

ORDINANCE 4-2024

AN ORDINANCE OF THE BOROUGH OF WOODBURY HEIGHTS, GLOUCESTER COUNTY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF WOODBURY HEIGHTS TO INCLUDE A NEW CHAPTER 100B ENTITLED “TREE REMOVAL AND REPLACEMENT”

WHEREAS, the NJDEP has recommended adoption of an Ordinance to address tree removal and replacement in the Borough; and

WHEREAS, the Borough seeks to adopt the Ordinance to reduce soil erosion and pollutant runoff, as well as promote infiltration of rainwater into the soil, and to protect the environment, public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED, by the Borough of Woodbury Heights, in the County of Gloucester, State of New Jersey, as follows:

SECTION I: Purpose

An ordinance to establish requirements for tree removal and replacement in the **Borough of Woodbury Heights, Gloucester County, NJ** to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

SECTION II: 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 Ordinance 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 use of the word "shall" means the requirement is always mandatory and not merely directory.

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

B. “Critical Root Radius (CRR)” – means 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 1.5 feet. For example: a tree with a 6” DBH would have a CRR = 6”x1.5’ = 9’.

C. “Diameter at Breast Height (DBH)” means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

D. "Hazard Tree" means a tree or limbs thereof that meets 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 certified arborist, a Licensed Tree Expert (LTE), or the Borough Zoning Official or their designee; or
6. Has been damaged by a storm.

E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.

F. "Planting strip" means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

G. "Resident" means 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.

H. "Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

I. "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.

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

K. "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, 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.

SECTION III: Regulated Activities:

A. Application Process:

1. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 8" or more or any non-street tree with DBH of 8' or more on their property shall submit a **Tree Removal Form** to *the Borough Clerk*. No tree shall be removed until municipal officials have reviewed and approved the removal to ensure compliance. **A Tree Removal Form along with a Tree Location and Replacement Plan shall be submitted with Preliminary Site Plan or Preliminary Major Subdivision applications that propose the removal of more than five (5) trees of 8" diameter or more. Site Plan and Subdivision Plan applicants will be subject to the tree replacement requirements below.**

B. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) with a DBH of 8" or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per property or acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with Appendix A .

Replacement tree(s) shall:

1. Be replaced in kind with a tree that meets the Tree Replacement Criteria in the table below;
2. Be planted within two planting seasons of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
3. Be monitored by the applicant for a period of two planting seasons to ensure their survival and shall be replaced as needed within that time; and

4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.
5. **The Borough does not encourage the planting of street trees in the public planting strip between the curbline or sidewalk. Trees should be planted at least 10 feet away from sidewalks.**

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 8" (for street trees) or 8" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 1 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed

C. Replacement Alternatives:

1. 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 one of the following:
 - a. Plant replacement trees in a separate area(s) approved by the municipality (within two planting seasons).
 - b. Pay a fee of **\$200.00** per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of trees.

SECTION IV: Exemptions:

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

- A. Residents who remove less than five (5) trees per property or acre within a five-year period;
- 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 that is active and on file with the municipality;
- D. 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.
- E. 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;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement but should be documented with a Tree Removal Form to the Borough Clerk.

SECTION V: Enforcement

This ordinance shall be enforced by the Borough Zoning/Code Official and/or Borough Public Works Department during the course of ordinary enforcement duties.

SECTION VI: Violations and Penalties

Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to a fine, as follows:

- 1. For a first offense, a fine not exceeding \$500.**
- 2. For second or subsequent offenses, a fine not exceeding the sum of \$5,000, probation or incarceration.**

SECTION 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 any finding or holding that any such portion of this Ordinance is unconstitutional or invalid shall not affect any other portion of this Ordinance.

SECTION VIII: Effective Date

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

SECTION X:

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

BOROUGH OF WOODBURY HEIGHTS

By: 

WILLIAM C. PACKER, MAYOR

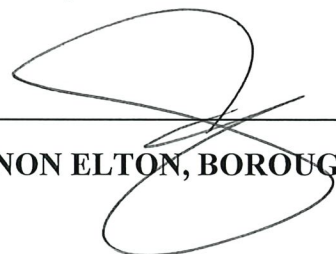
ATTEST:



SHANNON ELTON, BOROUGH CLERK

CERTIFICATION

The foregoing Ordinance was introduced at a Regular Meeting of Borough Council of the Borough of Woodbury Heights held on the 20th day of March 2024 and will be considered for final passage and adoption at a Regular Meeting at which time any person interested therein will be given an opportunity to be heard. Said meeting to be held on 17th day of April 2024, at the Borough Hall, 500 Elm Ave, Woodbury Heights, New Jersey.



SHANNON ELTON, BOROUGH CLERK

NOTICE

ORDINANCE 4-2024

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NOTICE is hereby given that the foregoing Ordinance 4-2024 was finally adopted at a meeting of the Borough of Woodbury Heights Council held on the 17th day of April 2024 at 7:30 p.m. in the Borough Hall, 500 Elm Avenue, Woodbury Heights, New Jersey.



SHANNON ELTON, CLERK

Appendix A

Following is a list of approved replacement trees in the Borough of Woodbury Heights for trees being removed per Chapter 100A. The mix, number and location of trees or substitutions shall be reviewed and approved by the Borough Engineer. Not all tree species may be appropriate for certain uses, locations, site conditions, and soil types.

<u>Tree Species</u>	<u>Common Name</u>
Acer Rubrum	Red Maple
Acer Negundo	Boxelder
Betula Nigra	River Birch
Carpinus Caroliniana	American Hornbeam
Carya Ovalis	Red Hickory
Cornus Florida	Flowering Dogwood or other dogwoods
Fraxinus Americana	White Ash
Ginkgo Biloba (male)	Ginkgo
Gleditsia triacanthos var. inermis	Honey Locust (Thornless)
Liriodendron Styraciflua	Tuliptree
Nyssa Sylvatica	Blackgum
Populus Grandidentata	Bigtooth Aspen
Quercus Alba	White Oak
Quercus palustris	Pin Oak
Quercus Rubra	Northern Red Oak
Tilia Cordata	Littleleaf Linden
Ulmus Americana	American Elm "Princeton"

The planting procedure and season for planting shall follow recommendations from the NJ Shade Tree Federation , "Trees for NJ Streets".

Following is a list of trees that shall not be planted as replacement trees:

Sweet Gum

Bradford Pear