

MASON, GRIFFIN & PIERSON

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

MEMORANDUM

To: Mayor and Council of Princeton
via e-mail only

From: Edwin W. Schmierer, Esq.
Princeton Attorney



Date: November 6, 2013

Re: **Ordinance Concerning Sidewalk Repairs Necessitated by Municipal Trees**

From time to time, sidewalks within the Princeton community become damaged from the roots of the Municipal shade trees planted along rights-of-way. In the former Borough of Princeton, there was a policy that should a sidewalk be damaged by tree roots, the former Borough would be responsible for the sidewalk repair. That responsibility was exercised by lifting the sidewalk slab, cutting down the top of the tree root where possible and reinstalling the sidewalk. If shaving down the tree root was not possible, then the street tree was removed and replaced with a different species of tree that would not heave the sidewalk.

So that this policy can be memorialized in writing and extended to the entire Princeton community, Princeton Assistant Engineer Deanna Stockton, P.E. has recommended an amendment to the Princeton Borough Code related to sidewalk repairs. I attach hereto the Ordinance amendment to Section 28-13. This Ordinance adds a new subparagraph (b) and identifies the process whereby sidewalks damaged by tree roots are called to the attention of the Engineering Department and thereafter repaired by Princeton.

We would appreciate very much your considering this Ordinance for introduction at your meeting on November 12, 2013.

EWS:jv
attach.

cc: Robert W. Bruschi, Princeton Administrator (w/attach.)
Kathy Monzo, Princeton Assistant Administrator/CFO (w/attach.)
Linda S. McDermott, Princeton Clerk (w/attach.)
Robert V. Kiser, P.E., Princeton Engineer (w/attach.)
Deanna Stockton, P.E., Assistant Princeton Township Engineer (w/attach.)

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AN ORDINANCE CONCERNING
SIDEWALK REPAIRS AND AMENDING
THE "CODE OF THE BOROUGH OF
PRINCETON, NEW JERSEY, 1974".

BE IT ORDAINED by the Mayor and Council of Princeton as follows:

Section 1. Section 28-13 of the "Code of the Borough of Princeton, New Jersey, 1974"

which sets forth the responsibility for the repair of sidewalks is amended to read as follows

([bracketed] material deleted; underlined material added):

Sec. 28-13. Sidewalks, curbs and gutters to be constructed, repaired, and maintained according to borough specifications; approval of work [borough]municipal engineer.

(a) All sidewalks, curbs and gutters in the [borough]municipality shall be constructed, repaired and maintained in accordance with specifications and requirements established by the mayor and council and on file in the office of the [borough]municipal engineer. All sidewalks shall be repaired and maintained on level and of sound material by the abutting property owner, in accordance with said specifications and requirements. All such work shall conform as nearly as practicable to the established grade of the highway, or any part thereof, which shall have been previously established by law and shall be done subject to the inspection and approval of the [borough]municipal engineer.

(b) Repairs necessitated by Municipal Trees.

(1) Notice. If any sidewalk is found to have been raised and/or damaged by municipally-owned trees, the owner of the property in front of which the sidewalk is located shall have the primary responsibility for notifying the Engineering Department in writing of the condition.

(2) Inspection. The Engineering Department shall perform an inspection of the sidewalk after receiving such notice and shall consult with the Municipal Arborist and/or the Director of Infrastructure and Operations as to any remedial measures available to resolve the

condition. The available remedies to be considered shall include but shall not be limited to removal of the tree and/or rerouting, replacing or grinding of the sidewalk.

(3) Remediation. Once the appropriate remedy is approved by the Municipal Engineer, he shall cause to be performed, all work necessary to implement the remedial measures as soon thereafter as is reasonably possible, subject to available funding.

(4) Cost of repair. The cost of any work done to remove, repair and/or replace the tree and/or sidewalk shall be borne by the municipality.

Section 2. To the extent of any inconsistency between the terms and conditions of this Ordinance and the current requirements for sidewalk repairs in Chapter 19, Article V of the "Code of the Township of Princeton, New Jersey, 1968", the terms and conditions of this Ordinance shall prevail. It is the intention of the Mayor and Council to have the above-referenced amendments to the requirement for sidewalk repairs to be applicable throughout the entire Princeton community.

Section 3. This Ordinance shall take effect upon its passage and publication and provided for by law.

Linda S. McDermott, Clerk

Liz Lempert, Mayor

Ordinance Introduced:

Ordinance Adopted: