

Chapter 37, TREES AND SHRUBS

GENERAL REFERENCES

Use of trees for advertising purposes -- See §§ 3-3 and 3-4.

STATE LAW REFERENCES

Authority to regulate planting, etc. -- See N.J.S.A. 40A:63-6.

ARTICLE I, In General

Sec. 37-1. Prohibited acts.

No person shall do or cause to be done any of the following acts upon a public highway, public park or other public place within the Township without a written permit from the Township Manager:

- (a) Cut, trim, break, climb with spikes, disturb the roots of or otherwise injure or spray with any chemical or remove any living tree or shrub or injure, misuse or remove any structure or device placed to support or protect such trees or shrubs.
- (b) Plant any tree or shrub.
- (c) Fasten any rope, wire electric attachment, sign or other device to a tree or shrub or to any guard about such tree or shrub.
- (d) Close or obstruct any open space provided about the base of a tree or shrub to permit the access of air, water or fertilizer to the roots of such tree or shrub.
- (e) Pile any building material or make any mortar or cement within six feet of a tree or shrub.
[R.O. 1951, ch. 28, § 1.]

Sec. 37-2. Protection of trees from electric wires. [R.O. 1951, ch. 28, § 2.]

Every person having control over any wire for the transmission of an electric current along a public highway shall at all times guard all trees through which or near which such wires pass against any injury from the wires or from the electric current carried by it. The device or means used shall in every case be subject to approval by the Township Manager.

Sec. 37-3. Animals not to be fastened to trees or shrubs; protection of trees and shrubs from animals. ^{EN(1)} [R.O. 1951, ch. 28, § 3.]

No person shall hitch or fasten any animal to any tree or shrub upon a public highway or to any guard or support provided for such tree or shrub, nor shall any person permit any animal to bite or otherwise injure any such tree or shrub.

Sec. 37-4. Brine, chemicals, etc., prohibited. [R.O. 1951, ch. 28, § 4.]

No person shall permit any brine, gas or injurious chemical to come in contact with the stem or roots of any tree or shrub upon a public highway.

Sec. 37-5. Interference with Township employees prohibited. [R.O. 1951, ch. 28, § 5.]

No person shall prevent, delay or interfere with any lawful work on trees and shrubs undertaken by the Township Manager or other employees of the Township.

Sec. 37-6. Planting of poplar and willow trees prohibited in public places. [R.O. 1951, ch. 28, § 6.]

No poplar or willow tree shall hereafter be planted in any street or public place.

Sec. 37-7. Planting of poplar and willow trees prohibited on private property. [R.O. 1951, ch. 28, § 7.]

No poplar or willow tree shall be planted on any private property within 40 feet of any sewer, stormwater drain or water main which has been or hereafter shall be constructed and laid in any street or public place.

Sec. 37-8. Removal of poplar and willow trees near sewers and mains. [R.O. 1951, ch. 28, § 8.]

All poplar and willow trees standing within 40 feet of any sewer, stormwater drain or water main which is now or shall hereafter be constructed and laid in any street or public place are hereby declared to be nuisances, and such trees standing within any street or public place shall be forthwith removed by the Township Engineer at the expense of the Township. Any such trees standing on private property and which are declared by this section to be a nuisance shall be

removed by the owner of such trees within 30 days after written notice, as herein provided, is served upon the owner of such trees. Such notice shall be signed by the Township Engineer and shall be served upon such owner personally if such owner is a resident within the Township. In case such owner shall not reside within the Township, such notice shall be sent to such owner by mail in a postage prepaid envelope addressed to such nonresident owner at his address as shown upon the books of the Collector of Taxes. The date of the mailing of such notice shall be considered the date of service thereof.

ARTICLE II, Obstruction of View Near Intersections EN(2)

Sec. 37-9. Maximum height of hedges, etc., near intersections. [Ord. No. 1138, § 1; Ord. No. 1975, 3-1-1983, § 1; Ord. No. 3962, 9-5-2006, § 3.]

The owner or tenant of lands lying within the Township shall keep all brush, hedges and other plant life growing within 10 feet of any roadway, within 10 feet of the curblines of any roadway or within any sight triangle and its extension into the street right-of-way cut to a height of not more than 2 1/2 feet above the street level measured at the curblines or in the absence of a curb at the edge of the roadway.

Sec. 37-10. Notice to owner to cut hedge, etc.; compliance with notice. [Ord. No. 1138, § 2; Ord. No. 1975, 3-1-1983, § 1.]

