

# TOWNSHIP OF MAPLE SHADE

## Ordinance 2024-10

### ORDINANCE OF THE TOWNSHIP OF MAPLE SHADE ADOPTING A TREE REMOVAL AND REPLACEMENT PROGRAM

#### § 206-1 SECTION 1.

##### **Purpose:**

An ordinance to establish requirements for tree removal and replacement and penalties for noncompliance in the Township of Maple Shade to protect the environment, public health, safety and welfare and to ultimately achieve a no net loss of trees within the Township of Maple Shade.

#### § 206-2 SECTION 2.

##### **Definitions:**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

*“Administrative Officer”* means the Director of Community Development, Zoning Officer, Township Administrator, or their designee.

*“Applicant”* means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

*“Critical Root Radius (CRR)”* – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6” DBH would have a CRR = 6”x1.5’ = 9’.

*“Diameter at Breast Height (DBH)”* means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.

*“Tree of Significance”* means any tree that is recognized by the municipal governing body or local historical organization(s) as being of significance due to its size, unique value, age, rarity, or the aesthetic, botanical, ecological, and historical value.

*“Hazard Tree”* means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees. [Municipalities may choose to require a Licensed Tree Expert to make all Hazard tree determination]

1. Has an infectious disease or insect infestation;
2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or

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5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

“*Homeowner*” means a person(s) who owns a residence.

“*Nuisance tree*” means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc); or threatens public health, safety, and welfare.

“*Person*” means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

“*Planting strip*” means the part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

“*Street Tree*” means a tree planted in the sidewalk or a planting strip in the public right-of-way.

“*Tree*” means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

“*Tree removal*” means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, and improper grading and/or soil compaction around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of tree treatments intended to manage invasive species.

### § 206-3 SECTION 3.

#### **Application and Replacement Requirements**

**A. Application Process.** Any person planning to remove a street tree with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to the Administrative Officer. No tree shall be removed until the Administrative Officer has reviewed and approved the Tree Removal Application.

#### **B. Tree Replacement Requirements.**

1. Within a five-year period, any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under subsection D of this Section 3 of this Ordinance, shall be subject to the requirements of the Tree Replacement Requirements Table below. Applicants will be subject to and must pay when applying, an application fee as per the Tree Replacement Requirements below.

2. For Applicants, other than Homeowner.

Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under subsection D of Section 3 of this Ordinance, shall be subject to the requirements of the Tree Replacement Requirements Table below.

3. For Homeowner Applicants.

Within a five-year period, any person that removes more than three (3) trees per acre that fall into categories 1, 2, or 3, combined, or any one (1) tree in categories 4 or 5 in the Tree Replacement Requirements table below, unless exempt under subsection D of this Section 2 of this Ordinance, shall be subject to the requirements of the Tree Replacement Requirements Table below.

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4. The species types and diversity of replacement trees shall be in accordance with the approval of the Administrative Officer in his or her discretion.

5. Replacement tree(s) shall meet the Required Actions in the table below and shall be planted within twelve (12) months of the date of removal of the original tree(s). Replacement tree(s) shall be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

| Category | Tree Removed (DBH)   | Required Action  | Application Fee |
|----------|--|--|-----------------|
| 1        | DBH of 2.5" (for street trees) or 6" (for other trees) to 12.99" | Replant 1 tree in accordance with the approval of the Administrative Officer, with a minimum DBH of 1.5" for each tree removed | \$25.00         |
| 2        | DBH of 13" to 22.99"   | Replant 2 trees in accordance with the approval of the Administrative Officer, with minimum DBHs of 1.5" for each tree removed | \$25.00         |
| 3        | DBH of 23" to 32.99"   | Replant 3 trees with minimum DBHs of 1.5" for each tree removed  | \$25.00         |
| 4        | DBH of 33" or greater  | Replant 4 trees with minimum DBHs of 1.5" for each tree removed  | \$25.00         |
| 5        | Tree of Significance*  | Replant 5 trees with minimum DBHs of 1.5" for each tree removed  | \$25.00         |

*\*Tree of Significance removals shall be approved by the Administrative Officer*

6. The species type and diversity of replacement trees shall be in accordance with Trees for New Jersey Streets

### C. Replacement Alternatives.

If the Administrative Officer determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

1. Plant replacement trees in a separate area(s) approved by the municipality.
2. Pay a fee of \$150.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting.

