

ORDINANCE NO.: 2023-11
AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER IX (BUILDING & HOUSING), SECTION 3.7
(BRUSH, HEDGES AND OTHER PLANTS) OF THE
MUNICIPAL CODE OF THE BOROUGH OF
ALLENHURST.

WHEREAS, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to revise '9-3.7 of the Borough Code concerning the maintenance of Brush, Hedges and Other Plants in the Borough.

NOW THEREFORE, BE IT ORDAINED by the Borough of Allenhurst, County of Monmouth, State of New Jersey, that the Borough Code of the Borough of Allenhurst be and is hereby amended and supplemented as follows:

I. Chapter IX, Section 3.7 be and is hereby revised by deleting the existing section 9-3.7 entitled ABrush, Hedges and Other Plants and to replace it with the following:

Legislative Statement:

The Board of Commissioners of the Borough of Allenhurst are ever mindful of preserving the aesthetics of our hometown. As such, we have enacted ordinances with the intent to keep the Borough reflective of its visual heritage. This is one such ordinance. Its purpose is to preserve the ability of pedestrians and motorists to see the historic architecture and homes from the sidewalk and street, and to see that they are not obscured by hedges. It is also important to protect views of the ocean where applicable.

This ordinance establishes that homes cannot have hedges (or the combination of retaining structures and hedges) exceeding four (4') feet in height along the frontage of their property as it relates to (i.e. is measured from) the top of the adjacent sidewalk. To be clear, it is the Board's intent that homes shall not be concealed from view by plants or structures (or any combination thereof) that exceed four feet (4') in height.

The Board of Commissioners trusts that this Legislative Statement will assist our homeowners understanding of our continuing vision for the Borough, and explains why we believe enforcing this ordinance is a necessity to preserve our community.

'9-3.7. Brush, Hedges and Other Plants.

a. Conformance Required. The provisions of this article shall govern the minimum conditions and responsibilities of the owners, tenants or residents of property for the maintenance of the exterior of the property, including all vacant structures, premises and vacant land. All property, structures or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to adversely affect the public health or safety.

b. Brush, Hedges or other view obstructing plant height limitations. From the adoption of this Ordinance forward:

i. No property in the Borough shall have brush, hedges or any other view obstructing plants (as distinguished from deciduous trees) (hereinafter collectively referred to as "hedges") in any front yard and up to the front setback of the house, that exceed four feet (4') in height, as measured from the adjacent sidewalk, including hedges combined with retaining or other structures. This shall be inclusive of trees and plants of any kind whatsoever that are arranged in such a manner that they will in fact obstruct views.

ii. For all properties east of Ocean Avenue, from the front setback of the house to the rear sideline of any such property, hedges shall not exceed five feet (5') in height, as measured from the ground immediately adjacent to such hedges. The

Board takes these actions specifically to keep potential ocean views available from front porches and backyards.

iii. For all properties west of Ocean Avenue up to the easterly side of Norwood Avenue (otherwise known as the 100 block) from the front setback of the house to the rear sideline of any such property, hedges shall not exceed eight feet (8') in height, as measured from the ground immediately adjacent to such hedges. Our intent here is to protect the potential views from the second story on these blocks.

iv. For corner lots and homes that ONLY have front yards, but no backyards, from the front setback of the house to the boundary of an adjacent property, there shall be no height restriction upon hedges. Such properties must still comply with section 9-3.7(b)(i) above, as the same applies to ALL properties throughout the Borough.

v. For all properties west of Norwood Avenue up to the easterly side of Page Avenue (otherwise known as the 200 block) from the front setback of the house to the rear sideline of any such property, hedges shall not exceed ten feet (10') in height, as measured from the ground immediately adjacent to such hedges.

vi. For all properties west of Page Avenue up to the easterly side of Main Street (otherwise known as the 300 block) from the front setback of the house to the rear sideline of any such property, there shall be no height restriction upon hedges. Such properties must still comply with section 9-3.7(b)(i) above, as the same applies to ALL properties throughout the Borough.

vii. For all properties west of Main Street from the front setback of the house to the rear sideline of any such property, there shall be no height restriction upon hedges. Such properties must still comply with section 9-3.7(b)(i) above, as the same applies to ALL properties throughout the Borough.

c. Service of Notice. Notice to cut and remove objectionable brush, hedges and other plant life shall be given by the Borough Clerk/Administrator and/or his or her designee to the owner, tenant or resident by registered mail or certified mail, return receipt requested to the last known post office address.

d. Determination of Need for Cutting. The Board of Commissioners of the Borough of Allenhurst shall determine, by resolution, when such notice shall be given pursuant to this subsection.

e. Removal by Borough. In the event of the failure of any owner, tenant or resident to keep all brush, hedges and other plant life growing within ten (10) feet of any roadway, and within twenty-five (25) feet of the intersection of two (2) roadways, cut to a height of not more than four feet (4'), as measured from the adjacent sidewalk, after written notice thereof, the Borough may proceed to cause the cutting and removal of such brush, hedges and other plant life under the direction of the Borough Clerk/Administrator and/or his or her designee.

f. Lien for Costs. In any case where the Borough has cut and removed brush, hedges and other plant life, the Borough Clerk/Administrator and/or his or her designee shall thereafter certify to the Borough Council the cost thereof, and if the amount so certified is by resolution of the Borough Council determined to be correct and reasonable, the Borough Clerk/Administrator and/or his or her designee shall deliver a certified copy of the resolution to the Tax Collector. The amount so charged shall become a lien upon such lands from which the brush, hedges and other plant life were cut and removed, and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as other taxes, and shall be collected and enforced by the Tax Collector in the same manner as taxes, as authorized

by N.J.S.A. 40:48.2-26 and 40:48.2-27.

g. Reduction of nonconforming hedges. In the event any property owner with pre-existing nonconforming hedge heights reduces the hedge heights and/or brings them into conformance herewith, the same shall no longer be treated as "grandfathered" and shall thereafter conform to the height requirements established herein.

h. Removal of nonconforming hedges. In the event any property owner removes hedges or plantings which are not in conformance with the height restrictions set forth herein, any the new plantings shall comply with the height requirements established herein.

i. Violations and Penalties. Any person who shall refuse or neglect, after written notice as above set forth, to comply with the demands therein made with respect to the cutting of the brush, hedges and other plant life for the preservation of the public safety of the citizens of the Borough, within the period of time above set fourth, shall, upon conviction thereof, be liable to a penalty not to exceed a fine of five hundred (\$500.00) dollars, and each and every day in which the owner, tenant or resident shall refuse or neglect so to cut the offending brush, hedges and other plant life shall be and constitute a separate offense. The imposition and collection of any fine or penalty prescribed by this subsection shall not bar the right of the Borough to collect the cost of the cutting of the brush, hedges and other plant life, as hereinbefore specified; and the remedies shall be cumulative.

REPEALER. All other sections and subsections of Chapter IX not specifically amended by this Ordinance, shall remain in full force and effect.

INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SEVERABILITY. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

AND IT IS FURTHER ORDAINED that this Ordinance shall take effect twenty (20) days after the first publication thereof after final passage as provided by law.

CERTIFICATION

I, Donna M. Campagna, Borough Clerk/Administrator, do hereby certify this to be a true and exact copy of an Ordinance as ADJOURNED by the Board of Commissioners of the Borough of Allenhurst, County of Monmouth, State of New Jersey, at a meeting held on August 8, 2023.

Donna M. Campagna

Donna M. Campagna, RMC
Borough Clerk/Administrator