

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**ORDINANCE 2021-34**

**AN ORDINANCE AMENDING CHAPTER 425: "TREES" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO PERMIT THE BOROUGH'S CODE ENFORCEMENT OFFICER TO ISSUE SUMMONSES FOR VIOLATIONS OF SAID CHAPTER.**

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**Mayor Fox** offered the following Ordinance and moved its introduction:

**WHEREAS**, the Borough of Bradley Beach, County of Monmouth, and State of New Jersey (the "Borough") recently augmented the Borough Code with Chapter 425: "Trees" that enacted certain regulations governing shade trees within the Borough; and

**WHEREAS**, since its adoption, the Borough has been amending said Chapter 425: "Trees" to better administer and enforce the regulations governing shade trees within the Borough; and

**WHEREAS**, the Borough finds that it would be more economic and efficient to authorize the Borough's Department of Construction, Code Enforcement, Zoning and Department of Community Development to issue summonses and otherwise assist the Shade Tree Commission in its enforcement of Chapter 425 of the Borough Code;

**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. Section 13 entitled "Violations and penalties; Enforcement procedures" of Chapter 425 entitled "Trees" is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

**§ 425-13      Violations and penalties; Enforcement procedures.**

A person who removes or destroys a tree without a required permit or approval, or otherwise violates or causes to be violated any of the provisions of this chapter, shall be subject to the following informal resolution and formal complaint procedures, as applicable:

- A. *Informal resolution.* Any person who removes or destroys a tree without a required permit or approval under this chapter shall have the opportunity to resolve the matter prior to the issuance of a summons and complaint. The following procedure shall apply:

1. The Shade Tree Commission shall offer an electronic and/or hard copy written recommendation that is, in his or her judgment, sufficient to resolve the matter, which shall include either replacement of the removed or destroyed tree(s) or the payment of a replacement fee for removal or destruction of the tree(s), or both, in accordance with Schedule A above, the Tree Replacement Schedule. In addition to the planting of a replacement tree(s) and/or payment of a tree replacement fee(s) in accordance with Schedule A, there shall also be required the payment of an administrative service fee, which shall be charged per hour based on the anticipated staff time in investigating and resolving the matter, and which may include site visits and analysis, supervisory services and/or clerical services. The hourly rate shall be the hourly wage of the employee conducting the site visit(s) and analysis, supervisory services and/or clerical services as set by the governing body from time-to-time. The hourly wage of salaried personnel shall be calculated by dividing the employee's annual salary as set by twenty-six (weeks) and then dividing that biweekly pay by the number of hours worked in a biweekly period. The tree replacement and service fees shall be paid into the Bradley Beach Shade Tree Trust Reserve.
2. The person shall have ten (10) days following receipt of the Shade Tree Commission's electronic and/or hard copy written recommendation to accept said recommendation. If the person, in an electronic and/or hard copy writing, accepts the recommendation within the ten-day period, then any agreed-upon tree replacement or payment of a tree replacement fee, and payment of the service fee, shall be completed within ten (10) days of electronic and/or hard copy written acceptance of the recommendation. If not completed within this ten-day period, then the Shade Tree Commission shall have the authority to cause the issuance of a summons or complaint returnable in the Municipal Court.
3. If the person does not accept the Shade Tree Commission's recommendation, then during the initial ten-day period the person may request, in an electronic and/or hard copy writing, that the Shade Tree Commission review the recommendation. If such request is timely submitted to the Shade Tree Commission, then the person shall have the opportunity to bring the matter before the Commission during its next regularly scheduled meeting. The Shade Tree Commission shall have thirty (30) days after said meeting to issue its recommendation on the matter. The person seeking such review shall have ten (10) days after receipt of the Shade Tree Commission's recommendation to advise the Commission in an electronic and/or hard copy writing as to whether he or she accepts the Commission's recommendation. Any agreed-upon tree replacement or payment of a tree replacement fee, and payment of the service fee, shall be completed within ten (10) days of the electronic and/or hard copy written acceptance of the Shade Tree Commission recommendation. If not completed within this ten-day period, Shade Tree Commission shall have the authority to cause the issuance of a summons and complaint returnable in the Municipal Court.
4. If the person does not accept the Shade Tree Commission's recommendation within the applicable periods set forth above, then the Shade Tree Commission shall have the authority to cause the issuance of a summons and complaint through the Borough's Department of Construction, Code Enforcement, Zoning and Department of Community Development, which shall be returnable in the Municipal Court.

5. All planting strip tree removals must have their stumps removed to 8-12 inches below grade and backfilled to grade. The stump should be removed at the time of tree removal so as not to create a hazard. If the stump is not removed within 30 days of the tree removal, the person will be subject to a \$50 assessment. The same assessment shall be charged every 30 days thereafter, until resolved.
  6. A person who does not complete replanting within the 1-year period will be subject to a \$100 assessment. The same assessment shall be charged every 60 days thereafter, until resolved.
- B. *Adjudication before Municipal Court.* A person violating this chapter, who has not otherwise resolved the matter as set forth above in Subsection 425-13(A), upon conviction before the Municipal Court, shall be sentenced in accordance with Schedule B hereinbelow, with the violator having the option to pay a monetary fine and provide replacement tree(s) under Schedule B(1), or in the alternative, pay a double monetary fine under Schedule B(2). Each and every tree damaged, destroyed, or removed by the violator, even if located upon the same lot, shall be a separate and distinct offense under this chapter. In addition to the fine(s) assessed hereunder, the Municipal Court may order the violator to pay restitution to the Borough in the form of an administrative service fee, as provided in Section 425-13(A)(1). Any fines and/or restitution ordered by the Municipal Court shall be paid into the Bradley Beach Shade Tree Trust Reserve, except as otherwise provided by law.

**SCHEDULE B – SHADE TREE PENALTY SCHEDULE**

<b>Tree Removed/Destroyed</b>	<b>Penalty Schedule B(1)</b>	<b>Penalty Schedule B(2)</b>
Tree with DBH of 5" to 7.99"	One (1) Replacement Tree and \$250.00	\$500.00
Tree with DBH of 8" to 16.99"	One (1) Replacement Tree and \$500.00	\$1,000.00
Tree with DBH of 17" to 30.99"	Two (2) Replacement Trees and \$1,000.00	\$2,000.00
Tree with DBH greater than 31"	Three (3) Replacement Trees and \$2,000.00	\$4,000.00

\* Replacement Trees for the Planting Strip must be from the 'Required Trees for Planting Strips' list. Replacement Trees for Private Property are recommended to be from either the 'Suggested Trees for Private Property' list or the 'Required Trees for Planting Strips' list. All private property replacement trees must measure at least 2.5" in caliper.


SECTION 2. 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 3. 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 4. 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

  
LARRY FOX  
Mayor

Introduced: December 14, 2021

Date of Hearing and Adoption: December 28, 2021