

CHAPTER XV

SHADE TREES*

15-1 Definitions.

As used in this chapter:

"Shade tree commission" shall mean the shade tree commission of the Borough of Little Silver and its duly authorized representatives.

"Shade tree" shall mean any ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, park or parkway in the borough except those located or planted on county highways, parks and parkways and state highways.

"Street" shall mean all streets, roads, roadways, public highways, parks or parkways, public alleys, public places in the borough except county parks, parkways and highways and State highways.

15-2 Prohibited Acts.

No person shall, without the permission of the shade tree commission, do or cause to be done by others, either purposely, carelessly or negligently, to any tree, shrub or plant on a public street, any of the following acts: cut, prune, climb with spikes, break, damage or remove; cut, disturb or interfere in any way with any root; spray with any chemical; fasten any rope wire, sign or other device; or remove or damage any guard or device placed to protect any tree or shrub.

Nothing herein shall prevent any governmental agency from putting a public notice upon a tree in connection with administering governmental affairs.

15-3 Rules and Regulations.

No person shall, without the permission of the shade tree commission, place or maintain or cause to be placed or maintained upon the ground in any public street any stone, cement or other sidewalk, or any stone, cement or other substance, which shall impede the free

*Laws concerning Shade Tree Commission are contained in R.S. 40:64-1 et seq. All ordinances must be in conformity with these provisions.

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access of air and water to the roots of any tree or shrub in any public street.

An open space of not less than two feet outside the trunks of trees at their bases on all sides shall be maintained on all trees on public streets except where limited by curbs or sidewalks.

No person shall place salt, brine, oil or other substances injurious to plant growth, in any public street in such a manner as to injure any tree or shrub growing thereon.

No person shall build any fire or station any tar kettle, road roller or other engine in any public street in such a manner that the heat vapors or fumes therefrom may injure any tree or shrub growing thereon.

No person shall lay any sidewalk along or open, construct, curb or pave any street or do any like act so as to interfere with or cause injury to any highway shade tree without the consent of the shade tree commission.

In the erection, altering, or repairing of any building or structure the owner or contractor thereof shall place such guards around all nearby trees in public streets as will effectually prevent injury to such trees.

No person shall do any excavating within two feet of any tree or shrub without the permission of the shade tree commission.

Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public street.

Where in authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots under advice from the shade tree commission.

Every person having or maintaining any electric, telephone, telegraph, or other wires running through a public street shall securely fasten and maintain such wires in such a manner as will safeguard the trees and shrubs against any damage therefrom and shall make periodical adjustments whenever necessary to prevent damage to trees and shrubs growing in any public street.

No person shall without permission of the shade tree commission, attach or fasten any wire, insulator, or other device for holding any wire, to any tree or shrub in any public street.

Any utility company or its agents may, with prior permission from the shade tree commission, prune and remove trees for line clearance of utility wires.

15-4 Commission Approval.

Where the permission, consent or approval of the shade tree commission is required by the provisions of this chapter, any person required to obtain such permission, consent or approval shall first make application therefor, to the shade tree commission.

15-5 Landscaping.**15-5.1 Landscaping Requirements.****a. Landscaping of New Construction.**

1. Applicants for new commercial, industrial or public construction and those proposing to reconstruct or add to existing commercial, industrial or public structure shall submit to the shade tree commission a complete landscaping plan designed and prepared by a New Jersey Certified Landscape Architect. This plan will accompany and embody and be a part of the site plan or subdivision plan as required for presentation to the planning board. The landscape plan shall be submitted in quadruplicate to the shade tree commission. It shall clearly show in tabular form, and specify by key, the location, size, quantity, variety and species (common and botanical names) of plant materials and show the land use of the area. (See check list attached.)

The landscape plan also shall show location of existing trees, ten inches caliper or more, wooded areas, groups or groves of trees. Large trees, ten inches caliper or more, to be removed, shall be indicated. Changes in grade are to be clearly designated and coordinated with the site plan. A property maintenance schedule for both turf and shrubbery shall be part of or accompany the landscape plan.

