

**TOWNSHIP OF WYCKOFF
COUNTY OF BERGEN, STATE OF NEW JERSEY**

ORDINANCE #2016

**ESTABLISHING A NEW CHAPTER 176, ENTITLED TREES AND
SHRUBS, OF CODE OF THE TOWNSHIP OF WYCKOFF TO
REGULATE THE REMOVAL AND REPLACEMENT OF TREES**

WHEREAS, the Township of Wyckoff is required by our MS4 Permit to adopt an ordinance regulating the removal and replacement of trees within the Township.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Wyckoff, in the County of Bergen, State of New Jersey, as follows:

SECTION 1. There is hereby created a new Chapter 176 entitled "TREES AND SHRUBS" of the Code of the Township of Wyckoff to read as follows:

CHAPTER 176 TREES AND SHRUBS

ARTICLE I TREE PROTECTION REMOVAL & REPLACEMENT

§ 176-1. Purpose.

- A. The Township Committee finds that the preservation, maintenance, protection, and planting of trees aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces stormwater runoff and the potential damage it may create; aids in the removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against noise and pollution; provides protection against severe weather; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; preserves and enhances the Township's physical and aesthetic appearance; and generally protects the public health and safety as well as the general welfare. It is the intent, therefore, of this article to regulate and control the indiscriminate and excessive cutting of trees in the Township. It is the further intent of this article to preserve and build around trees whenever possible.
- B. Trees are declared important cultural, ecological, scenic, and economic resources. It is recognized that there is a strong relationship between the integrity of the Township's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management, and the general use of the land resources,

and a correlation between increased air pollution and high-density residential and commercial or industrial uses. Therefore, the Township finds that the appropriate management of these resources is an important health, safety, and general welfare concern.

- C. When qualified trees are to be removed, the intent of this chapter is to provide for the planting of replacement trees in place of those lost qualified trees, not necessarily in kind or even on the same site, but throughout the Township to maintain the Township's tree stock for future generations to enjoy.
- D. Nothing in this article shall be held to take away or diminish any of the Shade Tree Commission's powers or authority pursuant to statute.

§ 176-2. Definitions.

DEAD TREE – A tree that has ceased to function physiologically. Such a tree is typically devoid of leaves and may have lost bark.

DBH (DIAMETER AT BREAST HEIGHT) – The diameter of a tree trunk, when measured at a height of 4.5 feet above the ground at the base of the tree, calculated as the circumference (or girth) of the tree divided by pi (3.1416). On sloping ground, the "above ground" reference point is the average between the highest and lowest points of the ground at the base of the tree. If the DBH point falls on a swelling in the trunk, it is measured below the swelling point where the diameter is the smallest. In the case of trees with multiple trunks, the DBH of the trunk with the greatest diameter shall be measured for permit purposes.

DISEASED TREE – A tree terminally infested with fungus, virus, or insects.

DRIPLINE – The circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the tip of the outermost branch of the tree but in no case shall the dripline on any tree be less than ten (10) feet..

HAZARD TREE – means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not Hazard Trees.

- Is obviously dead as verified by a Licensed Tree Expert or the Township Engineer or the Township Engineer's designee;
- Is dying as determined by a Licensed Tree Expert;

- Has an infectious disease or insect infestation as determined by a Licensed Tree Expert;
- Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
- Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
- Is determined to be a threat to public health, safety, and/or welfare by a Licensed Tree Expert or the Township Engineer or the Township Engineers designee.

INVASIVE SPECIES - all native and non-native vines and vegetation that grow out of place and are competitive, persistent and pernicious, or trees which are native or non-native to this country or region of the country, whose vines produce chemicals that prevent the growth of other plants and serve as a primary food source to an invasive species of insects. These plants and trees may damage other trees, vegetation or structures (i.e. tree of heaven).

LICENSED TREE EXPERT or LICENSED TREE OPERATOR – An individual licensed as a tree expert or a tree operator by the State of New Jersey after successfully passing an examination administered by the Board of Tree Experts.

