

TOWN OF LAYTONSVILLE

TREE ORDINANCE

Sec. 1. Purpose.

The purpose of this Ordinance is to protect and preserve trees on public and private property in the Town, provide for public health, safety and general welfare, and promote the Town's natural beauty.

Sec. 2. Definitions.

"Tree" means a perennial plant that has a woody stem or trunk, and which customarily grows to a height of not less than ten feet when fully grown.

"Public road" means any road, the title to which, or the easement for the public use of which, is vested in the State of Maryland, Montgomery County or Town of Laytonsville.

"Roadside tree" means a tree which is planted or grows wholly or partially within the right-of-way of a public road.

"Dripline" is an imaginary line extending from the outer reaches of a tree crown vertically to the ground.

"Landmark" tree means any tree that has a trunk over 12 inches in diameter as measured 4½ feet from the average ground level.

"Person" includes any political subdivision of the State, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

Sec. 3. There is hereby created a Tree Commission to consist of three members who shall be appointed by the Mayor subject to confirmation by the Council. Promptly after the effective date of this Ordinance, one member shall be appointed to serve for one year, another to serve for 2 years and a third to serve for 3 years, and upon the expiration of their respective terms, re-appointments shall be for 3-year terms. A member may be re-appointed so succeed himself or herself.

The authority and duties of the Commission shall be to advise the Mayor, Council, and Town Clerk on all matters relating to the administration of this Ordinance, and to propose and consider ways and means, including legislation, for improving, preserving, protecting and replacing trees in the Town, and the safety and welfare of its inhabitants and visitors. The Commission has the responsibility of preserving and protecting all trees required by the Town Council and through approval of site plans, landscape plans, subdivision plans and the inclusion of special conditions to a special exception approval.

Sec. 4. Damage.

It is unlawful for any person to damage, cut, destroy or otherwise injure any roadside tree or any tree in a public park or on other public property. This section shall not apply to care, maintenance, and/or removal of trees by public agencies, or by persons or utility companies operating under a permit or license issued pursuant to law, nor shall it apply to injury caused by unavoidable accident.

Sec. 5. Signs.

It is unlawful for any person to attach or affix any sign, advertisement or notice on an roadside tree or tree in a public park or on other public property.

Sec. 6. Harmful substances.

It is unlawful for any person to lay, deposit, or install cement or asphalt in the right-of-way of a public road so as to impede access of air and/or water to the roots of any tree planted in said right-of-way. It is unlawful for any person to knowingly dump or deposit salt, brine, or petroleum products on a public road or public property in an amount and location so as to be injurious to one or more trees located or planted there.

Sec. 7. Permits; Roadside Trees.

It is unlawful for any person to plant, trim, spray, remove, or perform any other treatment to any tree in the right-of-way of a public road without first obtaining a permit from the appropriate office of the Forest, Park, and Wildlife Service

of the State Department of Natural Resources. The applicant shall furnish to the Clerk of the Town a copy of the application for said permit, when made, and a copy of the permit within five (5) days after it is issued. A permit is not required in any of the following circumstances:

(a) if a tree is uprooted or its branches broken so as to contact telephone, telegraph, electric power, or other wires carrying electricity, or if the tree or its branches are an immediate danger to persons or property;

(b) a tree standing in the right-of-way of a public road which has not been surfaced with either stone, shell, gravel, concrete, brick, asphalt, or other improved surface material may be cut down and removed by the abutting land owner for his own use without a permit, if the trunk of the tree is less than 12 inches in diameter, as measured 4½ feet from the average ground level;

(c) utility companies operating under a permit from the Forest, Park, and Wildlife Service shall not be required to furnish a copy of the permit to the Clerk of the Town;

(d) ordinary maintenance such as watering and mulching may be performed without a permit.

Sec. 8. Restrictions on Removal of Trees on Private Property.

It is unlawful for any person to remove a landmark tree located on private property, without first giving written notice to the Clerk of the Town that such tree is to be removed. Such notice shall be given not less than ten (10) days prior to the proposed removal. The Town Government has special interest in preserving and protecting landmark trees and the failure to give such notice where required shall be a violation of this Ordinance. The Town Government has the right to stop the removal of landmark trees.

Sec. 9. Obstructions.

It is unlawful for any property owner to permit any tree growing on his property to hang over or branch in such a way as to obstruct or obscure street lights, public signs, traffic signals, or vehicular traffic on or entering a public road. Any such obstruction shall be removed by the property owner at his expense within 30 days after a demand in writing from the Mayor or Clerk of the Town. Such notice shall be deemed

sufficient if it is hand delivered to the premises or mailed to the occupant of the premises by certified mail. If the obstruction is not removed within 30 days after delivery, the Mayor and Council shall have the right to enter upon the property, if necessary, cause such obstruction to be removed, charge the expense thereof to the owner of the property, and collect the same as uncollected real estate taxes are collected.

Sec. 10. Protection of Trees During Construction.

During the construction, altering or repairing of any building or structure, the owner or contractor shall place guards, fences, or barriers as close to the dripline as possible of all nearby trees in the right-of-way of a public road or on public property so as to prevent injury thereto.

Sec. 11. Removal of Trees Declared Public Safety Hazards.

The Mayor shall have the authority to order the removal of any tree on private property which endangers the life, health, safety or property of any person. The expense for removal of the tree shall be the responsibility of the property owner. The owner of the property shall remove the tree or portion thereof consisting a hazard after receipt of written demand from the Mayor; provided, that if the owner fails to remove same, the Mayor shall have the right to take whatever reasonable steps are necessary to have the tree or portion thereof removed, including an entry upon the land, if necessary, and charge the expense thereof to the owner, and collect the same as provided in sec. 9 hereof.

Sec. 12. Remedies.

A violation of this Ordinance is a "municipal infraction" and punishable as such as provided in sec. 3b of Article 23A of the Annotated Code of Maryland now in force and effect and hereafter amended from time to time.

In addition, any court of competent jurisdiction shall have the right to issue restraining orders, temporary and permanent injunctions and other appropriate forms of remedy and relief for enforcement of this Ordinance, and to prevent violations thereof.

Sec. 13. This Ordinance shall take effect on its adoption.

Adopted: November 7, 1989