

TOWNSHIP OF MAPLEWOOD



ORDINANCE

2356 -06

AN ORDINANCE FOR THE PRESERVATION OF TREES WITHIN THE TOWNSHIP OF MAPLEWOOD

"Interpretive Statement"

This ordinance sets forth procedures for the removal of trees within the Township of Maplewood.

BE IT ORDAINED, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey as follows:

FIRST: DEFINITIONS - As used in this Ordinance

Dripline shall mean the circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the outermost branch of the tree.

Enforcement Officer shall mean the Supervisor of Parks and Shade Trees of the Township of Maplewood or his/her duly authorized representatives.

Tree shall mean any living woody perennial plant having a diameter greater than four (4) inches measured at a point four (4) feet above the ground.

SECOND: PERMIT

Permit Required

Subject to the exceptions listed below no person shall cut or remove, or cause or permit to be cut or removed, any tree on any land within the Township or place any machinery, material or temporary soil deposit or regrade the soil within the dripline of any tree unless the person shall have first obtained a permit therefor in accordance with the regulations and provisions of this Ordinance.

Permit Procedures

- (a) Any person desiring to cut or remove any tree or trees or to place machinery, material or temporary soil deposit or regrade soil within the dripline of any tree within the Township shall file an application therefor with the Building Department on a form to be provided for the purpose. The application shall identify the property upon which the tree or trees are located; shall disclose the name and address of the owner or duly authorized agent of the owner; shall set forth the reasons for requesting a permit to cut or remove same; and shall acknowledge who owns the tree or trees and shall indemnify and hold the Township harmless against any and all liability, damages and costs resulting from or arising out of the applicant=s cutting or removal of any tree or trees. The applicant shall attach to the application a diagram or other document satisfactory to the Enforcement Officer which accurately sets forth the location of the tree or trees and evidence of the ownership thereof.
- (b) The Enforcement Officer shall review the application, which shall upon filing be deemed to constitute consent from the applicant to the Enforcement Officer and/or such person or persons as he/she may in writing designate for entry upon the land for the purpose of inspection. In reviewing any such application the Enforcement Officer may in his/her discretion consult the Director of Public Works, the Township Engineer, and such landscape architect or geologist as he/she may deem necessary or advisable. Except as otherwise hereinafter provided in Paragraph d. within twenty (20) business days from the filing of an application hereunder, the Enforcement Officer shall endorse his/her decision upon the application, and in case of partial or complete disapproval, shall set forth the basis for such decision. In addition, where appropriate, the Enforcement Officer shall indicate on such application guidelines and preventive measures to be taken to preserve from injury or destruction trees not sought to be cut or removed. Among the conditions which the Enforcement Officer may impose on a permit are the requirement of a performance bond in the amount of the value of the trees to be preserved as appraised by a New Jersey certified tree expert, which bond

shall be released upon issuance of a Certificate of Occupancy, and the requirement of replanting trees, shrubs, or ground covers if trees which provide buffer, reduce soil erosion, or serve other beneficial purposes are to be removed. Any application approved, in whole or in part, shall automatically become a permit in accordance with the terms of the endorsement. Any permit not acted upon within six (6) months from the date of such approval shall automatically expire.

- (c) No permit shall be issued for the removal of an historical, champion or specimen tree which has been so designated by resolution of the Township Committee.
- (d) Upon filing of any application for the cutting or removal of trees located on any property for which an application for a Building Permit or subdivision or site plan review is required to be submitted to the Construction Code Official, the Township Planning Board or the Board of Adjustment, the applicant shall furnish the Enforcement Officer with a copy of the Building Permit application or subdivision plat or site plan therefor, and the Enforcement Officer may withhold his/her endorsement pending receipt of written notice of official action with respect to such Building Permit, subdivision plat or site plan application. Within twenty (20) business days, of the receipt of such notice, the Enforcement Officer shall act upon the application as provided in the preceding Paragraph b.
- (e) The Enforcement Officer shall require the applicant to give notice to owners of real property within twenty (20') feet of a tree which is proposed to be cut or removed. Such notice shall be given by personal service or certified mail, return receipt requested, at least ten (10) days prior to any proposed cutting or removal of a tree.

