

AN ORDINANCE CONCERNING TREE REMOVAL AND AMENDING THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968."

BE IT ORDAINED by the Township Committee of the Township of Princeton, County of Mercer, and State of New Jersey, as follows:

1. Sections 22-1 through 22-4 of Chapter 22 of the "Code of the Township of Princeton, New Jersey, 1968," are hereby designated **as** Article I within said Chapter.

2. Chapter 22 of said Code is further amended by adding thereto a NEW Article II regulating tree removal and shall read as follows:

ARTICLE II. TREE REMOVAL.

Sec. 22-5. Purpose.

The purpose of this article is to control and regulate the indiscriminate or excessive removal, large-scale, clear-cutting and destruction of trees and to control, regulate and prevent conditions which cause an increase in stormwater run-off, sedimentation, soil erosion, loss of wildlife habitat, air or noise pollution or inhibit aquifer recharge or impair the ambiance or physical appearance of a neighborhood.. The regulations contained in this article are designed to limit such adverse impact while not interfering with the right of a township property owner to appropriately remove trees in accordance with the regulations set forth hereinbelow.

Sec. 22-6. Definitions.

As used in this article, the following terms shall have the following definitions:

(a)PERSON .An entity whose existence is recognized by law, including, but not limited to, any individual, partnership, corporation (for-profit, non-profit, or municipal and its agencies), firm, association, or any combination of the foregoing.

(b)Tree. Any living woody perennial plant having a trunk diameter of at least six (6) inches measured at 4.5 feet above the natural ground level.

(c) Landmark tree. A tree nominated by a property owner on whose property the tree(s) is located which said property owner considers to be special by virtue of history, unusual size, or age, or of a rare species and as so designated by the shade tree commission.

(d) Landmark tree register. A register of all landmark trees which shall be promulgated by the shade tree commission after notification to the person on whose property such a tree or trees are located. The shade tree commission shall promulgate and update the landmark tree register at a public hearing on public notice to all property owners affected.

(e) Enforcement officer. The township engineer or a qualified arborist appointed by the engineer for the purpose of enforcing the terms of this article.

Sec. 22-7. Governed *acts*.

A person may remove or otherwise destroy any tree on any land within the township only in accordance with the terms and conditions of this article.

Caution should be taken, particularly during periods of construction, to avoid the placement of materials, machinery or temporary soil deposits within the drip line area of any tree located on any land within the township.

s e c . 22-8. Permit required.

No person directly or indirectly shall, without first obtaining a permit or approval as provided for hereinbelow remove or otherwise destroy any tree on lands located in the township as set forth in this section. "Removal" shall include, but not be limited to, damage inflicted to the root system by machinery, storage of materials and soil compaction, change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; excessive pruning or thinning leading to a failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the tree; or application of any toxic substance.

The following acts are hereby regulated and shall require the below-referenced permit:

(a) Clear-cutting. A tree removal permit shall be required prior to the clear-cutting of fifty (50%) percent or greater of the trees having a trunk diameter greater than six (6) inches at a point 4.5 feet above the natural ground level on a lot containing more than sixteen (16) trees within a twelve (12) month time frame. Lots containing fewer than sixteen (16) trees are exempt from this requirement so long as not more than eight (8) trees are removed or otherwise destroyed on that lot within a twenty-four (24) month period as provided for in section 22-12(a) hereinbelow.

(b) A permit for the removal or otherwise destroying a landmark tree as designated by the shade tree commission.

(c) A permit shall be required for the removal or otherwise destroying a tree extending over a public right-of-way.

Sec. 22-9. Application for permit.

(a) A person desiring to remove or otherwise destroy a tree as provided for in section 22-8 hereinabove shall apply to the township engineer or his or her designee for a permit to remove or otherwise destroy a tree. This application should be in narrative form within a letter and specify:

(1) The name and address of the owner of the premises;

(2) The name and address of the applicant for the permit, if other than the owner, accompanied by the owner's consent to said application;

(3) A description by lot and block number of the premises for which the permit is sought;

(4) If the tree is a landmark tree, the tree's register number.

(b) The application for a permit should be accompanied by a sketch containing the following:

(1) A description of the premises upon which the tree removal or destruction is to take place by street address and lot and block number;

(2) The size of the lot;

(3) The location upon the lot where the destruction or removal of the tree or trees is proposed to take place;

(4) The identity of and the number of trees to be destroyed or removed;

(5) The purpose of the destruction or removal of the trees;

(6) The proposal, if any, for replacing any destroyed or removed trees or other landscape improvement; and

(7) The location of all streams on the lot or adjacent properties.

(c) The township engineer or his or her designee shall apply the following standards in evaluating the permit for the tree removal or destruction. Said township engineer or his or her designee shall visit the location and inspect the land and trees which are the subject of the application in order to determine the effect of the destruction or removal upon:

(1) The drainage or other physical conditions on the land and adjacent property; and

(2) The stability of the soil of the subject land, with particular concern as to whether erosion will be created by the tree removal; and

(3) The growth and development of the remaining trees on the land and adjacent property.

Sec. 22-10. Issuance of permit for tree removal; time requirements.

(a) The township engineer or his or her designee shall accept for filing the permit application referenced in section 22-9 hereinabove. Said application shall be date and time stamped when received, and the applicant shall be furnished a copy of said application

with said date and time stamped. Thereafter, the township engineer or his or her designee shall within fifteen (15) business days of receipt of the completed application for the removal of a non-landmark tree(s):

(1) Visit and inspect the location of the application as provided for hereinabove; and

(2) Decide whether the destruction or removal of the trees, which is the subject of the application, will cause or contribute to drainage problems, soil erosion, or the loss of tree species; and

(3) Grant or deny the requested permit in whole or in part.

