**ORDINANCE 33-2013**

**OF THE GOVERNING BODY**

**OF THE BOROUGH OF BLOOMINGDALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, amending CHAPTER 92, “zoning,” Article xiv, “shade trees,” section 92-67.3, “exceptions,” of the CODE OF THE borough of bloomingdale to provide protections with regard to the borough hall oak tree**

**Whereas**, there is located in front of Borough Hall an Oak Tree (the “Borough Hall Oak Tree”); and

**WHEREAS**, the Mayor and Borough Council wish to put in certain protections for the Borough Hall Oak Tree.

**BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey, as follows:

**SECTION 1**. Chapter 92, “Zoning,” Article XIV, “Shade Trees,” Section 92-67.3, “Exceptions,” of the Code of the Borough of Bloomingdale is hereby amended to include paragraph H to read as follows:

### § 92-67.3.     Exceptions.

Trees may be removed without filing a tree removal and planting plan herein below under the following conditions:

A.    Any tree growing in a public right-of-way.

B.    Any tree growing in the following areas on a lot containing a dwelling:

    (1)     Within forty (40) feet of the front wall and the rear wall of the dwelling structure.

(2)     Within twenty (20) feet of either side wall of the dwelling structure.

(3)     Within five (5) feet of any paved surface.

(4)     On or above any existing or proposed utility lines or septic system, provided that requisite permits are obtained.

(5)     On or above any surfaces which are being prepared for the immediate extension of pavement expansion, of recreation areas, installation of swimming pools, installation of outdoor sheds or garden enhancement; provided, however, that no tree shall be removed until and unless a necessary requisite permit is obtained for the construction activity.

C.    Likely to endanger life or property.

D.    Dead or diseased.

E.     Trees on the premises of nurseries and garden centers.

F.     Tree farms may remove up to but not more than thirty percent (30%) of trees from their entire tract, provided that a forest management plan, approved by the New Jersey Department of Environmental Protection, Bureau of Forestry or other professional forester has been submitted to the EEO.

G.    Removal of one (1) tree per residential lot per year.

H. The Oak Tree situated in front of Borough Hall may be removed only upon a determination by an arborist that the tree is diseased or unsafe and an affirmative vote by a majority of the Borough Council that the tree should be removed, except in cases of emergency where public safety necessitates the removal of the Oak Tree.

**SECTION 2.** All ordinances or parts of ordinances of the Borough of Bloomingdale inconsistent herewith are repealed to the extent of such inconsistency.

**SECTION 3**. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 4**. This law shall take effect immediately upon final passage, approval and publication as required by law.

**NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale held in the Municipal Building on the 22th day of October 2013, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on the 12th day of November, 2013, at 7:30 P.M., at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance.

Jane McCarthy, RMC

Municipal Clerk/Borough of Bloomingdale