

**BOROUGH OF WOODLAND PARK
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

ORDINANCE NO. 23-18

**AN ORDINANCE TO AMEND CHAPTER 27 OF THE CODE OF THE
BOROUGH OF WOODLAND PARK WITH REGARD TO
TREE REMOVAL AND PROTECTION**

§ 27-1 TITLE.: Tree Removal and Protection Ordinance, for the betterment of Forestry in the Borough of Woodland Park.

This chapter shall be known as "Tree Removal and Protection Regulations of the Borough of Woodland Park."

§ 27-2 FINDINGS AND PURPOSE.

The Borough Council of the Borough of Woodland Park finds that the preservation, protection and planting of trees aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces stormwater runoff and the potential damage it may create; aids in removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against severe weather; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; conserves and enhances the Borough's physical and aesthetic appearances and generally protects the public health and safety as well as the general welfare.

§ 27-3 PERMIT REQUIRED FOR CERTAIN ACTS, WITHIN HIGHWAYS OR PUBLIC PLACES.

No person shall do or cause to be done any of the following acts affecting the trees, shrubbery or ornamental material planted or growing naturally within the highways or public places under the jurisdiction of the municipality, except with a written permit first obtained from the Department of Public Works (DPW);

Cut, trim, break, disturb the roots of, or spray with chemicals any living tree or shrub; or injure, misuse, or remove any structure or device placed to support or protect any tree or shrub;

Plant or remove any living tree or shrub, or climb with spikes any living tree or shrub;

Fasten any rope, wire, electric attachments, sign or other device to a tree or shrub, or to any guard about such tree or shrub;

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;

Pile any building material, or make any mortar or cement within six (6) feet of a tree or shrub;

Change the grade of the soil within the limits of the lateral spread of the branches of any such tree.

§ 27-4 **DEFINITIONS.**

The following definitions shall apply to this chapter:

PERSON

shall mean the owner of a parcel of real estate or any other individual, group, company, firm, corporation, partnership, association, society or other legal entity.

TREE

shall mean a deciduous or evergreen tree which shall be a caliper of at least two and one-half (2-1/2) inches measured four and one-half (4-1/2) feet about the ground when planted (e.g. red, Norway, silver or sugar maple; sweetgum; London plane tree; American sycamore; white, red or pin oak; American elm; yellow or white poplar; or copper beech), unless otherwise identified through the mitigation process.

RIGHT OF WAY

shall mean the use of a landowner's property, from the beginning of the property line up to six feet inward – for access by the Borough for uses that are beneficial to the public good. Which include but not be limited to access and use for infrastructure and utilities.

SPECIES

shall mean for purposes of this chapter, the common name of the tree.

STRUCTURE

shall mean a combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

§ 27-5 **WIRE, CABLE, ELECTRIC CURRENT.**

Every person having control over any wire for the transmission of an electric current along a public highway shall at all times guard all trees through, or near, which such wire passes against any injury from the wire or cable or from the electric current carried by it. The device or means used shall in every case be subject to approval by the Department of Public Works.

§ 27-6 **PERMIT REQUIRED.**

No person shall cut down or remove any tree of a caliper of four (4) inches or greater measured at a height of four and one-half (4 1/2) feet above the ground or engage in any site clearing without a tree removal permit.

§ 27-7 **GUY WIRES, BRACES PROHIBITED.**

No person shall place any guy wire, brace or tree device on any such tree in such a manner as to injure it.

§ 27-8 **INJURY BY ANIMALS.**

No person shall hitch or fasten an animal to any tree or shrub upon a public highway or to any guard or support provided for the same, or permit an animal to bite or otherwise injure any tree or shrub.

§ 27-9 CHEMICAL DAMAGE.

No person shall permit any brine, gas or injurious chemical or liquid to come in contact with the stump or roots of any tree or shrub upon a public highway.

§ 27-10 INTERFERENCE WITH DEPARTMENT OF PUBLIC WORKS.

No person shall prevent, delay or interfere with any lawful work undertaken by the Department of Public Works or its authorized agent. Any act to interfere with the work of the DPW or Borough Agent, may lead the offender to be charged with a criminal violation.

§ 27-11 DANGEROUS TREES AND SHRUBS.

§ 27-11.1 Removal Required; Notice.