QUALIFIED TREE – Any deciduous tree on any land within the Township with a diameter measured at breast height (DBH) of eight inches or greater or any coniferous tree with a height of 20 feet or greater.

The following tree conditions exempt the tree from being classified as a qualified tree for the purpose of this Chapter.

- A. All trees to be removed by the Township of Wyckoff, the County of Bergen, and the State of New Jersey or any of its political subdivisions pursuant to the law.
- B. Removal of invasive species.
- C. Pruning or the removal of trees within the right-of-way recognized and accepted by public utility companies for the conveyance of their services for the purpose of maintenance of said utility wires, cables, or pipelines with their attendant appurtenances. This shall also include trimming or removing trees that obstruct municipal signage, traffic control devices, and compromised sight angles at intersections and roadways for the public's safety.

REPLACEMENT TREE – Any tree proposed to be considered a replacement for a qualified tree removed under a permit.

SHADE TREE COMMISSION – The Shade Tree Commission of the Township of Wyckoff includes any duly appointed members, alternates, and any duly authorized agents, contractors, consultants, or employees.

TREE OF HEAVEN (*ailanthus altissima*) – A rapidly growing deciduous tree with an aggressive root system that has become a widespread invasive species across North America. Harbors and supports the spotted lanternfly.

§ 176-3. Cutting or removal of a tree.

A. No person shall:

- (1) Cut down, destroy, remove, or allow or cause such cutting, destruction, or removal of any qualified tree except as permitted by this article.
- (2) Cause or allow any willful damage, injury, or disfigurement of any qualified tree growing within the Township. For purposes of this subsection, the actions of any person shall be deemed willful if the damage, injury or disfigurement of any tree is caused as a result of, but not limited to, the following: cutting, gashing, nailing (exception for Township-authorized marking of trees), spiking or slitting of any tree; pouring any liquid or other material on any tree or upon the nearby ground; construction or placement of any nonporous material on the ground around any tree so as to cut off air, light or water from the roots; or placement or removal of any soil from within 10 feet of any tree; painting (exception for trailblaze markers) or marking with any permanent compound even if such compound would not cause the death of the tree.
- (3) Store or pile building material or debris or place construction equipment within 10 feet of any tree.

B. Any term or provision of this article that contemplates, directs, regulates, or prohibits the doing of any act may, in applicable cases and where the context so requires, be construed to include the causing, allowing, permitting, or suffering of such act to be done by others under the direction, control or supervision of the person

charged therewith. Every such act shall be deemed to be within the scope of this article.

§ 176-4. Protection of trees during construction.

A. Before construction begins, the developer shall erect snow fencing or other protective barriers around all mature trees not approved for removal during construction and to delineate the limit of disturbance. Such barriers shall be placed at least 10 feet from the trunk of any tree and shall remain in place until the Construction Code Official authorizes the removal of the protection after issuance of a certificate of occupancy or temporary certificate of occupancy. No equipment, chemicals, soil deposits, or construction materials shall be placed within any area so protected by barriers, nor shall any attachments or wires be attached to any trees so protected. Any landscaping activities subsequent to the removal of barriers shall be accomplished with light machinery or hand labor.

(1) A description of the existing tree protective barrier shall be provided on all applications. The protective barrier shall be four feet high.

(2) The protective barrier where practical shall be placed at the dripline of any tree along the limit of clearing and around the entire tree dripline so that trees remain undisturbed within the limit of clearing.

B. In the event that any qualified tree to be protected in connection with construction as set forth above shall die during construction or within two years after the closure of the permit, it shall be replaced by the applicant or property owner upon written notification by the Township within 60 days on a 1-for-1 basis unless impractical due to weather conditions.

§ 176-5. Other restrictions.

A. It shall be unlawful for the owner or occupant of any lands within the limits of the Township to permit to exist or harbor tent caterpillars, gypsy moths, or any other insect detrimental to the health and wellbeing of a tree on such premise after being noticed of such by certified mail return receipt requested. Any firm retained to eradicate insects in or on trees shall be duly licensed for such tasks by the New Jersey Department of Environmental Protection.

