

# TOWNSHIP OF MAPLEWOOD



## **ORDINANCE # 3115-24**

### **AN ORDINANCE TO AMEND CHAPTER 227 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF MAPLEWOOD ENTITLED "SHADE TREES" WITH RESPECT TO TREE REMOVAL AND REPLACEMENT**

#### "Interpretive Statement"

This ordinance will revise shade tree regulations with respect to the procedures for tree removal and replacement, and establish a tree fund.

**WHEREAS**, the Township of Maplewood (the "Township") has enacted Chapter 227 of the Township Code regulating the planting, protection, removal and replacement of shade trees within the Township; and

**WHEREAS**, the Township wishes to clarify certain shade tree regulations, as further described below, and to provide for the creation of a "tree fund" where replacement of shade trees on site is not possible,

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey, that Chapter 227 of the Code of the Township of Maplewood be amended as follows:

**Section 1.** The recitals hereto are hereby incorporated by reference as if set forth at length.

**Section 2.** Section 227-2 of the Township Code, entitled "Planting, pruning or removal by Township", is hereby amended by adding underlined text as follows:

#### **§ 227-2 Planting, pruning or removal by Township.**

A. Planting. The Director, or Director's designee, may cause the planting of shade trees, as it deems advisable or necessary, on the public highways and in the parks or parkways of the Township. The Director, or Director's designee, may also provide proper guards for the rearing and preserving of the trees.

B. Prunings; sprayings. The Director, or Director's designee, may cause the trimming or spraying of the shade trees in the public highways and the Township parks and parkways and take such other measures as it deems best for the preservation of the same.

C. Destruction for public safety.

(1) The Director, or Director's designee, may cause the destruction and removal of shade trees in the public highways and in the Township parks and parkways which grow into or obstruct the sanitary sewers or surface water drains of the Township or which may threaten to grow into or obstruct sanitary sewers or surface water drains or any portion of the same.

(2) The Director, or Director's designee, may cause the destruction and removal of any shade trees which may by their roots have occasioned the upheaval or breaking up of a sidewalk or curb or gutter or which may threaten the upheaval or breaking up of the sidewalk, curb or gutter and of any other trees, shrubs and plants in the Township parks and parkways which it may deem necessary or advisable.

(3) The Director, or Director's designee, shall give an owner of the property on which a tree to be removed is located at least two weeks' written notice by regular mail at the last known post office address, if the same is ascertainable, of the intention to remove or cause the removal of any tree in any street or highway (excepting, however, any tree in any park or parkway). In lieu of a written notice by regular mail two weeks before a tree is removed, the property owner may sign a waiver prepared and provided by the Department of Public Works allowing the tree to be removed in less than two weeks' time.

(4) The owner shall have due opportunity to be heard before final action is taken for the removal of the tree. If, however, in the opinion of the Director, or Director's designee, public safety requires immediate removal, no notice shall be necessary

(5) The Director, or Director's designee, upon notification of a vegetation plan from a public utility, shall direct the Township Arborist to evaluate said plan to determine if any trees subject to removal may be preserved through pruning. The Director, or Director's designee, shall share and discuss the Arborist's tree evaluation with the public utility. The Director is authorized to discuss a voluntary tree replacement option with the public utility.

**Section 3.** Section 227-7 of the Township Code, entitled "Definitions" is hereby amended by adding the following definitions:

### **REPLACEMENT TREE**

A nursery-grown certified tree, properly balled, marked with a durable label indicating genus, species and variety, and satisfying the standards established for nursery stock and installation set forth in American Standard for Nursery Stock.

### **TREE FUND**

A fund established by the Township Committee to receive and disburse replacement tree contributions and used for the sole purpose of purchasing and planting of replacement trees within the Township. Appropriations from the Tree Fund shall be authorized by the Township Committee annually upon recommendations from the Director, or Director's designee.