If any owner or tenant of lands is given notice to cut any brush, hedges or other plant life near intersections to a maximum height of 2 1/2 feet, he shall do the same within 10 days after the giving of such notice. Such notice may be given by sending the same, by registered or certified mail, to the owner or tenant at his last known place of address.

Sec. 37-11. Township Manager may have hedges, etc., cut when owner fails to do so. [Ord. No. 1138, § 4.]

After the expiration of 10 days after the giving of the notice provided in Section 37-10, the Township Manager may provide for the cutting of such brush, hedges and other plant life.

Sec. 37-12. Costs constitute lien on land when Township does work. [Ord. No. 1138, § 5.]

If the owner or tenant refuses or neglects to cut any brush, hedges or other plant life after notice

has been given, as provided in this Article, and the Township Manager causes the same to be done, the cost thereof shall become a lien upon such lands. This lien shall become part of the taxes next to be assessed and levied on such lands, as provided in N.J.S.A. 40:48-2.27.

Sec. 37-13. Enforcement of Article. [Ord. No. 1138, § 3.]

The Township Manager is hereby designated as the officer chargeable with the enforcement of this Article.

ARTICLE III, Shade Trees

Sec. 37-14. Statement of purpose. [Ord. No. 3434, 11-14-1995, § 1.]

Although priding itself on its Route 4 Greenbelt, its many foliated parks and its tree-lined streets, the Township has lost many trees during the past 20 years. Consequently, unsightly, unshaded gaps in the overall continuity of streetscapes are apparent. With the loss of shade trees, the Township suffers the loss of protection from the elements, erosion and stormwater runoff, the loss of pollution control and noise abatement, a diminished habitat for birds and other wildlife and a depreciation in property values. The purpose of this Article is to stimulate new initiatives for replenishing our shade trees and preserving and protecting established trees as an increasingly rare and critical natural resource. This purpose is consistent with comment 11 on page 31 of the Teaneck Master Plan of January 13, 1994: "existing major trees in the Township should be preserved where possible within street rights-of-way, publicly owned lands and lands in private ownership. A plan should be developed for replacing aging and downed trees on these lands to maintain coverage."

Sec. 37-15. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

EMERGENCY -- Any situation determined by the Township Manager to require immediate action to prevent or eliminate danger to the public health, safety or property.

PERMIT -- The written permission of the Supervisor after consultation with the Shade Tree Advisory Board.

PRIVATE TREES -- Trees, shrubs or other plantings on any nonpublic land.

PUBLIC LANDS -- Lands owned by the Township and lands owned by the federal government, the state or the County of Bergen, if these jurisdictions assent to the exercise of powers herein conferred by the Township with respect to those lands.

PUBLIC RIGHTS-OF-WAY -- Public streets and sidewalks over lands that are privately owned.

PUBLIC TREES -- Trees, shrubs and other plantings within rights-of-way or within the jurisdiction of the Township, as set forth in Section 37-16.

SUPERVISOR -- An individual appointed by the Township Manager to enforce the provisions of this Article, acting after consultation with the Township Shade Tree Advisory Board as constituted under Section 2-148. [Ord. No. 3434, 11-14-1995, § 1.]

Sec. 37-16. Powers.

The regulation, planting, care and control of public trees shall be exercised by the Supervisor, who shall have the power to:

- (a) Control the planting, care and protection of such trees.
- (b) Regulate the use of the ground surrounding such trees as far as may be necessary to ensure their proper growth, care and protection.
- (c) Removal.
 - (1) Require the removal of such trees or parts thereof which are deemed to be dangerous to public safety, electric power lines, gas lines, waterlines or other public improvements or which harbor a disease or infestation readily communicable to neighboring healthy trees or for any reason, in the exercise of a reasonable discretion and within the purposes of this article.
 - (2) Whenever the Supervisor is acting under his/her authority pursuant to Subsection (c)(1) above and said authority is being exercised under the authority of ". . .any reason. . .," the following criteria shall apply: The Supervisor shall always act in a manner which maximizes the preservation of public trees. If an alternate plan can be arrived at, which plan may inconvenience a property owner but which may preserve the public tree(s) in question, the Supervisor shall preserve the public tree(s) notwithstanding the inconvenience to the property owner. [Example: In a situation where a property owner requires that a public tree(s) be removed in order to allow ingress and egress to such owner's property, the public tree(s) may not be removed as long as there is a configuration that is possible to allow ingress and egress to the property without the removal of the public tree(s). Such ingress and egress will be deemed possible as long as

the configuration allows the minimum ingress and egress to the property pursuant to the zoning laws then in effect. If the property owner desires a double driveway but the apron of the driveway which traverses the public right-of-way needs to be designed as a single driveway to preserve a public tree(s), then the tree(s) shall not be removed to allow the double driveway. In such situation, the only way the public tree(s) may be removed under this Subsection (c)(2) would be to allow the minimum ingress and egress i.e., the single driveway apron.] Examples contained herein are intended to be exemplary and not exhaustive.

