

## **CHAPTER 535 TREES**

[HISTORY: Adopted by the Bloomfield Council as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Brush, grass and weeds — See Ch. [144](#).

Land development — See Ch. [315](#).

Property maintenance — See Ch. [423](#).

## **ARTICLE I Care and Protection of Trees in Public Highways (§ 535-1 — § 535-12)**

[Adopted 11-19-1962 as Ch. 24 of the 1962 Code (Ch. 247, Art. I, of the 1987 Code)]

### **§ 535-1 Permit required to cut or prune.**

#### **A.**

It shall be unlawful for any person, without a written permit from the Township Engineer, to cut, break or injure any tree or plant or portion of any tree or plant planted or growing in any public highway, parking strip area or park or to cause, authorize or procure any person to cut, break or injure any such tree or plant or any portion thereof within the Township.

[Amended 1-3-2000]

#### **B.**

Any person desiring for any lawful purpose to cut, prune or trim any tree in any public highway of the Township may apply to the Council, and, if, in its judgment, the desired cutting, pruning or trimming appears necessary and the proposed method and workmanship thereof meet with its approval, the Council may thereupon issue a written permit for such work. Any work done under such permit must be performed in strict accordance with the terms thereof.

### **§ 535-2 Permit required to kill or remove; replacement.**

#### **A.**

It shall be unlawful for any person to kill or remove or cause, authorize or procure the death or removal of any tree or plant planted or growing in any public highway, parking strip or park within the Township without first having obtained a written permit from the Township Council.

#### **B.**

Any person desiring for any lawful purpose to take down or remove any tree or plant in any public highway of the Township shall apply to the Council, and, if, in its judgment, the desired taking down or removal appears necessary and the proposed method and workmanship thereof meet with its approval, the Council may thereupon issue a written permit for such work. Any work done under such permit must be performed in strict accordance with the terms thereof.

#### **C.**

Any tree in any public highway of the Township of Bloomfield taken down or removed by any person or by the Township of Bloomfield shall be immediately replaced unless, for good cause shown, said replacement shall be deemed undesirable by the Township Engineer.

[Added 1-3-2000]

### **§ 535-3 Substances dangerous to trees or plants.**

#### **A.**

It shall be unlawful for any person owning or using or having control or charge of gas or other substance deleterious to tree life to allow such gas or other substance to come into contact with the soil surrounding the roots of any tree in any public highway or of any tree or plant in any park in the Township in such manner as to kill, destroy or injure any such tree or plant.

#### **B.**

It shall be unlawful for any person to cause, authorize or procure any brine water, oil, liquid dye or other substance deleterious to tree life to lie, leak, pour, flow or drip on or into the soil about the base of a tree in any public highway or park in the Township or on a sidewalk, road or pavement therein at a point whence such substance may be lying on or, by flowing, dripping or seeping into such soil or in any other manner whatever, injure such tree or to cause or procure such lying, leaking, flowing, dripping, seeping or injuring.

### **§ 535-4 Placement of stone or cement near tree roots.**

It shall be unlawful for any person, except with a written permit from the Township Engineer, to place or maintain upon the ground in any public highway or park within the Township any stone, cement or other material or substance in such manner as may obstruct the free access of air and water to the roots of any tree in any such highway or park.

**§ 535-5 Tree-protection devices.**

It shall be unlawful for any person to injure, misuse or remove or cause, authorize or procure any person to injure, misuse or remove any device set for the protection of any tree or plant in any public highway, park or parking street within the Township.

**§ 535-6 Contact with electrical wires.**

It shall be unlawful for any person to cause, authorize or procure a wire or other conductor, charged with electricity, to come into contact with any tree in a public highway or with any tree or plant in a park in the Township in such manner as may injure, abrade or kill such tree or plant.

**§ 535-7 Ropes, wires and signs on trees.**

It shall be unlawful for any person to attach or keep attached to any tree in any public highway or park in the Township or to the guard or stake intended for the protection of such tree, any rope, wire, sign or any other device without a written permit from the Township Engineer.

**§ 535-8 Horses and other animals.**

**A.**

It shall be unlawful for any person to tie any horse or other animal to any tree in any public highway or park within the Township.

**B.**

No person having charge of any horse or other animal shall allow or cause it to injure any such tree. No person in charge of such horse or other animal shall cause or allow it to stand so that it can injure such tree.

**C.**

No person shall permit any horse, mule, cow or other animal belonging to him or in his possession to destroy or injure the trunk, bark, limbs or leaves of any tree within the Township or any of the sidewalks thereof.

