

**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 4th day of January, 2011, 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 18th day of January, 2011 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.

Karen Hughes, Borough Clerk
Borough of Westwood

ORDINANCE NO. 11- 4

AN ORDINANCE ADOPTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE BOROUGH OF WESTWOOD, COUNTY OF BERGEN, STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE; AND MAKING CERTAIN CHANGES IN PREVIOUSLY ADOPTED ORDINANCES

Be it ordained and enacted by the Mayor and Council of the Borough of Westwood, County of Bergen, State of New Jersey, as follows:

§ 1-1. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Westwood of a general and permanent nature adopted by the Mayor and Council of the Borough of Westwood, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 418, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Borough of Westwood," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

This ordinance shall take effect immediately upon passage and publication according to law.

§ 1-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of Westwood by impressing thereon the Seal of the Borough, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the Borough, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-5. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the “Code of the Borough of Westwood” shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

§ 1-6. Publication; filing.

The Clerk of the Borough of Westwood, pursuant to law, shall cause this Adopting Ordinance to be published, in the manner required, in a newspaper of general circulation in the Borough. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee authorized by the Borough. The Clerk shall also arrange for procedures for the periodic supplementation of the Code.

§ 1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Borough of Westwood to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Borough of Westwood.

§ 1-10. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Repealer.

Except as provided in § 1-13 hereof, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Borough of Westwood which is not in conflict with the provisions of this Code shall be deemed to remain in full force and effect.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to December 22, 2010.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Borough's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any ordinance adopting or amending the Zoning Map.
- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- N. All currently effective ordinances pertaining to personnel policies for Borough employees.

§ 1-14. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

- B. In addition, the changes, amendments or revisions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

- C. Nomenclature changes. Throughout the Code the following titles are revised as follows:
 - (1) The terms “Construction Code Official,” “Construction Code Officer” and “Construction Code Enforcement Official” are amended to read “Construction Official.”

 - (2) The term “State Department of Health” is amended to read “State Department of Health and Senior Services.”

 - (3) The term “Magistrate” is amended to read “Judge.”

 - (4) The term “Pascack Valley Hospital” is amended to read “Hackensack University Medical Center North at Pascack Valley.”

 - (5) The term “Shade Tree Commission” is amended to read “Shade Tree Advisory Committee.”

Adopted: _____

Approved:

Attest:

John Birkner, Jr., Mayor

Karen Hughes, Borough Clerk

CERTIFICATION
BOROUGH OF WESTWOOD

Office of the Borough Clerk

I, **Karen Hughes**, Borough Clerk of the Borough of Westwood, New Jersey, hereby certify that the chapters contained in this volume are based upon the original legislation of a general and permanent nature of the Mayor and Council of the Borough of Westwood, and that said legislation, as revised and codified, renumbered as to sections and rearranged into chapters, constitutes the Code of the Borough of Westwood, County of Bergen, State of New Jersey, as adopted by ordinance of the Mayor and Council on _____, _____.

Given under my hand and the Seal of the Borough of Westwood, County of Bergen, State of New Jersey, this _____ day of _____, at the municipal offices of the Borough of Westwood.

s/Karen Hughes

Borough Clerk

Borough of Westwood Code Adoption Ordinance

Schedule A

Specific Revisions at Time of Adoption of Code

[NOTE: Underlined material is added. ~~Strikethrough~~ indicates material deleted. New or completely revised sections are *italicized*.]

Chapter 1, General Provisions.

Article II, Definitions.

In § 1-15:

- A. The lead-in sentence is amended as indicated:
“For the purpose of this Code, and in the interpretation and application of all other ordinances heretofore or hereafter adopted, except as the context may otherwise require and except as such term may be defined in another chapter of this Code, the following terms shall have the meanings indicated”
- B. The definition of “ordinance” is amended as indicated:
“Any act of local legislation heretofore or hereafter adopted, ~~and including this Code,~~ so long as it shall have been adopted by the procedure required for the adoption of an ordinance, and so long as it shall remain in force and effect pursuant to law.”

Article III, General Penalty.

- A. The first sentence of § 1-16 is amended as indicated: “For violation of any ordinance or housing or zoning provision of the Borough of Westwood unless a specific penalty is otherwise provided in connection with the provision violated the maximum penalty upon conviction of the violation may be by one or more of the following:...”
- B. Original Section 5 of Ord. No. 10-05, regarding supersession of penalty sections in ordinances, is deleted.

Chapter 6, Boards, Committees and Commissions.

Article I, Shade Tree Advisory Committee.

Section 6-2B(4) is amended as indicated:

“There shall be elected a Chairman, ~~assistant chairman,~~ and Secretary by and from the membership of the Shade Tree Advisory Committee.”

Article II, Local Assistance Board.

Section 6-8 is amended as indicated:

“...The Director of Welfare shall hold office for a term of five years from the date of appointment and shall be paid such salary as may be fixed by ~~the Local Assistance Board~~ subject to approval by the Governing Body...”

Article V, Substandard Housing Task Force.

Section 6-23 is amended as indicated:

“There is hereby created within the Borough of Westwood an agency to be known as the Substandard Housing Task Force as a means and method to coordinate oversight and review of ~~Ordinance No. 05-19 for Landlord Registration enforcement Chapter 272, Rental Dwellings, Article I, Registration and Inspection~~

Chapter 16, Court, Municipal.

Chapter 16 is amended in its entirety to read as follows:

Chapter 16
COURT, MUNICIPAL

§ 16-1. Establishment.

There is established in accordance with and pursuant to the provisions of N.J.S.A. 2B:12-1 et seq., and the several acts amendatory thereof and supplementary thereto, a court within the Borough to be known as the "Municipal Court of the Borough of Westwood."

§ 16-2. Municipal Judge.

The Municipal Court of the Borough shall have a municipal judge, who shall be known as the "Municipal Judge." He or she shall be appointed by the Mayor with the advice and consent of the Council and shall have the qualifications required by law. The Municipal Judge shall serve for a term of three years from the date of his or her appointment and until his or her successor is appointed and qualified. The duties and authority of the Judge shall be governed by statute and court rule.

Chapter 24, Department of Public Works.

A. Section 24-1 is amended as indicated:

“The Department of Public Works (DPW) is hereby established in the Borough of Westwood, ~~which Department of Public Works shall replace and constitute a consolidation of the now existing Roads, Parks, Garbage and Sewer Departments of the Borough of Westwood and shall include and absorb all the purposes, duties, personnel and equipment of these Departments.~~”

B. Section 24-3A is amended as indicated:

“The Mayor, with the consent of the Council, shall ~~annually~~ appoint a Superintendent of the Department of Public Works, to be designated as such by resolution. ~~Said term shall be coterminous with the calendar year.~~”

C. The first sentence of § 24-3B is amended as indicated:

“The Mayor, with the consent of the Council, shall ~~annually~~ appoint a Foreman...”

D. Section 24-4 is amended as indicated:

(1) Lead-in paragraph: “The duties of said Department of Public Works, by way of clarification and not by way of limitation, shall be such as laid down and required by the Mayor and Council through the ~~Commissioner of Public Works~~ Borough Administrator, which said duties shall include...”

- (2) Subsection F: “Collection of garbage, ~~and~~ refuse and recycling.”
- E. Section 24-5 is amended to read as follows:
§ 24-5. Employee discipline.
Any employee member of the Department of Public Works shall be subject to reprimands, deductions of pay, suspension from work, reduction in grade or dismissal, according to the nature or grievousness of his offense, for violating regulations, orders or resolutions, or for any violation of the rules and regulations of the Department of Public Works as outlined in the current bargaining agreement.
- F. Sections 24-6 and 24-7 are amended to change references to the “Commissioner of Public Works” to read “Administrator.”

Chapter 30, Fire Department.

Article II, Establishment and Organization.

- A. Section 30-7A and B are amended to read as follows:
A. The Fire Department shall consist of a Chief, Deputy Chief, Senior Captain, Captain, First Lieutenant, Second Lieutenant, Third Lieutenant, Fourth Lieutenant and as many firefighters who are citizens of the United States of America and a resident of the State of New Jersey for one year.
B. Candidates for active membership in the Fire Department must meet the minimum and maximum age required standards established by the New Jersey State Firemen's Association. Documented proof of age must accompany the application.
- B. Section 30-9 is amended to read as follows:
§ 30-9. Board of Fire Officers.
The Chief, together with the Deputy Chief, the Senior Captain, Captain, First Lieutenant, Second Lieutenant, Third Lieutenant, Fourth Lieutenant, and the Fire Commissioner shall constitute the Board of Fire Officers, which shall meet monthly or more frequently for the transaction of all firematic business of the Department. The Board shall have ultimate direction over the functions and the activities of the Department, subject only to the approval of the Mayor and Council of the Borough of Westwood as herein particularly and specifically provided. The Fire Commissioner shall have no voting powers at any Board of Fire Officers meetings.
- C. Sections 30-12, 30-13, 30-14 and 30-15 are amended to read as follows:
§ 30-12. Annual election of officers.
The annual election of the Board of Fire Officers shall be held on the first Tuesday of December. The Chief and the Deputy Chief shall be elected annually, by ballot, for the year. The Department officers must each receive 60% of the vote of those registered. If a candidate fails to receive 60% of the vote cast, a candidate shall be chosen until election occurs on said night on which the vote is held. The Senior Captain, Captain, First Lieutenant, Second Lieutenant, Third Lieutenant, and Fourth Lieutenant shall be voted upon at the annual elections in December, by ballot, for a year. Officers must receive 60% of the vote of those

registered. If a candidate fails to receive 60% of the votes cast, a candidate shall be chosen until election occurs on said night on which the vote is held.

§ 30-13. Active members.

The Chief, Deputy Chief, Senior Captain, Captain and Lieutenants shall be active members of the Fire Department.

§ 30-14. Authority to remove officers.

The Mayor and Council shall have the power to remove, for good cause, the Deputy Chief, Senior Captain, Captain or Lieutenants from such office.

§ 30-15. Companies formed.

The firemen in said Borough shall be divided into companies, each company to consist of not more than 30 members. The following companies are hereby accepted and shall thereafter constitute the Westwood Fire Department, namely: Continental Hook and Ladder Company No. 1, Continental Hose Company No. 1, Westwood Hose Company No. 2 and such other companies as may hereafter be confirmed by the Mayor and Council upon recommendation of the Board of Fire Officers.

- D. Sections 30-22 and 30-23 are amended to read as follows:

§ 30-22. Chain of command.

In all cases of fire, alarms of fire, or any other emergency function within the realm of duties particular to the Fire Department, the Chief, or in his absence, the Deputy Chief or the other officers, by rank, shall have sole and entire command over all members of the Department, and apparatus belonging to same, and over all other persons aiding and assisting the Department at emergency incidents and shall direct all measures he may deem proper for the successful management of such emergency incidents.

§ 30-23. Acting Chief.

In the event of the absence of all elected officers when an alarm is sounded, the first qualified member arriving at the firehouse shall assume the duties of Chief until the arrival of the superior officer. To serve in the capacity of Acting Chief, a firefighter must have served a minimum of five years in the fire service, including three years of Westwood Fire Department active service.

- E. Sections 30-25 and 30-26 are amended to read as follows:

§ 30-25. Aid of Borough police.

The Chief, or in his absence, the Deputy Chief or other officer acting for him at any fire, is hereby empowered to call upon the police officers of the Borough for such aid as may be necessary for the protection of property, and said police officers are hereby required to furnish such protection and assistance when so called upon.

§ 30-26. Removal of obstructions from fire hydrants.

The Chief, Deputy Chief, or other officer in command of a fire is hereby given full and complete authority and is hereby authorized and directed to require and secure the removal of any and all obstructions from, in front of and around fire hydrants and, for that purpose, is hereby authorized to call upon the Committee of Fire and Water of the Borough Council for its assistance in securing the removal of such obstruction.

- F. Section 30-36 is amended to read as follows:

§ 30-36. Officers of Department.

The officers of the Department shall consist of a Chief, Deputy Chief, Senior Captain, Captain, First Lieutenant, Second Lieutenant, Third Lieutenant, and Fourth Lieutenant.

- G. Section 30-43 is amended to read as follows:
§ 30-43. Removal of apparatus from firehouse.
No apparatus shall be taken from the firehouse during any fire or the report of any fire unless the Chief, Deputy Chief, Captains, Lieutenants or acting officer shall be present.
- H. Section 30-47 is amended to read as follows:
§ 30-47. Vacancy in office of Chief.
In the event of a vacancy in the office of Chief of Department, the Board of Fire Officers shall immediately cause to be issued a notice of election to be held for the purpose of electing a successor who shall be an active member of the Department, qualified as herein provided, who, upon such election being made and confirmed by the Mayor and Council, shall hold office for the remainder of the unexpired term. In the interim between the occurrence of such vacancy and the qualification of such successor, the Deputy Chief shall have full power and shall perform all the duties of the Chief of Department.
- I. Original § 59-43 of the 1982 Code, Annual election of officers, is **deleted**.

Chapter 40, Officers and Employees.

Article I, Municipal Prosecutor.

