ways, or would impair substantially the aesthetic values of the area. Consideration shall be given also to preservation of trees of special interest because of size, species, or historic connection.
- B. In addition for preservation of trees in the land grading operation, including lowering, raising, and filling land areas, the following standards shall be met unless modified in specific cases or in general by the ~~Environmental~~ *Shade Tree* Commission or by a tree specialist acting for the Commission or for the appointed officer, with consideration for tree species and conditions of soil, drainage, slope and other factors:
 - (1) Roots beneath the crown of a tree shall not be bared.
 - (2) Root areas of a tree shall not be reduced nearer to the base of the tree than

the area of the crown of the tree.

- (3) The surface beneath a tree shall not be raised with soil or other material, permanently or temporarily, for more than six inches unless the tree is welled in and provision is made for the well to drain to the outer reaches of the crown of the tree or to the natural ground surface if that is nearer. Design of wells must have approval of the ~~Environmental~~ *Shade Tree* Commission or of a tree specialist acting for the Commission or for the appointed officer. The appointed officer shall have authority to affix reasonable conditions to the grant of a permit concerning trees.

§ 222-8. Review and approval of permits.

- A. Applications for tree removal and land disturbance permits involving the issuance of subdivision, site plan and/or a building permit shall be processed during and by the regular procedures for review of said subdivision, site plan and/or building permit applications. When all requirements under this article have been met, permits for the activity shall be issued. If a building permit is denied, the tree removal and land disturbance permits pertaining thereto shall be denied. No building permit shall be issued without the issuance of any permits required under this article.
- B. Applications for tree removal and land disturbance permits not involving the issuance of subdivision, site plan approval and/or building permits shall be reviewed by the ~~Environmental~~ *Shade Tree* Commission. Recommendations from the ~~Environmental~~ *Shade Tree* Commission which shall not be binding shall be forwarded to the appointed officer ~~within 15 days of the receipt of the application by the Commission~~ *within ten days of its regularly scheduled meeting*. In the absence of said recommendations, the appointed officer shall grant or deny said application in accordance with this article.
- C. All approved tree removal and land disturbance permits not issued in conjunction with subdivision, site plan approval and/or building permit shall expire at the end of six months from the date of issuance unless extended on application for an additional six-month period.
- D. An environmental impact assessment pursuant to Chapter 112, Land Development, may be required on any application for tree removal or land disturbance, with or without a building permit.

§ 222-9. Performance guaranty.

The appointed officer may require performance bonds according to size and nature of projects to be administered by the Township according to this article for preservation of trees, control of erosion and sedimentation, and disposal of topsoil.

§ 222-10. Inspections.

- A. The Township shall provide for inspection of projects involving preservation of trees and control of soil erosion, sedimentation, and disposal of topsoil. To this end, the Township may enter into working agreements with the Soil Conservation District for sharing in the inspections of projects certified by the District. All other projects for which conservation permits are required according to this article shall be made subject to inspections by the Township at any time. The inspector shall certify that installation and practices are or are not in compliance with performance principles and standards prescribed by this article and with any specific requirements that have been stated as conditions of approval of the application. With projects for which performance guaranties have been posted, the applicant shall be required to have a certified plan and permit on site during construction or other operations and to show the same to any agency or agent of the Township or the Soil Conservation

District whenever requested to do so.

- B. The appointed officer may issue a stop-operations order if a project is not being executed in accordance with the certified plan, whether that plan is one certified and administered by the Soil Conservation District or one administered wholly by the Township. This provision is in accordance with Section 9 in the State Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975.
- C. As stated in Section 11 of the State Soil Erosion and Sediment Control Act no certificate of occupancy for a building shall be issued by the Township unless there has been compliance with the provisions of a certified plan for permanent measures to control soil erosion and sedimentation in accordance with this article. A formal report of such compliance must be filed with the municipal agent authorized to issue certificates of occupancy, and a copy of the report shall be sent to the Soil Conservation District.
- D. The Township may, within 30 days after date of a report of such compliance, release in whole or in part any performance bond it is holding, depending upon the Township's assessment of need to withhold all or a portion of the bond to assure full compliance with requirements and adequate maintenance of the facilities.

§ 222-11. Fees for tree removal permit.

When filing an application for tree removal, the applicant shall pay a fee according to the following schedule:

- A. For transplanting a tree in a living condition: no fee.
- B. With a building permit, subdivision or site plan approval: no fee over and above the fee required for the building permit, subdivision or site plan approval.
- C. Without a building permit, subdivision or site plan approval:
 - (1) On land that has been or is about to be subdivided: \$10 25 per plot.
 - (2) On land not subdivided and not about to be subdivided:
 - (a) For removal of individual trees exempted within this article: \$5 30 per tree.
 - (b) For clearing land of trees: \$25 500 per acre and part thereof.

§ 222-12. Appeals.

Whenever any application for a permit shall be denied by the appointed officer, the applicant may appeal the denial to the Franklin Township Council by filing a written notice of appeal with the Township Clerk within 10 days after receiving written notice of the denial of such application. The Township Council shall thereafter hold a public hearing on the matter in accordance with rules or procedures to be established by the Township Council and may modify, affirm or reverse the decision of the appointed officer.

§ 222-13. Violations and penalties; restitution.

- A. Any person, partnership, association, organization, company, firm, corporation, industry, public agency or utility, legal entity or other party who violates or causes to be violated any of the provisions of this article shall be subject to the penalties contained in Chapter 1, Article II, General Penalty. Each and every day such violation continues shall be considered a separate and distinct violation.

- B. In addition to the penalties prescribed above, the court shall require that restitution be made to the Township by any person who removes a tree in violation of this article in an amount equal to the cost of each tree removed as established in accordance with § 222-5.3C of this article which shall be deposited in the Township Tree Fund.

§ 222-14. Authorization to enter land.

Each application for tree removal or land disturbance permit shall be deemed to be authorization by the applicant for the appointed officer, the Township Engineer, the ~~Environmental~~ *Shade Tree* Commission, the Department of Community Development, the Soil Conservation District, and the Bureau of Forestry of the state, or a representative of any one of them, to enter upon the land referred to in the application for inspections contemplated by this article, for both consideration of approval and review of operations if approval is granted. If the applicant is not the owner of the land, said applicant shall furnish with the application a sworn authorization from the owner for such entry.

**ARTICLE II
Trees and Shrubs**

§ 222-15. Prohibited acts.

No person shall do or cause to be done by others, either purposely, carelessly or negligently, any of the following acts to a tree, shrub or plant on a public right-of-way or park:

- A. Spray with any chemical any such tree, shrub or plant;
- B. Fasten any rope, wire, sign or other device to any such tree or shrub or to any guard about such tree or shrub;
- C. Remove or injure any guard or device placed to protect any such tree or shrub.

§ 222-16. Planting on public land prohibited.

No shade or ornamental tree or shrub shall be planted in any public highway or park without written permission from the Director of Public Works.

§ 222-17. Maintenance of trees and shrubs.

The owner or tenant of any lands lying within the Township shall keep all trees, bushes and/or shrubs maintained in a safe manner so they shall not create a hazard to the general public and shall keep trees, shrubs and/or bushes in compliance with § 112-24, Brush and hedges near roadways and intersections.

§ 222-18. Notice to property owner for the removal of dangerous trees and/or shrubs.

In case any tree or shrub, or any part thereof, along the municipal roadway shall become dangerous to the public safety, the owner of the property in front of which such tree or shrub shall be located shall remove the same or the required part thereof forthwith upon service of written directive to the effect from the Department of Public Works. The notice shall be sent certified mail, return receipt requested, as to the owner of such property.

§ 222-19. Failure to remove dangerous trees and/or shrubs abutting the right-of-way of a municipal highway.

If the owner fails to remove the tree or shrub, or portion thereof, within two weeks after service of written notice to do so, the work shall be performed by the Township under

the supervision of the Director of Public Works, who shall certify the cost thereof to the Tax Collector.

§ 222-20. Certified costs.

Upon receipt of the certified costs, the Tax Collector shall charge the foregoing as a lien upon the lands and such amount shall be added to and become and form a part of the taxes next to be assessed and levied upon the lands, the same to bear interest at the same rate as other taxes, and shall be collected and enforced by the same officer and in the same manner as taxes.

§ 222-21. Removal of dangerous trees and/or shrubs within the right-of-way of the municipal highway.

The Township shall be empowered to prune or remove trees and/or shrubs deemed to be a danger to the public by the Director of Public Works within the right-of-way of any municipal roadway.

§ 222-22. Wire attached to trees; pruning.

Whenever it becomes necessary for the Township to prune or remove any tree within the right-of-way of a municipal highway, any person having a wire running through such public highway shall temporarily remove such wire or wires within 24 hours after the service upon the owner of the wire or wires, or his agent, of a written notice from the Department of Public Works. Any utility company, instead of temporarily removing such service wire, shall have the option of pruning or removing such tree.

§ 222-23. Complaint; violations and penalties.

Any person who violates the provisions of this article may be served with a complaint to appear in Franklin Township Municipal Court for such violation and, upon such violation and upon conviction, shall be subject to the penalties included in Chapter 1, Article II, General Penalty, for each and every day in which such violation shall continue.

§ 222-24. Continued violations.

If any person shall continue to violate any of the provisions of this article after being duly notified of such violation or shall neglect or refuse to comply with any lawful order of the Department of Public Works, the failure to comply with a second or each of any subsequent notifications or orders shall be construed as an additional violation of this article, and each such additional offense shall subject the offending party, upon conviction, to the same penalty as provided for the first offense.

SECTION II

Each clause, section or subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

SECTION III

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency.

SECTION IV

This ordinance shall take effect immediately upon adoption and publication according to law.

Ordinance No. 3681

This is a true copy of an ordinance adopted by the Township Council Township of Franklin, Somerset County, New Jersey.

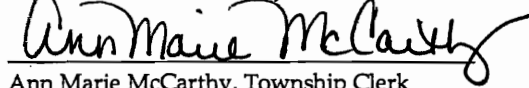
Introduced: March 27, 2007

Public Hearing: April 24, 2007

Adoption: April 24, 2007

Notice of Adoption: April 30, 2007

Effective Date: May 14, 2007

A handwritten signature in black ink that reads "Ann Marie McCarthy". The signature is written in a cursive style with a large, sweeping initial "A".

Ann Marie McCarthy, Township Clerk