

**BOROUGH OF WOODCLIFF LAKE**

**Bergen County, New Jersey**

**ORDINANCE NO. 24-01**

**AN ORDINANCE TO AMEND CHAPTER 355 ENTITLED "TREES" OF THE BOROUGH CODE OF THE BOROUGH OF WOODCLIFF LAKE, STATE OF NEW JERSEY**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODCLIFF LAKE IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:**

**WHEREAS**, Chapter 355, of the Code of the Borough of Woodcliff Lake sets forth all regulations regarding Trees within the Borough of Woodcliff Lake; and

**BE IT ORDAINED**, by the Mayor and Council of the Borough of Woodcliff Lake, County of Bergen and State of New Jersey that those portions of the aforesaid set forth below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged.

**ARTICLE 1. Tree Preservation**

**Sec. 355-1. Definitions.**

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

**APPLICANT**

Any person or entity requesting permission to remove trees.

**CLEAR CUTTING**

Any tree removal activity that will reduce the tree canopy to 20% or less is deemed to be clear cutting.

**DIAMETER AT BREAST HEIGHT**

The tree's diameter measured 4 feet above the ground.

**DISEASED TREE**

A tree with sustained and progressive impairment of the structure or function, caused by any variety of factors or agents related to nonliving (abiotic) and living (biotic) sources.

**DRIPLINE**

A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

**HAZARDOUS TREE**

Dead or dying trees, dead parts of live trees, or unstable live trees, due to structural defects or other factors, that are located within striking distance of people or property.

**PERSON**

Every person, firm, association, partnership, corporation and individual.

**PROTECTED SPECIES**

Any tree designated by the Shade Tree Committee due to its unique quality, including, but not limited to, species, size, location, age, etc.

**PROTECTIVE BARRIER**

A barrier constructed to protect the root system or trunk of a tree from damage during construction or from equipment or soil or material deposits. Such a barrier may consist of a snow fence, sawhorses or other similar structures approved by the Shade Tree Committee, the Construction Code Official or the Borough Engineer and sufficient to protect the root system or trunk of a tree from the afore mentioned damage.

**STREET TREE**

Shade and ornamental trees and shrubbery are now located, or which may hereafter be planted in the planting strip in the public right of way.

**SHADE TREE COMMITTEE**

The Shade Tree Committee of the Borough of Woodcliff Lake and its duly authorized representatives.

**TREE**

Any living woody perennial plant having a diameter greater than six (6) inches measured at a point four feet above the ground.

**TREE REMOVAL COMPANY**

Every person, firm, association, partnership, corporation and individual that is engaged in the practice of removing any “tree” as defined by this article is deemed a tree removal company and must register as same with the Borough in compliance with the provisions of this article.

**UNDESIRABLE SPECIES**

Any tree that is not native to the area and can cause harm to the environment, can damage public and private lands, may grow quickly or reproduce abundantly, is difficult to eradicate or can negatively impact our native species.

**Sec. 355-2. / 355.11 PURPOSE AND INTENT.**

The Borough of Woodcliff Lake lies largely in hills and valleys of the historic Pascack Valley area of Bergen County, New Jersey, in which substantial portions were and are covered by native trees. The Borough of Woodcliff Lake recognizes that preservation of such trees enhances the natural scenic beauty, sustains the long-term potential increase of the quality of life and property values which encourages quality development, maintains the ecology, moderates the effect of extreme temperatures, prevents erosion of topsoil, helps create an identity and quality which enhances the attractiveness of the Borough of Woodcliff Lake to residents and visitors and increases the

oxygen output of the area which is needed to combat air pollution. For these reasons, the Borough finds that in order to promote the public health, safety and general welfare of the Borough of Woodcliff Lake, while at the same time recognizing individual rights to develop and maintain private property in a manner which will not be prejudicial to the public interest, it is necessary to enact regulations controlling tree removal and preserving the trees within the Borough of Woodcliff Lake. However, the Borough of Woodcliff Lake Council also recognizes that under certain circumstances trees may be properly removed. Those circumstances include dead or diseased trees; trees situated on land such that tree removal is based on a reasonable use and enjoyment of the property; or so abundant that their removal would not destroy the area's natural beauty or ecology or cause erosion. It is the intent of this article to preserve as many trees as possible throughout the Borough of Woodcliff Lake through staff review and the development review process.