- A. Section 40-2 is amended to change the phrase “before the Municipal Judge” to read “before the Municipal Court.”
- B. Section 40-4 is amended as indicated:
 “The Mayor shall nominate and, with the advice and consent of the Council, appoint a Municipal Prosecutor who shall hold said office for a period of one year, unless sooner removed, however, in accordance with the statutes of the State of New Jersey in such case made and provided. ~~He or she shall hold office for the year 1964 until December 31, 1964 only and until his successor shall have been appointed and qualified. Thereafter, he shall hold office for a period of one year at the pleasure of the Council, unless sooner removed, and until his or her successor shall have been appointed and qualified.~~”

Article II, Deputy Borough Clerk.

Article II is amended in its entirety to read as follows:

ARTICLE II **Deputy Borough Clerk**

§ 40-5. Creation of office.

Pursuant to the provisions of N.J.S.A. 40A:9-135, there is created the office of Deputy Borough Clerk.

§ 40-6. Nomination and appointment; term.

The Mayor shall nominate and, with the advice and consent of the Council, appoint a Deputy Borough Clerk, who shall hold the office for a period of one year, unless sooner

removed, however, in accordance with the statutes of the State of New Jersey in such case made and provided.

§ 40-7. Duties.

The Deputy Borough Clerk shall act as secretary and aide to the Borough Clerk and, during the absence, illness, vacation or disability of the Borough Clerk, shall have all the powers of the Borough Clerk and shall perform the duties and functions of that office. He or she shall also perform such duties as required by law and the ordinances of the Council and as assigned to him or her by the Governing Body and the Municipal Clerk.

§ 40-8. Compensation.

The Deputy Borough Clerk shall be compensated in accordance with the current Salary Ordinance of the Borough.

Article III, Registered Environmental Health Specialist.

Article III is amended in its entirety to change the title “Sanitarian” to read “Registered Environmental Health Specialist.”

Article V, Borough Engineer.

Section 40-16 is amended as indicated:

“The Borough Engineer shall be retained and appointed on a ~~three-year~~ yearly basis, ~~as provided for by law.~~”

Article VI, Chief Financial Officer.

Article VI is amended in its entirety to read as follows:

ARTICLE VI

Chief Financial Officer

§ 40-17. Creation of position; appointment; term; qualifications; tenure.

A. There is hereby created the position of Chief Financial Officer of and for the Borough of Westwood pursuant to the provisions of N.J.S.A. 40A:9-140.10.

B. The Chief Financial Officer shall be appointed by the Mayor, with the advice and consent of the Borough Council, for a term of four years and shall serve in accordance with the provisions of N.J.S.A. 40A:9-140.8.

C. The Chief Financial Officer shall not be a member of the Governing Body.

D. The Chief Financial Officer shall be certified by the Division of Local Government Services as a municipal finance officer pursuant to law.

E. The Chief Financial Officer shall ensure that the certification is continually in full force and effect and shall not let the certification lapse.

F. Notwithstanding the provision of any other law to the contrary, any person who has served as the Chief Financial Officer of the Borough for four consecutive years and who is reappointed as the Borough's Chief Financial Officer shall be granted tenure of office pursuant to N.J.S.A. 40A:9-140.8. Thereafter, the person shall continue to hold office during good behavior and efficiency and shall not be removed therefrom except pursuant to N.J.S.A. 40A:9-140.8 and 40A:9-140.9 or upon expiration or revocation of certification by the Director pursuant to N.J.S.A. 40A:9-140.12.

§ 40-18. Duties.

Pursuant to N.J.S.A. 52:27BB-26 et seq., the Chief Financial Officer shall oversee financial operations of the Borough. The Chief Financial Officer shall:

A. Receive funds entrusted, received or under the control of any department and deposit all funds received by him or her in depositories authorized by the Governing Body by resolution.

B. Have custody of all investments and invested funds of the Borough or in possession of the Borough in a fiduciary capacity, except as otherwise provided by law, and keep such funds and all moneys of the Borough not required for current operations safely invested or deposited in interest-bearing accounts.

C. Have the safekeeping of all bonds and notes of the Borough and the receipt and delivery of the Borough bonds and notes for transfer, registration or exchange.

D. Possess the authority to act as Borough Administrator in the absence or disability of the Borough Administrator and Borough Clerk as described in § 40-36B of the Code of the Borough of Westwood.

E. Perform all duties of such office as prescribed by law.

§ 40-19. Compensation.

The Chief Financial Officer shall receive compensation as provided in the current Salary Ordinance and in accordance with N.J.S.A. 40A:9-165.

Article VIII, Joint Municipal Tax Assessor.

A. Section 40-28A is amended as indicated:

“There is hereby created, effective as of January 1, 2008, the office of Joint Municipal Tax Assessor of the Borough of Westwood and the Borough of ~~New Milford~~ Woodcliff Lake, which shall consist of single Tax Assessor who shall be appointed by and upon the mutual agreement of the governing bodies of the two municipalities to hold such office for a term of ~~four~~ years, as more specifically provided by law, and which may further consist of such subordinate personnel as deemed necessary to perform the assessment function in accordance with law.”

B. The last sentence of § 40-29 is amended to delete the reference to the repealed statute as indicated: “... When engaged in services on behalf of a particular borough, all employees in the office of the Joint Municipal Tax Assessor shall be deemed to be employees of that borough ~~pursuant to N.J.S.A. 40:48B-8~~ for the purposes of processing the compensation of such employees and for such other purposes as may not otherwise be fixed by law, regulation, ordinance, or agreement of the municipalities.”

C. Section 40-30 is amended as indicated:

“There is hereby authorized an interlocal agreement or agreements, ~~of Conditions for Operation each of which shall be for a term not to exceed two years between the Borough of Westwood and the Borough of New Milford~~ which shall provide the further terms and conditions.... The first such agreement, entitled “Interlocal Services Agreement Between the Borough of Westwood and the Borough of ~~New Milford~~ Woodcliff Lake Providing for the Establishment, Maintenance and Operation of an Office of Joint Municipal Tax Assessor,” is hereby approved, effective as of January 1, 2008.”

D. Original Section 5, Present position of Tax Assessor abolished, and Section 6, When effective, of Ord. No. 01-26 are **deleted**.

Article IX, Public Defender.

Section 40-34 is amended as indicated:

~~“The Court Administrator shall charge a fee of \$200 per application for a Public Defender. The Judge of the Municipal Court shall impose a fee of \$200 upon granting an~~

application for the Public Defender. The fee may be waived by the Court, in whole or in part....”

Article XI, Public Works Manager.

Original Section 3, regarding codification of provisions, of Ord. No. 07-17 is **deleted**.

Article XII, Director of Recreation.

Section 40-40D is amended as indicated:

- D. The Director shall administer the work of the Department in accordance with the policies established by the ~~Advisory Board and the Council Liaison~~ subject to approval of the Mayor and Council and shall Borough Administrator and/or the Mayor and Council in order to create and supervise an efficient administrative organization for the Department.

Article XIII, Housing Officer.

Section 40-44 is amended as indicated:

“~~The annual salary for the above position shall be fixed at \$20,000 per annum with the expectation that~~ The Housing Officer shall be paid such annual salary as shall be fixed by the Mayor and Council of the Borough of Westwood The Housing Officer shall devote, on the average, and without any daily fixed schedule, approximately eight hours per week on the duties mentioned above.”

Chapter 81, Alarm Systems.

- A. Section 81-4A is revised to add the following sentence to the end thereof: “Forms may be obtained at headquarters or by going to the Borough website at <http://www.westwoodnj.gov/> and navigating to "Forms" on the Police Department page through the "Departments and Services" link.”
- B. Section 81-7 is amended to provide that violations of this chapter shall be subject to the general penalty in Chapter 1, Article III, as follows:
- ~~A. In the event of a malfunction of the equipment and no person can be located to secure the device, then the owner shall be liable to pay a fine of \$25 in addition to the penalties prescribed in § 81-6C.~~
- ~~B. Any person not complying with any of the provisions of this ordinance shall be fined \$50 in addition to the penalties prescribed in § 81-6C.~~
- In addition to the penalties prescribed in § 81-6C of this chapter, where any person fails to comply with any of the provisions of this chapter, such person, or in the event that the equipment malfunctions and no person can be located to secure the device, the owner, shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Borough of Westwood.

Chapter 87, Alcoholic Beverages.

Article I, Licensing.

- A. Section 87-1A is amended to **delete** the outdated fees for the year 2005, and to remove the reference to the year 2006, so that only current fees are listed.

- B. Section 87-10 is amended as indicated:
No person shall be employed in the sale or serving of alcoholic beverages in any licensed premises until his name and address have first been registered with the ~~Borough Manager Clerk~~ Police Department of the Borough of Westwood ~~and his fingerprints taken by the Police Department of said Borough of Westwood~~
- C. Section 87-11 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.

Chapter 93, Amusement Devices.

- A. Section 93-4A is amended as indicated:
All applications for a license under this ~~ordinance~~ chapter shall be made and delivered to the Borough Clerk ~~in duplicate~~ on forms to be supplied for the purpose and shall be subscribed and sworn to by the applicant, who shall be the owner or lessee of the premises.
- B. Original § 10-2B(8) is **deleted**, as follows: ~~(8) A sworn statement indicating whether the owner of the machine if other than the applicant, the applicant or any person connected with operation of the place of business wherein the game or device is to be installed has ever been convicted of any crime or found guilty of the violation of any ordinance pertaining to gambling or gaming.~~

Chapter 99, Animals.

Article I, Dogs.

- A. Section 99-1 is amended as follows:
- (1) The following sentence is added to the lead-in paragraph: “Terms used in this article which are defined in N.J.S.A. 4:19-15.1 shall have the same meanings as set forth in said statute....”
 - (2) The following terms are **deleted** as covered by the statute: “dog of licensing age,” “pet shop” and “shelter.”
 - (3) The definition of “habitual barking” is added to read as follows:
HABITUAL BARKING — Continuous barking or crying without pauses of one minute or longer, for a period of more than 20 minutes between the hours of 6:00 a.m. and 10:00 p.m., or for a period of more than 10 minutes between the hours of 10:00 p.m. and 6:00 a.m., on at least two occasions over a three-month period.
- B. Section 99-2 is amended to add the phrase “and N.J.S.A. 4:19-15.1 et seq” to the end of the section.
- C. The following original sections of the 1982 Code are **deleted** as duplicative of state law:
§ 47-3, Registration tag

- § 47-5, Application date
- § 47-6, Application requirements
- § 47-7, Licensed dogs from other states
- § 47-8, Unlicensed dogs from other states
- § 47-9, Removal of registration tag; restrictions

- D. Section 99-3A(1) is amended as indicated: “The fees for a one-year license ~~and registration tag~~ shall be \$8.80, ~~and \$1.20 respectively~~ plus \$1 for the registration tag and the additional fee for the pilot clinic as set forth in Subsection B below.”
- E. Section 99-3C is amended as indicated:
Dogs used as guides for blind persons and commonly known as "Seeing Eye dogs," dogs used to assist handicapped persons and commonly known as "service dogs" and dogs used to assist deaf persons and commonly known as "hearing ear dogs" shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefor.
- F. Section 99-5 is amended as indicated:
§ 99-5. License fee for pet shops~~Pet shop license and fee~~
The annual license fee for a pet shop shall be \$10. Pet shops shall be licensed by the Board of Health pursuant to Chapter 387, Fees, of Part III, Board of Health Legislation, of the Code of the Borough of Westwood. The fee for pet shops shall be as set forth in § 387-1J.
- G. Section 99-7 is amended to change the term “dogcatcher” to read “Animal Control Officers.”
- H. The lead-in paragraph of § 99-8 is amended as indicated: “The Chief of Police of the Borough, or any official, police officer or other person designated by him including Animal Control Officers, shall take into custody and impound...”
- I. Section 99-17 is amended as indicated:
Except as provided in N.J.S.A. 4:19-15.1 et seq. any person who violates any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$5 nor more than \$50 for each offense. A person who refuses or neglects to pay forthwith the amount of such fine and costs shall be committed by the court to the county jail for a period of not exceeding 10 days one or more of the following: a fine not to exceed \$2,000, a term of imprisonment not to exceed 90 days, or a period of community service not to exceed 90 days.

Article II, Trapping.

§ 99-22 is amended to reinstate the penalty provisions and provide for a standardized penalty referring to Chapter 1, Article III.

Article III, Guard Dogs

Section 99-27 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.

Article IV, Cats.

A. In § 99-28:

- (1) The original definition of ANIMAL is **deleted**, as follows:
~~ANIMAL -- For the purpose of this article, animal shall mean dog or cat.~~
- (2) The definition of “licensing authority” is revised as indicated:
~~LICENSING AUTHORITY -- The Registrar or any designated Board of Health representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provision of this article. The Clerk of the Borough or his duly authorized representative.~~

B. In § 99-29C, the term “animal” is revised to read “cat.”

C. Sections 99-31 through 99-35 are added, to read as follows:

§ 99-31. License fees.

- A. The fees for a one-year license and registration tag shall be \$10, respectively.
- B. There shall be an additional fee of \$5 for any cat of reproductive age which has not been spayed or neutered.
- C. The renewal fee for existing licenses, where application for the same is made after February of the particular year, will be subject to an administrative fee of \$25 due to higher processing costs.
- D. All license and registration tags shall expire on December 31 of the year stated on the license. There shall be no prorating of fees for a partial year.

§ 99-32. Application requirements.

The application shall state the breed, sex, age, color and markings of the cat for which the license and registration are sought, and whether it is of a longhaired or shorthaired variety; also, the name, street and post office address of the owner and the person who shall keep or harbor such cat.