**Section 4.** Section 227-8 of the Township Code, entitled "Permit required" is hereby amended by deleting ~~striketrough text~~ and adding the underlined text as follows:

### **§ 227-8 Permit required.**

No person shall remove any tree 12 inches or more in caliper, or authorize the removal of such tree, on any land within the Township of Maplewood unless the owner of such tree or the person authorized by the owner to remove said tree shall first obtain a permit in accordance with ~~the following~~ Section 227-8A. Permits in accordance with Section 227-8A are also required to remove any trees in any projects that received approval from the Planning Board and/or Zoning Board of Adjustment.

A. Said person shall have submitted a completed application to the Department of Public Works. A completed application shall include:

- (1) The address of the property upon which the tree or trees are located;
- (2) The name and address of the owner and any agent of the owner duly authorized for this purpose;
- (3) The reasons for requesting a permit to cut or remove said tree or trees;
- (4) Evidence of the ownership of the tree or trees, such as a survey, deed or photographs;
- (5) A diagram or other document which accurately sets forth the location of the tree or trees;
- (6) The names and addresses of all abutting property owners to the property upon which the tree or trees are located.

(7) Evidence that all abutting property owners have been sent a certified letter from the applicant stating that a tree removal permit will be requested.

(8) Evidence that a tree removal contractor, if being used, has adequate insurance;

(9) Representation by the contractor that it will comply with all applicable state, OSHA, and ANSI standards;

(10) Representation by the applicant that he/she will notify the Maplewood Police Department of the date of removal so that the Maplewood Police Department may close any street required for the safe removal of the tree or trees;

(11) Representation by the applicant that he/she will plant an equal number of replacement trees, selected from the Township's tree list, to be replanted at a location where the tree is to be removed or, if not feasible to plant at the same location, make a payment to the Tree Fund for each tree removed in an amount set forth annually by the Director, or Director's designee. Such payment to the Tree Fund must be made prior to the issuance of a permit;

(12) Representation by the applicant that replacement trees planted by the applicant shall be done by or supervised by a person with horticultural training in tree care and planting methods;

(13) Representation by the applicant that newly planted trees shall be monitored for a period of one year to ensure the health of the trees and that if the replacement trees die within a one-year period, the applicant shall replace the dead tree.

**Section 5.** Section 227-11 of the Township Code, entitled "Appeals" is hereby amended by adding underlined text as follows:

#### **§ 227-11 Appeals.**

A person applying to remove a tree or an abutting property owner, or a person who is required to plant a replacement tree or make a payment to the tree fund, shall have the right to appeal a decision by the Director, or Director's designee, to the two Maplewood Township Committee members of the Sustainable Maplewood Committee. Such appeal shall be by written notice stating the reasons upon which the appeal is based and shall be filed with the Maplewood Township Clerk within five business days of receipt of the certified letter from the applicant. The filing of an appeal shall cause an automatic stay of a decision by the Director, or Director's designee, until such time as the appeal has been heard. The hearing shall take place within 30 days after the Township Clerk receives the appeal. The Township Committee members of the Sustainable Maplewood Committee may review documents and hear testimony and shall then render its decision. The decision of the Township Committee members of the Sustainable Maplewood Committee shall be final.

**Section 6.** All other portions of Section 227 not expressly amended herein shall remain unchanged.

**Section 7.** 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.

**Section 8.** 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.

**Section 9.** This Ordinance shall take effect after final passage and publication as provided by law.

**PUBLIC NOTICE** is hereby given that the foregoing proposed Ordinance was introduced and read by title at a meeting of the Township Committee of the Township of Maplewood, held on March 19, 2024 and that the  
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Township Committee met again on April 2, 2024, at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Township Committee held a hearing and proceeded to consider the said Ordinance on final reading and final passage.

**MOTION:** Dafis      **SECOND:** Engel  
**YES:**    Cripe, DeLuca, Engel, Dafis, Adams  
**NO:**        None  
**ABSTAIN:** None  
**ABSENT:** None

**Introduction:**    March 19, 2024  
**Adoption:**        April 2, 2024

  
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**ATTEST**      Elizabeth J. Fritzen, Township Clerk