**Sec. 355-2 PROHIBITED ACTS; EXCEPTION.**

A. No person, firm, corporation or individual connected with such firm or corporation shall do or cause to be done by others to any tree in the Borough either purposely, carelessly or negligently, without the permission of the Shade Tree Committee, any of the following acts:

- (1) Cut, climb with spikes, break, damage or remove.
  - (2) Cut, disturb or interfere in any way with any root.
  - (3) Fasten any rope, wire, sign or other device.
  - (4) Remove or damage any guard or device placed to protect any tree or shrub.
  - (5) Plant any tree contrary to the requirements of the Shade Tree Committee and approval of the governing body.
  - (6) Remove any living woody perennial plant having a diameter at breast height (DBH) greater than six inches without first receiving a permit in accord with the provisions of this article.
- B. Nothing herein shall prevent any governmental agency from tying a public notice upon a tree in connection with administering governmental affairs.

**Sec. 355-4. FREE ACCESS FOR AIR AND WATER; OPEN SPACE.**

- A. No person or corporation shall, without the permission of the Shade Tree Committee, place or maintain or cause to be placed or maintained upon the ground in any public highway or place any stone, cement or other sidewalks or any stone, cement and other substance which shall impede the free access of air and water to the roots of any tree or shrub in any public highway or place.
- B. An open space of no less than two feet outside the trunks of trees at their bases on all sides must be maintained on all trees on public highways, except where limited by curb and/or sidewalk.

**Sec. 355-5/355.4. INJURIOUS SUBSTANCES AND VAPORS.**

- A. No person shall place salt, brine, oil or other substances injurious to plant growth in any public highway or place in such a manner as to injure any tree or shrub growing thereon.
- B. No person shall build any fire or station, any tar kettle, road roller or other engine in any public highway in such a manner that the heat vapors or fumes therefrom may injure any tree or shrub growing thereon.

**Sec. 355-6. LAYING OF SIDEWALKS AND CURBS; STREET PAVING.**

No person, firm or corporation is permitted to lay any sidewalk along or to open, construct, curb or pave any street or do any like act so as to interfere with or do injury to any highway shade tree without the consent of the Shade Tree Committee.

**Sec. 355-7. EXCAVATIONS.**

A. In the erection, altering or repairing of any building or structure, the owner or contractor thereof shall place such guards around all nearby trees in public highways or places as will effectually prevent injury to such trees.

B. Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public highway or place.

C. Where in authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots (i.e., air spade tool) under advice from the Shade Tree Committee.

**Sec. 355-8. ATTACHING OF DEVICES; PRUNING OR REMOVAL BY UTILITY COMPANIES.**

A. No person, firm or corporation shall, without permission of the Shade Tree Committee, attach or fasten any wire, insulator or other device for holding any wire to any tree or shrub in any public highway or place.

**ARTICLE 2. Procedures**

**Sec. 355-9. APPLICATIONS TO SHADE TREE COMMITTEE.**

Where the permission, consent or approval of the Shade Tree Committee is required by the provisions of this article, any person, firm or corporation required to obtain such permission, consent or approval shall first make application therefor to the Shade Tree Committee of the Borough of Woodcliff Lake.

**Sec. 355-10. ENFORCEMENT.**

A. The Borough Official, or duly appointed designee, is the enforcing agent for this article and shall seek inspectors as deemed necessary in connection with said enforcement. Any reference to the term "Code Official" in this or any other section of the Borough Code shall also mean the duly appointed designee where so designated.

**Sec. 355-11. VIOLATIONS AND PENALTIES.**

A. Any person violating the provisions of this article shall be subject to a fine not exceeding \$1,000 and or up to a four-tree replacement at 2.5" caliper, or both, for every offense. In the event of violations involving more than one lot or more than one tree, a violation to each such lot or tree shall be considered as a separate offense. The penalties herein may be levied against the property owner, or any person, firm, or corporation retained or otherwise engaged to undertake any acts that are regulated by the provision of this article. Any person, firm, or corporation that fails assurance that the proper permits have been secured before commencing any work shall be jointly and severally liable to the property owner for violating the provisions of this article.

- B. If required replacement work is not completed within 30 days of written notification to do so, a municipal lien shall be placed upon all affected lots, and such lien shall not be discharged from such lots until such replacement work is completed.
- C. Up to 4 trees may be called for as replacement for each tree illegally removed.

**355-12. PROHIBITED ACTIVITIES.**

Except as hereinafter provided, no person, firm or corporation shall do or cause to be done by others, either purposely, carelessly or negligently, any of the following acts upon property within the Borough:

- A. Cut, destroy, remove, or substantially injure any tree.
- B. Place or maintain upon the ground any substance which would impede the free access of air and water to the roots of any tree.
- C. Apply any substance to any part of a tree, including roots, with the intention to injure or destroy the tree.
- D. Clear cutting of any land.

