

**BOROUGH OF BRADLEY BEACH
MONMOUTH COUNTY**

ORDINANCE 2025-9

AN ORDINANCE AMENDING CHAPTER 24: “COMMISSIONS AND COMMITTEES” AND CHAPTER 270: “LAND DEVELOPMENT” AND CHAPTER 425: “TREES” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO ENHANCE THE OPERATIONS AND REGULATIONS OF THE BOROUGH’S SHADE TREE COMMISSION

Mayor Gubitosi offered the following Ordinance and moved its introduction:

WHEREAS, based upon recommendations from the Shade Tree Commission to improve its operations and regulations, the Borough of Bradley Beach (the “Borough”) seeks to enhance certain procedures and regulations governing shade trees and planting strips within the Borough;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Article VI entitled “Shade Tree Commission” of Chapter 24 entitled “Commissions and Committees” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 24: COMMISSIONS AND COMMITTEES

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ARTICLE VI SHADE TREE COMMISSION.

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§ 24-30 Establishment of Shade Tree Commission; Membership; Terms.

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H. During the terms of office of the Commission members and alternates, members and alternates may be removed from the Commission, by the Mayor, upon the recommendation of the Commission Chairperson, for good cause, including, but not limited to, being absent from three (3) consecutive regularly scheduled meetings of the Commission, violation of the Borough’s regulations pertaining to shades trees, conduct unbecoming of a Commission member or alternate, and/or conduct detrimental to the functions and purposes of the Commission. Any member or alternate recommended for removal by the Chairperson shall be served with a written notice of removal, and if requested by such member or alternate, they shall be entitled to a hearing before the Borough Council prior to being removed by the Mayor.

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§ 24-32 Powers; duties; responsibilities.

A. The Shade Tree Commission shall have the following general powers and duties:

- (1) Advisory role in developing and effecting policy-making in the regulation, planting, care and control of trees and shrubs upon and in the streets, highways, public places, and parks of the Borough, with specific emphasis on the care and protection of trees located on public rights-of-way, including Main Street, provided that the Commission shall have responsibility for the regulation, planting, care and control of trees and shrubs upon and in State and County highways and county parks only to the extent authorized or permissions obtained according to law;
- (2) Responsibility to identify, retain with governing body approval, consult and advise with the licensed tree expert in all matters within its purview and jurisdiction;
- (3) ~~Responsibility to develop a long-term plan to plant and maintain trees on Borough properties and rights-of-way;~~ Responsibility to develop and maintain a long-term plan to plant and maintain trees on Borough properties and Borough right-of-way. Create and maintain a 5 year Plan in coordination with the NJSTF and Arbor Foundations Tree City USA organizations;
- (4) All authority conferred to New Jersey municipal shade tree commissions pursuant to N.J.S.A. 40:64-1 et seq., to the extent applicable;
- (5) Authority to review tree surveys, removal plans and planting plans submitted with land development applications referred to the Commission by the Planning Board or Zoning Board, pursuant to § 450-21 of this Code or otherwise according to law. Within ~~20-25~~ business days of any such referral, the Commission shall transmit a report of its findings and recommendations to the board of jurisdiction, or the Commission's assent may be presumed by said board;
- (6) Authority to prepare criteria, standards, guidelines, and recommendations, including recommendations as to specific appropriations, for the use of funds collected in the Bradley Beach Shade Tree Trust Reserve; provided, however, that the expenditure of said funds shall be subject to final approval by the governing body;
- (7) Authority to develop a list of sites throughout the Borough that require the replacement of trees or the addition of new trees, and regularly update the list to reflect the replacement or removal of trees;
- (8) Authority to develop and maintain a recommended tree species list;
- (9) Authority to develop and maintain an inventory of trees and shrubs upon and in the streets, highways, public places, public rights-of-way and parks of the Borough;

