

Topic:	Tree Preservation & Protection; Natural Resource Protection & Conservation
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Mamaroneck
Year (adopted, written, etc.):	1985-2002
Community Type – applicable to:	Suburban; Rural
Title:	Town of Mamaroneck Tree Cutting Ordinance
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Abstract

Chapter 207 of the Town Code for the Town of Mamaroneck seeks to correct barren and unsightly conditions caused by the destruction or damage to shade, ornamental and evergreen trees and plants and the indiscriminate and excessive cutting of these trees in subdivisions and on private property. This Chapter sets out regulations on the removal of trees.

Resource

Town of Mamaroneck NY Trees
Code of the Town of Mamaroneck NY
Chapter 207: Trees
General Code

[http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0239%2D207%2Ehtm&cn=798&n=\[1\]\[120\]\[798\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0239%2D207%2Ehtm&cn=798&n=[1][120][798])

[HISTORY: Adopted by the Town Board of the Town of Mamaroneck 7-17-1985 by L.L. No. 10-1985 (Ch. 76A of 1975 Code). Amendments noted where applicable.]

§ 207-1. Findings; purpose.

The destruction or damage to shade, ornamental and evergreen trees and plants and the indiscriminate and excessive cutting of these trees in subdivisions and on private property causes barren and unsightly conditions, creates increased surface drainage problems, increases municipal costs to control drainage, impairs the stability and value of improved and unimproved real property and causes deterioration to the community which adversely affects the health, safety, environment, ecosystems and general welfare of the inhabitants of the Town of Mamaroneck. This chapter seeks to correct these conditions.

§ 207-2. Cutting or destruction of trees restricted; exceptions.

- A. No person, firm or corporation or individual connected with such firm or corporation shall either purposely or negligently cut down, kill or otherwise destroy or commit any act which will lead to the eventual destruction of any tree exceeding six inches in diameter at a height of four feet measured from the ground on any private property unless he is in the possession of a permit to do so issued by the Tree Preservation Commission pursuant to § 207-4. Permits issued for any other purpose by the Town shall not be valid for this purpose. A lot of 20,000 square feet or less substantially developed with improvements and a structure or structures situated thereon shall be exempt from this section. **[Amended 7-17-1996 by L.L. No. 14-1996]**
- B. Notwithstanding any other provision of this chapter, any property owner applying for subdivision or site plan approval whose plans would require the removal of any trees on said property shall make application to the Planning Board of the Town of Mamaroneck, which shall have sole jurisdiction regarding the proposed removal of such trees. The Planning Board may grant or deny such application on such terms and conditions as it may prescribe, it being understood that there must, in any event, be full compliance with Chapter 190, Subdivision of Land, and Chapter 177, Site Plan Review, of the Code of the Town of Mamaroneck. In the event that a property owner, subsequent to the filing of a final plat or site plan, shall require the removal of any trees which deviates from the plans approved by the Planning Board, application must be made to the Tree Preservation Commission and all the requirements of this chapter shall be applicable.

§ 207-3. Additional duties of Tree Preservation Commission. [Amended 11-28-1990 by L.L. No. 6-1990; 9-25-1991 by L.L. No. 8-1991; 5-15-1996 by L.L. No. 12-1996; 4-22-2003 by L.L. No. 12-2003]

In addition to its other duties as provided for in this chapter, the Tree Preservation Commission shall advise the Town Board in its selection, purchases, placement, and planting of trees and shrubs on municipal property and shall maintain an inventory and management plan for the continued maintenance and improvement of municipal plantings.

§ 207-4. Criteria for removal of trees. [Amended 5-18-2005 by L.L. No. 8-2005]

- A. Permits for the removal of trees may be granted under the following circumstances:
- (1) If the presence of trees would cause hardship or endanger the public or the person or property of the owner.
 - (2) On property to be occupied by buildings or structures, within a distance of 10 feet around the perimeter of such building or structure, depending upon tree species

and conditions to be determined by the Tree Preservation Commission.

- (3) If the trees substantially interfere with a permitted use of the property, and the removal of the trees shall be performed in a selective manner.
 - (4) If the property shall have an approved cut or fill of land deemed by the Tree Preservation Commission to be injurious or dangerous to the trees.
 - (5) Where the trees to be removed are dead or so substantially diseased that, in the opinion of the Tree Commission, the tree constitutes a potential danger.
- B. Notwithstanding Subsection A of this section, if the Tree Preservation Commission determines that a tree is hazardous to life or property, it may grant a permit for the immediate removal of such tree without having to follow the procedures or requirements set forth in Subsections A, B, C, F and G of § 207-6 of the Code or § 207-10 of the Code.
- C. The determination of the Tree Preservation Commission shall be final and shall depend upon the species of the tree, the degree of injury and the likelihood of the survival of the tree and consideration of the general welfare and the overall environment of the area, except that it shall be subject to such review as is authorized by § 207-6H.