§ 99-33. Licensed cats from other states.

Any person who shall bring or cause to be brought into the Borough of Westwood, in the County of Bergen, any cat licensed in another state for the current year and bearing a registration tag and who shall keep the same or permit the same to be kept within the Borough for a period of more than 90 days shall, at the end of said 90 days, apply for a license and registration tag for each such cat, unless such cat is licensed under § 99-4, Pet shops, kennels and shelters, of Article I, Dogs, of this chapter.

§ 99-34. Unlicensed cats from other states.

Any person who shall bring or cause to be brought into the Borough any unlicensed cat and shall keep the same or permit the same to be kept within the Borough for a period of more than 10 days shall, on the expiration of said 10 days, apply for a license and registration tag for each such cat, unless such cat is licensed under § 99-4, Pet shops, kennels and shelters, of Article I, Dogs, of this chapter.

§ 99-35. Unauthorized removal or attachment of tags.

No person, except an officer in the performance of his duties, shall remove a registration tag from the collar of any cat without the consent of the owner, nor shall any person attach a registration tag to a cat for which it was not issued.

- D. Section 99-36 is added to provide for a standardized penalty referring to Chapter 1, Article III.

Chapter 113, Buildings, Numbering of.

- A. Original § 82-1, Numbering system established, is **deleted**.
- B. Section 113-6 is amended as indicated:
Said number or numbers shall be ascertained and placed upon the building, as hereinbefore provided, not later than ~~60 days after the adoption of this chapter~~ 30 days after being notified by the Borough to do so
- C. The first phrase of § 113-7 is amended as indicated:
In the event of the failure of the owner, occupant, tenant or agent to ascertain and affix upon the building or buildings the number applicable to said building or buildings within ~~60 days after the adoption of this chapter~~ 30 days after being notified by the Borough, it shall be lawful for....
- D. Section 113-8 is added to provide for a standardized penalty referring to Chapter 1, Article III.

Chapter 118, Buildings, Unsafe.

- A. Section 118-3A is amended, in compliance with statute, to:
- (1) Add the following phrase to the list of conditions to determine if a building is unfit: “, or due to neglect, lack of maintenance or use fire, accident or other calamities,” and
 - (2) Change the minimum time for notice from 10 days to seven days.
- B. Section 118-5 is added to read as follows:
§ 118-5. Severely damaged buildings.
Any building or buildings, or parts thereof, which have been damaged to such an extent that nothing remains but the walls, or parts of the walls and other supports, shall, regardless of the safety and sturdiness of those remaining walls or parts thereof, be deemed inimical to the welfare of the residents of the Borough of Westwood, and the Borough may exercise its police powers to repair, demolish or cause the repairing or demolishing of the building or buildings, or parts thereof, pursuant to N.J.S.A. 40:48-2.3 et seq. and the procedures set forth therein.
- C. In § 118-6A, the phrase “the Director or Building Inspector” is revised to **delete** the reference to the “Director” as follows: “the ~~Director or~~ Building Inspector.”
- D. Section 118-9 is added to read as follows:
§ 118-9. Fire-damaged and structurally unsafe buildings.
If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the public officer may,

after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof.

- E. Section 118-18 is amended to provide that violations of this chapter shall be subject to the general penalty in Chapter 1, Article III.

Chapter 129, Construction Codes, Uniform.

- A. Section 129-1A is amended to add “Elevator Subcode Official” to the list of officials.
- B. Original § 36-2, Construction Board of Appeals, is **deleted** as preempted by the Construction Board of Appeals which operates at the county level.
- C. Original § 36-4, Fire limits, as amended 10-28-1986 by Ord. No. 86-12, is **deleted**.

Chapter 143, Disorderly Conduct.

Section 143-2 is added to provide for a standardized penalty referring to Chapter 1, Article III.

Chapter 157, Filming.

- A. Section 157-7 is amended to provide that violations of this chapter shall be subject to the general penalty in Chapter 1, Article III.
- B. In § 157-8, the first and last sentences are amended to clarify references to “relief pursuant to § 109-6” and “relief pursuant to Subsection F hereof” to read (in both cases) “relief from any requirements of §§ 157-3 through 157-6 of this chapter.”

Chapter 160, Firearms.

This chapter is amended in its entirety to read as follows:

Chapter 160 ***FIREARMS***

§ 160-1. Discharge of firearms prohibited.

The discharge of any firearms, bow and arrow, crossbow, slingshot, air gun, spring gun, gas gun or any other device which impels a projectile through the use of force is prohibited in the Borough of Westwood.

§ 160-2. Exceptions.

The provisions of this chapter shall not apply to:

- A. Any duly appointed law officer in the course of his or her official duty.*
- B. The use of firearms when lawful and necessary for the preservation of human life.*

C. The use of a firearm on a licensed pistol, rifle or firearm range and under the supervision of the Police Department.

§ 160-3. Violations and penalties.

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Borough of Westwood.

Chapter 163, Fire Insurance Claims.

New § 163-4 is added to read as follows:

§ 163-4. Payment of liens by insurance company; exception during appeal.

Unless a resolution as provided above is received by an insurance company writing fire insurance policies within the Borough of Westwood, said insurance company is hereby required, prior to the payment of any claims for fire damages in excess of \$2,500, to pay the municipality the amount of any liens and costs of demolition appearing on the official certificate and such reported liens or related charges as may be certified to the insurance company; provided, however, that if an appeal is taken on the amount of any lien or charge, other than an appeal on the assessed valuation of real property pursuant to N.J.S.A. 54:3-21, the insurance company shall withhold 75% of the full amount of the lien or charge being contested pending termination of all proceedings, at which time such moneys and all interest accruing thereon at a rate paid on interest-bearing accounts in banking institutions and savings and loan associations of the state shall be disbursed in accordance with final order of judgment of the court.

Chapter 166, Fire Prevention.

Article I, International Standards.

This article is amended in its entirety as follows:

- A. In § 166-1, references to “BOCA Basic Fire Prevention Code/1975, being particularly designated as the Third Edition thereof,” are revised to read “International Fire Code, New Jersey Edition, 2006.”
- B. The following original sections of the 1982 Code are **deleted**: § 61-2, Establishment and duties of Bureau of Fire Prevention; and § 61-2, Violations and penalties, as amended 7-27-1976 by Ord. No. 777.

Article II, Enforcement of State Standards.

- A. Section 166-3 is amended as indicated:

~~The local enforcing agency shall be the Westwood Fire Prevention Bureau which is hereby created therein. The Westwood Fire Prevention Bureau shall hereinafter be known referred to in this article as the “local enforcing agency.”~~
- B. In § 166-5A, the term “He or she” in the second sentence is revised to specify “The Fire Official/Marshal.”
- C. In § 166-5, original Subsection C, regarding from whom the local enforcing agency shall be subject to direction, is **deleted**.

- D. In § 166-6D(1), the phrase “as per Subsection A” is **deleted** from the end thereof; and in § 166-6D(2), the phrase “as per Subsection B” is **deleted** from the end thereof.
- E. Section 166-8 is amended as indicated:
- A. In addition to the registrations required by the Uniform Fire Code, all non-life hazard uses shall ~~register~~ be registered with the local enforcing agency. These uses shall be inspected once per year, and ~~pay~~ the annual registration fees as per Subsection B shall be paid. ~~(The fee schedule amount for each non-life hazard use may be amended to fit the needs of the local enforcing agency. The fee is not to be used for life-hazard uses as defined in the Uniform Fire Code.)~~
- B. ~~[Borough of Westwood Ordinance No. 0110] AN ORDINANCE TO AMEND SCHEDULE "A" OF CHAPTER 61, FIRE PREVENTION CODE, AND ORDINANCE 90-1 OF THE BOROUGH OF WESTWOOD CODE. Fees shall be as set forth in Schedule A, which is included at the end of this chapter.~~

Article III, Storage of Flammable Gases.

- A. The list of cited standards in § 166-18 is revised as indicated: “...in strict accordance with ~~NFPA 58: Liquefied Petroleum Gas Code, NFPA 54: National Fuel Gas Code, the State of New Jersey Uniform Construction Code, the State of New Jersey Uniform Fire Code, the BOCA National Building Code, current editions~~ NFPA 58: Liquefied Petroleum Gas Code, 2004 Edition; NFPA 54: National Fuel Gas Code, 2006 Edition; New Jersey Uniform Fire Code; New Jersey Uniform Construction Code; International Fire Code, New Jersey Edition, 2006; International Building Code, New Jersey Edition, 2006; International Residential Code, New Jersey Edition, 2006; International Mechanical Code, New Jersey Edition, 2006; and International Fuel Gas Code, New Jersey Edition, 2006...”
- B. Section 166-20 is added to read as follows:
§ 166-20. Violations and penalties.
Any violation of the provisions of this article shall be punishable by a maximum fine of \$5,000 per violation per day that the violation continues to exist.

Article IV, Smoke Detectors.

Section 166-24 is added to read as follows:

§ 166-24. Violations and penalties.

Any violation of the provisions of this article shall be punishable by a maximum fine of \$5,000 per violation per day that the violation continues to exist.

Article V, Rapid Access Key Boxes.

Original Section 4 of Ord. No. No. 97-3, Time for compliance, is **deleted**.

Chapter 175, Flood Damage Prevention.

- A. The second sentence of § 175-1 is amended as indicated: “Therefore, the ~~governing body of (municipality), of~~ Mayor and Council of the Borough of Westwood, New Jersey, does ordain as follows.”
- B. In § 175-5B, the definition of “floodway” is revised as indicated:
 FLOODWAY -- ~~The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot. Same meaning as the term "floodway," as defined in § 195-42 of Chapter 195, Land Use and Development, of the Code of the Borough of Westwood.~~
- C. Section 175-8 is amended to provide that violations of this chapter shall be subject to the general penalty in Chapter 1, Article III.

Chapter 195, Land Use and Development.

- A. Section 195-4 is amended as follows:
- (1) Subsection A(1) is amended as indicated:
 - (1) Class I: the Mayor or the Mayor's designee in the absence of the Mayor
 - (2) Subsection B is added to read as follows:

B. If the Planning Board lacks a quorum because any of its regular or alternate members is prohibited by N.J.S.A. 40:55D-23 or N.J.S.A. 40:55D-23.1 from acting on a matter due to the member's personal or financial interests therein, regular members of the Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board, in order of seniority of continuous service to the Board of Adjustment, until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between regular members of equal seniority, the Chairman of the Board of Adjustment shall make the choice.
- B. The first sentence of § 195-5A is amended as indicated: “The term of the member composing Class I shall correspond with his official tenure, or if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure....”
- C. Sections 195-12 and 195-23B are amended by changing 25 days to 45 days.
- D. Section 195-16D is added to read as follows:

D. If the Board of Adjustment lacks a quorum because any of its regular or alternate members is prohibited by N.J.S.A. 40:55D-69 from acting on a matter due to the member's personal or financial interest therein, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as

temporary members of the Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve, in order of seniority of continuous service to the Planning Board, until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the Chairman of the Planning Board shall make the choice.

- E. Section 195-35 is amended as indicated:
Pursuant to the provisions of N.J.S.A 40:55D-12(c) the Assessor of the Borough of Westwood shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee of \$0.25 per name or \$10, whichever is greater, make and certify a list from the current tax duplicate of the names and addresses of owners to whom the applicant is required to give notice pursuant to Article V, § 65C-34B of this chapter.
- F. Section 195-42, Definitions, is amended as follows:
- (1) Definition of “drainage right-of-way”: The reference to Chapter I of Title 58 of the New Jersey Revised Statutes, which has been repealed, is changed to N.J.S.A. 58:16A-1 et seq.
 - (2) Definition of “eating establishment”: Subsections C and D are amended as indicated:
 - C. A restaurant ~~bar~~ with bar (as defined in this section); and
 - D. A bar ~~or tavern~~ (as defined in this section).
 - (3) Definitions of “major subdivision” and “minor subdivision” are revised to **delete** the text therefrom and replace it with the following wording: “As such term is defined under the definition of “subdivision” below.”
 - (4) Definition of “noise” is amended as indicated:
NOISE -- Any undesirable audible sound exceeding the limits of or not in compliance with § 195-151G.
 - (5) Definition of “Zoning Enforcement Officer” is amended to read “Zoning Officer” as indicated:
ZONING ~~ENFORCEMENT~~ OFFICER — The person designated to administer this chapter.
- G. Section 195-45C(1) is amended by changing the heading for the last column of the table from “Sale” to “Sale or Transfer of Ownership.”
- H. Section 195-46A is amended as indicated:
- A. Stop orders. In the event that a permittee shall fail to comply with any condition or regulation or provisions of an approved plan, the ~~Borough Engineer~~ or the Construction Official may issue a stop order on all construction work within the

area encompassed by the approved plan and which order may include requirements for the prompt correction of adverse conditions. Thereafter, no construction work of any type shall be performed within the area of the approved plan except such work as is in accordance with the requirements of the Borough Construction Official as set forth in said order or in accordance with the approved plan.

