

TOWNSHIP OF MAPLEWOOD**ORDINANCE**

#2242-04

**AN ORDINANCE
PROVIDING THAT A PERSON WHO IS ARRESTED
FOR DRIVING WHILE INTOXICATED SHALL BE
HELD IN PROTECTIVE CUSTODY**

"Interpretive Statement"

This ordinance allows the Maplewood Police Department to hold an individual arrested in violation of the provisions of N.J.S.A. 39:4-50 to be held in protective custody for up to eight (8) hours to ensure that the person is no longer a danger to himself/herself or others.

WHEREAS, whenever a person is summoned by or on behalf of the person who has been arrested for a violation of N.J.S.A. 39:4-50, in order to transport or accompany the arrestee from the premises of a law enforcement agency, the law enforcement agency shall provide that person with a written statement advising him/her of their potential criminal and civil liability for permitting or facilitating the arrestee's operation of a motor vehicle while the arrestee remains intoxicated; and

WHEREAS, N.J.S.A. 40:48-1, authorizes a municipality to enact an ordinance providing that a person who has been arrested for driving under the influence pursuant to N.J.S.A. 39:4-50, shall be held in protective custody in an appropriate police or other facility;

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey as follows:

FIRST: Any person who is arrested for a violation of the provisions of N.J.S.A. 39:4-50, shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself/herself or others. The person shall be released from protective custody when that person is no longer a danger to himself/herself or others. A person is no longer a danger to himself/herself or others when the person's blood alcohol concentration is less than 0.05% and the person is no longer under the influence of any intoxicating liquor or narcotic or hallucinogenic or habit forming drug to the extent that the person's faculties are impaired. In no event shall the person be held in protective custody for a period of longer than eight hours without providing an appropriate hearing.

SECOND: Notwithstanding the provisions of this ordinance, provided that it is not a detriment to the public safety, the arresting law enforcement agency may, because of age, health or safety of the arrested person, release the person pursuant to the provisions of N.J.S.A. 39:4-50.22, et seq. or provide an appropriate alternative to protective custody. Maplewood and its law enforcement agency shall not be subject to liability if a person is released from custody pursuant to this provision.

THIRD: Nothing in this ordinance shall be construed as requiring the use of State Police facilities by Maplewood for the purposes of this ordinance.

FOURTH: All provisions of N.J.S.A. 39:4-50.22 are hereby incorporated into and are deemed to be a part of this ordinance.

FIFTH : Severability

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

SIXTH: Repeal of Prior Ordinances

Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any such inconsistencies.

SEVENTH: Effective Date

This Ordinance shall take effect after final passage and publication according to law.

PUBLIC NOTICE is hereby given that the foregoing proposed Ordinance was introduced and read by title for the first time at a meeting of the Township Committee of the Township of Maplewood, held on January 20, 2004 and that Committee met again on February 3, 2004, at 8:00 p.m. at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Committee proceeded to consider the said Ordinance on second reading and final passage.

ELIZABETH J. FRITZEN, R.M.C.
Township Clerk