- (d) Require, at the property owner's expense, the placement of protective devices around public trees so as to effectively prevent injury to such trees during the erection, razing, removal or alteration of any structure or during the excavation or alteration of any existing grade.
- (e) Recommend landmark trees, pursuant to Section 37-20 of this article.
- (f) Require the removal of, or remove, dead trees.
- (g) Prune such trees according to accepted technical methods used by qualified arborists, including measures to prevent the spread of disease.
- (h) Maintain a tree inventory of planted, removed and pruned trees. [Ord. No. 3434, 11-14-1995, § 1; Ord. No. 4126, 5-19-2009, § 1.]

Sec. 37-17. Regulations relating to planting trees on public land by private citizens.

No person shall plant a tree on public rights-of-way unless such planting is authorized by the Supervisor after consultation with the Shade Tree Advisory Board, in accordance with the following standards and procedures. The Supervisor shall promulgate the following:

- (a) An approved list of trees that will be permitted by type and minimum size.
- (b) Planting specifications.
- (c) Procedures and fee schedules to defray the cost of administrative review and provide for the posting of maintenance guaranties. No such procedures shall supersede, however, the provisions for maintenance guaranties set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., with respect to the development of land.
- (d) An application procedure that will permit expeditious review and approval/disapproval. [Ord. No. 3434, 11-14-1995, § 1.]

Sec. 37-18. Tree topping of public trees prohibited.

- (a) It shall be unlawful for any person to top a public tree. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
- (b) Public trees severely damaged by storms or other causes or certain trees interfering with utility lines or other obstructions where normal pruning practices are impractical may be exempted by a specific permit issued for a twenty-four-hour period by the Supervisor. Any topping required and approved by the Supervisor shall be performed by on-site qualified personnel and under the daily supervision of the Supervisor. An inventory of such work will be kept by the Supervisor. [Ord. No. 3434, 11-14-1995, § 1.]

Sec. 37-19. Regulations relating to public utility operations.

- (a) Time-limited permits for other than emergency service. After review of block-by-block plans for pruning by the Supervisor and after a thirty-day posting of these specific plans on the Township bulletin board, the Supervisor shall grant to public utility companies a block-by-block permit for judicious tree pruning for line clearances and for the installation and maintenance of subsurface and aboveground utility lines.
- (b) During periods of emergency and for the purpose of restoring service or preventing the interruption of service, public utility companies may undertake emergency service and make necessary repairs without a permit therefor. In such event, the Supervisor shall be notified within 24 hours from the beginning of such emergency service, and, as soon as practical, a formal report of the work must be submitted to the Supervisor for inventory purposes.
- (c) A public utility company shall exercise reasonable diligence in the installation and maintenance of its facilities so as to avoid damage to trees. No trees may be removed without an approved plan indicating the need for the removal having been approved by the Supervisor. [Ord. No. 3434, 11-14-1995, § 1.]

Sec. 37-20. Landmark trees.

- (a) The Council shall designate landmark trees which shall have a suitable permanent marker placed at the location of the tree.
- (b) On public land. The Supervisor shall have the authority to recommend whether any tree on public land is qualified as a landmark tree.
- (c) On private property. Only with the consent of the owner of the property on which a landmark tree may be located, the Supervisor shall have the authority to recommend whether such tree is qualified as a landmark tree. In such event, a suitable permanent marker shall be placed at

the location of the tree, and its location and identity shall be memorialized on the tax records of the Township and thereby reflected on each annual tax bill for the property. Landmark trees on private property shall be clearly identified on all survey maps and records of the property upon which they stand.

- (d) Criteria for landmark tree designation. A tree may qualify as a landmark tree if it meets any of the following criteria:
- (1) The tree is rare according to the list compiled by Cook College in the publication entitled "Exotic Trees in New Jersey." As used herein, "rare" shall mean not indigenous to the area and present in limited quantity (10 or less in the Township).
 - (2) The tree is more than 100 years of age.
 - (3) The tree is of diameter or dripline diameter unusual for tree of its species.
 - (4) The quality of the tree foliage is exceptional for a tree of its species.
 - (5) The location, shade value, fragrance, soil stabilization characteristics, aesthetic features or scenic enhancement of such tree is of special importance to the Township.
- (e) Official record. All trees designated as landmark trees by the Council shall be identified as such on the Official Map of the Township. In addition, the Supervisor shall maintain a landmark tree inventory record, identifying each tree's location, species, age, size and other distinguishing characteristics for ready reference and periodic monitoring. Landmark trees shall be preserved unless removal is authorized by Council. If they are removed, the Supervisor shall see that the official Tax Map and tax records so indicate. [Ord. No. 3434, 11-14-1995, § 1; Ord. No. 3752, 4-1-2003, § 1.]

