

**BOROUGH OF WESTWOOD
NOTICE**

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed on first reading on regular meeting of the Mayor and Council on the 5th day of April, 2005, and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on the 17th day of May, 2005 at 8:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

Eileen Sarubbi, Borough Clerk
Borough of Westwood

ORDINANCE NO. 05-14

AN ORDINANCE TO AMEND SECTION 65C-73 OF THE LAND USE AND DEVELOPMENT REGULATIONS FROM THE CODE OF THE BOROUGH OF WESTWOOD PERTAINING TO THE REMOVAL AND REPLACEMENT/RESTORATION OF TREES.

BE IT ORDAINED by the Mayor and Council of the Borough of Westwood, in the County of Bergen and State of New Jersey, that Section 65C-73 entitled "Shade Trees, Planting Strips and Landscaping" is hereby amended by the addition of the following:

F. Definitions. As used in this section, the following terms shall have the meaning as set forth below:

REPLANTED TREE -- Any deciduous or evergreen woody plant of the diameter caliper required in this section, planted for the purpose of replacing trees cut, removed or destroyed.

TREE -- Any live, woody plant having a diameter or width greater than eight inches and/or circumference greater than 25 inches measured at the natural ground level. If a plant has multiple stems, then the aggregate of the stem diameters and/or the aggregate of the circumferences shall be used in determining whether the plant is a tree.

G. Prohibited activities. No individual, corporation or association shall do, or cause to be done by others, either purposely, carelessly or negligently, any of the following acts upon privately owned property within the Borough of Westwood:

- (1) Cut, destroy or injure any tree.
- (2) Place or maintain upon the ground any substance which will impede the tree free access of air and water to the tree's living components.
- (3) Apply any substance to any part of a tree, including roots, with the intention to injure or destroy the tree.

H. Permitted activities. Notwithstanding the restrictions contained in the above subsection, the following activities shall be permitted:

H. Permitted activities. Notwithstanding the restrictions contained in the above subsection, the following activities shall be permitted:

(1) The removal of not more than 5 trees on any approved or existing building lot, as shown on the current Tax Assessment Maps of the Borough, within a twelve-month period.

(2) The removal of trees in accordance with a site plan or subdivision plan approved by the Planning Board or Board of Adjustment or a plot plan submitted for a soil movement permit approved by the Planning Board, in conjunction with development or soil movement applications, so long as the approval includes a requirement that the applicant replace two trees, meeting the replacement tree standard in Section J, for each tree removed.

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

(4) The removal of trees which are diseased, dead, partially or completely fallen by acts of nature or which endanger public safety.

(5) The removal of trees necessary to construct any structure for which a permit has been issued by the Construction Code Official, so long as the approval includes a requirement that the applicant replace at least 50% of the trees removed.

(6) Activities involving tree trimming or removal located within a public right-of-way or easements, or publicly owned or controlled property, so long as the Borough of Westwood is in responsible charge of the activities.

I. Exceptions. The following exceptions shall apply:

(1) The Planning Board or Board of Adjustment may waive the replacement planting requirements either in number, specie or replacement size.

(2) Upon application to the Planning Board, the granting of exceptions from the requirements of this section as may be reasonable and within the purposes and intent of this section if the literal enforcement of one or more provisions is impracticable or will exact due hardship because of peculiar conditions pertaining to the land in question. The form of application will be the same provisions as that of the Site Plan Review Ordinance.

J. Criteria for consideration of tree removal and replanting.

(1) The Planning Board or Zoning Board may consult with the Westwood Shade Tree Commission, the Department of Public Works, the Borough Engineer or any professional as provided in the Municipal Land Use Law for guidance in considering land use, development, soil movement or exception applications.

(2) Replanted trees shall be at least 2 inches in diameter caliper, measured at breast or chest height, and must be nursery stock, balled in burlap and staked upon planting per Borough standards provided by the Borough Engineer.

(3) The location of replanted trees shall be determined by the following schedule of preference when at all possible:

(a) In the location where the trees are removed.

(b) Within the building lot containing the removed trees.

(c) Within the development site approved by the Planning Board or within the public right-of-way fronting or bounding the site.

(d) Elsewhere in the Borough within public property, but as near as possible to the building lot where the trees are removed.

application or soil movement activity, the Borough Engineer shall inform the Code Compliance Officer of any trees removed in excess of those called for removal in the Planning Board's approval.

L. Penalty, Replacement Schedule.

(1) Any individual, corporation or association violating any provision of this section shall, upon conviction thereof, be punishable by a fine not exceeding \$1,000 per offense. The cutting, destruction or removal of each tree shall constitute a separate offense.

(2) If trees are cut, destroyed, or removed for any reason, in conjunction with any land use, development or soil movement activity in excess of the specified number of trees which were approved for removal by the Planning Board or Zoning Board, restitution shall be made by the applicant in accordance with the following schedule:

Diameter of Tree Removed (Inches)	Number of Two-Inch-Caliper Trees to be Provided
8 to 15	6
16 to 24	10
25 to 36	15
37 and over	20

If any section, subsection, part, clause or phrase of this Ordinance shall be declared invalid by judgment of any court of competent jurisdiction, such section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance.

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

Approved:


Thomas D. Wanner, Mayor

Attest:


Eileen Sarubbi, Borough Clerk