In case any tree or shrub, or any part thereof, along the public highway, public street or public right of way, shall become dangerous to the public safety, the owner of the property in front of which such tree or shrub shall be, shall remove the same, or the required part thereof, forthwith upon service of written directive to that effect from the Department of Public Works or Borough Code Enforcement. The notice shall be sufficient if served in the same manner as a summons may be served in accordance with the New Jersey Rules of Court.

§ 27-12 CLEAR VIEW REQUIRED AT INTERSECTIONS; HEIGHT OF BRUSH; AND RIGHT OF WAY

- A. The owner or tenant of any lands lying within the municipality may be required to trim brush, hedges, trees, or any other plant growth that may cause visibility issues along a roadway or intersection within the Borough, at the discretion of the DPW Superintendent or Borough Code Enforcement.

The owner or tenant of any lands lying within the municipality shall keep all brush, hedges and other plant life, growing within ten (10) feet of any roadway and within twenty-five (25) feet of the intersection of two (2) roadways, cut to the height of not more than two and one-half (2 1/2) feet.

- B. The landowner is also still responsible to remove overgrown brush, dying/dead trees and the like from the right of way which is property which will remain under the control of the landowner for maintenance, etc. This provision is consistent with the prevailing law of the State of New Jersey, and the Borough's other property maintenance Ordinances.

§ 27-13 REMOVAL BY MUNICIPALITY.

If the owner fails to remove the tree or shrub or portion thereof within four (4) weeks after the service of written notice to do so, the work shall be performed by the municipality under the supervision of the DPW Superintendent, who shall certify the cost thereof to the Council.

§ 27-14 COSTS CHARGED AGAINST LAND; LIEN ESTABLISHED.

Upon receipt of the certified costs, the Council shall examine same and if found correct shall cause the costs to be charged against the lands, or if the Council deems the costs to be excessive, shall cause the reasonable cost to be charged against the lands. The amount so charged shall forthwith become a lien upon the lands and shall be added to and become and form 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.

§ 27-15 **APPLICATION PROCEDURE.**

a. Application for a tree removal permit shall be made by submission of the following:

1. **An original application on forms provided by the Borough containing the following information: the names and addresses of the applicant; the street address of the property in question; the number of trees to be removed; and such other information as may be required, including a map drawn to scale.**

§ 27-16 **FEES.**

"Per property, the first tree permitted for removal will not incur a mitigation charge. There will be no mitigation charge if a tree is deemed dead, upon inspection by the DPW Superintendent. With prior approval from the DPW Superintendent, the property owner may agree to plant one (1) tree, per mitigation charge, to offset the cost of mitigation. Said tree(s) must be planted within a reasonable amount of time, as determined by the DPW Superintendent prior to approval of the permit.

Number of Trees	Fees
1 to 5	\$50.00
6 to 10	100.00
11 to 20	200.00
21 to 50	300.00
51 and over	400.00, plus an additional 100.00 for each additional fifty (50) trees or part thereof"

§ 27-17 **STANDARDS FOR APPLICATION REVIEW.**

The following standards for review of applications shall apply:

- a. Permitted Removal. No tree shall be permitted to be removed unless the tree is:
 1. Located within the building footprint of a proposed principal building.
 2. Located between the curb lines of a proposed roadway approved pursuant to the subdivision ordinance.
 3. Dead or poses a safety hazard.
 5. Located within fifteen (15) feet of any building.
 6. Located within the area of a proposed driveway, walkway, utility line, accessory building or any other structure.
 7. Specifically permitted to be removed in a site plan approved pursuant to the Municipal Land Use Law.
- b. Conflict with Other Laws. Notwithstanding anything in this chapter to the contrary, no tree removal shall be permitted where prohibited by Zoning Ordinance (e.g. buffer zones and crestline provisions) or any other municipal, State or Federal Statute, ordinance or regulation.