- B. It shall be expressly prohibited anywhere within the public rights-of-way and public properties of the Township to affix a sign or any other device to a tree of any size by means of any type of fasteners, including but not limited to nails, screws, or bolts.
- C. It shall be expressly prohibited in the Township to fasten any rope, wire, or cable to a tree within the public right-of-way for any reason other than for staking stabilization purposes of the tree in accordance with standard arboriculture practices.
- D. No person shall hitch or fasten an animal to any tree or shrub within a public right-of-way or any guard or support provided for such tree or shrub or permit an animal to bite or otherwise injure any such tree or shrub.
- E. No person shall permit or cause to be permitted the discharge or release of any liquid, gas, or solid compound containing injurious chemicals to come in contact with the stalk, leaves, bark, or roots of any tree or shrub within the public right-of-way.
- F. During the execution of any work on trees on public lands in the Township, other than for tree removal, no gaffs or spikes shall be permitted to be used by a climber to ascend a tree.
- G. It shall be expressly prohibited in the Township to alter or prune any tree within the public right-of-way or the conditions surrounding a tree in the public right-of-way in a manner that may reduce its viability and life span.
- H. Planting "running bamboo" or any bamboo of the genus *Phyllostachys aureosulcata* in the Township is prohibited.

§ 176-6. Sidewalk construction and driveway enlargement.

- A. When a sidewalk is constructed or being reconstructed due to defects within the public right-of-way, the party responsible for the work (i.e., the adjacent property owner) shall coordinate all work that may affect the root systems of trees within the public right-of-way with the Township's Engineer or their designee. Such responsible party shall be required to notify the Township Engineer prior to the commencement of any such work.
- B. No tree, tree root, or roots shall be cut or removed for sidewalk construction, reconstruction, or driveway enlargement within the public right-of-way without first obtaining written authorization from the Township Engineer. Said authorization shall be appended to

either the zoning review of the proposed work or a curb and sidewalk work or driveway enlargement permit issued by the Township Engineer.

- C. Any tree within the public right-of-way removed for a driveway enlargement or construction shall be considered a qualified tree and replaced in accordance with the provisions of this Chapter.
- D. The Township Engineer or their designee shall have authority to determine in such instances covered in this section whether root grinding, a tree's removal, a "round out" or "bump out" is warranted for trees within the public right-of-way, with the goal to preserve trees as best as possible. Defective sidewalk slabs within five feet of a tree shall be removed, and a new slab cast (at the property owners' expense) in accordance with the Township Engineer's directive.
- E. Any tree roots cut, damaged, or removed in the public right-of-way without the Township Engineer's or their designee's authorization shall be deemed a violation of this chapter.

§ 176-7. Permit requirements for qualified tree removal.

- A. Any qualified tree in the Township that is desired to be removed shall require a permit issued by the Building Department.
- C. No permit shall be issued for the removal of any qualified tree unless all taxes and other municipal charges levied against the property are current.
- D. All applications to the Township Planning Board, Zoning Board of Adjustment, Building Department, or the Township that propose removing any qualified trees shall require a permit.
- E. Any application for a qualified tree removal permit, whether in conjunction with a major or minor subdivision application, major or minor site plan application, or other private property improvement, shall be submitted to the Building Department for review and subsequent action. The Building Department shall coordinate all applications with the appropriate land use board, if necessary. The Building Department will make a courtesy notification of any applications or permits issued to the Township's Shade Tree Commission.

§ 176-8. Tree removal permit.

A. Tree removal permits for qualified trees shall contain the following:

An application for a tree removal permit shall be filed with the Building Department to remove any qualified trees and to determine any applicable exemptions.

The tree removal permit fee shall be \$50 per tree to be removed. Trees determined to be hazard tree shall not require a permit fee.

A tree removal permit shall be valid only for the location (property) for which the application is made. The permit shall not authorize trespass on any adjoining property.