- I. Section 195-48A is amended as indicated: “~~If any~~ Any person who violates any of the provisions of this chapter ... shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be liable to one or more of the following: a fine of not more than ~~\$1,000~~ \$2,000, or ~~to~~ imprisonment for a term of not more than 90 days, or ~~both~~, a period of community service not to exceed 90 days, as such court in its discretion may impose....”
- J. The second and third sentences of § 195-50B are amended to correct dropped wording as indicated: “... This charge shall be for the purpose of defraying the costs of inspections of the installation of the improvements required by the Planning Board. In the event that there is no new schedule of fees filed by the professionals, the schedule previously filed by the professional shall prevail.”
- K. Section 195-65A(1) is amended to change 25 days to 45 days in the first sentence.
- L. Section 195-74B is amended as follows:
“... The design of street name signs ~~should~~ shall be consistent,...”
- M. Section 195-82 is amended as indicated:
Monuments shall be the size and shape required by N.J.S.A. ~~46:23-9.12~~ 46:23-9.9 et seq. (the Map Filing Law, as amended), shall be placed in accordance with said statute and shall be indicated on the final plat.
- N. Section 195-83 is amended as follows:
(1) Subsections A and J(1) are amended to change Shade Tree Commission to Shade Tree Advisory Committee.
(2) Subsection K is amended by changing “Borough Code Compliance Officer” to “Construction Official or his designee.”
- O. Section 195-99B is amended by deleting the last sentence which read:
~~... See the attached shade tree specifications for additional requirements.~~
- P. The last phrase of § 195-105A is amended by adding the wording “N.J.S.A. 40:55D-28, as amended by” after the last instance of “pursuant to.”
- Q. Section 195-107 is amended as indicated:
The location and boundaries of said districts are hereby established on the Zoning Map of the Borough of Westwood prepared by ~~Burgis Associates, Inc. dated May 9, 2000, on a base map prepared by Azzolina, Feury and Raimondi Engineering~~

~~Group, Inc. as amended or supplemented~~ Boswell McClave Engineering, dated October 21, 2008 (Drawing No. WW466), which hereby is made a part of this chapter. Said map or maps and all notations, reference and designations shown thereon shall be a part of this chapter as if the same were fully described and set forth herein.

- R. Section 195-111A is amended by adding the following wording to the lead-in paragraph: “unless otherwise provided.”
- S. Section 195-113D(6) is amended by by revising the following phrase as indicated: “any single-family zone ~~district~~.”
- T. Section 195-122D(1)(b) is amended by revising the following phrase as indicated: “any single-family ~~residential zone district~~ boundary line.”
- U. Section 195-130A(1)(a), the first sentence, is amended as indicated: “In all residential zones all sheds 100 square feet or less shall be a minimum of ~~three~~ five feet from the property line and require only a zoning permit...”
- V. Section 195-130C(3) is amended as indicated:
- (c) ~~No construction equipment shall be stored in a garage. Storage of construction equipment or materials, except incidental quantities for personal use on site, shall be prohibited.~~
- W. Section 195-130G(1) is amended as indicated:
- (1) No fence or wall shall be erected, altered or constructed in any residential zone which shall exceed six feet in height above predisturbed ground level, ~~except that no fence, or wall, or retaining wall, exceeding 48 inches shall be permitted in the front yard. No fence shall exceed a height of four feet nor be less than 50% open in the front yard. Retaining walls or landscape walls shall not exceed a height of three feet in the front yard.~~
- X. Section 195-130G(6) is amended as indicated:
- (6) All fences permitted by this section and all walls under ~~two~~ four feet in height shall require a zoning permit only. ~~All walls over two feet in height require a construction permit.~~ All proposed retaining walls over four feet in height require review and approval from the Borough Engineer and the Building Department.
- Y. In the table following § 195-133A, the reference to District “LB” is revised to read “LB-1, LB-2 and LB-3.”
- Z. In § 195-135C, the term “Zoning Official” is revised to read “Zoning Officer.”
- AA. Section 195-136 is amended as indicated:

§ 195-136. Enforcement.

If any person shall continue to violate any of the provisions of this article, after being duly notified of such violation, or shall neglect or refuse to comply with any lawful order of the office of the Zoning ~~Official~~ Officer, such violator shall be punishable as provided in § 195-83L of this chapter.

- BB. In § 195-137D(6), the reference to “Shade Tree and/or Environmental Committee” is amended to read “Shade Tree Advisory Committee and/or Environmental Advisory Committee.”
- CC. In § 195-137E(5), the reference to “Shade Tree and/or Environmental Commission or Committee” is amended to read “Shade Tree Advisory Committee and/or Environmental Advisory Committee.”
- DD. Section 195-137H is amended as indicated:

- H. ~~Penalty. Any person violating any of the provisions of this section shall be subject to a fine as established by the Borough.~~ 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 2-Inch Caliper Trees To Be Provided
8 to 15	6
16 to 24	10
25 to 36	15
37 and over	20

- EE. In § 195-141C, the references to “Zoning Administrator” are revised to read “Planning/Zoning Board.”
- FF. In § 195-141J, the reference to “Zoning Administrator” is revised to read “Zoning Officer.”
- GG. Section 195-143 is amended as follows:
 - (1) References throughout this section to “Zoning Administrator” are revised to read “Zoning Officer.”

- (2) Original § 65C-121F (which would have been Subsection A) is **deleted** and moved, with revisions, to Chapter 282, Satellite Antennas, as § 282-6, Issuance of approvals.
- HH. Section 195-144 is amended to revise references to “special use permit” to read “conditional use pursuant to N.J.S.A. 40:55D-67” and “issuance” of the same to read “approval” of the same; and to change references to “Zoning Administrator” to read “Zoning Officer.”
- II. Section 195-145D is amended as indicated: “or by the Planning Board in the case of uses ~~permitted by special use~~ approved as a conditional use pursuant to N.J.S.A. 40:55D-67 to encourage collocation.”; and to change the reference to “Zoning Administrator” to read “Zoning Officer.”
- JJ. Section 195-153 is amended in the following respects:
 - (1) Subsection A(1)(a): Assistant Zoning Official changed to Zoning Officer in two places.
 - (2) Subsection A(1)(b): Construction Official changed to Zoning Officer.
 - (3) Subsection A(2)(a): Construction Official or Zoning Official changed to Zoning Officer. (“Construction Official or” **deleted**.)
 - (4) Subsection A(2)(b): Construction Official changed to Zoning Officer.
- KK. Section 195-156F is amended to change the reference in the subsection title from “LB” to “LB-1, LB-2 and LB-3.”
- LL. Table 2 of § 195-164A is amended to read as follows:

Table 2
Required Parking For Disabled Persons

<i>Total Parking Spaces</i>	<i>Required Accessible Parking Spaces*</i>
<i>1 to 25</i>	<i>1</i>
<i>26 to 50</i>	<i>2</i>
<i>51 to 75</i>	<i>3</i>
<i>76 to 100</i>	<i>4</i>
<i>101 to 150</i>	<i>5</i>
<i>151 to 200</i>	<i>6</i>
<i>201 to 300</i>	<i>7</i>
<i>301 to 400</i>	<i>8</i>
<i>401 to 500</i>	<i>9</i>
<i>501 to 1,000</i>	<i>2% of total</i>
<i>1,001 or more</i>	<i>20, plus 1 for each 100 over 1,000</i>

NOTES:

**For every eight accessible parking spaces, one shall be a van-accessible parking space.*

- MM. Attachment 16, Exhibit A: Fees and Deposits, in Subsection A
 - (1) The first entry under **Hardship Variance** is amended as indicated: “One- and two-family residences.”

- (2) The following entry is amended as indicated: “**Any Other Application to Planning Board or Zoning Board, Including Applications for a Section 68***.”

Chapter 204, Littering.

Article I, General Littering Regulations.

Section 204-14 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.

Article II, Litter Control.

Section 204-19 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.

Chapter 212, Mobile Food Vendors.

- A. Section 212-2 is amended to add the definitions of “caterer,” “caterer, off-site” and “caterer, on-site” as follows:
- CATERER* — A person, firm or corporation who or which provides, distributes or serves food and drink for consumption in a place other than on his or its own premises (off-premises consumption), where said food and drink are prepared in consumable form.
- CATERER, OFF-SITE* — Any establishment primarily engaged in providing single-event-based food services prepared on site and transported to an event for off-site consumption.
- CATERER, ON-SITE* — Any establishment primarily engaged in providing on-site, single-event-based food services that may include buffet or waitress/waiter service and may also include the serving of nonalcoholic and alcoholic beverages as part of the event.
- B. Original § 72-3B is **deleted** as follows: ~~This ordinance shall not apply to casual vendors.~~
- C. Section 212-3C is amended to **delete** the phrase “or casual vendors” following the word “caterers.”
- D. Section 212-5B is amended to **delete** the phrase “, casual food vendors” following the word “caterers.”

Chapter 221, Noise.

- A. Section 221-3 is revised as follows:
- (1) The definition of “habitual howling, barking, meowing, squawking or other noisemaking” is added as follows:
- HABITUAL HOWLING, BARKING, MEOWING, SQUAWKING OR OTHER NOISEMAKING* — Continuous barking, crying or other

noisemaking, without pauses of one minute or longer, for a period of more than 20 minutes between the hours of 6:00 a.m. and 10:00 p.m., or for a period of more than 10 minutes between the hours of 10:00 p.m. and 6:00 a.m., on at least two occasions over a three-month period.

- (2) The defined term “stationary noise source” is amended to read “noise source” (i.e., ~~STATIONARY-NOISE SOURCE~~).
- B. In § 221-7B(2)(b), the term “public open space” is amended to read “public space.”
- C. In § 221-7B(3), the term “public way” is amended to read “public right-of-way.”
- D. Section 221-7B(10) is amended as indicated: “Operating or permitting to be operated any powered saw, sander, drill, grinder, garden equipment or tools of like nature outdoors in residential zones between the hours of 9:00 p.m. and ~~7:00~~ 8:00 a.m. the following day.”

Chapter 227, Obscene Material Display.

In § 227-1, the term “obscene material for persons under 18 years of age” is revised to read “obscene material.”

Chapter 237, Parking Lots, Municipal.

Article I, Designation of Lots; Commercial Traffic.

- A. Section 237-1D is amended as indicated:
- D. The area situated on the south side of Washington Avenue and bounded by Fourth Avenue, Park Avenue and St. Nicholas Avenue, more particularly known as Lot ~~4~~ 2 in Block 903 on the current Official Assessment Map of the Borough of Westwood, henceforth referred to as the “Westwood Municipal Complex.” For the purposes of this article, the parking facilities in the Municipal Complex shall be referred to as follows:
- (1) Metered Lot 1: shall refer to that portion of the Municipal Complex east of the Municipal Building structure and north of Becker Lane
 - (2) Metered Lot 2: shall refer to that portion of the Municipal Complex south of Becker Lane and east of the Municipal Building structure and running opposite of Metered Lot 1, at the southeast corner of the site.
 - (3) Park Avenue Lot: shall refer to that portion of the Municipal Complex south of Becker Lane, situated directly behind or south of the Municipal Building structure and connecting between Becker Lane and Park Avenue, for use by visitors, employees and officials.
 - (4) Police/Employee Lot: shall refer to that portion of the Municipal Complex ~~north~~ at the end of Becker lane and west of the Municipal Building structure.
- B. Section 237-4 is added to read as follows:

§ 237-4. Violations and penalties.

Unless another penalty is expressly provided by New Jersey statute, every person convicted of a violation of this article shall be liable to a penalty of not more than \$250 or imprisonment for a term not exceeding 90 days, or both.

Article II, Westwood Municipal Complex.

- A. The list of lot descriptions in § 237-6 is revised as follows:
- (1) Subsection A is amended as indicated: “Becker Lane: shall refer to the driveway that bisects the lot in a generally east/west direction running from ~~St. Nicholas Avenue to~~ Fourth Avenue into the Police/Employee Lot at the west end of the Municipal Building structure.”
 - (2) Subsection D is amended as indicated: “Park Avenue: shall refer to that portion of the site south of Becker Lane, situated directly behind or south of the Municipal Building structure and connecting between Becker Lane and Park Avenue, for use by visitors, employees and officials.”
 - (3) Subsection E is amended as indicated: “Police/Employee Lot. Shall refer to that portion of the premises ~~north~~ at the end of Becker Lane and west of the Municipal Building structure.”
- B. In § 237-7, definition of “handicapped parking,” the blank line following “N.J.S.A.” is revised to read “39:4-197.5.”
- C. Section 237-8D is amended to change the time from 2:00 a.m. to 1:00 a.m.
- D. In § 237-8, the original Subsection (f) is **deleted** as follows: ~~No person who is not a Borough employee as herein defined shall park in the Park Avenue parking lot between the hours of 8:00 a.m. and 5:00 p.m.~~
- D. In § 237-10:
- (1) In Subsection B, the fine is amended from “\$15” to “\$17.”
 - (2) In Subsection D, the fine is amended from “\$100” to “\$250.”

Chapter 243, Parks and Recreation Areas.**Article I, Playgrounds.**

This article is amended in its entirety as follows:

- A. The following original sections of the 1982 Code are deleted: § 88-1, Meadow Brook Park; § 88-2, Brookside Park; and § 88-3, McKinley Park.
- B. Section 243-1 is amended as indicated:
 “The Mayor and Council shall have control over the lands, playgrounds and recreation places ~~herein~~ designated as Brookside Park, Gritman Park, Hageman Park, Jake Voorhis Park, McKinley Park, Meadowbrook Park, Veterans Memorial Park and Westvale Park or such other lands which may be acquired for this purpose from time to time, and may adopt suitable rules, regulations and

bylaws for the use thereof and the conduct of all persons while on or using same.”