The failure of the township engineer or his or her designee to act upon the application for the removal of a non-landmark tree(s) within said fifteen (15) business days shall constitute approval of said application and entitle the applicant to the permit requested unless an extension of the fifteen (15) day period has been agreed upon between the applicant and the township engineer or his or her designee in writing before the period expires.

In the case of a landmark tree, the township engineer or his or her designee shall refer a completed application to the shade tree commission. The shade tree commission shall grant or deny the requested permit within thirty (30) business days of the filing of the application by the applicant. Any applicant may request an informal hearing in support of a permit and all decisions to deny the permit must be in writing, setting forth the reasons for such denial.

In the case of a tree(s) located on a property in an historic preservation zoning district or historic preservation buffer zoning district for which a preservation plan is required pursuant to section 10B-240.1, the township engineer or his or her designee shall refer a completed application to the historic preservation commission. The historic preservation commission shall grant or deny the requested permit within thirty (30) business days of the filing of the application by the applicant. Any applicant may request an informal hearing before said commission in support of a permit and all decisions to deny the permit shall be in writing, setting forth the reasons for such denial.

Sec. 22-11. Appeal.

Within ten (10) days of receipt of decision of the township engineer or his or her designee or the shade tree commission, which denies approval for the tree removal or otherwise destruction, the applicant may appeal in writing to the township committee. The governing body shall decide the appeal within thirty (30) days of receipt of the notice of appeal. The failure of the governing body to decide the appeal within thirty (30) days shall constitute reversal of the decision by the township engineer or his or her designee or the shade tree commission. In any event, the applicant shall be notified of the governing body's action or failure to act by written notice from the township clerk.

Sec. 22-12. Exceptions.

Excepted from the provisions of this article are the following:

(a) The removal of eight (8) trees or fewer within in a twenty-four (24) month period from a lot containing fewer than sixteen (16) trees as provided for hereinabove exclusive of any landmark trees or any trees extending over the public right-of-way.

(b) Any tree located on publicly-owned land and removed by the appropriate public agency with the consent of the township engineer;

(c) Any tree that poses imminent danger to life or property. If prior notification of the removal of said tree pursuant to this article has not been given to the township engineer or his or her designee prior to removal, then notification must be provided within three (3) days of such removal;

(d) Any dead tree or substantially diseased tree as a result of natural causes or storm damage where:

(i) The person desiring to destroy or remove the tree is the owner of the land upon which the tree is located;

(ii) The person notifies the township engineer or his or her designee of the desire to remove the tree; and

(iii) The township engineer or his or her designee verifies that the tree is dead and substantially diseased as a result of natural causes;

(e) Accident or storm-damaged trees where removal is in response to an emergency;

(f) Tree removal covered by approved site plan. However, a copy of any site plan application, which provides for the removal of a landmark tree, must be provided to the township engineer or his or her designee to allow the shade tree commission as provided for in section 22-10(c) to provide its review and comment, if any, to the planning board;

(g) Tree removal covered by preservation plan approval granted by the historic preservation commission or the commission's administrative officer for properties which are subject to the commission's jurisdiction within the township historic preservation zoning districts or historic preservation buffer zoning districts;

(h) The removal of any trees which are a part of an approved woodlot management program pursuant to the provisions of the New Jersey Farmland Assessment Act of 1964.

Sec. 22-13. Violations and administrative penalties.

Any person violating or causing to be violated any of the provisions of this article shall be subject to an administrative fine or a fine as determined by the municipal court judge as follows:

(a) The shade tree commission may assess an administrative fine up to the amount of the retail value, as determined by the International Society of Arboriculture trunk formula for the tree or trees which have been removed or otherwise destroyed or may direct that the violator replace each tree removed or destroyed by another tree of an approved species by the township engineer or his or her designee at least two and one-half (2.5) inches in diameter measured at four and one-half (4.5) feet above the ground or both. The violator shall within ten (10) days of the assessment of said administrative decision advise the township engineer as to whether or not the violator accepts said administrative fine or tree replacement directive. If at the end of said ten (10) day time frame said

administrative fine or tree replacement is either not accepted by the violator, then the township engineer or his or her designee shall issue a summons and complaint to the violator returnable in the Princeton township municipal court. All administrative fines must be paid in full within the above-referenced ten (10) day time frame.

(b) If the administrative decision is not accepted by the violator within the ten (10) days provided for in subparagraph (a) hereinabove, then the municipal court judge may assess a fine up to the amount of the retail value of the tree or trees which have been removed or destroyed or require the tree replacement in accordance with the provisions of subparagraph (a) hereinabove and such additional court costs as the judge deems appropriate.

Each tree destroyed or removed on the same lots in violation of this article shall be considered a separate offense.

The tree replacement provided for in subparagraphs (a) and (b) hereinabove shall be in accordance with the plan approved by the engineer or his or her designee.

Sec. 22-14. Annual report.

The township engineer or his or her designee and the shade tree commission shall make an annual report to the township committee as to permits granted and denied in each calendar pursuant to this article. Such report shall be submitted by February 1 of each year as to the preceding year's activities.

Sec. 22-15. Severance.

In the event that any portion of this article, or the application of this article to any specific situation, shall be declared invalid, such declaration shall not, in any manner prejudice the enforcement of the remaining provisions, or the enforcement of this article in other situations.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are, to the extent of any such inconsistency, hereby repealed.

2. This ordinance shall take effect upon its passage and publication in the Princeton Packet, as required by law.

Patricia C. Shuss, Clerk

Phyllis L. Marc⁷land, Mayor

Adopted: 5/4/98