- (10) Responsibility to develop and recommend tree removal standards for trees located on private property, with the approval of the governing body;
- (11) The authority to review permit applications for tree removal from private property, and grant approval according to defined tree removal guidelines, with any appeals therefrom being heard directly by the governing body pursuant to § 425-12B(2);
- (12) Responsibility to annually establish a meeting schedule, with scheduled meetings of a quorum of the Commission at least once monthly, provided that regular meetings may be adjourned from time-to-time depending upon the Commission's agenda;
- (13) Responsibility to make, keep, and preserve minutes and records of its meetings and activities, and to make annual reports to the governing body. Copies of all minutes and records of its meetings and activities shall be filed with the Borough Clerk;
- (14) Responsibility to decide appeals and recommend informal resolution of complaints, as set forth in §§ 425-12 and 425-13 of this Code; ~~and~~
- (15) Such additional functions as required by this chapter or within the law as may be delegated to it;
- (16) Create and submit each year a Budget to the Borough Administrator for the purposes of supporting Shade Tree Commission activities for the following budget year;
- (17) Responsibility to determine and issue/collect Fees and Assessments from property owners for various Shade Tree Activities; and
- (18) Responsibility to create and distribute a summary of the Accomplishments and Activities of the Shade Tree Commission annually.

SECTION 2. Section 270-25 entitled “Shade trees and grass planting strips” of Article V entitled “Improvements and Design Standards” of Chapter 270 entitled “Land Development” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 270: LAND DEVELOPMENT

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ARTICLE V IMPROVEMENTS AND DESIGN STANDARDS.

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§ 270-25 Shade trees and grass planting strips.

- A. A grass planting strip shall be provided between the curb and sidewalk along all streets in residential zones. The grass planting strip shall be from the back of curb to the edge of sidewalk and shall be used for the planting of required street trees. Planting strips are a part of the property containing the planting strip and property owners are responsible for all maintenance of the contents of the planting strips including grass, trees, and mulch. Mulch is permitted in the planting strip only when surrounding the trees. Artificial grass is not permitted. The Borough will not be liable for any damage accrued to the artificial grass while any work, snow/ice removal or act of God transpires. No prior notification is required by the Borough or contractor for any work being performed. No other equipment or material, including, but not limited to, sprinkler systems, brick or concrete pavers, concrete, asphalt or stones, shall be placed in the planting strip, except that, for properties without driveways, a walkway not more than three feet wide may be placed within the grass planting strip as an extension of the walkway to the dwelling. For properties with driveways, walkways within the grass planting strip are grandfathered and permitted, but may not be enlarged, if said walkway was in place and aligned with a curb cut as of July 15, 2020.

- B. Current properties without natural grass between the curb and sidewalk in residential zones as of date of this adoption shall be grandfathered as the sole responsibility of the property owner, provided however, that no property with an artificial grass planting strip shall be issued:
 - (1) A zoning permit, unless the application therefor includes provisions for the conversion of the non-conforming planting strip to natural grass, except that the Zoning Officer may grant such an application in his or her discretion upon the property owner's submission of proofs that the costs associated with the subject of the application are less than \$7,500, or the conversion of the planting strip is otherwise unreasonable, unfeasible, or impossible for reasons beyond the control of the property owner; or

- (2) A certificate of occupancy for transfer of the property, unless the application therefor includes provisions for the conversion of the non-conforming planting strip to natural grass, except that the Construction Official may grant such an application in his or her discretion upon the property owner's submission of proofs that the conversion of the planting strip is otherwise unreasonable, unfeasible, or impossible for reasons beyond the control of the property owner.

- C. Shade trees shall be provided in all major residential subdivisions. Trees shall be planted within the subdivision along each side of the street at proper intervals and in types, sizes and locations conducive to healthy growth with graded and seeded or sodded planting strips and according to any standards adopted by the governing body or the Shade Tree Commission so as not to interfere with street paving, sidewalks, or utilities.

- D. All trees should be of nursery stock of an approved species from the "required tree list for planting strips," a minimum of 2 1/2-inch caliper, grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use, durable under the maintenance contemplated, and approved by the Shade Tree Commission.