- C. Section 243-2 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.
- D. Section 243-3 is unaffected except for renumbering.

Article II, Use of Parks and Recreation Facilities.

- A. In § 243-5B:
 - (1) The definition of “Borough Administrator” is revised as indicated:
BOROUGH ADMINISTRATOR -- The Borough Administrator of the Borough of Westwood or any person immediately in charge of any park or ~~public building~~ recreation facility and its activities.
 - (2) The term “park or public building” is revised to read “park or recreation facility” **and said reference is changed throughout the article.**
- B. Section 243-8A(2) is added to read as follows:
(2) The Borough or its agents may, as part of an otherwise lawful wildlife management program, use such methods as may be lawful and prudent to manage wildlife.
- C. Section 243-10B is amended to **delete** the reference to “park employees” as indicated: “Enforcement of traffic regulations. Fail to obey all police officers ~~and park employees~~, such persons being hereby authorized and instructed to direct traffic...”
- D. Section 243-10G(1)(a) is added to read as follows:
(a) Exception: Bicycles are permitted on the bike path at Westvale Park.
- E. Subsections A, B, C, E and F of § 243-12 are reworded as indicated:
 - A. Intoxicating beverages prohibited. ~~No persons shall~~ serve, consume or dispense alcoholic beverages at any time in a park or recreation facility unless they have obtained specific authorization from the Governing Body to do so.
 - B. Large assemblies. ~~It is necessary to produce a permit from the Borough Administrator to permit~~ Assemble a large group to assemble in the park or recreation facility without a permit from the Borough Administrator for any public or private purpose, it being understood that the right of peaceful use of park or recreation facility privileges shall not be abridged or unreasonably withheld upon proper application being made and subject to rules and regulations established by the Governing Body.
 - C. ~~No person, persons or group shall~~ block the free flow of pedestrian or vehicular traffic throughout walkways and roadways within the limits of a park or recreation facility.
 - E. Domestic animals. ~~Nothing herein shall be construed as permitting~~ Permit the running at large of dogs or other domestic animals. All such animals shall be restrained at all times on adequate leashes not greater than six feet in length.

- F. Alms. Solicit alms or contributions for any purpose, whether public or private, without authorization from the Borough of Westwood
- F. Section 243-12L is added to read as follows:
L. *Tobacco prohibited. Smoke any tobacco products in any indoor or outdoor park or recreation facility.*
- G. Section 243-14 is amended to read as follows:
§ 243-14. Use regulations; use by nonresidents; permits; posting of regulations.
A. *The Mayor and Council of the Borough of Westwood shall, from time to time, as it shall see fit, by resolution at a public meeting, establish rules and regulations for the control and use of parks or recreation facilities within the Borough of Westwood, including the hours during which these facilities shall be open to the public, with the exception that walkways shall at all times be open to pedestrian through traffic.*
B. *The use of park and recreation facilities improved and maintained for organized events and games, other than walkways for pedestrian through traffic and roadways for through traffic, may be limited to residents of the Borough of Westwood except where approval for such nonresident use of Borough park or recreation facilities shall be obtained from the Recreation Director or required by law to be open to nonresidents.*
C. *Any organized group of 10 or more persons must have a permit in order to use a Borough park or recreation facility.*
D. *Said rules and regulations shall be posted in places where effective, including the Borough website, pursuant to the provisions of N.J.S.A. 40:61-1 et seq.*
- H. Section 243-15B is amended as indicated: “The following fee schedule shall apply to uses of the facilities indicated on the fee schedule attached hereto. Fees for use of parks and recreation facilities shall be charged and payable as set forth in Article III, Recreation Fees, of this chapter.”

Chapter 249, Peddling and Soliciting.

- A. In § 249-1, the definitions of “distributor” and “person” are added to read as follows:
DISTRIBUTOR — A person who goes from house to house on public thoroughfares or in public places disposing of circulars, posters, pamphlets, newspapers and other forms of advertising matter.
PERSON — Any individual, firm, partnership, corporation, voluntary association, incorporated association or agent thereof.
- B. In § 249-1, the original definition of “mobile retail food establishment” is **deleted**.
- C. Section 249-6D is added to read as follows:
D. *Separate licenses. A separate license must be obtained by a licensed peddler for every agent or employee working for him or her unless such agent or employee is selling goods from the same vehicle that the licensed peddler is selling from, but no more than two employees shall sell from the same vehicle without a separate license.*

D. Sections 249-7, 249-8 and 249-9 are amended to read as follows:

§ 249-7. Application for license.

Any person desiring to obtain a license for the purposes heretofore mentioned in this chapter shall apply therefor, in writing, to the Chief of Police of the Borough on an application blank provided by the Police Department.

§ 249-8. Review of application for license; appeals.

A. When said application is properly filled out and signed by the applicant, and the appropriate fee is paid to the Borough Treasurer, it shall be presented to the Chief of Police, or his or her designee, whose duty it shall be to investigate the statements made therein. A period of not more than three days shall be allowed for such investigation, whereupon the Chief of Police will indicate his or her approval or disapproval upon the application.

B. In the case of disapproval of an application by the Chief of Police, the applicant may appeal to the Mayor and Council, whereupon opportunity will be granted for hearing reasons for and against the issuance of a permit. The decision of the Mayor and Council shall be final.

§ 249-9. License fees.

The license fees shall be as follows:

A. Solicitors: \$5 per year, which is hereby determined to be the reasonable cost of investigating the character and record of such solicitor.

B. Distributors: \$5 per year, which is hereby determined to be the reasonable cost of investigating the character and record of such distributor.

C. Peddlers: \$5 per day or \$50 per year. Any person securing a license after July 1 shall pay \$25 for the remainder of the year.

E. Section 249-10 is added to read as follows:

§ 249-10. Issuance of license; records.

A. It shall be the duty of the Chief of Police to issue licenses in cases where the provisions of this chapter have been complied with. Licenses, except daily, will expire on December 31 of each year and will be in the form of a card bearing the name of the licensee, the purpose for which it is issued, the date of expiration and the signature of the Chief of Police and the Seal of the Westwood Police Department.

B. All licenses shall be issued on forms drawn in accordance with this chapter and consecutively numbered.

C. It shall be the duty of the Chief of Police to keep a record entitled "Solicitor's, Distributor's, Non-Profit-Making Vendor's and Peddler's Record." In this record shall be entered the following information:

(1) Date of issuing licenses.

(2) To whom issued.

(3) Address.

(4) Purpose.

(5) Fee paid.

(6) License plate.

(7) Remarks.

D. It shall be the duty of the Chief of Police to incorporate as a part of his or her monthly report to the Commissioner of Police the number of licenses issued and fees paid for all licenses.

- F. The second sentence of § 249-11 is amended as indicated: "...Every person who is required to hold a license under this chapter shall carry the same when engaged in the business for which the license is issued, and he or she must produce the license at the request of any official or householder of the Borough of Westwood.."
- G. Section 249-13 is amended to read as follows:
§ 249-13. Revocation of license.
The Mayor and Council may revoke any license for sufficient cause after giving notice to the holder thereof and an opportunity to be heard.
- H. Section 249-15 is added to provide for a standardized penalty referring to Chapter 1, Article III.

Chapter 260, Property Maintenance.

- A. Section 260-1 is amended to cite the 2009 Edition of the Property Maintenance Code rather than the 2003 Edition.
- B. Section 260-6 is added to provide for a standardized penalty referring to Chapter 1, Article III.

Chapter 266, Records, Public Access to.

- A. Section 266-2 is amended as indicated to comply with statute:
§ 266-2. Fees for copies.
 There shall be paid to the Borough, through the offices of the Borough Clerk, the following fees for the photocopying of any document that is available to the public:
~~A. For the first page through the tenth page: \$0.75 per page.~~
~~B. For the eleventh page through the twentieth page: \$0.50 per page.~~
~~C. Twenty five cents per page for all pages in excess of 20 pages: \$0.25 per page.~~
A. Pursuant to N.J.S.A. 47:1A-5b, the fee shall be \$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger; or in such amount as said statutory fees may be amended.
~~B. If actual costs for any duplication of a government record exceeds the foregoing, the Borough shall charge the actual cost of duplicating the record. The actual cost of duplicating the record shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy.~~
B. If actual costs for any duplication of a government record exceeds the foregoing, the Borough shall charge the actual cost of duplicating the record. The actual cost of duplicating the record shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy.
~~C. Ten dollars per compact Compact disc: actual cost.~~
- B. Section 266-3A(2) is amended as indicated:
 (2) The person requesting the examination or copying of said records shall reimburse the municipality for the ~~reasonable~~ actual costs of the supervision or handling required to prevent loss or destruction of the records or respond to the request as ~~follows; provided for by N.J.S.A. 47:1A-1 et seq.~~
~~(a) Minimum charge (applies to mail response): \$5.~~

(b) ~~Fee per quarter hour or part thereof: \$10.~~

- C. Section 266-4 is amended to add “et seq.” to the statutory citation of N.J.S.A. 47:1A-1.

Chapter 272, Rental Dwellings.

Article I, Registration and Inspection.

- A. In § 272-2, the term “boarding/rooming house” is revised to read “boardinghouse” in compliance with statute.
- B. Section 272-9 is revised to remove references to “license” in Subsection A(2) and (6) as indicated:
- (2) False or misleading information given or provided in connection with the ~~license~~ registration application or renewal;
 - (6) Violations committed or permitted by the ~~licensed~~ registered owner, and/or the owner’s designated agent, of any rules, codes, statutes and ordinances relating to, pertaining to, or governing the premises, including the International Property Maintenance Code.

Chapter 282, Satellite Antennas.

- A. Section 282-3 is amended to **delete** the following stray wording as indicated:
The provisions of this chapter shall be administered by the Construction Official of the Borough of Westwood ~~and may not be located within 10 feet of the property line in any residential zone.~~
- B. New § 282-6 (derived from Chapter 195, Land Use and Development) is added to read as follows:
- § 282-6. Issuance of approvals.**
The following provisions shall govern the issuance of administrative approvals for towers and antennas:
- A. The Planning/Zoning Board may administratively approve the uses listed in this chapter and Article XVII, Wireless Telecommunications Towers and Antennas, of Chapter 195, Land Use and Development, of the Code of the Borough of Westwood.*
 - B. Each applicant for administrative approval shall apply to the Planning/Zoning Board, providing the information set forth in § 195-144B(1) and (3) of Chapter 195, Land Use and Development, and a nonrefundable fee as established by resolution of the Mayor and Council to reimburse Borough of Westwood for the costs of reviewing the application.*
 - C. The Planning/Zoning Board shall review the application for administrative approval and determine if the proposed use complies with §§ 195-141 and 195-144B(4) and (5) of Chapter 195, Land Use and Development.*
 - D. The Planning/Zoning Board shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the Planning/Zoning Board fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.*

E. In connection with any such administrative approval, the Planning/Zoning Board may, in order to encourage shared use, administratively waive any zoning district setback requirements in § 195-144B(4) of Chapter 195, Land Use and Development, or separation distances between towers in § 195-144B(5) by up to 50%.

F. In connection with any such administrative approval, the Planning/Zoning Board may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

G. If an administrative approval is denied, the applicant shall file an application for a conditional use pursuant to N.J.S.A. 40:55D-67, in accordance with § 195-144, prior to filing any appeal that may be available under Chapter 195, Land Use and Development.

- C. Section 282-7C(1) is amended as indicated: “May be permitted in ~~I-zones only~~all zones, subject to site plan approval and conditional use permit.”
- D. The first two sentences of § 282-8 are amended as indicated: “The application fee for a permit to install a satellite antenna shall be ~~\$25~~\$100. In addition, the applicant shall deposit the sum of ~~\$100~~\$250 to cover the cost of review services provided by the Construction Official, Borough Engineer, Borough Attorney, Planning Board Attorney or other Borough personnel...”

Chapter 288, Sewers.

Article II, Sewer Use and Connections.

- A. Section 288-5.
- (1) In the definition of “Authority,” the term “Sewer Authority” is amended to read “Utilities Authority.”
 - (2) The definition of “sewerage works” is amended to read “sewerage facilities.”
- B. The reference to repealed N.J.S.A. 40:89-3 in § 288-6C is amended to read “N.J.A.C. 5:21-6.1.”
- C. The first sentence of § 288-7D is amended as indicated: “All food establishments, as defined herein, ~~within 180 days from adoption of this chapter~~, shall be required to install and maintain an approved grease interceptor on all dishwashing equipment and three compartment sinks discharging into the Borough’s sanitary sewer system...”

Chapter 297, Shopping Carts.

This chapter is amended in its entirety to read as follows:

Chapter 297

SHOPPING CARTS

§ 297-1. Definitions.

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

PARKING AREA — A parking lot or other property provided by a retailer for the use of a customer for parking an automobile or other vehicle. The parking area of a retail mercantile establishment located in a multistore complex or shopping center shall include the entire area used by the complex or center.

PERSON — Includes a person of either sex, a corporation, a partnership, an association, a joint-stock company, societies and other entities capable of being sued.

SHOPPING CART — A push cart of the type or types which are commonly provided by grocery stores, drugstores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and their parking areas.

STREET — Includes any street, avenue, road, alley, lanes, highway, boulevard, concourse, driveway, culvert, crosswalk, sidewalk, parks, parking lots, parking areas and places used by the general public.

§ 297-2. Labeling requirements.

