

Chapter XVI

SHADE TREE PROTECTION

[The power to regulate the planting and protection of shade trees is contained in N.J.S.A. 40:88-4. The Shade Tree Commission is established in section 2-17; the Environmental Commission is established in section 2-18.]

SECTION 16-1

Purpose

Trees and wooded areas constitute natural resources contributing to the value of property throughout the township and promoting the general welfare of the citizens thereof. While acknowledging substantial past efforts of land developers to protect properties being built upon, the Township Committee deems essential the continued protection of trees from needless removal or destruction, with resultant concurring damage from soil erosion, loss of soil fertility and drainage problems.

The dangers hereinabove mentioned are more likely to be found in the development of previously vacant lands rather than in the residential property owner's management of smaller parcels.

The preservation of trees and wooded areas will be advanced by the establishment of rules and regulations regarding their protection or removal. (Ord. #256; Preamble)

SECTION 16-2

Tree Protection Committee

- a. Established; Members. There is hereby established the Bernards Township Tree Protection Committee, which shall consist of three members. One of such members shall be the Township Engineer. The Environmental Commission and the Planning Board shall also each appoint one of its members to the Tree Protection Committee. The appointments shall be for the calendar year and shall expire on December 31 of the year of appointment. (Ord. #1518, 12-11-2001, amended)
- b. Vacancy. A vacancy caused by death or resignation shall be filled for the unexpired term.
- c. Powers and duties. The Tree Protection Committee may elect officers and shall maintain a record of its proceedings. A majority of the committee may act upon any application in the absence of one of its members.

(Ord. #256, § 3)

SECTION 16-3
Tree Removal Permit

§ 16-3.1. When Required.

No person shall cut down or remove any living tree with a diameter in excess of four inches measured on such a tree at a height of 4 1/2 feet above the level of the ground upon any lands within the township unless the person shall have first obtained a permit therefor in accordance with the rules and regulations hereinafter set forth. Excepted from the prohibitions of this subsection shall be trees located on a tract of land having a total area of less than three acres with a building located thereon, any trees cut or removed in accordance with an approved management plan of a proper state or federal authority, any trees located on publicly owned lands, any trees required to be cut in connection with the installation of public utilities or any trees located in commercial orchards or nurseries. (Ord. #256, § 1)

§ 16-3.2. Application for Permit.

Any person desiring to cut down or remove any living tree in excess of the size set forth in subsection 16-3.1 shall first apply to the Township Engineer for a permit authorizing the same. A separate application shall be filed for each lot or parcel. On a form to be supplied by the Construction Official, the applicant shall identify the land upon which the tree or trees are located, the name and address of the owner, tenant and duly authorized agent of the owner or tenant, if any, and shall set forth with sufficient specificity for purposes of identification the location of the tree or trees sought to be cut down or removed and the reasons for the request. (Ord. #256, § 4; (Ord. #1518, 12-11-2001, amended)

§ 16-3.3. Review and Approval or Disapproval of Application: Expiration of Permit.

- a. The Township Engineer shall promptly refer the application to the Tree Protection Committee for its review and action pursuant to the standards hereinafter set forth. In the event that the Tree Protection Committee fails to take action on such application by no later than 10 days after such application is filed, it shall be deemed to have been approved and the Township Engineer shall forthwith issue a permit. Any permit shall expire, if not acted upon, in one year from the date of its issuance. (Ord. #1518, 12-11-2001, amended)
- b. In rendering a judgment on applications submitted for its consideration, the Tree Protection Committee shall at all times give weight to the basic intent of this chapter, which is to retain healthy trees in the Township wherever reasonably feasible. Subject to the foregoing, the Tree Protection Committee shall make its decisions in accordance with the following considerations:
 1. Whether the tree or trees are located upon a proposed building site, driveway, recreation area, roadway, drainage right of way, sewerage line, or whether the trees are within 20 feet of any of the foregoing.
 2. Whether the tree or trees appear upon inspection to be diseased or so situated as to be substantially lacking in vigor.
 3. Whether the tree or trees are so located that necessary grade changes will render protection unreasonably difficult or expensive.
 4. Whether the tree or trees constitute significant screening between existing or proposed buildings on contiguous lots.

5. Whether, in the case of a lot to be developed, the proposed purchaser has requested in writing that a particular tree or trees be removed.
 6. Whether removal of the tree or trees will constitute a horticulturally advantageous thinning of an existing overgrown area.
 7. Whether removal of the tree or trees will significantly and adversely affect drainage conditions, soil fertility or soil stability.
 8. Whether other practical exigencies may exist which would unduly cause hardship or difficulty to the applicant if the tree or trees were retained as weighed against the value of such retention.
- c. The Tree Protection Committee shall endorse its decision upon the application and, in case of partial or complete disapproval, shall set forth the basis for such decision, which shall thereupon be transmitted to the applicant.
- (Ord. #256, §§ 5-7)

§ 16-3.4. Appeal Procedure.

Any person aggrieved by a decision of the Tree Protection Committee may appeal therefrom by letter to the Township Committee. The Township Committee shall hear the appeal within 20 days of receipt of such letter. Appellant shall give at least 10 days notice of the hearing to the owners of all lands within 200 feet of the affected lot or parcel and the Township Engineer. Any interested parties may appear in person or by attorney and following receipt of relevant testimony, the Township Committee shall, within 10 days of such hearing, either affirm, reverse or modify the decision appealed from upon such terms and conditions as to it shall seem just.

(Ord. #256, § 8; (Ord. #1518, 12-11-2001, amended)

§ 16-3.5. Issuance of Building Permit.

Whenever a building permit is requested for a structure which will require the removal of trees as herein protected, the Construction Official shall decline to issue any such building permit until a tree removal permit is applied for and issued. (Ord. #256, § 9)

SECTION 16-4 Prohibited Acts

No person shall place any harmful material, machinery or soil deposits within six feet of the trunk of any living tree in excess of the size set forth in Subsection 16-3.1; nor shall harmful excavation around such tree be permitted. To the extent that regrading may require, trees shall be walled in to prevent damage or destruction. (Ord. #256, 2)

SECTION 16-5 Violations: Penalty

The Township Engineer shall institute complaints in the Municipal Court for any violations of this chapter. Any person found guilty of such a violation shall be subject to the provisions of Chapter III, section 3-1. (Ord. #256, § 10; New; Ord. #1518, 12-11-2001, amended)