SECTION 3. The following Sections of Chapter 425 entitled "Trees" of the Revised General Ordinances of the Borough of Bradley Beach are hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 425: TREES

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ARTICLE II PROTECTION AND REMOVAL OF TREES AND SHRUBS ON PUBLIC STREETS, HIGHWAY, RIGHTS-OF-WAY, AND BOROUGH PROPERTIES.

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§ 425-3 Approval Required.

- A. No person shall do, or cause to be done, any of the following acts upon public streets, highways, rights-of-way or parks or other lands under the Borough's jurisdiction, or cause or permit the same to be done by any third-party contractor or subcontractor, without obtaining the written approval of the Shade Tree Commission, in accordance with Subsection B below:
 - (1) Cut, break, climb with spikes, disturb the roots of or otherwise injure, remove or destroy any tree or shrub or injure, misuse or remove any structure or device placed to support or protect such tree or shrub.

 - (2) Plant any tree or shrub.

- (3) Fasten, staple, nail, screw, or otherwise affix any rope, wire, electric attachment, sign or other device to a tree or shrub.
 - (4) Place or maintain, or cause to be placed or maintained, in or upon the ground, any stone, cement, sidewalk, mortar, building material, impervious material or other substance that shall impede or prevent the free access of water, air or fertilizer to the roots of any tree or shrub or within the drip line of a tree or shrub.
 - (5) Place or cause to be placed any chemical or substance harmful to tree life, including but not limited to gasoline or oil, on any tree or shrub or within the drip line of any tree or shrub.
 - (6) Hitch or fasten an animal to any tree or shrub, or to any guard or support provided for the same, or permit any animal to bite or otherwise injure any tree or shrub.
 - (7) Hitch or fasten a bicycle or other personal property to any tree or shrub, or to any guard or support provided for the same.
- B. A person may request in writing the approval of the Shade Tree Commission to undertake an activity otherwise prohibited in Subsection A above with any appeals therefrom heard by the governing body pursuant to Subsection 425-12B(2). Within ~~20~~25 business days of said written request, the Commission shall, in their discretion, approve or deny the request. The failure of the Commission to approve or deny the request within ~~20~~25 business days shall constitute an approval of the request.
- C. Excepted from the requirements of this section are the following:
- (1) The treatment of trees and shrubs by the appropriate public agency with the consent of the Shade Tree Commission; and
 - (2) The management, including integrated pest management, of ash (*Fraxinus* spp.) trees to protect against damage and/or loss of the trees due to infestation by the emerald ash borer (*Agrilus planipennis*), with the consent of the Shade Tree Commission.
- D. Planting strips are a part of the property containing the planting strip and property owners are responsible for all maintenance of the contents of the planting strips including grass, trees, and mulch. Mulch is permitted in the planting strip only when surrounding the trees.

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ARTICLE IV APPLICATION AND PERMIT REVIEW; APPEAL.

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§ 425-10 Application for Tree Removal Permit for public and private property.

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G. Stump removal. All trees removed from the planting strip must have their stumps removed to eight to 12 ~~feet~~inches below grade and backfilled to grade.

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§ 425-11 Review and Decision on Permit Application.

A. The Bradley Beach Code Official, or in his or her absence or incapacity, the Commission, shall accept for filing the permit application referenced in § 425-10 hereinabove. Said application shall be date and time stamped when received. Thereafter, the Commission or the licensed tree expert shall, within ~~20-25~~25 business days of receipt of the completed application:

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C. The failure of the Shade Tree Commission to grant or deny the application for a permit for the removal or destruction of a tree or trees within the ~~twenty-five-business-day~~twenty-five-business-day period shall constitute approval of said application and entitle the applicant to the permit requested unless an extension of the ~~twenty-five-business-day~~twenty-five-business-day period has been agreed upon between the applicant and the Shade Tree Commission in writing before the period expires.

SECTION 4. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 5. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 6. This Ordinance shall take effect upon adoption and publication in accordance with the laws of the State of New Jersey.

SO ORDAINED as aforesaid.

Erica Kostyz
Municipal Clerk

Alan Gubitosi
Mayor

Introduced: February 4, 2025

Date of Hearing and Adoption: February 18, 2025