

ORDINANCE NO. 1972-16

AN ORDINANCE REGULATING THE DESTRUCTION AND REMOVAL OF TREES AND SHRUBS PROVIDING FOR THE ISSUANCE OF PERMITS WITH REGARD THERETO AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, it has been found that the uncontrolled destruction and removal of trees and shrubs growing upon lands within the Township of Ocean has resulted in soil erosion and stream pollution, a decrease of the fertility of the soil, the creation of dust and air pollution, inadequate surface drainage and the creation of breeding places for mosquitoes and other undesirable insects and further, that same has rendered lands unsuitable for its most appropriate uses and has caused deterioration in the value of improved and unimproved real estate within the municipality, and adversely affects the health and welfare conditions of the inhabitants of the Township of Ocean, which has made necessary the passage of this Ordinance to regulate and control the indiscriminate and excessive cutting of trees and shrubs within the Township.

NOW THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF OCEAN, COUNTY OF OCEAN AND STATE OF NEW JERSEY, AS FOLLOWS:

1. The short title of Ordinance shall be "THE TREE ORDINANCE" and this Ordinance shall hereinafter be cited or referred to for purposes of amendment or otherwise by said title.

2. Definitions.

A. Tree- any living deciduous tree having a trunk of a diameter greater than five inches D.B.H. (diameter, breadth, height), (deciduous trees regulated under this Ordinance are all types of maple, oak, birch, gum and willow); and any living coniferous tree having a trunk of a diameter greater than four inches D.B.H., or any living dogwood (*Cornus Flarida*), or American Holly tree having a diameter of one inch or greater D.B.H.

B. Shrub - Native Laurel (*Kalmia Latifolia*) having a root crown of three inches or greater measured at the soil or surface level.

C. Building Lot - A parcel of land upon which a dwelling house has been or may be erected in accordance with the Zoning Ordinance or may be erected with a variance.

D. Nursery, Garden Center, Orchard or Tree Farm - Only such land within the municipality used for horticultural purposes under controlled agricultural conditions.

E. Sanitary Land Fill - Land used by the municipality or private persons for the disposal of rubbish or garbage as defined in the Sanitary Land Fill Ordinance of the Township of Ocean.

F. Public Right-of-Way - any street or road shown upon a map or plan filed in the Ocean County Clerk's Office or on the official map of the Township of Ocean.

G. Management Plan - A plan for the management of timbered or forested lands developed by the New Jersey Department of Environmental Protection, or similar State or Federal agency, Township Conservative Commission or Township officials.

H. Permits - A license issued by the Building Inspector of the Township of Ocean to remove or destroy trees or shrubs as defined in this Ordinance.

3. No person, association, group or corporation is to remove or destroy, or cause to be removed or destroyed any tree or shrub growing in the Township of Ocean without having first obtained a permit as provided in this section. Consideration shall be given when size and species indicates historic and landmark value. Coniferous trees may be removed in areas where deciduous trees predominate, only to the extent necessary to provide existing shade trees room for growth.

A. Application for Permit with Building Permit:

Upon an application for a building permit for any construction which would cause the removal or destruction wholly or partially of any tree or shrub as defined in this Ordinance, the applicant shall indicate upon a plot plan, which shall accompany such application, the location of all trees and shrubs and shall designate which trees, if any, are to be removed or destroyed. A copy of such plot plan shall be filed by the applicant with the Building Inspector and the Ocean township Conservation Commission if said Commission is in existence at the time of the application.

Said Commission shall review the same and notify the Building Inspector of its recommendation which shall not be binding upon the Building Inspector. Said recommendations shall be forwarded to the Building Inspector within fifteen days of receipt of same by the Conservation Commission, failing in which the Township Building Inspector may grant or deny a permit without further delay. The Building Inspector shall issue a building permit whenever an application and plot plan indicates that trees or shrubs shall be destroyed or removed only upon his approval pursuant to this Ordinance.

B. Application for Permit Without Building Permit:

Applications for a permit for the removal or destruction of trees or shrubs as defined in this Ordinance, where a building permit is not immediately involved, shall be made directly to the Building Inspector and shall contain the name of the applicant, location of the property and plot plan as aforesaid, and in addition thereto the purposes for which the application is being made. The following shall be considered to the legitimate purposes for the removal of a tree or shrub as defined:

Harvesting timber, fire protection, industrial use, private parks, scenic improvement, hardship or danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities or drainage of surface water.