**§ 535-9 Permit required to plant trees.**

It shall be unlawful for any person to plant or set out any shade tree or cause or authorize or procure any person to plant or set out any shade tree in or on any part of any public highway or park within the Township without first obtaining from the Township Engineer a written permit to do so or without complying in all respects with the conditions set forth in such written permit.

**§ 535-10 Planting of trees by Township.**

The Township, at suitable times of the year, may plant or set out trees in the public highways of the Township upon written request and application of an abutting property owner and upon the payment of the reasonable cost of the tree, which cost shall be fixed by resolution of the Township Council from time to time, as the circumstances may require. Appropriations may be made in the annual budget of the Township for the estimated cost of the number of trees to be planted in any year.

**§ 535-11 Interference with Township employees.**

It shall be unlawful for any person to interfere or cause or authorize or procure any interference with any of the officers, employees, agents or servants of the Township while they are engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any tree in any public highway or park within the Township or in the removing of any device attached to such tree or in such removing of stone, cement, sidewalk or other material or substance as may be necessary for the protection and care of any such tree.

**§ 535-12 Violations and penalties.**

[Added 11-2-1987

Editor's Note: Amended at time of adoption of Code; see Ch. [1](#), General Provisions, Art. [1](#).

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Any person who violates any provision of this article shall, upon conviction thereof, be punished as provided in § [1-15](#), General penalty, of this Code.

## **ARTICLE II Tree Removal (§ 535-13 — § 535-24)**

Editor's Note: Former Art. II, Shade Tree Commission (Ch. 247 of the 1987 Code), adopted 11-16-1987, was repealed 12-18-1989.

[Adopted 12-5-2005 by Ord. No. 05-38]

### **§ 535-13 Title.**

This chapter shall be known as the "Tree Removal and Protection Ordinance of the Township of Bloomfield."

### **§ 535-14 Findings and purpose.**

The Township Council of the Township of Bloomfield finds that the preservation, protection and planting of trees: aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces stormwater runoff and the potential damage it may create; aids in the removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against noise and pollution; provides protection against severe weather; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; conserves and enhances the Township's physical and aesthetic appearance; and generally protects the public health and safety as well as the general welfare.

### **§ 535-15 Definitions.**

The following definitions shall apply to this article:

#### **MAJOR TREE**

A deciduous tree with a mature height of at least 50 feet which shall be of a caliper of at least 2 1/2 inches measured 4 1/2 feet above the ground when planted (e.g., red Norway; silver or sugar maple; sweetgum; London plane tree; American sycamore; white, red or pin oak; American elm; yellow or white poplar; or copper beech).

#### **MINOR TREE**

An evergreen tree, ornamental tree or other small tree at least six feet in height at time of planting (e.g., birch, dogwood, Japanese maple, cherry, crabapple, magnolia, Bradford pear, willow, cedar, spruce, pine, fir or hemlock).

#### **PERSON**

The owner of a parcel of real estate or any other individual, group, company, firm, corporation, partnership, association, society or other legal entity.

#### **SPECIES**

For purposes of this article, the common name of the tree.

#### **STRUCTURE**

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

### **§ 535-16 Permit required.**

No person shall cut down or remove any tree of a caliper of four inches or greater measured at a height of 4 1/2 feet above the ground or engage in any site clearing without a tree removal permit.

### **§ 535-17 Application procedure.**

#### **A.**

Application for a tree removal permit shall be made by submission of the following:

#### **(1)**

An original and two copies of an application on forms provided by the Township containing the following information; the name and address of the applicant; the street address and tax lot and block of the property in question; the number of trees to be removed; and such other information as may be required.

#### **(2)**

An original and two copies of a tree removal plan consisting of a map drawn to scale showing the location of all trees to be removed, the species of such trees and their caliper. In the event that the application is for the removal of more than five trees, the tree removal plan must be prepared, signed and sealed by a licensed professional engineer or land surveyor, and must show the location of all existing and proposed structures on the property, together with the distance,

up to 15 feet, that the trees proposed to be removed are located from such structures and from property lines.

(3)

An original and two copies of a tree mitigation plan, if mitigation is required pursuant to § [535-19D](#) hereof, consisting of a map drawn to scale showing the location of all trees to be planted, the species of such trees and their caliper or size as required.

(4)

An original and two copies of a separate list of the trees to be removed identifying each tree on the tree removal plan by species and caliper, and stating the condition of each tree as "dead," "poor," or "good," and further explaining why removal is felt justified under the standards of this article.