- c. **Hardship Appeal.** In the event that an applicant believes the standards set forth in paragraph a. above constitute a hardship which prohibits a reasonable use of all or substantially all of the property in question, an applicant may seek relief from the Governing Body of the Borough of Woodland Park in the event that such relief is sought, the applicant shall submit an additional eight (8) copies of the documents required to be submitted as to the reasons for the claimed hardship. In addition, the applicant shall submit a fee for the hearing of the matter in the amount of three hundred (\$300.00) dollars. The Governing Body, upon submission of a complete application to the Borough Clerk, shall schedule a public hearing in connection with the requested relief. The applicant shall cause to be published in an official newspaper of the municipality a notice setting forth the time, date and place of the hearing to be so held, together with a brief statement of the relief requested. Such notice must be published within ten (10) days prior to the date of the hearing. Additionally, the applicant shall cause to be served upon all property owners within two hundred (200) feet of the property in question a similar notice by certified mail, return receipt requested, or by personal service. Proof of publication and service of notice shall be required to be submitted prior to the hearing. At the hearing, the applicant shall present witnesses under oath, and any other interested parties may do the same. All witnesses shall be subjected to cross-examination. The decision of the Governing Body shall be binding upon the municipal official in charge of enforcement and administration of this chapter.
- d. **Mitigation.** If there is a need to conduct tree removal to mitigate environmental issues, there may be additional charges, upon review from the DPW Superintendent.

§27-18 MITIGATION.

1. The charges associated with Mitigation of tree removal on a given property will be as follows:
 - (a) The first tree removed from a given property will not incur a mitigation charge.
 - (b) Each tree removed, beyond the first, will incur a mitigation charge. This charge is based on the current cost to plant a tree on public property, within the Borough of Woodland Park, as determined by the DPW Superintendent. This charge will be remitted to the Borough “Tree Fund”.
 - (c) Upon review by the DPW Superintendent, a tree deemed to be “dying” or “dead” will not incur a mitigation charge.
2. Except in the event of a tree removal pursuant to an approved subdivision or site plan where a performance bond to assure tree planting was posted, as a precondition to the issuance of a permit where mitigation is required, the applicant may be required to post a cash bond to assure mitigation in an amount equal to the amount set forth in the resolution adopted by the Borough Council pursuant to subsection 27-17(d) for each minor and major tree to be planted. The bond shall be returned to the applicant upon completion of the required mitigation.
3. In the event that it is unknown how many trees were removed from any given site, and removal took place without a tree permit issued pursuant to this chapter, the number of trees requiring mitigation shall be computed by assuming trees over six (6) inches in caliper.
4. The Application requesting a hardship mitigation consideration may be denied if it is determined that the removal of the proposed trees will cause an undue and adverse impact to the property in question, and other properties – without also submitting a mitigation plan.

§ 27-19 PROTECTION OF EXISTING TREES.

- a. In connection with any construction subsequent to tree clearing but prior to the issuance of a building permit or start of construction, snow fencing or other protective barrier acceptable to the official charged with the administration and enforcement of this chapter shall be placed around trees that are not to be removed. The protective barriers shall be placed at least ten (10) feet from the trunk of any tree and shall

remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction materials shall be placed within any area protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

b. No person shall:

1. Cut down or remove any tree except as permitted by this chapter or allow or cause such cutting or removal.
2. Cause or allow any willful damage, injury or disfigurement of any tree growing within the Borough. For purposes of this subsection, the actions of any person shall be deemed willful if the damages, injury or disfigurement of any tree is caused as the result of but not limited to the following: cutting, gashing, or slitting of any tree; the pouring of any liquid or other material on any tree; or on the ground nearby; the construction or placement of any nonporous material on the ground around any tree so as to cut off the air, light or water from the roots; or placement or removal of any soil from within ten (10) feet of any tree.
3. Store or pile building material or debris or place construction equipment within ten (10) feet of any tree.

§ 27-20 APPEALS.

Any person aggrieved by the decision of the official charged with the administration and enforcement of this chapter shall have the right within ten (10) days of the issuance of any decision by such official to appeal to the Borough Council, which shall take action as it deems necessary in matter. In the event of such an appeal, the procedures set forth with reference to applications based on hardship continued in subsection **27-17(c)** of this chapter shall apply.

§ 27-21 ENFORCEMENT.

If any person shall continue to violate ANY provisions of this chapter, after being duly notified of the violation, or shall neglect 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 constituted as an additional violation of this chapter, and each additional offense shall subject the offending party upon conviction to the same penalty as provided for the first offense. Violators shall be liable, upon conviction, to the penalty stated in Chapter I, Section **1-5**.

This Ordinance shall take effect immediately upon final passage and publication as required by law.

Attest:

Approved:

Sandra Olivola, Municipal Clerk

Tracy Kallert, Acting Mayor

Introduced: August 16, 2023

Adopted: September 6, 2023