

Ordinance 2024-01

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20, ENTITLED "PROTECTION OF TREES," OF "THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN."

WHEREAS, the Borough of Hightstown (the "Borough") previously established Chapter 20, entitled "Protection of Trees," of "The Revised General Ordinances of the Borough of Hightstown" (also referenced as the "Borough Code"); and

WHEREAS, the Mayor and Council now wish to revise Chapter 20 of the Borough Code as set forth herein.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Hightstown in the County of Mercer and State of New Jersey, as follows:

1. That Chapter 20, entitled "Protection of Trees," of "The Revised General Ordinances of the Borough of Hightstown" is hereby amended and supplemented in the following respects (additions are show with underline; deletions are shown with ~~strikethrough~~):

Chapter 20. Protection of Trees

Article 20-1. Tree Regulations

§ 20-1-1. Title.

This article shall be known and may be cited as the "Tree Regulations of the Borough of Hightstown, County of Mercer, State of New Jersey."

§ 20-1-2. Definitions.

- A. For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is mandatory and not merely directory.
- B. As used in this article, the following terms shall have the meanings indicated:

BOROUGH

The Borough of Hightstown, County of Mercer, State of New Jersey.

ENVIRONMENTAL COMMISSION

The body having jurisdiction over public park and/or street trees.

PARK

Includes all public parks having individual names.

PERSON

Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY LINE

The outer edge of a street right-of-way.

PROPERTY OWNER

The person owning such property as shown by the Tax Map of the Borough.

PUBLIC PLACES

Includes all other grounds owned by the Borough.

PUBLIC TREES

Includes all shade and ornamental trees now or hereafter growing on any tree lawn or any public areas where otherwise indicated.

SHADE TREE OFFICIAL

The designated official assigned to carry out the enforcement of this article.

STREET or HIGHWAY

The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

TREE LAWN

That part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

TRUCK THOROUGHFARE

Any street on which trucks are not prohibited.

§ 20-1-3. Duties of Environmental Commission.

The Environmental commission shall have the authority and responsibility to:

- A. Study the problems and determine the needs of the Borough in connection with its tree planting program.
- B. Recommend to the proper authority the type and kind of trees to be planted upon municipal streets or parts of municipal streets or in parks.
- C. Organize and disseminate news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same are on private or public

property, and make recommendations from time to time to the Borough Council as to desirable legislation concerning the tree program and activities for the municipality.

- D. Hold regular and special meetings at which the subject of trees insofar as it relates to the municipality may be discussed by the members of the Commission and all others interested in the tree program.
- E. Promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the municipality and direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Borough.
- F. Formulate, adopt and amend a Master Street-Tree Plan. The Master Street-Tree Plan shall specify appropriate species of the trees to be planted on the streets or other public sites of the municipality. From and after the effective date of the Master Street-Tree Plan or any amendment thereof, all planting shall conform thereto.
- G. Consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the municipality.
- H. Affix reasonable conditions to the granting of a permit in accordance with the terms of this article.

§ 20-1-4. Shade Tree Official.

A. Appointment; Vacancies.

- (1) The Shade Tree Official shall be appointed from the membership of the Environmental Commission by the Mayor with the concurrence of the Borough Council. Prior to making the appointment, the Mayor shall receive the recommendation of the Environmental Commission.
- (2) If the position of Shade Tree Official remains vacant for any reason for more than one month, the Environmental Commission may designate a qualified person to perform the duties of the Shade Tree Official on a temporary basis and until such time as an appointment to the position may be made.

B. Duties of Shade Tree Official. The Shade Tree Official shall have the authority and responsibility to:

- (1) Regulate the planting, maintenance and removal of trees on streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites.
- (2) Inspect all work done under a permit issued in accordance with the terms of this article.

- (3) Enforce the provisions of this article.

§ 20-1-5. Permits.

A. Permit Required. Except as required by other sections, clauses or provisions of this article, no person shall plant, spray, fertilize, preserve, prune, remove, cut above or below ground or otherwise disturb any tree on any public street or Borough-owned property without first filing an application and procuring a permit from the Environmental Commission. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the Environmental Commission.

B. Application.

- (1) Application for a permit must be made to the Environmental Commission not less than two weeks in advance of the time the work is to be done and shall be accompanied by payment of a fee of \$5. Requests for Borough assistance should be indicated on the application.

- (2) An application for planting of a tree shall state:

- (a) The number of trees to be set out.

- (b) The location of the tree(s) and grade.

- (c) The species, cultivar or variety of each tree.

- (d) The method of planting.

- (e) Such other information as the Environmental Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.

- (3) An application for maintenance of trees shall state:

- (a) The number and kinds of trees to be sprayed, fertilized, pruned or otherwise preserved.

- (b) The kind of treatment to be administered.

- (c) The composition of the spray material to be applied.

- (d) Such other information as the Environmental Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.

