

ORDINANCE #2200-14

ORDINANCE AMENDING THE CODE OF THE CITY OF WOODBURY TO PROMOTE TREES THROUGH THE REGULATION OF TREE REMOVAL, PLANTING, REPLACEMENT AND PROTECTION

CHAPTER 87

§87-1 Purpose:

The purpose of this ordinance is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance, removal and replacement of City owned trees, shrubs, other plants and emergency removal of privately owned trees within the City of Woodbury.

§87-2 Authority and power:

The City of Woodbury's Police Department, Public Works Department, Emergency Management and the Construction Department have concurrent authority to administer the provisions of this ordinance.

(a) Together they will:

- Work with the "Green Team" to address any tree issues affecting the City.
- Remove any City tree that is deemed by the Staff as a public safety issue based on the criteria of this ordinance, or is diseased and poses a threat to the health of adjacent trees.
- Consult with a certified or licensed Arborist, Forester, Tree Surgeon or Landscape Architect on an as needed basis.

(b) The Public Works Department will be responsible for:

- Creating a Forestry Management Work Plan that will include an inventory of trees/shrubs located on City property.
- Developing an Annual Plan to address the maintenance, planting and/or removal of specific City trees based on guidelines set forth in the Forestry Management Plan.
- Providing an Annual Report to the governing body for public record at a minimum detailing how the Annual Plan was developed and what was achieved, and addressing any recommendations for the following year's Plan.

§87-3 Applicability:

This ordinance provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the City, whether they are obtained and planted or donated by private individuals, quasi-government groups, non-profit organizations, or other tax-exempt institutions. This power and authority also extends to any tree that has its trunk on private or any other property not owned by the City and which poses an imminent threat to any structure, road, sidewalk, curb, body of water or lands owned by the City.

§87-4 Definitions:

ARBORIST

A specialist in the cultivation and care of trees and shrubs, including tree surgery, the diagnosis, treatment, and prevention of tree diseases, and the control of pests.

CITY

City of Woodbury

CITY OWNED TREE

Any tree on a City right of way or on City property.

CITY STAFF

For the purpose of this ordinance, any paid member of the City of Woodbury's Public Works, Construction, Emergency Management and/or Police Department.

GOVERNING BODY

The Mayor and Council members of the City of Woodbury

SHRUB OR OTHER PLANT

Any vegetative planting on City owned property which is not a tree or grass.

TREE

Any woody perennial plant usually having but one main stem or trunk and a more or less definitively formed crown, and which has the potential based on its genus and species to grow to a height of 10 feet or more.

§87-5 Tree Removal of a City Owned Tree:

It is the policy of the City to protect all public trees from needless removal and every effort is made to preserve and protect public trees until such time removal is warranted and prudent.

There are many reasons why trees need to be removed in an urban area, park or wooded area. City staff evaluates each tree considered for removal on a case-by-case basis. The criteria listed below are used by the Staff when evaluating trees for possible removal. The criteria are not listed in order of importance and individually may not justify removal.

- (a) The following criteria are used in evaluating a public tree for possible removal:
 - Tree is dead or dying.
 - The tree is deemed hazardous, when the hazardous condition cannot be corrected through pruning or other reasonable arboricultural practices.
 - The tree must be removed for required infrastructure improvements or repairs.
- (b) When public trees are not deemed dead, dying or hazardous, the following factors will be considered:
 - Life expectancy of the tree.

- Desirability of the tree species.
 - Amount of space allowable for tree growth.
 - Overall quality and structural integrity of the tree.
 - Persistent and uncontrollable insect, disease or fruiting problems.
 - Dropping of bark, twigs, seeds, pods, flowers, fruit, etc.
 - Frequency and extensiveness of the tree's maintenance requirements.
 - Feasibility and timeliness in which a replacement tree will be planted.
 - Proximity and quality of trees near to the one considered for removal.
 - Wishes and desires of the property owner/resident and those immediately adjacent.
 - Quality and extent of past pruning and other tree maintenance practices the tree has undergone.
 - Extent and frequency of damage the tree is causing to surrounding infrastructure such as sidewalks, streets, sewers, overhead wires, etc.
 - Location of the tree with regard to streetlights, traffic control signs and devices, intersection sight lines, obscuring of storefronts and business signs, clearance for trucks and buses, and the requirements of the tree related to available growing space.
- (c) Shortly after a tree is removed the stump will be ground out and the disturbed area restored with topsoil and grass seed, or with sod, to match the surrounding surface grade.
- (d) When trees to be removed are growing immediately in front of a single residence property and the resident has not requested the removal, Staff will attempt to notify the occupants by leaving a card at the front door which states the reason for the removal and provides a phone number to call to receive further information.
- (e) The City tries to replant where trees have been removed based on available funding to purchase new trees. In some instances the replacement tree will not be planted in the same spot. Replanting location will be determined by the City Staff.