The scale of the landscape plan is not to be less than one inch equals twenty feet (1" = 20') for large areas showing the location of shade trees, large evergreens, etc. — a scale up to one inch equals fifty feet (1" = 50') may be used — scale for details as specified above — including the open spaces between buildings.

For plans dealing with the exact duplication of buildings, typical foundation plantings may be shown. It is suggested that at least three different solutions with typical planting for sun and shade be shown.

The landscape plan is to include a sketch to show tree/shrub planting and other notes and/or sketches to make the plan more explicit.

Should changes in ownership occur the new owner must accept all provisions of the approved landscape plan including minimum and replacement as effecting a certificate of occupancy or any unfinished part of the approved landscape plan.

2. A minimum of ten percent of a site plan shall be reserved for landscape treatment. This shall be reasonably distributed within the area. This requirement shall not affect requirement as set forth for a buffer area. Grade changes within the area of existing trees are to be carefully considered with the solution and treatment approved by the shade tree commission.

3. In parking areas, 500 feet in each 10,000 square feet of space shall be set apart for landscape treatment. It is recommended that one shade or ornamental tree be provided for every ten parking places. The base of each tree shall be left free of solid pavement for a diameter of not less than six feet, unless tree is placed in a planting strip. (Note — stipulation above for existing trees.)

4. Permanent curbing shall be provided and designated, where necessary, to restrict motor vehicles from encroachment upon landscaped sections. Curbed areas shall be drained (if or as needed).

5. Newly planted trees and other plant materials shall be mulched (minimum of two inches) with an acceptable medium. Peat moss is not an acceptable mulch. Acceptable ground covers may be used in lieu of mulching.

6. Nonresidential uses in residential zones shall have a landscape treatment compatible with the neighborhood. Requested changes for landscape material, location, grades etc. from approved landscape plan are to be presented to the shade tree commission through an amended landscape plan and approved by the shade tree commission and the planning board. The shade tree commission reserves the right to have a certificate of occupancy denied for noncompliance.

7. *Shade Trees.* In cases of site plan approval not involving dedicated streets, shade trees shall be planted along all developed drives and parking areas in accordance with the context of this section. This may mean a studied development consisting of shade, flowering and/or evergreen trees, for a designed use. Shade and other trees spaced no more than 50 feet apart and of variety and location as accepted by the shade tree commission. Desirable existing plant material and/or trees will be preserved, whenever possible, and may be part of the street tree planting as shown on the plan or stipulated and accepted by the shade tree commission. Grade changes are to be carefully considered as previously stated.

b. *Buffer Zones.* (See paragraph 2., subsection 17-4.4e of zoning ordinance.)

c. In a tract being developed for the construction of two or more homes, the developer shall submit a landscaping plan to the shade tree commission, to show grade or placement of shade and/or ornamental trees.

d. The building permit shall not be issued by the building inspector until the landscape plan has been approved by the shade tree commission.

e. Developer shall not be permitted to excavate land, remove trees or desirable plant material from proposed building sites, land to be subdivided, or other undeveloped land until the landscape plan or use (this would include plant material to be transplanted) has been accepted and approved by the shade tree commission.

f. Applicant or developers of any tract of land or building site shall be required to post a cash performance bond to cover the cost of the landscaping which has not been completed before issuance of a certificate of occupancy with a time limit of one growing season placed for completion should the designated work not be completed on schedule. The cash performance bond would be used by the shade tree commission for completion of work according to an approved landscape plan.