Sec. 37-21. Removal of stumps. [Ord. No. 3434, 11-14-1995, § 1.]

Stumps of public trees in streets and public rights-of-way shall be removed in a manner approved by the Supervisor to a depth of no less than six inches below finished grade. A record of these tree stump removals shall be maintained.

Sec. 37-22. Disclaimer of liability. [Ord. No. 3434, 11-14-1995, § 1.]

Nothing herein shall be construed as placing responsibility for damages to health or safety or for injuries caused by shade trees on the Township or its agents or employees.

Sec. 37-23. Powers of Township to act in emergencies. [Ord. No. 3434, 11-14-1995, § 1.]

The authority hereby conferred on the Supervisor shall not limit the authority of the Township generally, its officers or agents from acting in an emergency to forestall or eliminate danger to public health or safety.

Sec. 37-24. Violations and enforcement.

- (a) The Supervisor may order an immediate stop to any activity which is in violation of any provision of this article, subject to appeal as set forth below. Any such stop order shall be issued in writing and served upon the person engaged in the violative activity.
- (b) The Supervisor may require a person who removes or otherwise destroys a public tree in violation of this article to pay a replacement assessment to the Township. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or certified tree expert retained by the Supervisor for that purpose, and the cost of such expert shall be added to the replacement assessment. In lieu of an appraisal, the Supervisor may adopt a formula, adjusted for value of species, and a schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value per square inch, not to exceed \$27 per square inch or such other limit as allowed by N.J.S.A. 40:64-12b. The square inch cross section shall be calculated from the diameter at breast height (4 1/2 feet above ground level), and, if there is a multiple stem tree, then each trunk shall be measured, and a total number of square inches shall be determined for the tree. The Supervisor shall modify the value of the tree based upon its species variety, location and its condition at the time of removal or destruction. [Ord. No. 3434, 11-14-1995, § 1; Ord. No. 3564, 7-14-1998, § 1.]

Sec. 37-25. Appeals.

- (a) An aggrieved person may appeal any decision of the Supervisor based on Section 37-24 above to the Township Manager. Any such appeal to the Township Manager shall be in writing requesting a review, attaching a copy of the Supervisor's decision and all information deemed necessary for a complete review by the Manager, all of which shall be delivered to the Manager within 30 days of the date of receipt of the Supervisor's decision from which the appeal is made. The Manager shall have the authority to reverse, modify or confirm, in whole or in part, the decision of the Supervisor. If the Manager fails to act within 60 days of the submission of the appeal to the Manager, then the view of the person making the appeal shall prevail. Pending completion of the aforesaid appeal process, enforcement of the Supervisor's action, decision or directive shall be stayed if the person making the appeal takes no further

action with respect to the subject of the action, decision or directive, unless otherwise directed by a court of competent jurisdiction. The Manager shall advise the Shade Tree Advisory Board of the matter and shall consider input from the Shade Tree Advisory Board.

- (b) Within 45 days of the receipt of an adverse decision by the Manager, as set forth in Subsection (a) above, an aggrieved person may appeal further to the Municipal Court of the Township of Teaneck or any other court of competent jurisdiction. The Municipal Court or other court of competent jurisdiction shall be guided by the penalties set forth above, and in addition may assess penalties as set forth in the general penalty provisions of Section 1-6 of this Township Code. [Ord. No. 3434, 11-14-1995, § 1; Ord. No. 3564, 7-14-1998, § 1.]

Sec. 37-26. Policy procedures manual. [Ord. No. 3434, 11-14-1995, § 1.]

The Supervisor may develop and maintain a policy manual to be used in carrying out the provisions of this Article.

Endnotes

1 (Popup - Popup)

Editor's Note: For state law prohibiting the hitching of horses to trees, see N.J.S.A. 39:4-20.

2 (Popup - Popup)

Editor's Note: For state law authorizing Township to regulate height of hedges, etc., near intersections, see N.J.S.A. 40:48-2.26 and 40:48-2.27.