Applications shall provide the following information:

(1) When using a Licensed Tree Expert for any determinations regarding trees, provide their name, address, title, and license number.

(2) The Lot and block or lots and blocks of the proposed qualified tree removal work. The street address of the proposed work. The identity of the owner(s) of the land where the work is proposed.

(3) A sketch of the property, preferably on a property survey, depicting the location of the qualified tree on the property (front yard, rear yard, side yard).

(4) The purpose or reason for the removal of the qualified trees.

(5) List the number of qualified trees being removed by species and size (diameter at breast height).

(6) Proposed start date of the work. Proposed date of completion.

(7) A plan for either replacing or offsetting the qualified trees proposed to be removed with the replacement tree's location on the property.

B. The applicant shall place a one-inch-wide red, yellow, or blue ribbon around the trunk of each tree to be removed at a height of 4 1/2 feet above the ground so that the proposed tree removal may be inspected in the field by the Township.

- C. A permit shall be issued or denied by the Building Department within 20 business days of submission of an application.
- D. All permits shall be visibly displayed on the subject property until project completion.
- E. All tree removal permits shall expire one year from the date of issuance. If the approved tree removal has not occurred within one year, a new permit must be applied for and is subject to the payment of new application fees.

§ 176-9. Replacement tree requirements.

- A. When a tree removal permit is filed to remove a qualified tree, the applicant shall provide for a replacement tree. Replacement trees shall be provided on a one per five thousand (5,000) square feet of unimproved coverage of the entire lot (including front yards) for qualified trees removed. A minimum of one replacement tree per application shall be required not to exceed a 1-for-1 replacement.
- B. Placement of replacement trees is preferred in the front yard (outside the Township right-of-way) if no shade trees currently exist in the front yard unless deemed infeasible by the Township Engineer.
- C. If the applicant cannot provide suitable land for a replacement tree(s), the applicant shall be required to remit an amount for each qualified tree removed to the Township's Replacement Tree Fund. The value for a replacement tree is set at \$500 per tree.
- D. All funds in the Township's Tree Replenishment Trust Fund shall be used to purchase, plant and maintain trees within the public rights-of-way throughout the Township, public parks, Green Acres listed open space areas, stream bank restoration/protection projects or any other location public or privately owned at the determination of the Shade Tree Commission, all to help maintain the Township's tree stock.
- E. All replacement deciduous trees shall have a DBH of not less than a two-inch caliper. All replacement coniferous trees shall have a height of at least 5 feet.
- F. Replacement trees shall be planted within one year of the tree removal. Failure to plant a replacement tree within one year shall result in a monetary penalty equal to the value of a replacement tree plus 20%, which shall be placed against the property as a municipal lien and subject to collection by the Tax Collector.

- G. No permit is required to plant a tree if a property owner desires to do so. The Township would appreciate notification of any tree plantings to help track the health of the Township's tree canopy.

§ 176-10. Exemptions from replacement requirements.

The following qualified tree conditions shall be exempt from the provisions of § 176-9. If a tree is deemed exempt, its removal shall require a removal permit but shall not require a replacement tree. An application shall be made to determine if the tree is exempt prior to any action being taken unless an emergency exists.

- A. The removal of any tree or trees growing inside the following limits of disturbance for construction on any site (UCC, engineering or septic permit required):
1. 20 feet from any foundation or footing.
 2. 10 feet from any septic component, drywell, driveway, patio, walkway, utility trenching, or accessory structure.
 3. 20 feet from any swimming pool coping and 10 feet from the pool equipment utilities.
 4. 10 feet from any retaining wall.
 5. Measurement shall be from the proposed structure to the nearest part of the tree trunk measured at the base of the tree at ground level
- B. The removal of any tree or trees growing on or over the public right-of-way or public land with the consent of the Township's Engineer or their designee.
- C. The removal of any tree(s) that meet the definition of a hazard tree pursuant to this Article.

§ 176-11. Appeal of rejection of tree removal permits.