Any person providing to his customers or patrons shopping carts which, being mounted on wheels, are able to be moved off the premises of such person shall cause to be placed and maintained upon such shopping carts, in a conspicuous manner, the name of the owner thereof and shall likewise place and maintain thereon in such conspicuous manner a further notice reading as follows: "The removal of this cart from these premises is prohibited by law."

§ 297-3. Removal from owner's premises prohibited.

No person shall move, push or carry any shopping carts belonging to and bearing the name of another person or owner upon any street, sidewalk or other public place or private property other than the premises of the owner of the shopping cart.

§ 297-4. Clearing of sidewalks and parking areas; collection areas.

The person operating a place of business which supplies shopping carts for the use of customers or patrons shall keep the sidewalk, parking lots and parking areas in front of or upon his business premises clear of such shopping carts by removing therefrom any such shopping carts left thereon by his patrons or customers; provided, however, that he may, while his place of business is open, maintain in a suitable area a place for the orderly collection of such shopping carts, provided that such area shall not be so situated as to interfere with the ingress and egress of customers or patrons on foot or in automobiles.

§ 297-5. Impoundment of abandoned carts; retrieval; fines and fees.

A. The Borough shall not impound any shopping cart that has a sign or notice identifying the owner of the shopping cart, or the retailer who has written consent from the owner to use the shopping cart, and listing a valid telephone number or address through which the owner or retailer may be contacted, unless the following conditions are met:

- (1) The shopping cart is located outside the premises or parking area of a retail mercantile establishment;*
- (2) The Borough notifies the owner or retailer of the location of the shopping cart and allows three business days from the date of such notification for the owner, retailer, or an authorized agent to retrieve the shopping cart, unless the immediate removal is necessary to prevent a danger to public safety;*
- (3) The Borough notifies the owner or retailer upon impoundment of a shopping cart and includes information as to how the shopping cart may be retrieved;*
- (4) The location that an impounded shopping cart is held is reasonably convenient to the owner, retailer, or authorized agent and is open for business at least six hours of each business day;*

(5) Any fine imposed upon the owner or retailer for an impounded shopping cart does not exceed \$50 for each occurrence for failure to retrieve shopping carts. An occurrence includes all shopping carts impounded in accordance with this section during a twenty-four-hour period; and (6) The Borough must allow the owner or retailer a minimum of five business days following receipt of notice that a shopping cart has been impounded to retrieve the shopping cart before the Borough may sell or otherwise dispose of the shopping cart.

B. The Borough may impound a shopping cart that has a sign or notice identifying the owner of the shopping cart, or the retailer who has written consent from the owner to use the shopping cart, and listing a valid telephone number or address through which the owner or retailer can be contacted without meeting the conditions required by Subsection A(1) through (5) hereinabove if the Borough:

(1) Notifies the owner or retailer within 24 hours of impounding the shopping cart and includes information on how the shopping cart may be retrieved; and

(2) Releases the cart to the owner, retailer or authorized agent, without any charge or fine whatsoever, if the owner, retailer, or authorized agent attempts to retrieve the shopping cart within five business days of notice.

C. In accordance with the provisions of Subsections A and B, employees of the Department of Public Works or the Police Department are authorized to seize and impound all shopping carts abandoned or otherwise left on public streets, public property or on private property. Upon due notice of such impoundment to the owner, retailer or authorized agent, as set forth in Subsection A(2), and upon provision of five business days for the retrieval of such shopping cart(s) pursuant to Subsection A(6) hereinabove, if such shopping cart(s) has not been retrieved by the owner, retailer or authorized agent, such shopping cart(s) may be sold, in accordance with the provisions of N.J.S.A. 40A:14-157, at public auction by the Police Department as unclaimed property after a period of six months.

D. If the owner, retailer or authorized agent of such impounded shopping cart(s) retrieves such shopping cart(s) within the five-business-day retrieval period, no fine shall be imposed upon the owner, pursuant to Subsection B(2) hereinabove. If the owner, retailer or authorized agent fails to retrieve the shopping cart(s) after such retrieval period, a fine of \$50 shall be charged to the owner, retailer or authorized agent for all shopping carts so impounded in accordance with Subsection A(5) hereinabove. In addition, the Borough shall impose an additional fee of \$2 per day for storage of such shopping cart(s) impounded.

E. All fines and fees to be paid hereunder shall be to the Treasurer of the Borough of Westwood.

§ 297-6. Disposal by Borough.

If said shopping cart(s) shall not be sold at public auction, the Borough may dismantle, destroy or otherwise dispose of such shopping cart(s). Any disposition of such shopping cart(s) made pursuant to this chapter shall be made without any liability of the Borough to the owner, retailer or authorized agent of such shopping cart(s) or any other person lawfully entitled thereto or having an interest therein.

§ 297-7. Violations and penalties.

A. Any person violating or failing to comply with the provisions of § 297-2, 297-3 or 297-4 of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Borough of Westwood. The continuation of such violation on each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

B. All violations of § 297-5A and B shall be penalized in accordance with the provisions set forth in § 297-5D, i.e., a fine not to exceed \$50 per violation and storage fees of \$2 per day per impounded shopping cart.

Chapter 301, Shows, Parades and Street Meetings.

- A. The word “license” in the following sections is amended to read “permit”: §§ 301-2C; 301-3 (which is also amended to add the words “of issuance” at the end thereof); and 301-5 (which is also amended to revise “licensee” to read “permittee”).
- B. Section 301-4 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.

Chapter 318, Solid Waste.**Article I, Garbage Collection.**

- A. Original Sections 64-1 (Findings of fact) and 64-6 (Waivers; exceptions) are **deleted**.
- B. Section 318-1 is amended as indicated:
- A. ~~There is already established a system for the collection, removal and disposal of residential garbage and trash to be operated by such private, duly licensed, scavenger contractors as the Mayor and Council of the Borough of Westwood may from time to time contract with. The cost thereof is to be paid by general taxation.~~
- B. The Mayor and Council of the Borough of Westwood is hereby authorized to enter into such contracts as may from time to time appear necessary to provide for the scavenger service ~~forementioned~~, which contracts may be authorized by resolution. ~~The Mayor and Council hereby ratifies any contracts previously executed and more particularly ratifies a certain contract bearing the date of June 17, 1985, between the Borough of Westwood and Carmine Franco & Co., Inc.~~
- C. Section 318-2, Definitions.
- (1) The following definitions are **deleted**: “Sanitation Committee” and “side yard pickup.”
- (2) The definition of “garbage” is revised as indicated:
GARBAGE — Waste or decayed vegetable matter that has been used or was intended to be used as food and the waste therefrom and dead plant life or parts of the same, including condemned food. This definition shall also include broken crockery, ashes, glassware, utensils, house sweepings, ~~bottles, tin cans, plastic containers, lawn cuttings and hedge trimmings, garden growth,~~ old clothing and all discarded and waste materials of every nature and description customarily generated by residential living, ~~including paper and cardboard or containers made of paper, cardboard or plastics.~~ "Garbage" is intended to include material customarily designated as household refuse. To the extent that such materials are subject to recycling pursuant to an approved recycling program, they shall be excluded from the foregoing.
- D. Section 318-3:

- (1) Subsection B is amended as indicated:
- B. On days designated as cleanup days, two containers of trash or ~~five~~ six items of trash not in containers may be placed inside the curb within the municipal right-of-way at any premises within the Borough of Westwood which are eligible for public scavenger collection.”
- (2) Subsection G is amended as indicated:
- G. No container shall be packed with garbage or trash in excess of a total weight of ~~65~~ 50 pounds per container, nor shall any container exceed 30 gallons in volume. All containers shall be made of plastic, fiberglass or metallic substances, unbreakable in ordinary usage, with tight-fitting but easily removable lids and fully enclosed sides and bottoms.
- E. Original § 64-4L, pertaining to littering, added 6-25-1991 by Ord. No. 91-7, is deleted, having been superseded by ordinances appearing in Chapter 204, Littering, of the Code of the Borough of Westwood.

Article II, Disposal of Leaves.

- A. Section 318-9, Subsections B and C, are amended as indicated:
- B. During the periods ~~between January 1st and September 14th and December 16th and December 31st of each year~~ as outlined in the annual recycling schedule, residents and property owners must dispose of leaves through the services of the Borough's Department of Public Works after scheduling a pickup appointment or by personally delivering leaves to the Borough's recycling center, located at the DPW Garage on Harrington Avenue, during operating hours.
- C. The Borough of Westwood shall provide for collection of leaves ~~between September 15th and December 15th of each year~~ as outlined in the annual recycling schedule. This collection shall be by Borough personnel or outside contractors at the discretion of the Mayor and Council. The Council shall provide for the particulars of disposal arrangements from time to time by resolution, copies of which may be obtained from the Borough Clerk.
- B. Section 318-10 is amended to read as follows:
- The Recycling Coordinator for the Borough of Westwood shall fix the dates, times and manner for the collection of leaves as part of the annual recycling schedule, which shall be published no later than January 1. Said schedule shall be posted on the municipal website and distributed as required by law.*
- C. Section 318-11 is amended as indicated:
- It shall be unlawful to place leaves in any public right-of-way, including yard areas within 10 feet of the edge of pavement abutting any street, except between the pickup dates as announced by the Recycling Coordinator and published as hereinabove provided. In addition, loose leaves may only be placed for pickup ~~in biodegradable bags (not plastic) or loose~~ within three feet of the curb. Where leaves are to be stored in the street, no leaf pile shall be greater than two feet in height or within 50 feet of any intersecting street.

- D. Original § 64-24, Separation; disposal, is **deleted**.
- E. Section 318-12 is amended as indicated:
Any person who violates this ordinance shall be liable for a fine not to exceed ~~\$25~~ \$500 for ~~the first offense or \$100 for~~ any offense ~~thereafter~~. In addition, if otherwise permitted by law, the Municipal Judge may impose community service of up to eight hours for each violation.

Article III, Recycling.

The Borough's recycling regulations contained in Ord. No. 89-8 (Original §§ 64-8 through 64-19), as amended, and Ord. No. 09-04 are consolidated and amended in their entirety to read as follows:

ARTICLE III **Recycling**

§ 318-13. Recycling Coordinator established; term; duties.

A. The position of Recycling Coordinator is hereby established within the Borough of Westwood and must be certified pursuant to N.J.S.A. 13:1E-99.16.

B. The Recycling Coordinator shall be appointed by the Governing Body for a term of one year, expiring December 31 annually. The term of a person appointed at any time beyond the start of any year as Recycling Coordinator may be for less than one year and shall expire on December 31 of that year.

C. The Recycling Coordinator, subject to the approval of the Governing Body, shall establish and promulgate reasonable rules and regulations as to the manner, days, collection, disposal, sale and transportation of recyclable materials within the Borough of Westwood.

§ 318-14. Definitions.

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

COMMERCIAL SITE — *Any site containing a retail, professional, commercial or industrial use as defined in Chapter 195, Land Use and Development, of the Code of the Borough of Westwood.*

COMMINGLED — *A combining of nonputrescible source-separated recyclable materials for the purpose of recycling.*

CORRUGATED CARDBOARD — *A paper or paper product fashioned into the semirigid substance utilized to make boxes and typically containing two solid sheets laminated with a wavy sheet of paper between the two said sheets.*

DESIGNATED RECYCLABLE MATERIALS — *Those recyclable materials, including metal, glass, paper or plastic containers, food and waste, corrugated and other cardboard, newspaper, magazines or high-grade office paper, designated in this article to be source-separated.*

DISPOSITION or DISPOSITION OF DESIGNATED RECYCLABLE MATERIALS — *The transportation, placement, reuse, sale, donation, transfer or temporary storage, for a period not exceeding six months, of designated recyclable material for all possible uses except for disposal as solid waste.*

DWELLING UNIT — *A one-family home and a two-family home.*

ELECTRONIC WASTE — *A computerized central processing unit and associated hardware, including keyboards, modems, printers, scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat-panel display or similar video display device with a screen that is greater than four inches measured diagonally and that contains one or more circuit boards, including a television and cell phones.*

FERROUS SCRAP — Includes all metal scrap which contains steel and/or cast iron and cans made from steel and known as "tin cans."

GLASS — All products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packaging or bottling of various matter, and all other materials commonly known as "glass," excluding, however, blue and flat glass, commonly known as "window glass."

GRASS CLIPPINGS — The usual and customary by-product of lawn cutting, such as is ordinarily expelled through the exit chute of a rotary lawn mower or which drops to the ground during the cutting process, said materials being organic in content and consisting entirely of grass or other vegetation having a lawn-like appearance, such as crab grass or dandelions.

HIGH-GRADE PAPER — Includes all white paper commonly known as "typing paper," "bond paper," "xerographic paper" or "copier paper," "offset paper," "mimeographic paper," "notebook paper" and "carbonless computer paper."

MAGAZINES — All magazines or periodicals printed on glossy stock or paper of heavier quality than that commonly recognized as "newsprint."

MULTIFAMILY DWELLING — Any building or structure or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (See N.J.S.A. 13:1E-99.13a.) and shall include hotels, motels or other guest houses serving transient or seasonal guests as those terms are defined under Subsection (j) of Section 3 of the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A 55:13A-1 et seq.).

MUNICIPAL RECYCLING COORDINATOR — The person or persons appointed by the Governing Body who shall be authorized to, among other things, enforce the provisions of this article and any rules and regulations which may be promulgated hereunder.