§ 207-5. Commission qualifications for issuance of permits. [Amended 5-18-2005 by L.L. No. 8-2005]

Each member of the Tree Preservation Commission is encouraged to take a course, at the Town's expense, from an organization whose educational purposes include dendrology (the study of trees). Such source shall include an introduction in determining the health of trees. No permit to remove a tree may be granted unless one of the members of the Tree Preservation Commission voting on an application for a permit has taken such a course within the five years immediately preceding the date of the vote on that application. This section shall apply only to applications for permits that are submitted after June 30, 2006.

§ 207-6. Tree removal permit procedure; bond.

- A. All applications for permits hereunder shall be made in writing and verified under oath upon forms prescribed by the Tree Preservation Commission and approved by the Town Board of the Town of Mamaroneck. The fee for each application shall be set by resolution of the Town Board, payable upon submission of the application. **Editor's Note: See Ch. A250, Fee Schedule.**

- B. The applicant shall submit plans showing existing and proposed contours at two-foot intervals on a map or plan, at a scale no smaller than one inch equaling 50 feet. Where trees are to be removed or destroyed, existing trees, specifying types and sizes, shall be shown and the reasons for removing or destroying said trees shall be set forth. The plans shall provide for new trees to be planted and shall specify their location and type to replace the existing trees in kind. When the existing trees are so large and mature that they cannot be replaced, the Tree Preservation Commission may require planting of multiple trees instead. On substantially wooded lots (lots containing 30 or more trees per acre meeting the requirements of § 207-2A), the Tree Commission shall have the discretion of waiving the requirement of replacement of each tree in kind or payment of a fee. **[Amended 2-6-1991 by L.L. No. 1-1991]**
- C. The Tree Preservation Commission may require additional information such as the design of walls, disposition and design of storm drainage and any other information pertinent to the individual circumstances.
- D. Where extensive tree cutting is planned, the Tree Preservation Commission may require the applicant to pay for an Inspector to be assigned by the Commission to supervise the orderly development of the land and ensure the protection of the trees.
- E. The Tree Preservation Commission shall require that the applicant or applicant's representative who shall be performing the work shall furnish the Town with a performance bond as approved by the Counsel to the Town in an amount sufficient to cover 90% of the planting and restoration work to be completed in accordance with the plans accompanying the application. The remaining 10% of the cost of restoration and replanting shall be in cash, deposited in a special tree preservation escrow account. The total amount of the bond and cash deposit shall reflect all restoration and protection costs and shall be in accordance with each set of individual circumstances. Upon completion of all planting and restoration work to the satisfaction of the Tree Preservation Commission, the performance bond shall be canceled and replaced with a maintenance bond to be approved by the Counsel to the Town and to run for a term of two years. The ten-percent cash in escrow shall remain on deposit with the Town until the maintenance bond is canceled.
- F. The Tree Preservation Commission, within 20 days from the date the application is submitted in final form, shall approve or disapprove the application for permit. No trees shall be cut pursuant to a validly issued permit for a period of 10 days from the date of the issuance of said permit. The failure to act upon the application for permit within said 20 days shall be deemed a granting of automatic approval by the Tree Preservation Commission of the application for permit.
- G. All decisions or determinations made by the Tree Preservation Commission approving applications pursuant to this chapter shall be sent to property owners within a two-

hundred-fifty-foot radius of the area in question and to the Planning Board.

- H. Any person, firm, organization or corporation aggrieved, affected or interested in the determination or decision of the Tree Preservation Commission shall have the right, within 10 days from receipt of the decision of the Tree Preservation Commission, to appeal to the Town Board, which shall review the decision. Any decision or determination of the Tree Preservation Commission which is appealed to the Town Board shall be stayed pending review by the Town Board.
- I. Any decision or determination of the Commission sustained, revoked or modified by the Town Board may be appealed by any person, firm, organization or corporation aggrieved, affected or interested in the determination or decision of the Town Board by application to the Supreme Court of the State of New York within 30 days of filing of such decision with the Town Clerk.
- J. The Tree Preservation Commission may revoke any permit if the work is not proceeding according to permit.

§ 207-7. Tree removal; restoration.