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### D. Exemptions

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification shall be provided, in writing, to the municipality by all persons claiming one or more of the exemptions as set forth below:

1. Clearing, cutting and/or removal of trees which is necessary to service, maintain, or ensure the continued safe use of a lawfully existing structure, right-of-way, field, park and/or garden. The requirement of proper justification shall be met by submission of a written description certifying why the person needs to clear, cut, and/or remove trees to service, maintain, or ensure the continued safe use of a lawfully existing structure, right-of-way, field, park and/or garden and photographs substantiating same to the satisfaction of the Administrative Officer.

2. Tree farms in active operation, nurseries, and garden centers. The requirement of proper justification shall be met by submission of a written description certifying the active lawful operation of a tree farm, nursery or garden center and photographs substantiating same to the Administrative Officer.

3. Properties used for the practice of silviculture under an approved forest stewardship or woodlands management plan. The requirement of proper justification shall be met by submission of a written description certifying the property is used for the practice of silviculture under an approved forest stewardship or woodland management plan, copies of all such approvals thereof in writing and a written statement from a licensed tree expert or arborist confirming such claim, to the satisfaction of the Administrative Officer.

4. Any trees removed pursuant to a New Jersey Department of Environment Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environment clean-up, or NJDEP approved habitat enhancement plan. The requirement of proper justification shall be met by submission of a written description certifying that the property is subject to a New Jersey Department of Environmental Protection (NJDEP) approved or U.S. Environmental Protection Agency (EPA) approved environmental cleanup, or NJDEP approved habitat enhancement plan, copies of all such approvals thereof in writing and a written statement from a licensed tree expert or arborist confirming such claim. To the satisfaction of the Administrative Officer.

5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife. The requirement of proper justification shall be met by submission of a written description certifying that the property is subject to approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife, copies of all such approvals thereof in writing and a written statement from a licensed tree expert or arborist confirming such claim. To the satisfaction of the Administrative Officer.

6. Nuisance trees may be removed with no fee or replacement requirement. The requirement of proper justification shall be met by submission of a written description certifying that the trees targeted for removal are nuisance trees, photographs substantiating same and a written statement from a licensed tree expert or arborist confirming such claim, to the satisfaction of the Administrative Officer.

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§ 206-4 **SECTION 4.**

**Enforcement and Penalties**

This ordinance shall be enforced by the Code Enforcement Office, Department of Public Works or any other department of the municipality as directed by the Township Manager during the course of ordinary enforcement duties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$1,000.00 and/or the planting of additional trees. The removal of a tree of significance is not subject to a fine limit, which shall be fixed by the Municipal Court of the Township of Maple Shade in its discretion, but such fine shall in no event be less than \$1,000.00.

§ 206-5 **SECTION 5.**

**Severability:**

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

§ 206-6 **SECTION 6.**

**Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduction: April 25, 2024

| COUNCIL  | MOTION | SECOND | AYES | NAYS | ABSTAIN | ABSENT |
|----------|--------|--------|------|------|---------|--------|
| Kauffman |        |        |      |      |         | X      |
| Nunes    | x      |        | x    |      |         |        |
| Volpe    |        | x      | x    |      |         |        |
| Wiest    |        |        | x    |      |         |        |
| Schmidt  |        |        | x    |      |         |        |

**CERTIFICATION**

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Maple Shade Township Council at a meeting held on May 23, 2024

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Andrea T. McVeigh, RMC

Adopted: May 23, 2024

comments: none

| COUNCIL  | MOTION | SECOND | AYES | NAYS | ABSTAIN | ABSENT |
|----------|--------|--------|------|------|---------|--------|
| Kauffman |        |        | x    |      |         |        |

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|---------|--|---|---|---|--|--|--|
| Nunes   |  | x |   | x |  |  |  |
| Volpe   |  |   |   | x |  |  |  |
| Wiest   |  |   | x | x |  |  |  |
| Schmidt |  |   |   | x |  |  |  |