A minimum of 60 percent of the approved landscape plan is to be completed before the initial certificate of occupancy is granted. The shade tree commission may waive the requirement due to hardship, crop failure, weather irregularities, including grading or other reasonable conditions. The amount of cash performance bond shall be recommended by the shade tree commission and approved by the mayor and council of the Borough of Little Silver at the time of application for such certificate of occupancy, the same to be posted with the mayor and council of the Borough of Little Silver and shall not be surrendered until the total landscaping plan has been completed.

g. Certificate of occupancy, permanent or temporary, shall not be issue by the construction code official until all above requirements have been satisfied after consultation with the shade tree commission.

h. Landscaped areas and sections, including trees, and other plant materials, walls, fences and the grounds in and surrounding these sections of the project within its property lines shall be properly maintained throughout the year (the year being 12 months from final certificate of occupancy) in accordance with the design intent of landscape plan as approved by the shade tree commission. Plant materials and/or trees, shown on the landscape plan, shall be maintained and replaced if dead or in an unhealthy or damaged

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condition. Walls and fences shall be kept in good condition at all times, or shall be replaced should they become unsightly and/or structurally unsound.

15-5.2 *Planting of Shade Trees, Ornamentals and Evergreens.*

a. *Regulations.*

1. Any owner, person, firm or corporation erecting and constructing any new nonresidential building or buildings in the Borough of Little Silver, and any person erecting or constructing two or more residential units within the borough, shall plant shade trees on the property owner's side of the sidewalk adjacent thereto not closer than eight feet to the existing sidewalks or future sidewalks or 12 feet from the curb line, if no sidewalk is to exist, in a place which shall not interfere with utilities, on which such new construction is located, planting one tree for every 50 feet of frontage of said property unless the shade tree commission shall grant a waiver of such planting in writing.

2. Such new trees to be provided and/or shown on the landscape plan shall be of variety and size approved by the shade tree commission and shall be planted in a manner and location approved by the shade tree commission.

The shade tree commission has the authority to reject the choice of any plant material which in its judgment is not suited to the area or location or which is highly susceptible to attack by insects and/or disease.

b. *Specifications for Shade Trees.*

1. Approved varieties shall follow text of "STREET TREES FOR NEW JERSEY." The shade tree commission is to be consulted for deviation from this text list of approved varieties.

2. *Shade Tree Size.* Trees shall not be less than one and three-quarters to two inch caliper, measured six inches above ground, not less than 12 feet high. They must be well branched, conform to the habit of the type, and "headed" not less than six feet from the crown of the root system.

3. *Flowering Trees Size.* Flowering or other decorative trees may be of smaller size than shade tree varieties. These trees shall not be less than one and one-half inch caliper, measured six inches above the ground not less than eight feet high. They must be well branched and conformed to the habit of the type and acceptable to the shade tree commission. Should the project, in the opinion of the shade tree commission warrant, larger or more mature sizes of shade trees and other ornamental planting may be required.

4. *Placement.* All trees are to be planted in locations as specified on the landscape plan and approved by the shade tree commission. Changes made necessary through unforeseen hardships are to be approved by the shade tree commission. Large growing (timber types) trees shall not be located closer than eight feet from the edge of the existing sidewalks or six feet from property line and in a place which shall not interfere with utilities. Ornaments may be planted in the planting strip between the curb and sidewalks if approved by the shade tree commission providing the planting strip shall not be less than 50 inches wide. Trees are to be 25 feet or more from intercepting curbs at street corners and not more than 50 feet apart.

5. *Time for Planting.* Planting season, shall be determined by the shade tree commission upon consideration of the variety and cultural habits of the species and subject to warranty.

6. *Soil Excavation.* Shade tree pits are to be 24 inches larger than the ball of earth or the spread of roots. A seepage area shall be provided if needed, by loosening the soil to a depth of not less than one foot below the excavation. Planting soil shall be composed of a suitable mixture of peat, fertilizer and topsoil. In a situation involving unforeseen circumstances, such as, impervious or dry soils, etc., when extra cost will be incurred for tree or landscape planting, the contractor will not proceed unless authorized by the shade tree commission. However, such a condition will not excuse the developer from tree or landscape planting and the developer must accept all costs for correction and be subject to warranty.