- A. All persons who remove or cause to be removed trees with or without a permit, as required, shall restore the area by backfilling all holes and by creating an acceptable grade and covering, subject to approval by the Tree Preservation Commission. Any tree damaged during construction or development of the property shall be either replaced in kind or, where existing trees are so large and mature that they cannot be replaced, the Tree Preservation Commission may require the planting of multiple trees instead. Minor tree damage shall be repaired in accordance with accepted tree surgery practice.
- B. Tree stumps shall be removed, not cut flush. After the planting of trees, removal of all debris in the disturbed area shall be made immediately. The property where such planting is done must be left in a neat and orderly condition with good and acceptable planting and tree surgery practice. On substantially developed lots, the Tree Commission shall have the discretion, when it is not reasonably feasible to maneuver stump removal equipment to the location of a stump or where the stump is in close proximity to existing structures, to modify the provisions of this subsection with regard to stump removal. **[Amended 2-6-1991 by L.L. No. 1-1991]**
- C. All trees which fail to survive for a period of two calendar years following planting shall be replaced by the permit holder at no expense to the Town or the owner of the land, if other than the holder of the permit. Said replacement shall be within 60 days following written demand for such replacement from the Tree Preservation Commission or within an extended period of time as may be specified. Should the permit holder fail to replace

the trees pursuant to demand within the required period of time, the Tree Preservation Commission shall have the right to declare the maintenance bond in default and apply the escrow cash deposit and the proceeds of the bond to replace the required trees.

- D. All tree planting, tree dressing and associated restoration work must be substantially completed within six months from the date of issuance of the permit except that the permit may be extended by the Tree Preservation Commission, which shall have the sole discretion to grant such an extension. Under all circumstances, the performance bond obtained by the permit holder shall continue in full force and effect until there has been full compliance and approval of all restoration work by the Tree Preservation Commission. In the event that planting and restoration work has not been substantially completed within six months and no permit extension has been applied for or granted, the Tree Preservation Commission shall have the right to consider the site abandoned and declare the performance bond in default and may apply the escrow deposit and the proceeds of the bond to perform all required planting and restoration work. By accepting a permit, the holder thereby agrees to this procedure and grants unconditional access to the land for such restoration purposes.

§ 207-8. Certificate of occupancy. [Amended 10-16-2002 by L.L. No. 10-2002]

No certificate of occupancy shall be issued by the Director of Building Code Enforcement and Land Use Administration until all tree planting, tree dressing and associated restoration work shall be completed to the satisfaction of the Tree Preservation Commission except that, where a certificate of occupancy is applied for between October 31 and April 1, the permit holder shall submit an agreement, in writing, to the Town signed by the permit holder to ensure compliance with all planting and restoration work to the satisfaction of the Tree Preservation Commission on or before the first day of May next following the making of the agreement. The escrow cash deposit and the bond obtained by the permit holder shall continue in full force and effect until the planting and restoration work has been completed. Should the permit holder fail to complete the restoration work on or before May 1 next following the execution of the agreement, the Tree Preservation Commission shall have the right to declare said performance bond in default and apply the escrow cash deposit and the proceeds of the bond to restore the land.

§ 207-9. Enforcement. [Amended 10-16-2002 by L.L. No. 10-2002]

The Director of Building Code Enforcement and Land Use Administration of the Town of Mamaroneck shall enforce this chapter.

§ 207-10. Removal of trees on town-owned land.

- A. No department, agency, commission or authority in the Town of Mamaroneck, employee of the Town of Mamaroneck or any firm or individual retained by the Town shall propose to or shall cut down, kill or otherwise destroy more than five trees, each

exceeding six inches in diameter at a height of four feet measured from the ground, within an area of 2,500 square feet, or any single tree exceeding 18 inches in diameter at a height of four feet measured from the ground on Town property, with the exception of Town highways within the Town of Mamaroneck, without first filing a statement with the Town Board.

- (1) The statement required hereunder shall be made, in writing, to the Town Board on a form approved by the Town Board. Such statement shall specify the particular type of work to be performed, the exact location, a general description of the tree or trees that shall be removed and a sketch plan, if appropriate and required, together with the reasons for the removal of said tree or trees.
- (2) Upon filing said statement with the Town Board, notification shall be sent to owners of record of land within a radius of 250 feet from the tree or trees that are to be removed. In addition thereto, notice of the proposed removal of said tree or trees shall be published in the official newspaper of the Town of Mamaroneck.
- (3) The Town Board shall be stayed from making any decision or determination for a period of 10 days from the date of publication. In the event that any person, firm, organization or corporation aggrieved, affected or interested in the removal of said tree or trees shall file an objection with the Town Board, in writing, five days prior to the Town Board meeting, said Town Board shall not make any decision or determination until its next regular or special Town Board meeting following the filing of said objection.

B. All contracts entered into by the Town with firms or individuals for work to be performed on town-owned land, excluding Town highways, shall contain a provision that there shall be complete compliance with § 207-10A of this chapter.

§ 207-11. Penalties for offenses.

- A. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of an offense, the fine for which shall not exceed \$1,000. **[Amended 7-17-1996 by L.L. No. 14-1996]**
- B. Civil penalty. In addition thereto, any person, firm or corporation violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$100 each and every day that the violation continues, for each and every tree. In addition thereto, the violator will be required to replace each and every tree so taken down in accordance with § 207-7.