Any applicant aggrieved by the Township Engineer's rejection of an application for a tree removal permit or other determination made under this article may appeal the determination to the Planning Board by filing the appeal with the Secretary of the Planning Board within ten days of the

determination of the Township Engineer. Said appeal shall be accompanied by a fee of \$250. The Planning Board shall hear the appeal within 45 days. It may affirm, reverse, or modify the determination of the Township Engineer by setting forth a resolution with the Board's holding and the reasons for its result.

§ 176-12. Tree removal contractor requirements; registration; notice and deadlines.

- A. All tree contractors must register with the Township and pay a registration fee of \$250 annually to conduct business within the Township during the calendar year.
- B. All tree contractors operating within the Township shall be licensed in accordance with the NJ Tree Experts and Tree Care Operators Licensing Act, maintain the required insurance, hold a valid registration with the Township, and display proof of same on each of their vehicles operating in the Township.
- C. All tree removal contractors shall carry and provide proof of at least the following minimum insurance coverage: \$2,000,000 property damage and bodily injury insurance per incident; \$300,000 automobile insurance per incident; and workers' compensation insurance in such amounts as required by law. All tree removal contractors shall require their insurers to provide the Township with a minimum of 30 days advance notice of the cancellation of any required coverage. Upon the cancellation of any required insurance coverage, the tree removal contractor's registration shall automatically be suspended, and the tree removal contractor shall be prohibited from performing thereafter. Upon the submission of satisfactory proof of insurance coverage, licensure in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act, and a certification that the tree removal contractor has read, understands, and will comply with all requirements of this rule, then the Township Clerk shall register the tree removal contractor as approved to do business in the Township.
- D. Within 30 days of adopting this article, the Municipal Clerk shall mail a copy of this Ordinance to persons and entities known to be in the business of maintaining, cutting, or removing trees within the Township.
- E. Within 30 days thereafter, any company desiring to maintain, cut, or remove trees within the Township shall register with the Township.

§ 176-13. Enforcement; violations and penalties.

- A. Any person, firm, partnership, corporation, association, or other legal entity violating any of the provisions of this article shall, upon conviction of such violation, be punished by a fine not be less than the cost of each replacement tree installed, plus a penalty of \$500, plus court costs, in addition to the required mitigation for each tree illegally removed. Each illegally removed or damaged tree shall constitute a separate offense. Violations of this ordinance shall be heard in the municipal court of any other court of competent jurisdiction.
- B. The Zoning Official, Construction Code Official, Director of Public Works, Township Engineer, Township Administrator, and police officers all have full authority to enforce the provisions of this article, including the power to enter upon private property to make inspections, issue summonses or complaints; and issue cease-and-desist notices and stop-work orders.
- C. Any tree removal contractor violating any of the provisions of § 176-13 shall, upon conviction in a court of competent jurisdiction of such violation, be punished by a fine not be \$1,000 for the first offense and \$2,000 for each subsequent offense.
- D. The Township shall suspend the registration of any tree removal contractor who has submitted a fraudulent tree removal permit application or a false tree certification(s) for up to three months. Subsequent offenses shall require revocation of Township registration and shall disqualify the tree removal contractor from obtaining a license to operate in the Township for a period of five years.
- E. Noncompliance with the provisions of this article may be grounds for denying registration to a tree removal contractor.

§ 176-14 through 20. RESERVED

SECTION 2. If any section, sub-section, paragraph, sentence, or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this ordinance.

SECTION 3. All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

NOTICE

I HEREBY CERTIFY THAT THE AFOREMENTIONED ORDINANCE WAS PUBLISHED IN THE RIDGEWOOD NEWS, A NEWSPAPER PUBLISHED IN THE COUNTY OF BERGEN AND CIRCULATED IN THE TOWNSHIP OF WYCKOFF, IN BOTH THE ISSUE OF JULY 19 AND AUGUST 23, 2024.

NANCY A. BROWN
MUNICIPAL CLERK

INTRODUCTION: July 16, 2024

PUBLIC HEARING: August 20, 2024

EFFECTIVE DATE: August 23, 2024