**355-13. RESTRICTION ON CUTTING TREES.**

Except as provided for herein, no person, firm, or corporation shall cut or remove trees without first obtaining a permit. Excepted from this shall be:

(1) All land-clearing operations as authorized in accordance with a site plan approval or subdivision approval and conditions imposed with respect to tree removal and planting, granted by the Planning Board, the Shade Tree Committee or Board of Adjustment of the Borough of Woodcliff Lake in accordance with the provisions of N.J.S.A. 40:55D-20 (exclusive authority of Planning Board and board of Adjustment); provided, however, that all applications to the Planning Board or Board of Adjustment shall specifically designate all trees to be removed on submitted plans and in the field. Under no circumstances shall clear-cutting be permitted on any property.

(2) Trees located on a commercial nursery or orchard.

(3) The cutting, pruning or trimming of trees in a manner which is not harmful to the health of the tree.

(4) Trees that represent an immediate danger to property or public safety with the approval of the Shade Tree Inspector or other authorized agent of the Borough. In the event a tree is deemed hazardous, by a duly authorized agent of the Borough, no permit is required.

(5) The cutting, removal or destruction of any tree pursuant to an order or directive of any municipal, county or state agency or court.

(6) Activities involving trees within public highways, public rights-of-way, or publicly owned properties. Cutting, pruning or trimming of trees by a utility agency to keep high-tension power lines clear.

B. Protected species cannot be removed.

**355-14. Permit required.**

Any person, firm, or corporation shall apply for and receive a permit before removing any tree, as defined in this article. The Construction Code Official, except in accordance with the provisions

of N.J.S.A. 40:55D-20 (exclusive authority of Planning Board of Adjustments), shall not issue a certificate of occupancy until a tree removal permit has been issued and approved in accordance with the provisions of this article.

**355-15. APPLICATION FOR PERMIT.**

A. Any person, firm or corporation desiring to cut or remove a tree(s) whether dead or alive shall apply to the Borough of Woodcliff Lake Shade tree Committee for a permit to remove such tree(s). The applicant shall, on the application (description):

(1) Identify, by street, block and lot number, the land upon which the tree(s) is located.

(2) Provide the name, address and telephone number of the owner or duly authorized agent of said owner, where applicable.

(3) Identify and place on the site plan application the location of said tree (s) sought to be cut, removed or destroyed.

(4) Mark said tree(s) on site by visible, weatherproof and reasonably tamperproof means; said tree(s) shall not be sprayed with paint or chemicals or otherwise permanently marked, damaged or defaced.

B. Permits shall be duly signed by the person or firm or the homeowner undertaking the tree removal work.

C. In the event a tree is deemed hazardous requiring immediate attention, as deemed by a duly authorized agent of the Borough, no permit is required.

D. Permit fees.

(1) Applicants will submit the appropriate permit fee for a tree removal permit.

E. Replacement trees – in situations where the tree is deemed to be healthy, nonhazardous, etc. the homeowner must also complete a Binder agreement in which he agrees to plant the specified number of trees to be replaced and the date for completion of planting.

(1) The following replanting schedule will be followed:

6-12 inches caliper	one tree 2.5-inch caliper
12-18 inches caliper	two trees 2.5-inch caliper
18-24 inches caliper	three trees 2.5 -inch caliper

(2) Trees removed must be replaced on the ground of the subject property with a species and type approved by the Shade Tree Committee.

(3) Trees must be replaced according to the conditions specified in the Binder agreement. Failure to do so will be interpreted as a violation of the agreement and will be subject to a fine up to \$500 per tree, to be deposited in the Shade Tree Committee Trust Fund.

(4) Replacement fees shall be in addition to the permit fees. Where conditions mitigate against planting on the ground of the subject property, the applicant may choose to donate the agreed upon replacement funds (trees) to the Shade Tree Committee trust fund. In turn, the Shade Tree Committee will use the funds for an equivalent planting at another site in the Borough.

(5) Any tree replacement funds obtained by the Municipal Court will be forwarded to the Shade Tree Committee Trust Fund.

**355-16. Protection of existing trees during construction.**

All persons subject to the provisions of this article shall comply with the following precautions:

- A. Prior to the commencement of construction, install protection at the dripline of any tree which is designated to be saved and prohibit any construction materials or other materials inside the barrier. The dripline shall not be altered in any way so as to increase the encroachment or the construction.
- B. Prohibit excavation, grading, drainage and leveling within the driplines of the tree unless approved by the Construction Code Official, with the advice of the Shade Tree Committee.
- C. Prohibit disposal or depositing of oil, gasoline, chemicals or other harmful materials within the dripline or in drainage channels, swales or areas that may lead to the dripline.
- D. Prohibit the nailing, screwing or other permanent attachment of wires, signs and ropes to any tree or any tree in the municipal right -of-way.
- E. Design utility services (underground utilities) to be located outside of the dripline or tunnel under root line, when possible, to avoid trenching within driplines wherever possible.
- F. the Construction code Official shall be notified of any damage that occurs to a tree during construction so that proper treatment may be administered by a certified tree expert, retained by the contractor.

