

Application for permit to remove trees or shrubs from property

Owners of properties on which trees or shrubs grow should bear in mind, when planning to remove trees or shrubs from their property, that they are obliged first apply to the competent *wojt* (the commune head), the *burmistrz* (mayor) or president of the city/town for a permit, which is issued pursuant to Art. 83 *et seq.* of the Nature Conservation Act¹ (in the case of properties entered into the register of historic monuments, the permit is to be issued by the provincial historic monument conservator, and in some cases it is necessary to seek consent of another public administration body).

Only trees or shrubs referred to in Art. 83.6 of the Act may be removed without permit; these include trees and shrubs growing in woods; fruit trees or shrubs (excluding properties entered into the register of historic monuments, national parks or natural reservations); young trees or shrubs up to 10 years old; trees or shrubs growing in plantations, as well as trees and shrubs that are to be removed within the premises of botanical gardens or zoos. Furthermore, permits are not required when trees or shrubs are removed pursuant to administrative decisions issued by the competent bodies in specific cases provided for by the law.

To obtain a permit, the applicant must pay an environmental fee, which, in the case of trees, is determined based on the rate linked to the circumference of the trunk and species of the tree. Fees for the individual types and species of trees and the rates which differentiate the fees according to the trunk circumference are set forth in the applicable Regulation². Regarding shrubs, there is a uniform rate per square metre of area covered with shrubs; currently, it stands at PLN 249.79³. Article 86 of the Nature Conservation Act lists exceptions where no fee for removal of trees, or as the case may be, shrubs, is collected. In this context, it should be noted that removal of a dead tree or a tree which has been uprooted by violent wind and poses a risk to the safety of people or property is exempt from the fee, though it is necessary to obtain the permit, provided that the tree is not con-

tained in the list of trees and shrubs exempt from the permit requirement.

It is not only the property's owner who is entitled to file an application for permit to remove a tree or shrub from the property's site as it the perpetual usufructuary or every holder of the property, e.g. a lessee, can do so, too. However, in the latter case, a prior consent from the property's owner is required.

Additionally, the owner of transmission facilities can apply for the permit, if any trees or shrubs pose a risk to the operation thereof. Removal of trees or shrubs from the property upon the application filed by the owner of transmission facilities involves the obligation to pay damages to the property's owner or perpetual usufructuary.

The Act lists components which must be contained in the application for a permit to remove trees or shrubs. First, the applicant should provide their first name and surname (company name) and place of residence (registered office). Further, if the applicant is not the owner, the following data for the owner should be provided and a legal title to the property held by the applicant as well as the owner's consent for the planned removal of trees or shrubs (no legal title to the property or the owner's consent is provided if the applicant is the owner of transmission infrastructure). If a tree or shrubs grow on two or more properties, all the interested owners should be specified and their consents for the removal should be attached. The application should also state the name of the spe-

cies of the tree or shrubs to be removed and, in the case of trees, the girth of the trunk measured at the height of 130 cm; it is so because if the tree bifurcates at a height under 130 cm, each trunk is considered a separate tree. Furthermore, the application should contain information about the use of the site on which the tree or shrub grows and the reason and date of the planned removal. The use of the site is determined based on the effective zoning plan and if there is no zoning plan in place, based on the use of the property as at the date when the trees were planted. If it is impossible to establish the property's use at the time, the current use of the property should be specified as the use of the site in the application. The application for a permit for removal of shrubs should also specify the area from which the shrubs are to be removed. The application for a permit to remove trees or shrubs should also be accompanied by a drawing or map with the location of the tree or shrub in relation to the boundaries of the property and building structures located thereon or being built thereon. The act does not specify any special requirements, so it can be assumed that a hand-written drawing made by the applicant can be attached to the application.

All the data contained in the application should be checked by the competent decision-making body. The decision-making body should inspect the trees or shrubs to be removed, paying attention to whether any protected species of vegetation exist on the property. Permit for the removal of trees or shrubs can be conditional on replanting the trees or shrubs to a place specified by the authority issuing the permit or replacing them with a number of other trees or shrubs not lower than the number of removed trees or shrubs.

Importantly, removal of trees or shrubs without the required permit results in a fine imposed pursuant to Art. 88.1.2 of the Nature Conservation Act.

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¹ The Act of 16 April 2004 on Nature Conservation (OJ 2013.627, consolidated text, as amended)

² The Regulation of the Minister of Environment of 13 October 2004 on rates of fees according to type and species of trees (OJ 2004.228.2306 ze zm).

³ Pursuant to Section 3 of the Notice of the Minister of Environment of 24 October 2013 on rate of fees for removal of trees or shrubs and rates of penalties for damage to vegetation effective for 2014; M.P.2013.835