MUNICIPAL SOLID WASTE (MSW) STREAM — All said waste generated at residential, commercial and institutional establishments within the boundaries of the Borough of Westwood.

NEWSPAPERS — Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest.

PAPER — All newspaper, high-grade office paper, line paper, bond paper, offset paper, xerographic paper, mimeographic paper, duplicator paper and related types of cellulosic materials containing not more than 10% by weight or volume of noncellulosic materials, such as laminates, binders, coatings or saturants.

PAPER PRODUCTS — Any paper items or commodities, including but not limited to paper napkins, towels, construction material, toilet tissue, paper and related types of cellulosic products containing not more than 10% by weight or volume of noncellulosic material, such as laminates, binders, coatings or saturants.

PLASTIC CONTAINER — A container which is hermetically sealed or made airtight with a metal or plastic cap, with a minimum wall thickness of not less than 0.010 inch and composed of thermoplastic synthetic polymeric material.

PLASTICS NOS. 1 THROUGH 7 — Those nonmetallic disposable food, beverage and household goods containers bearing the recycling symbols "1" through "7" on the bottom of the container.

RECYCLABLE MATERIAL — Those materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

RECYCLED PAPER PRODUCT — Any paper product consisting of not less than 50% secondary wastepaper material.

RECYCLED PAPERS — Any paper having a total weight consisting of not less than 50%

secondary wastepaper material.

RECYCLING — Any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

RECYCLING CENTER — Any facility designed and operated solely for receiving, storing, processing and transferring source-separated, nonputrescible or source-separated, commingled, nonputrescible metal, glass, paper, plastic containers, corrugated and other cardboard or other recyclable materials approved by the Department of Environmental Protection.

RECYCLING SERVICES — The services provided by persons engaged in the business of recycling, including the collection, processing, storage, purchase, sale or disposition, or any combination thereof, of recyclable materials.

SINGLE SOURCE/SINGLE STREAM — Common recyclables that are mixed together (i.e., glass, plastic, aluminum, tin, paper and cardboard).

SOURCE-SEPARATED RECYCLABLE MATERIALS — Recyclable materials which are separated from solid waste at the point of generation by the generator thereof for the purposes of recycling.

SOURCE SEPARATION — The process by which recyclable materials are separated from solid waste at the point of generation by the generator thereof for the purposes of recycling.

TIN CANS — All disposable food and household goods containers which are metallic in composition and are not made from aluminum. Any can not previously containing a soft drink or beer may, for the purpose of recycling, be presumed to be tin.

§ 318-15. Source-separation requirements; exemptions.

A. Mandatory source separation. It shall be mandatory for all persons who are owners, tenants or occupants of residential and nonresidential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Borough of Westwood, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants or occupants of such premises and shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Public Works Department.

B. Exemptions. Pursuant to N.J.S.A. 13:1E-99.16(d), the Governing Body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source-separation requirements of this article, which requires persons generating municipal solid waste within its municipal boundaries to source-separate the specified recyclable materials from the municipal solid waste stream, if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this article, a commercial or institutional generator of solid waste shall file an application for exemption with the Municipal Recycling Coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information:

- (1) The name of the commercial or institutional entity;*
- (2) The street address location and lot and block designation;*
- (3) The name, official title and phone number of the persons making application on behalf of the commercial or institutional entity;*
- (4) The name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials; and*
- (5) A certification that the designated recyclable materials will be recycled and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the Municipal Recycling Coordinator of the total number of tons collected and recycled for each designated*

material.

§ 318-16. Designation of recyclable materials.

The materials listed below shall be separated at their source from the waste stream. Upon separation, these materials may be privately sold or donated or delivered to the recycling site herein designated, provided that such are among the categories of recyclables to be accepted or placed at the curb for curbside pickup in the program for such herein designated, and provided that such materials are among the categories collected.

A. Residential sector.

- (1) Newspaper.*
- (2) Glass beverage containers.*
- (3) Aluminum cans.*
- (4) Ferrous scrap.*
- (5) Leaves.*
- (6) White goods.*
- (7) Tin cans.*
- (8) Grass.*
- (9) Construction and demolition debris (concrete, brick, tree parts, nonferrous/ferrous metal, asphalt, and corrugated cardboard, where practical).*
- (10) Corrugated cardboard.*
- (11) Mixed paper.*
- (12) Plastic containers (Types 1 through 7).*

B. Commercial sector (including institutions).

- (1) Corrugated cardboard.*
- (2) High-grade office paper.*
- (3) Glass beverage containers.*
- (4) Ferrous scrap.*
- (5) White goods.*
- (6) Aluminum cans.*
- (7) Mixed paper.*
- (8) Construction and demolition debris (concrete, brick, tree parts, nonferrous/ferrous metal, asphalt, and corrugated cardboard, where practical).*
- (9) Types 1 and 2 plastic containers/bottles.*

§ 318-17. Collection of recyclable materials.

A. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of a curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above any time after 6:00 p.m. of the day immediately preceding the day of collection, but no later than 6:30 a.m. of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 p.m. of the day of collection.

B. All receptacles or dumpsters shall be maintained in accordance with appropriate provisions of this chapter and other laws of the Borough so governing.

§ 318-18. Compliance requirements for residential dwellings.

The owner of any property shall be responsible for compliance with this article. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants

when they arise and every six months during their occupancy.

§ 318-19. Compliance requirements for nonresidential establishments.

A. All commercial and institutional generators of solid waste shall be required to comply with the provisions of this article.

B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional, or industrial property owner, or his or her designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoor litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle and shall provide for separate recycling service for their contents.

C. Every business, institution or industrial facility shall report to the Recycling Coordinator no later than February 28 of each year on such forms as may be prescribed, on recycling activities at its premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.

D. All retail food establishments, as defined in N.J.A.C. 8:24-1.5, shall, in addition to complying with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products and maintain such records as may be prescribed for inspection by any Code Enforcement Officer.

§ 318-20. Service requirements for new multifamily and commercial developments.

Pursuant to N.J.S.A. 13:1E-99.13(a) and 99.16(c), a recycling plan and recycling service shall be required for new developments of multifamily residential units or commercial, institutional or industrial properties.

A. Any application to the Planning Board of the Borough of Westwood, for subdivision or site plan approval for the construction of multifamily dwellings of three or more units, single-family developments of 50 or more units, or any commercial, institutional or industrial development for the utilization of 1,000 square feet or more of land must include a recycling plan. This plan must contain, at a minimum, the following:

(1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and

(2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and shall contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Municipal Recycling Coordinator.

B. Prior to the issuance of a certificate of occupancy by the Borough of Westwood, the owner of any new multifamily housing or commercial, institutional or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials in those instances where the municipality does not otherwise provide this service.

C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Borough Engineer.

§ 318-21. Collection of solid waste mixed with recyclables.

It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.

§ 318-22. Authority to designate recycling center.

The municipal recycling center, its hours of operation and the categories of recyclables it will accept shall also be designated by the Recycling Coordinator subject to approval by resolution

of the Mayor and Council.

§ 318-23. Ownership of recyclable materials; unauthorized collection.

A. Recyclable materials, as herein defined, shall be the property of the Borough of Westwood once placed for municipal curbside collection or delivered to the municipal recycling center.

B. It shall be a violation of this article for any person not authorized by the Governing Body to collect or cause to be collected recyclable materials intended for collection by the Borough. Each such pickup shall constitute a separate offense.

§ 318-24. Unlawful disposal; collection by other organizations.

A. It shall be unlawful for any person to dispose of designated recyclable materials except as herein provided for. The Mayor and Council may empower Borough employees or contractors that may be engaged in the collection of garbage or trash to refuse the collection from any receptacle if said receptacle appears to contain recyclable materials that are specified herein.

B. The Mayor and Council may by resolution permit bona fide civic or charitable organizations to collect or dispose of recyclable materials, provided that the Borough of Westwood shall receive all appropriate recycling tonnage credits. Written requests therefor must be submitted no later than 30 days prior to the start of such proposed programs. Notification of approval shall be in writing from the Recycling Coordinator or any official designated by the Mayor and Council.

§ 318-25. Tonnage credit.

Tonnage credit for recyclables donated or sold by any resident or commercial, industrial or other property must be provided to the Borough as part of the documentation requirement for complying with mandatory waste stream requirements. Documentation describing the weight of all sold or donated recyclables, not just those identified in § 318-16, shall be provided to the Recycling Coordinator.

§ 318-26. Refusal of materials.

The Mayor and Council may empower Borough employees or contractors that may be engaged in the collection of garbage or trash to refuse the collection from any receptacle if said receptacle appears to contain recyclable materials that are specified herein.

§ 318-27. Designation of recycling center; days and hours of operation.

A. The Department of Public Works facility at Harrington Avenue, Westwood, New Jersey, is hereby designated as the municipal recycling center, in accordance with the signs and directions posted thereat.

B. The center shall be opened to receive mandatory recyclable materials on the following days: Monday through Friday, except holidays, 6:30 a.m. to 2:45 p.m.; Saturdays, 8:00 a.m. to 12:00 noon.

§ 318-28. Enforcement.

The Code Enforcement Office, the Westwood Police Department, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, the Housing Officer and the Bergen County Department of Health are hereby individually and severally empowered to enforce the provisions of this article. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable materials.

§ 318-29. Conflict with other provisions.

In the event this article or any provision of same shall conflict with any existing ordinance, this article shall control.

§ 318-30. Violations and penalties; use of funds.

A. Any person, corporation, occupant or entity that violates or fails to comply with any provision of this article or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine established in accordance with N.J.S.A.

40:49-5. *Each day for which a violation of this article occurs shall be considered a separate offense.*

B. Fines levied and collected pursuant to the provisions of this article shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program.

Article VI, Collection of Yard Waste.

In § 318-48A, the definition of “yard waste” is amended as indicated:

YARD WASTE Leaves and grass clippings, and branches less than three inches in diameter.

Article VII, Recycling of Construction Debris.

§ 318-59 is amended as indicated:

Wherever it appears that failure to comply is due to the magnitude of a project, market conditions in recycling, or equipment or manpower shortages, the Municipal Recycling Coordinator, in consultation with the Superintendent of Public Works for the Borough of Westwood, may waive compliance with this article, in whole or in part, in writing, ~~with this article.~~

Chapter 330, Streets and Sidewalks.

Article I, Sidewalk Construction.

A. Section 330-4 is amended as indicated:

All such improvements shall be made in accordance with specifications ~~prepared by H.G. Hering, Jr., Borough Engineer, entitled "Specifications for the construction, reconstruction and repair of concrete and bluestone sidewalks, curbs, driveways and gutters in the Borough of Westwood, New Jersey," filed with the Borough Clerk July 9, 1919 on file in the Construction Office.~~

B. Section 330-5 is added to read as follows:

§ 330-5. Application for improvements.

An application for curbs, sidewalks and concrete driveway aprons may be obtained from the Construction Office.

Article II, Merchandise on Sidewalks.

Section 330-14A is amended to read as follows:

A. Any person violating or causing to be violated or consenting to or permitting the violation of any of the provisions of this article shall, upon conviction thereof, be liable or subject to a fine in an amount not to exceed \$500 for the first offense or imprisonment for a period of not exceeding 10 days in the county jail, or both, in accordance with the statutes in such case made and provided; a fine in an amount not to exceed \$1,000 for the second offense or imprisonment for a period of not exceeding 30 days in the county jail, or both; and a fine in an amount not to exceed \$1,500 for the third offense or imprisonment for a period of not exceeding 90 days in the county jail, or both.

Article III, Snow and Ice Removal.

This article is amended in its entirety to read as follows:

ARTICLE III**Snow and Ice Removal****§ 330-15. Duty to remove or cover; time limit.**

The owner of any premises abutting on any public sidewalk in the Borough shall remove all snow and ice from the portion of the sidewalk abutting his or her premises. The owners of premises used for business, commercial or industrial purposes shall, in addition, remove all snow and ice from parking lots, walkways and other areas used by their customers or employees. Ice which is so frozen as to make removal impractical shall either be treated with rock salt or other chemicals which will thaw it sufficiently to permit removal or be thoroughly covered with sand, ashes or cinders. Removal or covering shall be accomplished within 12 hours of daylight after the snow or ice shall fall or be formed.

§ 330-16. Deposit on streets and sidewalks prohibited.

No owner, tenant or occupant of any premises abutting on any street shall throw, place or deposit any snow or ice upon the street. The intent of this section is to prohibit all persons from throwing, placing or depositing snow or ice accumulating on the private property of that person upon municipal streets or sidewalks of the Borough.

§ 330-17. Failure to comply; removal by Borough; costs.

In the event that snow or ice is not removed or is cast, deposited or placed upon sidewalks or streets in violation of this article, the snow or ice shall be removed by the appropriate department of the Borough, and the cost of the removal shall be certified to the Council. The Council shall examine the certificate and, if found correct, shall cause the cost to be charged against the real estate abutting the sidewalk or street from which the snow or ice was removed. The amount so charged shall become a lien upon the real estate abutting the sidewalk or street and shall be added to the taxes next assessed upon that land and shall be collected and enforced in the same manner as other taxes. The remedy provided by this section shall be in addition to any penalty imposed for a violation of this article.

§ 330-18. Enforcement.

It shall be the policy of Borough of Westwood that this article shall be enforced by the Westwood Police Department.

§ 330-19. Violations and penalties.

Any person who violates any provision of this article shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Borough of Westwood.

Article IV, Obstruction and Littering.

Section 330-25 is amended to provide that violations of this article shall be subject to the general penalty in Chapter 1, Article III.

Article V, Street Openings.

In § 330-30B, the term for bonds to remain in effect is revised from six months to one year.

Article VI, Underground Utility Placement.

Section 330-37A is revised to **delete** the maximum fine of \$100 and replace it with reference to the general penalty in Chapter 1, Article III.

Chapter 337, Taxicabs and Limousines.

This chapter is moved out of the Vehicles and Traffic Chapter (previously Article XIII of Chapter 141), and amended in its entirety to read as follows:

Chapter 337

TAXICABS AND LIMOUSINES

§ 337-1. License required; compliance with statute.

No taxicab or limousine shall be operated and based within the Borough of Westwood, Bergen County, New Jersey, for the transportation of passengers for hire until the same shall have been licensed in accordance with the following provisions of this chapter, such license to be known as a "taxi or limousine owner's license," nor until such owner shall have complied with all of the provisions of N.J.S.A. 48:16-1 et seq.

§ 337-2. Licensing requirements; effect on other provisions.

A. No taxi or limousine owner's license shall be issued for any vehicle to be licensed under the provisions of this chapter to any natural person unless such person is at least 21 years of age, a citizen of the United States of America, a resident of the County of Bergen for at least 30 days next preceding the filing of his application for such license, nor until he shall have filed with the Borough an application addressed to the Mayor and Council, which application shall set forth:

(1) A description of the vehicle to be licensed.

(2) The name of the owner.

(3) The residence address and office address of the owner.

(4) The designation of a lawful business site approved by the Zoning Officer.

B. No taxi or limousine owner's license shall be issued to any corporation unless each stockholder, director, officer and manager of such corporation qualifies in all respects as an individual applicant for such license.

C. If, at any time during the period for which such license is issued, any stock of such corporation is transferred or any new director is employed, then such new transferee, officer, director or manager shall meet all of the requirements of any individual application for such owner's license before such license shall continue in effect.

D. Every application shall be accompanied by the fee for such license as hereinafter provided.

E. Nothing herein shall supersede any zoning regulation.

§ 337-3. Additional licensing requirements; insurance.

No person shall be entitled to receive a taxi or limousine owner's license until he shall have complied with the foregoing requirements, nor until such taxicab or limousine shall have been inspected and approved by the Chief of Police, who shall endorse his approval upon such application, nor until the owner shall have been fingerprinted and such prints filed at police headquarters, nor until such person shall have filed with the Borough Clerk an insurance policy acceptable to the Mayor and Council as to form and sufficiency, with premium prepaid, as provided in the Revised Statutes of New Jersey, Title 48, Chapter 16, except that the amount of such policy shall be in the sum of at least \$500,000 against loss from liability imposed by law upon said owner for damage on account of bodily injury or death suffered by one person as the result of an accident occurring by reason of the ownership, maintenance or use of such vehicle; and in the sum of at least \$1,000,000 against loss from liability imposed upon said owner for damage on account of bodily injury or death suffered by more than one person as the result of an accident occurring by reason of the ownership, maintenance, or use of such vehicle; and in the sum of at least \$50,000 against loss from liability imposed by law upon said owner for property damage suffered by any person as the result of an accident occurring by reason of the ownership, maintenance, or use of such vehicle. Such taxicab or limousine insurance shall remain in full force and effect for the full amounts as herein provided.

§ 337-4. Display of license; contents.

The taxi or limousine owner's license shall at all times be openly and conspicuously exhibited in any automobile or motor vehicle licensed under this chapter, and it shall briefly describe the vehicle licensed and shall contain the motor vehicle registration numbers of such vehicle.

§ 337-5. Power to issue or reject application for license.

The Mayor and Council shall have the sole power to issue licenses hereunder and may reject any applicant for an owner's license who cannot comply with the foregoing requirements.

§ 337-6. Term of license; issuance.

The licenses to be issued hereunder shall be effective for one year, commencing January 1, and shall expire on December 31 of the year for which such license shall have been issued and shall be issued and signed by the Borough Clerk after approval by the Mayor and Council and shall be sealed with the Borough's Seal.

§ 337-7. Fees.

A. The fee for a taxi or limousine owner's license shall be \$30 per year for each vehicle licensed hereunder.

B. The fee for additional vehicles licensed subsequent to the annual licensing process is \$15.

C. In the event that a taxi or limousine license is applied for and issued subsequent to July 1 in any year, the fee for such license shall be 1/2 of the amount as set forth in this section.

D. Fees for reinspection or resubmittal of documents shall be as follows:

(1) In the event any motor vehicle shall fail the initial physical inspection by the Chief of Police or his designee, there shall be an inspection fee of \$50 for the first vehicle inspected at any given time and \$10 for each additional vehicle.

(2) Proof of insurance to be submitted hereunder shall be submitted on original ACORD certificates, listing the Borough of Westwood as an additional insured. In the event any certificate is found to be nonconforming, there shall be a resubmittal fee of \$20 for the first certificate and \$5 for each additional certificate.

§ 337-8. Records.

The Borough Clerk shall keep a register of all licenses granted under the provisions of this chapter, which register shall show the character of the license, the number, date of issue, name of person licensed and other information pertaining thereto. The Clerk shall keep all applications and, on such applications upon which licenses are granted by the Mayor and Council, shall endorse the number of the license issued in pursuance hereof.

§ 337-9. Power to revoke or suspend licenses; multiple suspensions.

A. The Mayor and Council is hereby authorized and empowered, in addition to any other penalty provided for the violation of any provision of this chapter, to revoke or suspend any license issued hereunder for such violation.

B. A second suspension of any license issued hereunder shall, at the option of the Mayor and Council, be cause for the revocation of such license.

§ 337-10. Automobile requirements.

A. All taxicabs herein required to be licensed, used or operated for carrying passengers within the scope of this chapter shall be automobile sedans with a minimum of three doors. At least two of said doors shall be for the exclusive use of the passengers. The said automobiles shall be, at all times, clean and in good repair.

B. All limousines herein required to be licensed, used or operated for carrying passengers within the scope of this chapter shall be vehicles with a carrying capacity of not more than nine passengers, not including the driver. Vehicles that transport nine or more passengers are required to be licensed by the Borough of Westwood but also fall under the licensing jurisdiction of the New Jersey Department of Transportation.

§ 337-11. Persons permitted in driver's compartment.

No person other than the licensed driver or a passenger for hire of a taxicab or limousine shall ride or sit in the compartment of the taxicab or limousine reserved for the driver thereof.

§ 337-12. Number of passengers permitted.

The total number of persons permitted in any taxicab or limousine at any one time shall not exceed the number of persons for which permanent seating capacity is provided in the vehicle as originally designed.

§ 337-13. Restrictions on solicitation of customers.

No person shall solicit customers for transportation in any taxicab in a noisy or offensive manner, nor at any place other than the office of the taxicab owner or at a public taxi stand.

§ 337-14. Refusal to carry passengers prohibited.

No driver of any taxicab which is disengaged shall refuse to carry any orderly person upon the payment of the rate or fare permitted to be charged.

§ 337-15. Receipt for fare paid.

Upon the request of any passenger, the driver of any taxicab shall give to such passenger a receipt for the fare paid.

§ 337-16. Parking and standing restrictions.

No taxicab shall be permitted to stand on any street, other than at a taxi stand, except when the same shall be waiting to pick up or discharge a passenger who is presently engaging the use of such taxicab, and the driver of any such vehicle shall remain in, or immediately outside, such vehicle when the same is at any taxi stand, street or public place.

§ 337-17. Violations and penalties.

Any person, firm, corporation or association who shall violate any of the provisions of this chapter shall, in addition to the suspension or revocation of the license as herein provided, be punishable by a fine not exceeding \$200 or imprisonment in the county jail for a term not exceeding 30 days, or both, in the discretion of the Judge who shall hear such violation, and every day that such violation continues shall be deemed and considered to be a separate and distinct offense.

§ 337-18. Taxi stands designated.

The locations described are hereby designated as taxi stands. No vehicle other than a taxi shall be permitted to occupy said locations at any time.

Street	Side	Location
Madison Avenue	East	On the curved driveway to the railroad station in the Veterans Memorial Park, at the north end, a distance of 55 feet along the east curb, starting at a point 35 feet east of the easterly curblines of Madison Avenue and extending east then south along that curb

Chapter 353, Tobacco Sales.

- A. Sections 353-2 and 353-3 are amended to revise the age of 18 years to read 19 years, in compliance with statute.
- B. Original Section 5, Removal of tobacco vending machines, is **deleted** as its provisions have expired.
- C. Section § 353-6A is amended to remove the reference to original Section 5, which is deleted.
- D. Section § 353-6B is amended as indicated:

- B. Any person violating § 353-2 or 353-3 of this chapter shall, ~~pursuant to N.J.S.A. 2A:170-51~~, be punished by a ~~fine of \$250~~. as provided in N.J.S.A. 2A:170-51.4.

Chapter 358, Towing.

- A. The application fee in § 358-4B is amended from \$100 to \$200.

- B. Sections 358-10 and 358-11 are added to read as follows:

§ 358-10. Removal of unauthorized vehicles from private property.

The following provisions shall apply to any towing operator, whether or not licensed by the Borough of Westwood, when engaged by the owner or other person in control or possession of private property to remove an unauthorized vehicle therefrom pursuant to the provisions of N.J.S.A. 39:4-56.6 or this chapter:

A. No vehicle shall be removed to a storage facility located at a distance greater than three miles from the Borough of Westwood.

B. No towing operator so engaged shall charge any rates greater than those authorized by § 358-18 of this chapter, nor shall any charge be made for any service not specifically set forth in § 358-18 of this chapter.

C. Whenever a vehicle is towed from private property, the Westwood Police Department shall be immediately notified as to the reason of the towing; the year, make and license number of the vehicle; the name and address of the owner, if known; the name and address of the tower; and the address or location to which the vehicle was towed.

§ 358-11. Storage fee limits.

All fees to be paid to an operator by a municipality for the storage of removed motor vehicles shall not exceed the following:

A. A limit of \$3 per day for the first 30 days of storage per vehicle; and

B. A limit of \$2 per day for the 31st day of storage and any day thereafter; and

C. A limit of \$400 per vehicle stored, regardless of the duration of the storage, except that a waiver may be granted for good cause upon the request of a municipality by the Division of Local Government Services in the Department of Community Affairs.

- C. Section 358-18 is amended to read as follows:

§ 358-18. Rates.

A. No towing operator or firm licensed under this chapter may charge rates in excess of the following for towing, conveying, road service or storage of a motor vehicle when dispatched by the Westwood Police Department.

(1) Service charges shall be as follows:

(a) Jump starts:

[1] Between 8:00 a.m. and 6:00 p.m., weekdays: \$20.

[2] Between 6:00 p.m. and 8:00 a.m. the following day: \$30.

(b) Road service at any other time: \$50, plus \$1.75 per mile.

(c) The service charge assessed for the release of a towed vehicle during other than the business hours of 8:00 a.m. to 6:00 p.m.: \$0 (no charge).

(2) Towing charges shall be as follows:

(a) Automobiles, between 8:00 a.m. and 6:00 p.m., weekdays: \$40, plus \$1.75 per mile.

(b) Automobiles, between 6:00 p.m. and 8:00 a.m., weekends and holidays: \$50, plus \$1.75 per mile.

(c) Vehicles over 10,000 pounds: not to exceed \$200 per hour, which includes operator and vehicle.

(3) Dolly service charges shall be as follows:

(a) Any automobile, at any time: \$25.

(b) Flatbed truck, between 8:00 a.m. and 6:00 p.m.: \$60, plus \$1.75 per mile.

(c) Flatbed truck, between 6:00 p.m. and 8:00 a.m.: \$70, plus \$1.75 per mile.

(4) Winching service charges shall be \$30 per hour.

(5) The service charge for storage after 24 hours shall be as follows:

(a) Inside building storage facility with a capacity of 21 or more spaces: \$30 per day.

(b) Outside secured storage facility with a capacity of 21 or more spaces: \$20 per day.

(c) Outside storage for commercial vehicles or trucks over one ton, buses, tractor-trailers: \$50 per day.

B. Notwithstanding the foregoing provisions, no towing operator licensed by the Borough of Westwood shall charge or receive fees for towing, services or storage at rates higher than that customarily permitted by the Department of the Attorney General, Consumer Affairs.

D. Section 358-19 is added to read as follows:

§ 358-19. Violations and penalties.

Any person, firm or corporation found guilty in the Municipal Court of the Borough of Westwood of a violation of the terms of this chapter shall be subject to a fine not exceeding \$2,000 or imprisonment for a period not exceeding 30 days.

Chapter 375, Vehicles and Traffic.

A. Section 375-9 is amended to read as follows:

§ 375-9. Municipal parking lots.

For provisions regulating municipal parking lots, refer to Chapter 237, Parking Lots, Municipal, of the Code of the Borough of Westwood.

B. In § 375-20B, the fee is corrected from “\$100” to “\$5.”

C. In § 375-80, the phrase “Public Utility Agreement, Section 16:25-9.2,” is amended as indicated: “public utility agreement, ~~Section~~ and/or N.J.A.C. 16:25-9.2,....”