#### **355-17. APPLICATION REVIEW BY SHADE TREE COMMITTEE.**

Upon the Shade Tree Committee receiving the application for the cutting or removal, it shall review the site to determine whether the removal or destruction of said tree(s) shall change the drainage conditions, cause soil erosion, increase the dust, decrease the fertility of the soil or deteriorate the property value and shall further determine the overall physical conditions of the land and the deleterious effect thereon. In reviewing the aforesaid items, the Shade Tree Committee may utilize the services of the Borough Engineer, or industry expert, and request and consider a report and recommendation from him regarding same. In addition to the aforesaid items, the Shade Tree Committee shall also consider the following in making its determination to issue or deny the permit:

- A. Whether the area where the tree is located shall be used for a building or other structure or a sewerage line, said tree located within 12 feet of any of the foregoing; whether the area where the tree is located shall be used for a patio, a driveway, a recreation area, a roadway or a drainage right-of-way, said tree located within four feet of any of the foregoing.
- B. Whether the tree or trees are likely to cause a hardship upon the applicant or place the community in danger or affect deleteriously an adjacent property owner.
- C. Whether the cutting, removal and destruction of trees shall affect the drainage conditions, cause or contribute to soil erosion, increase the dust and decrease the fertility of the soil on the land under consideration.
- D. Whether the application abides by the borough ordinances as defined herein.

#### **355-18. Time for decision.**

The Shade Tree Committee shall, within 35 days after reviewing the site (weather permitting), render its recommendation whether to grant or deny the permit and it shall advise the applicant, the Construction Code Official and the Mayor and Council of the Borough of its recommendation. The failure to make a recommendation within 35 days shall be deemed an approval of the

request. Except in the case of compelling or extraordinary circumstances, the Construction Code Official will issue or deny the tree removal permit based upon the recommendation received.

**355-19. Appeal to the Mayor and Council.**

The applicant shall have the right to appeal the recommendation and decision regarding the tree removal permit to the Mayor and Council of the Borough of Woodcliff Lake within 10 days of the denial of the tree removal permit. Said appeal shall be by written notice of appeal to the Borough Clerk. Upon receipt of said appeal, the Mayor and Council shall proceed to hear said appeal upon notice to the applicant and the Shade Tree Committee within 30 days after the filing of said 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 Shade Tree Committee or its designee, Construction Code Official and the applicant, reverse, modify or affirm the aforesaid decision.

**355-20. Waiver.**

Upon written application to the Woodcliff Lake Shade Tree Committee and for good cause shown, the Woodcliff Lake Shade Tree Committee may waive any of the requirements of this article.

**355-21. Obligation for new and added construction.**

All new or added construction shall be subject to the above regulations. Upon receiving a building permit, it is understood that the builder or property owners will cooperate with the Shade Tree Committee of the Borough of Woodcliff Lake. Any new structure, home, business, industry or improvement to existing structures is not complete until properly planted; that is:

- A. Where advisable, shade trees are to be planted, with a minimum of two per lot.
- B. With a minimum of two per lot, shade trees shall be planted so as not to interfere with public utilities as permitted and approved by the Shade Tree Committee.
- C. Parking lots must have areas set aside for shade trees and/or evergreens and shrubs, or both, and planting for screening where advisable.
- D. Trees shall be two inches or more in diameter and of the species designated by the Committee.
- E. Failure to comply with the provisions of this article shall be deemed a violation as defined in **355-10** and/or **355-21** of this chapter. No certificate of occupancy will be issued until such provisions are met.
- F. Provide tree coverage to specifications dictated by the Shade Tree Committee.
- G. Submit a landscaping plan identifying the trees to be removed from the property, and the proposed trees to be replanted, and expected canopy coverage after 10 years.

**355-22. Obligations for major site renovations.**

Any property renovations impacting trees to a degree deemed significant by the Shade Tree Committee will be considered a major site renovation, and subject to the provisions outlined in **355.21**.

**355-23. Tree removal company; registration.**

Every person, firm, association, partnership, corporation and individual that is engaged in the practice of removing any “tree” as defined by this article must register annually with the Borough. Said annual registration fees are contained within the Borough Fee Ordinance.



Effective Date. This Ordinance shall become effective upon final approval and publication, pursuant to law, and upon completion of all outstanding cases.