§87-6 Emergency Tree Removal

(a) Trees Located on City/Public Property

- To qualify as an emergency there must be a safety hazard to persons, utility lines or pipes or structures; and the danger must be imminent. Generally, an emergency exists where a tree has already begun to fall. If an emergency situation exists or if a tree has started to fall, it can be cut or removed to eliminate the danger.

(b) Trees Located on Private Property

- Trees on private property are the responsibility of the property owner. If in an emergency situation, where there is imminent danger to a person, utility lines or pipes, or structure, the City Staff will request access to the property to evaluate the potential danger but if unable to obtain permission to access the property due to time constraints, unavailability of property owner or representative or for other good cause may access the property to evaluate the potential danger. If the tree is determined to be an imminent danger, City Staff shall send or personally serve the owner or post on the premises a notice to remove the tree within a specified time period provided the circumstances permit the giving of such notice without the endangerment of persons, utility lines or pipes or structures which such determination shall be made by the Director of Public Works. If the Owner fails to remove the tree within the time permitted in the notice or if no notice is given pursuant to the determination of the

Director of Public Works, the City may then remove all or part of a tree and bill the property owner for all costs of removal. If the bill is not paid within 60 days the City shall place a lien on the owner's property until payment is received.

§87-7 Enforcement:

The City's Staff shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk or other public place in the City.

Any person who knowingly causes damage to or removes a City owned tree shall be subject to a fine not to exceed \$1,000. Details are provided under PENALTIES, CLAIMS AND APPEALS.

§87-8 Penalties, claims and appeals:

- (a) Any person(s) who knowingly causes damage to or removes a City owned tree or violates any provision of this ordinance or who fails to comply with any notice issued pursuant to any provision shall be subject to a fine not to exceed \$1,000 for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of this ordinance, the injury, mutilation or death of a tree, shrub or other plant located on City-owned property is caused, the cost of repair or replacement, or the appraised dollar value of such tree, shrub or other plant, shall be borne by the party in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.
- (b) City Staff may issue a notice of fine and assess costs for injury, mutilation, or death of a tree, shrub or other plant located on City owned property in accordance with §87-8 and the provisions of this ordinance may be enforced through the issuance of a summons and complaint to be heard in the Municipal Court of the City of Woodbury.
- (c) An appeal from a notice of fine and/or assessment issued by the City Staff shall be brought before the City Council within 30 days of making of such notice to the last known address of the owner of the property as shown on the tax records of the County of Gloucester Assessor's Office, which may affirm, modify or reverse the decision.

§87-9 City of Woodbury Tree Trust Fund

The City of Woodbury hereby establishes a Tree Trust Fund to help supplement the cost of replacing City trees that are removed from municipal owned property.

- (a) The Fund will be replenished through the following sources:
 - Payment in-lieu of replanting trees associated with a site plan, subdivision or construction project
 - Fundraising efforts
 - Private donations

- Grants
- (b) Any City resident may apply to receive funding from the City of Woodbury Tree Trust Fund Grant to plant trees on their property.
- (c) Applications shall be made available through the Construction Office.
- (d) Grants will be based on availability of funding and recommendation of the Code Official.
- (e) Grant requirements:
 - Application must be completed and include a detailed site plan indicating where on the property the tree will be planted.
 - Applicant must verify that there are no utility lines within a 5 foot radius of the proposed planting.
 - Site plan must indicate where all utility lines are located on property
 - Unless City owned, the applicant must agree in writing on the application that they will be responsible for the cost of planting and maintaining the tree.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Woodbury that Woodbury Municipal Code is hereby amended to add Chapter 87. Trees and shall henceforth read it its entirety as set forth above.

THE FOREGOING was introduced by the City Council of the City of Woodbury at a regular meeting held on February 25, 2014. This Ordinance will be considered for adoption at final reading and public hearing to be held on July 8, 2014 at 7:30 p.m. or at such time as may be determined and announced, in City Hall, Council Chambers, 33 Delaware Street, Woodbury, New Jersey, at which time and place all persons interested will be given the opportunity to be heard concerning said Ordinance. During the time prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the City Clerk's Office to the members of the general public who may request same.

CITY OF WOODBURY

By: _____

ATTEST:

ROY A. DUFFIELD, Clerk

Approved:

WILLIAM J. VOLK, Mayor