

Intro: 5/22/14
Public Hearing: 6/19/14

Effect: 7/13/14

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1750**

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER X OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MAHWAH TO REGULATE THE REMOVAL AND DISPOSAL OF HARMFUL MATTER AND VEGETATION.

WHEREAS, the Township of Mahwah desires to amend and supplement the provisions of Chapter X "Building and Housing" of the Revised General Ordinances of the Township of Mahwah to regulate the removal and disposal of harmful matter and vegetation.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah that Chapter X "Building and Housing" is hereby amended and supplemented by the addition of the following:

Section 1. Statutory Authority.

- A. N.J.S.A. 40:48-2.13 authorizes a municipality to adopt regulations requiring the owner or tenant of a dwelling or lands located within the municipality to remove and destroy brush, weeds, ragweed, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris where it is necessary and expedient for the preservation of the public health, safety, general welfare, or to eliminate a fire hazard.
- B. N.J.S.A. 40:48-2.13a authorizes a municipality to adopt regulations requiring the owner or tenant of a dwelling or land located within the municipality to remove and destroy solid waste stored in such a way as to be accessible to and likely to be strewn about by animals where it is necessary and expedient for the preservation of the public health, safety or general welfare.
- C. N.J.S.A. 40:48-2.14 authorizes a municipality to assess a lien against the subject property where the municipality has incurred expenses to remove and destroy the harmful matter and vegetation after the owner or tenant has failed to comply with a notice of violation and order.

- D. N.J.S.A. 40:48-2.26 authorizes a municipality to adopt regulations requiring the owner or tenant of lands located within the municipality to keep all brush, hedges and other plant life growing within 10 feet of any roadway and within 25 feet of the intersection of two roadways cut to a height of not more than 2 ½ feet where it is necessary and expedient for the preservation of the public safety.
- E. N.J.S.A. 40:48-2.27 authorizes a municipality to assess a lien against the subject property where the municipality has incurred expenses to cut and remove the plant life after the owner or tenant has failed to comply with a notice of violation and order.

Section 2. Findings and Purpose.

The Township Council of the Township of Mahwah finds and declares that the existence of matter and vegetation which is detrimental to the public health, safety, or general welfare, or which constitutes a fire hazard is a nuisance which must be abated. It is the purpose and intent of these regulations to identify these conditions and provide for their timely abatement.

Section 3. Designation of Public Officer.

The Construction Code Official or his designee is hereby designated as the public officer authorized to exercise the power prescribed by these regulations.

Section 4. Definitions.

As used in this article, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:

BRUSH: A dense growth of underwood or vegetation, or broken and cut branches.

DEBRIS: Any accumulation of broken and detached materials, including fragments or ruins from construction, demolition or rehabilitation projects.

FILTH: Any disgusting, foul or odorous matter not authorized for use in agriculture.

GARBAGE: Any animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HARMFUL MATTER: Debris, filth, garbage, refuse, rubbish or trash which poses a significant risk to the public health, safety or general welfare or which constitutes a fire hazard.

HARMFUL VEGETATION: Brush, dead and dying trees, noxious growth, ragweed, roots, stumps or weeds which poses a significant risk to the public health, safety or general welfare, or which constitute a fire hazard.

NOXIOUS GROWTH: Growth which is harmful or injurious to health or physical well-being.

REFUSE: Any matter, excluding garbage, that is discarded as useless or worthless.

RUBBISH: Any combustible and noncombustible waste materials, including boxes, cartons, cans, crockery, excelsior, glass, leather, metals, mineral matter, paper, rags, rubber, wood and other similar materials.

TRASH: Waste or worthless matter, including refuse and rubbish.

WEEDS: Any plant that is troublesome, useless or injurious to any cultivated crop or plant.

Section 5. Regulations.

- A. The public officer shall require the removal and proper disposal of any harmful matter in any dwelling or on lands within the municipality where it is necessary and expedient for the preservation of the public health, safety or general welfare, or to eliminate a fire hazard.
- B. The public officer shall require the removal and proper disposal of any harmful vegetation in any dwelling or on lands within the municipality where it is necessary and expedient for the preservation of the public health, safety or general welfare, or to eliminate a fire hazard.

- C. The public officer shall require the removal and proper disposal of solid waste being stored in any dwelling or on lands within the municipality in such a manner as to be accessible to and likely to be strewn about by animals where it is necessary and expedient for the preservation of the public health, safety or general welfare.
- D. The public officer shall require that brush, hedges and other plant life growing within 10 feet of any roadway and within 25 feet of the intersection of two roadways be cut to a height of not more than 2 ½ feet where it is necessary and expedient for the preservation of the public safety.
- E. The owner and the tenant in possession of any dwelling or lands shall be the person responsible for compliance with these regulations.
- F. The owner-landlord of any dwelling or lands shall be the person responsible for compliance with these regulations where the condition exists on the common areas under the exclusive control of the owner-landlord.

Section 6. Notice of Violation and Order.

- A. The public officer shall issue a notice of violation and order requiring the responsible person to remove and destroy the harmful matter or vegetation within 10 days from the date of service of the notice of violation.
- B. If the notice of violation involves solid waste stored in such a manner that it is accessible to and likely to be strewn about by animals, then the order may provide for its removal and destruction within 72 hours from the date of service of the notice of violation.

Section 7. Failure to Comply with Order.

Where the responsible person fails to comply with the notice of violation and order within the time specified in the order, the public officer may provide for the removal and destruction of the harmful matter and vegetation at the expense of the municipality.

Section 8. Assessment of Lien.

- A. In all cases where the harmful matter and vegetation has been removed and destroyed under the direction of the public officer, at the expense of the municipality, the public officer shall certify the cost thereof to the governing body of the municipality plus an administrative fee of \$100.00.
- B. The appropriate Township officials shall review the certification and, if found to be correct, shall cause the cost incurred by the municipality to be assessed against the subject property pursuant to a resolution adopted by the governing body of the municipality. The assessment shall become a lien against the subject property and collected in the same manner as property taxes are assessed and collected.

Section 9. Violations and Penalties.

It shall be unlawful for any person to violate the regulations contained in this article. Each day that a violation continues, after a notice of violation and an order for correction has been issued, and the time for correction has expired, shall constitute a separate violation. The penalties authorized under Chapter 1 of the Revised General Ordinances of the Township of Mahwah may be imposed for each violation.

Section 10. All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of any inconsistencies.

Section 11. The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional or invalid by any court, the remaining parts of the ordinance will remain in full force and effect.

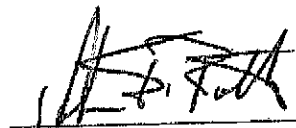
Section 12. This ordinance shall take effect upon passage and publication in accordance with N.J.S.A. 40:49-2(d).

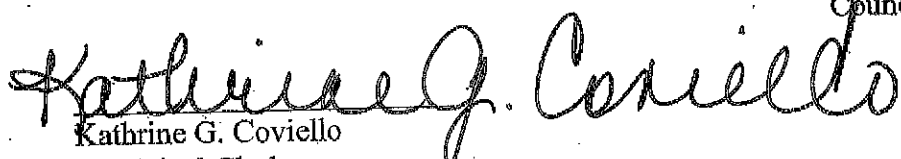
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Dated: July 23, 2014

Attest


John F. Roth
Council President


Kathrine G. Coviello
Municipal Clerk

I, Kathrine G. Coletta, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 19 day of JUNE, 2014.


Kathrine G. Coviello, RMC/CMC/MMC
Municipal Clerk