- (4) An application for a permit to remove a tree shall state:

- (a) The number and location of trees to be removed.

- (b) The reason(s) removal is necessary or appropriate.
- (c) The species, cultivar or variety of the replacement tree(s).
- (d) The intended location of the replacement tree(s).
- (e) The method of planting the replacement tree(s).
- (f) Such other information as the Environmental Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.
- (g) Except as otherwise authorized by the Environmental Commission, no permit for removal of a tree shall be issued unless provision is made for the planting of a replacement tree at the site of removal or at a location approved by the Environmental Commission.

C. Issuance of Permit. The Environmental Commission shall issue the permit provided for herein if, in its judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

§ 20-1-6. Removal, Replanting and Replacement.

- A. Planting in Violation of Regulations. Whenever any tree shall be planted in violation of the provisions of this article, it shall be lawful for the Shade Tree Official to remove or cause removal of the same, and the exact cost thereof shall be assessed to the person planting the tree as provided by law in the case of special assessments.
- B. Removal of Trees for Sidewalk or Street Improvements. Whenever it is necessary for the Borough to remove a tree or trees from a tree lawn in connection with the paving of a sidewalk or the paving or widening of the portion of a street or highway used for vehicular traffic, the Borough shall replant such trees or replace them. If conditions prevent planting on tree lawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications are planted in another location approved by the Environmental Commission.
- C. Removal of Trees for Construction; Replacement. No person or property owner shall remove a tree from the tree lawn for the purpose of construction or for any other reason unless he replaces the removed tree or trees in accordance with the adopted Arboricultural Specifications. Such replacement shall meet the standards of size, species and placement as provided for in a permit issued by the Environmental Commission. The person or property owner shall bear the cost of removal and replacement of all trees removed.

§ 20-1-7. Pruning.

- A. Responsibility of Property Owner or Tenant. It shall be the duty of any person owning or occupying real property bordering on any public street to prune any trees on such property in such manner that they do not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct the traveling public's view of the street. The minimum clearance of any overhanging portion of a tree shall be 10 feet over sidewalks and 12 feet over all streets, except truck thoroughfares, which shall have a clearance of 16 feet.
- B. Failure to Prune Trees; Notice. Should any person owning real property bordering on any public street fail to prune trees as hereinabove provided, the Environmental Commission shall order such person or persons, within 30 days after receipt of written notice, to so prune such trees. The order required herein shall be served by mailing a copy of the order to the last known address of the owner or occupant of the property.
- C. Failure to Comply; Cost Assessed to Owner. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

§ 20-1-8. Abuse or Mutilation of Public Trees.

Unless specifically authorized by the Environmental Commission or the Shade Tree Official, no person shall intentionally damage, cut, carve, transplant or remove any public tree; attach any rope, wire, nails, advertising posters or other contrivance to any such tree; allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire to or permit any fire to burn when such fire or the heat thereof is likely to injure any portion of any such tree.

§ 20-1-9. Interference with Officials Unlawful.

No person shall hinder, prevent, delay or interfere with the Environmental Commission or the Shade Tree Official in the performance of its or his authority and duties pursuant to this article; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality.

§ 20-1-10. Protection During Construction or Excavation.

- A. All trees on any public street or other publicly owned property in the immediate vicinity of an excavation or construction of any building, structure or street work shall be guarded with a good, substantial and highly visible fence, frame or box not less than four feet high and eight feet square or at a distance in feet from the trunk equal to the diameter of the trunk in inches [measured six inches from the ground], whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier.
- B. No person shall excavate any ditches, tunnels or trenches or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permit from the Environmental Commission.

§ 20-1-11. Obstructing Nutrients from Public Trees Unlawful.

No person shall deposit, place, store or maintain upon any public place of the municipality any stone, brick, sand; concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit of the Environmental Commission.

§ 20-1-12. Forestry Program.

The Borough of Hightstown is accredited with the New Jersey Urban and Community Forestry Program (the "Forestry Program"). The details of the Borough's Forestry Program are on file for public inspection and review in the office of the Borough Clerk.

§ 20-1-123. Violations and Penalties.

The Environmental Commission or the Shade Tree Official shall cause a Municipal Court complaint to be issued to any person, firm or corporation violating any of the provisions of this article. Any person found to have violated a provision of this article shall be liable, upon conviction to the penalty as stated in Chapter 1, Article 1-5.

2. That all other provisions of Chapter 20 of the Borough Code which are not referenced in Section 1 of this Ordinance shall remain unaffected/unchanged and remain in full force and effect.

3. That all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.


4. That the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

5. That this Ordinance shall take effect upon final passage and publication in accordance with the law.

INTRODUCED: January 16, 2024

ADOPTED: February 5, 2024

ATTEST:


MARGARET RIGGIO
MUNICIPAL CLERK


SUSAN BLUTH
MAYOR