THIRD: STANDARDS

Upon receipt of an application for cutting or removal of trees, the Enforcement Officer, and/or his/her designee, shall inspect the site on which are located the tree or trees sought to be cut or removed or otherwise protected within the intent of this Ordinance and

the drainage and other physical conditions existing on the subject property and adjoining properties. The Enforcement Officer shall consider the following factors in reviewing the permit application:

- (a) Whether the proposed cutting or removal would impair the growth and development of the remaining trees on the applicant=s property or adjacent property.
- (b) Whether the proposed cutting or removal would change existing drainage patterns.
- (c) Whether the proposed removal would cause soil erosion or increase dust.
- (d) Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots.
- (e) Whether the proposed removal would constitute a horticulturally advantageous thinning of an existing overgrown area.
- (f) The overall effect of removal of such tree or trees on the physical and aesthetic value of the property.
- (g) Whether the area where such tree or trees are located will be occupied by a building or structure, a driveway or recreation area, a roadway, a drainage right-of-way, or a sewer line, or whether such area is within twenty (20') feet of any of the foregoing.
- (h) Whether existing conditions or proposed changes in the topography of the area where such tree or trees are located have depressed land configuration or fill of land which shall be deemed injurious to the trees or other trees located nearby so as to require welling, construction of any aerification system, or tree removal or replacement.
- (l) Whether the presence of the tree or trees is likely to cause hardship or will endanger the public or an adjoining property owner by reason of its being diseased or dead or for some other adequate reason within the intent of this Ordinance.

FOURTH: FEES

Permit fees shall not be charged to an applicant with respect to a property having a single or two-family dwelling occupied by the owner. Except as provided above, each applicant for a permit under this Ordinance shall make a non-refundable deposit with the Building Department of a fee of fifty (\$50.00) dollars if the application seeks removal of not more than three (3) trees, or a fee of seventy-five (\$75.00) dollars if the application seeks removal of four (4) to ten (10) trees, or a fee of one hundred (\$100.00) dollars if the application seeks removal of eleven (11) or more trees.

FIFTH: APPEAL

Any person aggrieved by the decision of the Enforcement Officer shall have the right to appeal such decision to the Public Works Subcommittee of the Maplewood Township Committee (the Subcommittee). Such appeal shall be by written notice stating the reasons upon which the appeal is based, filed with the Township Clerk within ten (10) days of the decision of the Enforcement Officer .

The Subcommittee shall hear the matter, upon notice to the applicant, within thirty (30) days after the filing of the notice of appeal. The Subcommittee may in its discretion and upon complete review of the application and after hearing the testimony of the Enforcement Officer, the applicant, and such other experts as may be appropriate, reverse, modify or affirm the aforesaid decision. If the Subcommittee shall not act within forty-five (45) days after the filing of the notice of appeal, the decision being appealed shall be deemed to have been affirmed by the Subcommittee.

SIXTH: EXCEPTIONS

Excepted from the provisions of this Ordinance shall be:

- (a) Any tree cut or removed in accordance with a Management Plan developed by a recognized State or Federal environmental protection authority, provided that a copy of such plan is filed with the Township Engineer.
- (b) Any tree located on publicly owned land and removed by the public agency or its representatives.
- (c) The first three (3) trees removed, provided that all of the following conditions are met:

- (1) None of the trees are greater than eighteen (18") inches in diameter or greater than sixty-two (62") inches in circumference measured at four (4=) feet above the ground;
 - (2) The trees removed do not constitute more than twenty (20%) percent of the forested area of the lot;
 - (3) No more than three (3) trees greater than eighteen (18") inches in diameter or greater than sixty-two (62") inches in circumference measured at four (4') above the ground are removed within any twelve (12) month period; and
 - (4) All trees are located on a residentially zoned lot occupied by the owner.
- (d) Dead or diseased trees upon certification by the Enforcement Officer or other qualified New Jersey Certified Tree Expert.
 - (e) Any tree located within the public right-of-way as shown on a subdivision map approved by the Township Planning Board or Board of Adjustment after consultation with the Enforcement Officer or any tree located in an area to be occupied by a building, driveway, or recreation area as shown on a plan approved by the Planning Board or Board of Adjustment in connection with an application for subdivision or site plan approval.
 - (f) Trees removed at the direction of the Building Department.
 - (g) In seeking approval under the exceptions listed in this section, the applicant shall prepare an inventory map of the forested area depicting the existing live trees by size, type and area of proposed disturbance. No more than twenty (20%) percent of the forested area shall be disturbed.

SEVENTH: PENALTIES

Any person violating any provision of this Ordinance shall be subject to a penalty not to exceed one thousand two hundred fifty (\$1,250.00) dollars. Each tree cut or removed in violation of this Ordinance shall be considered a separate violation.

EIGHTH: SEVERABILITY

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph,

subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

NINTH: REPEAL OF PRIOR ORDINANCES

Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any such inconsistencies.

TENTH: EFFECTIVE DATE

This Ordinance shall take effect after final passage and publication according to law.

PUBLIC NOTICE is hereby given that the foregoing proposed Ordinance was introduced and read by title for the first time at a meeting of the Township Committee of the Township of Maplewood, held on May 16, 2006 and that Committee met again on June 20, 2006, at 7:30 p.m. at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Committee proceeded to consider the said Ordinance on second reading and final passage.

ELIZABETH J. FRITZEN, R.M.C.
Township Clerk