(5)

The application fee pursuant to § [535-18](#).

B.

The applicant shall place a one-inch-wide red, yellow or blue ribbon around the trunk of each tree to be removed at a height of 4 1/2 feet above the ground so that the proposed tree removal may be inspected in the field.

**§ 535-18 Fees.**

The fee for a tree removal permit shall be the following:

Number of Trees	Fee
1 to 5	\$50.00
6 to 10	\$100.00
11 to 20	\$200.00
21 to 50	\$300.00
51 and over	\$400.00, plus an additional \$100.00 for each additional 50 trees or part thereof

**§ 535-19 Standards for application review.**

The following standards for review of applications shall apply:

A.

Permitted removal. No tree shall be permitted to be removed unless the tree is:

(1)

Located within the building footprint of a proposed principal building.

(2)

Located between the curblines of a proposed roadway approved pursuant to Chapter 234, Subdivision of Land.

Editor's Note: See now Ch. [315](#), Land Development, for provisions pertaining to subdivision of land.

(3)

Located within the roadway right-of-way but outside the curpline of a proposed roadway approved pursuant to Chapter 234, Subdivision of Land, subject to the provisions of Subsection [D\(8\)](#) of this section.

(4)

Dead or poses a safety hazard.

(5)

Located within 15 feet of any building.

(6)

Located within the area of a proposed driveway, walkway, utility line, accessory building or any other structure.

(7)

Located in a front yard area proposed to be landscaped.

(8)

Located in a recreation area which shall not exceed an area of land equal to 50% of the rear yard of a lot on which a building is proposed or measured within the first 80 feet from the rear building line, less areas in the side yards and rear yard where trees are to be removed pursuant to other provisions of this subsection.

(9)

Specifically permitted to be removed in a site plan approved pursuant to the Municipal Land Use Law.

B.

Conflict with other laws. Notwithstanding anything in this article to the contrary, no tree removal shall be permitted where prohibited by Chapter 268, Zoning,

Editor's Note: See now Ch. 315, Art. V, for provisions pertaining to zoning.

(e.g., buffer zones and crestline provisions), or any other municipal, state or federal statute, ordinance or regulation.

C.

Hardship appeal. In the event that an applicant believes the standards set forth in Subsection A above constitute a hardship which prohibits a reasonable use of all or substantially all of the property in question, an applicant may seek relief from the governing body of the Township of Bloomfield. In the event that such relief is sought, the applicant shall submit an additional eight copies of the documents required to be submitted, together with 11 copies of a written statement as to the reasons for the claimed hardship. In addition, the applicant shall submit a fee for the hearing of the matter in the amount of \$300. The governing body, upon submission of a complete application to the Township Clerk, shall schedule a public hearing in connection with the requested relief. The applicant shall cause to be published in an official newspaper of the municipality a notice setting forth the time, date and place of the hearing to be so held, together with a brief statement of the relief requested. Such notice must be published within 10 days prior to the date of the hearing. Additionally, the applicant shall cause to be served upon all property owners within 200 feet of the property in question a similar notice by certified mail, return receipt requested, or by personal service. Proof of publication and service of notice shall be required to be submitted prior to the hearing. At the hearing the applicant shall present witnesses under oath, and any other interested parties may do the same. All witnesses shall be subject to cross-examination. The decision of the governing body shall be binding upon the municipal official in charge of enforcement and administration of this article.

D.

Mitigation. Mitigation for tree removal shall be required as follows:

(1)

No mitigation shall be required in connection with tree removal conducted pursuant to a permit issued under Subsection A(1), (2) and (9) of this section.

(2)

Mitigation shall be required pursuant to Subsection D(4) of this section in the event of tree removal pursuant to Subsection A(5) through (8) of this section.

(3)

In the event of tree removal pursuant to Subsection A(4), no mitigation shall be required if the tree has been planted for at least five years, there has been no damage to the tree by construction or otherwise by any person, and there has been no soil moving within 15 feet of such tree within such five years; otherwise, mitigation shall be required pursuant to Subsection D(4) of this section.

(4)

For each tree for which mitigation is required, pursuant to Subsection C(2) and (3) above, the following shall apply:

(a)

For each tree removed pursuant to the standards of this article of a caliper of four inches to no more than six inches, the applicant shall plant a major or minor tree as defined in this article on the property in question, or in the event that the applicant asserts the planting would be inappropriate and the official in charge of enforcement and administration of this article agrees, the applicant may in lieu of such planting provide to the municipality a sum of money equal to the approximate cost of such planting as may be determined and changed, from time to time, by resolution of the Township Council for each such tree for purposes of planting shade trees elsewhere in the municipality.

(b)

For each tree removed pursuant to the standards of this article of a caliper of more than six inches, the applicant shall plant a major tree as defined in this article on the property in question, or in the event that the applicant asserts the planting would be inappropriate and the official in charge of enforcement and administration of this article agrees, the applicant may in lieu of such planting provide to the municipality a sum of money equal to the approximate cost of such planting as may be determined and changed, from time to time, by resolution of the Township Council for each such tree for purposes of planting shade trees elsewhere in the municipality.

(5)

In the event that tree removal occurs in an area otherwise than as permitted in Subsection A of this section, mitigation shall be required at the rate of two replacements for each one removed.

(6)

In the event that it is unknown or in question in any given instance as to whether mitigation should be determined on the basis of a minor tree or major tree, mitigation shall be required on the basis of a major tree.

(7)

In the event that it is unknown how many trees were removed from any given site, and removal took place without a tree permit issued pursuant to this or the predecessor Chapter 247, adopted August 5, 1963, as may have been amended, the number of trees requiring mitigation shall be computed by assuming trees over six inches in caliper existed 30 feet on center and plotting the maximum number of those trees as circles of a fifteen-foot radius without having the circles overlap or extend beyond the property lines or driplines of existing trees.

(8)

In connection with tree removal pursuant to Subsection A(3) of this section, it shall be required that the applicant plant major trees, on center a distance of 30 feet, as street trees between the curbline and the edge of the right-of-way in a location determined by the Township Engineer and the official administering this article.

(9)

Mitigation in any instance is not to be considered a penalty, but rather an implementation of the purposes of this article. Mitigation shall not be a substitute for but shall be in addition to any penalty imposed for violation of the provisions of this article.

**§ 535-20 Performance bond.**

Except in the event of tree removal pursuant to an approved subdivision or site plan where a performance bond to assure tree planting was posted, as a precondition to the issuance of a permit where mitigation is required, the applicant shall post a cash bond to assure mitigation in an amount equal to the amount set forth in the resolution adopted by the Township Council pursuant to § 535-19D(4) for each minor and major tree to be planted. The bond shall be returned to the applicant upon completion of the required mitigation.

**§ 535-21 Protection of existing trees.**

A.

In connection with any construction, subsequent to tree clearing but prior to the issuance of a building permit or start of construction, snow fencing or other protective barrier acceptable to the official charged with the administration and enforcement of this article shall be placed around trees that are not to be removed. The protective barriers shall be placed at least 10 feet from the trunk of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

B.

No person shall:

(1)

Cut down or remove any tree except as permitted by this article or allow or cause such cutting or removal.

(2)

Cause or allow any willful damage, injury or disfigurement of any tree growing within the Township. For purposes of this subsection, the actions of any person shall be deemed willful if the damage, injury or disfigurement of any tree is caused as the result of but not limited to the following; cutting, gashing or slitting of any tree; the pouring of any liquid or other material on any tree; or on the nearby ground; the construction or placement of any nonporous material on the ground around any tree so as to cut off air, light or water from the roots; or placement or removal of any soil from within 10 feet of any tree.

(3)

Store or pile building material or debris or place construction equipment within 10 feet of any tree.

C.

In the event that any tree to be saved in connection with construction as set forth above or any tree planted in mitigation shall die within two years after planting, it shall be replaced by the applicant or the property owner within six months.

**§ 535-22 Administration and enforcement.**

This chapter shall be administered and enforced by the Township Manager, or his designee, except that the Township Council shall approve the issuance of a tree removal permit in conjunction with any tree removal sought in conjunction with an application for a major soil-moving permit.

**§ 535-23 Appeals.**

Any person aggrieved by the decision of the official charged with the administration and enforcement of this article shall have the right, within 10 days of the issuance of any decision by such official to appeal to the Township Council, which shall take action as it deems necessary in matter. In the event of such an appeal, the procedures set forth with reference to applications based on hardship contained in § [535-19C](#) of this article shall apply.

**§ 535-24 Violations and penalties.**

Editor's Note: Amended at time of adoption of Code; see Ch. [1](#), General Provisions, Art. [1](#).

Any person who violates any provision of this article shall, upon conviction thereof, be punished as provided in § [1-15](#), General penalty, of this Code, and each tree removed or damaged in violation of this article shall be deemed a separate offense.