The foregoing to be carried out in accordance with an approved forest management plan and taking into consideration that certain trees will not be left for scenic beauty.

A. copy of the plot plan shall be filed with the Conservation Commission if said Commission is in existence at the time of the filing of the application, which shall act upon the application as hereinabove stated within fifteen days of the date of receipt, and if the Commission shall not have acted upon the application within such period, the Township Building Inspector may grant or deny a permit without further delay.

C. Standards - Prior to the issuance of a permit by the Building Inspector the lands covered by each application shall be viewed by the Building Inspector or his representative who shall inspect the same as to the trees and shrubs which are the subject of the application, as well as drainage and other physical conditions existing on the property and adjacent property, and the Building Inspector or his representative shall issue the permit upon a finding that the destruction or removal to be permitted would not impair the growth and development of the remaining trees and shrubs on the property of the applicant or adjacent properties, would not cause soil erosion, would not impair existing drainage patterns, would not lessen property values in the neighborhood, and would not substantially impair the aesthetic values of the area. The Township Building Inspector shall have the authority to affix reasonable conditions to the granting of a permit hereunder in conformity with the purposes set forth herein.

4. Protection of Trees - No soil material, permanent or temporary, shall be placed within three feet of any trees or shrubs. Where grading may be required, trees shall be walled in an extension tile to the outer crown of the tree.

5. Exempt Lands or Activities - The following lands or activities shall be exempt from the provisions of this Ordinance; nurseries, garden centers, orchards and tree farms, gardening, sanitary land fill operations licensed by the Township of Ocean and State of New Jersey, surface mining operations, public rights-of-way, engineers and surveyors engaged in professional activities, and building lots of less than one-half acre where an existing home has been fully constructed.

6. Fees - Upon the filing of an application to the Building Inspector under this Ordinance, the applicant shall pay to the Township of Ocean the sum of \$10.00 for an application fee. In addition thereto, if the Building Inspector shall permit the destruction of trees pursuant to the terms of this Ordinance,

the following fee schedules shall be in effect:

1 - 15 trees to be destroyed	\$15.00
16 - 50 trees to be destroyed	50.00
50 - 100 trees to be destroyed	100.00
Over 100 trees as estimated, the additional sum of \$1.00 per tree.	

No fee shall be charged for a permit authorizing the transplanting of trees or shrubs in live condition to other locations of the removal of diseased or damaged trees or shrubs or the removal of trees within fifteen feet of foundations.

7. Appeals - Whenever any application for a permit shall be denied by the Township Building Inspector, the applicant may appeal the denial to the Ocean Township Committee by filing a written notice of appeal with the Township Clerk within ten days after receiving a written notice of the denial of such application. The Township Committee shall thereafter hold a public meeting on the matter in accordance with rules or procedures to be established by the Township Committee and may modify or affirm or reverse the decision of the Township Building Inspector.

8. Penalties - Any person, association, group or corporation, or others violating or causing to be violated any of the provisions of this Ordinance shall be fined not more than \$500.00 or imprisoned in the County Jail for not more than 90 days, or both, for such violation of this Ordinance. Each and every day that such violation continues shall be considered a separate violation. Each tree or shrub destroyed or removed in violation of this Ordinance shall be considered a separate violation.

9. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

10. Effective Date - This ordinance shall take effect immediately upon final passage and publication according to law.

N O T I C E

NOTICE IS HEREBY GIVEN, that the foregoing ordinance was

introduced and passed upon first reading at a regular meeting of the Township Committee of the Township of Ocean held on September 14, 1972 and will be considered for final passage at a regular meeting of the said Township Committee to be held at the Town Hall, Ocean Township, New Jersey on October 12, 1972 at 8:00 P.M. at which time and place any person desiring to be heard shall be given an opportunity to be heard.



DOROTHY E. HORNER
Township Clerk

FRANKLIN H. BERRY, JR.
Township Attorney
Toms River, New Jersey