7. *Watering.* Each tree is to be sufficiently watered at the time of planting. A lack of proper watering and/or maintenance will not void the warranty.

8. *Staking and Guying.* All newly planted trees shall be double staked. Stakes shall be two by three inch lumber and to seven feet long. Stakes must be driven two feet into the ground. Twelve (12) gauge galvanized wire with trunk protection or rubber hose or plastic straps will be used to secure trees to the stakes. Stakes to clear B & B (Ball of Earth) on the spread of roots.

9. *Removal of All Planting Debris.* Removal of debris is required. The property must be left in a neat and orderly condition in accordance with good and accepted planting practice. A mulched basin to hold and/or catch water is to be placed for single tree, evergreens etc.

10. *Survival.* All plantings which fail to survive for a period of one calendar year following planting or be in poor condition, shall be replaced by the contractor without cost or expense to the Borough of Little Silver or the shade tree commission. Such replacement shall be

made within 60 days following a written demand for replacement by the commission or within such extended period or season as may be specified. The owner, contractor, or other persons interested as lessee, tenant or otherwise, of a building or premises where a violation of any provision of these regulations shall have been committed, or shall exist, may upon conviction for each violation be fined an amount not exceeding two hundred (\$200.00) dollars. Each day that a violation is permitted to exist, following a 30 day written notice by the shade tree commission, shall constitute a separate offense. The fines can be and may be assessed to the property taxes.

c. *Specifications for General Landscape Planting and Screening.* The contractor and/or owner of each project planting is to notify the shade tree commission before the work commences, thus quality, planting procedure, soil conditions, etc. may be observed. Contaminated soil, stumps, old pavement, debris and/or other trash is not to be buried on site including planting or construction areas.

1. *Approved Varieties.* The quantity, variety, size and species selected for screen planting shall be subject to the approval of the shade tree commission. All plantings shall be to a designed purpose.

2. *Placement.* Plantings must be a reasonable mature plant distance from the foundation, wall or fence, but not less than two feet therefrom, except ground cover. Varieties as selected and specified are to be appropriate for sun shade, wind, and/or other exposures and will be suitable in mature size for the location selected.

3. *Soil.* Plant pits other than ground covers must be not less than 12 inches deep and not less than 20 inches in diameter. A seepage area if needed shall be provided by loosening the soil to a depth of six inches at the bottom of the excavation. Planting soil shall be composed of a mixture of peat, fertilizer and topsoil suited to the soil preference of the listed plant material or similar soil suited to the growth of the listed plant material.

4. *Mulching.* Tree pits and/or plant beds shall be mulched with an approved material to a minimum of two inches deep. (Peat Moss is not an acceptable mulch.)

5. *Removal of All Planting Debris.* Removal of debris is required. The property must be left in a neat and orderly condition in accordance with good and accepted planting practice.

6. *Survival.* All plantings which fail to survive or be in poor condition for a period of one calendar year following acceptance by the shade tree commission, shall be replaced by the contractor without cost or expense to the Borough of Little Silver or the shade

tree commission. Such replacement shall be made within 60 days following a written demand for replacement by the commission or within such extended period or season as may be specified. The owner, contractor, or other persons interested as lessee, tenant or otherwise, of a building or premises where a violation of any provision of these regulations shall have been committed, or shall exist, may upon conviction for each violation be fined an amount not exceeding two hundred (\$200.00) dollars. Each day that a violation is permitted to exist, following a 30 day written notice by the shade tree commission, shall constitute a separate offense. The fines can be and may be assessed to the property taxes.

15-5.3 *Violations and Penalties.* The owner, contractor or other persons interested as lessee, tenant or otherwise of a building or premises where a violation of any provision of these regulations shall have been committed or shall exist may, upon conviction for each violation, be fined an amount not exceeding five hundred (\$500.00) dollars. Each day that a violation is permitted to exist following a ten day written notice by the shade tree commission shall constitute a separate offense.

