

ORDINANCE 2023-15

ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 185, "TREES," SECTION 2, "ACTS PROHIBITED WITHOUT PERMISSION; EXCEPTIONS" AND SECTION 4, "CONTACT WITH BRINE, GAS OR INJURIOUS CHEMICAL PROHIBITED," OF THE CODE OF THE BOROUGH OF KENILWORTH

WHEREAS, on November 9, 1976, the Borough of Kenilworth Municipal Council adopted Ordinance 76-27, which governs the planting and/or replacement of trees as well as the maintenance of trees within the Borough; and

WHEREAS, the Borough of Kenilworth Municipal Council finds that it is in the best interests of the Borough and its citizenry to amend and modify such sections set forth in the Borough Code so that they are more consistent with the current needs of the Borough of Kenilworth; and

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

SECTION 1. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 185, "Trees," Section 2, "Acts prohibited without permission; exceptions," shall be amended as follows.

Note: Additions are shown in **bold and underlined** and deletions are shown as ~~strikethrough~~.

§ 185-2 Acts prohibited without permission; exceptions.

A. No person, firm or corporation shall do or cause to be done any of the following acts upon a public highway or within the public right of way within the Borough of Kenilworth without the written permission of the Superintendent Department of Public Works Chairperson of the Borough of Kenilworth:

- (1) Cut, trim, remove, break, climb with spikes, disturb the roots of or otherwise injure or spray with any chemical or remove any structure or device to support such tree ~~or shrub~~.
 - (2) Plant or replace any tree with a tree species that is not listed on the Borough of Kenilworth's list of approved tree species. ~~or shrub~~. The planted tree shall meet the minimum size requirement as designated by the Borough of Kenilworth and may not be seeds or saplings.
 - (3) Fasten any rope, wire, electric attachment, sign or other device to a tree ~~or shrub~~ or to any guard about such tree ~~or shrub~~.
 - (4) Close or obstruct any open space provided about the base of a tree ~~or shrub~~ to permit the access of air, water or fertilizer to the roots of such tree ~~or shrub~~.
 - (5) ~~Pile any building materials or make any mortar or cement within six feet of a tree or shrub.~~
- B. The aforesaid requirement for written permission shall not apply to public utility companies which routinely must trim or remove trees ~~or shrubbery~~ in order to provide safe, adequate and reliable electric or telephone service to members of the public. Except in emergency conditions, such public utility company shall notify the Superintendent ~~Department~~ of Public

ORDINANCE 2023-15

Works ~~Committee~~ of the Borough of Kenilworth of tree ~~or shrub~~ trimming or removal before such work is performed.

C. The aforesaid written permission shall be granted after approval of a completed application form provided by the Borough of Kenilworth, available via paper application and/or online submission. The application shall include the species of tree(s) to be planted, size(s) and location(s) of the tree(s) and the time frame for the planting of the tree(s).

1. Once the applicant receives permission, they must submit a bond in the amount of \$1,000 per tree, which will be returned to the applicant once the work for tree removal and/or tree planted is completed. The Department of Public Works will inspect and sign off on the bond after that all work has been completed before the bond is returned to the applicant.

2. Placement of the tree(s) to be planted is at the discretion of the Superintendent of Public Works or his/her designee.

2. Where stump grinding is required, the grinding and new planting shall be completed within 6 weeks of the date of written approval.

3. In the event that an applicant is in need of an extension to replant any or all tree(s) they received written permission to plant due to an extenuating circumstance, the applicant will need to submit a written request for an extension, which shall be granted and signed off by the Department of Public Works Committee Chair.

D. The Borough of Kenilworth Clerk's Office shall maintain and make available with the application the most current list of approved tree species.

E. No tree standing over ten (10) feet tall shall be cut down or removed by anyone other than a professional licensed by the State of New Jersey and the Board of Tree Experts.

1. Licensed professional must sign an indemnity statement.

2. Licensed professional must provide the Borough with a Certificate of Insurance naming the Borough of Kenilworth as an additional insured with the following minimum insurance

- General liability limits of \$1,000,000 per occurrence, combined single limit for bodily injury and property damage with at least \$2,000,000 general aggregate. Contractual liability must be included.

- Automobile limits of \$1,000,000 per occurrence, combined single limit for bodily injury and property damage with no aggregate.

Statutory workers compensation limits including employers liability limits of \$500,000.

- Umbrella liability limits of \$1,000,000 to \$2,000,000 are also preferred.

SECTION 3. Chapter 185, "Trees," Section 4, "Contact with brine, gas or injurious chemical prohibited," shall be amended as follows.

§ 185-4 Contact with brine, gas or injurious chemical prohibited.

No person, firm or corporation shall permit any brine, gas, or injurious chemical to come in contact with the stem or roots of any tree ~~or shrub~~ upon any public highway.


SECTION 4. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

ORDINANCE 2023-15

SECTION 5. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION 6. This Ordinance shall take effect upon final passage and publication according to law.


 Linda Karlovitch, Mayor

		INTRODUCTION				COUNCILPERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
					X	JOSEPH FINISTRELLA			X			
X		X				WILLIAM MAURO		X				
		X				SCOTT PENTZ			X			
		X				FRED PUGLIESE						X
		X				SAVINO SCORESE			X			
	X	X				JOHN ZIMMERMAN	X		X			
Introduced:		I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.										
August 16, 2023												
Final Adoption:		 Angela Lazzari, Borough Clerk										
September 6, 2023												