

**THE CREATION OF SHADE TREE COMMISSION AND
ADOPTION OF RULES AND STANDARDS FOR THE PLANTING,
MAINTENANCE AND REMOVAL OF SHADE TREES WITHIN
THE PUBLIC RIGHT-OF-WAY.**

Section 1. Title and Repealer

1. This Ordinance shall be known as the Shade Tree Ordinance of the Borough.
2. All Ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 2. Definitions and Interpretations

1. In interpreting this ordinance, the present tense includes the future; the singular number includes the plural and the plural includes the singular; and the work person includes natural person, partnership, firm, association and corporation.
 - a) BOROUGH – The Borough
 - b) BOROUGH COUNCIL – The duly appointed members of the Borough Council of the Borough.
 - c) COMMISSION – The duly appointed members of the Shade Tree Commission of the Borough.
 - d) RIGHT-OF-WAY – The area of any public street, road, highway or other publicly held thoroughfare within the corporate limits of the borough that has been designated by law as a public right-of-way.
 - e) SHADE TREE – Any tree, shrub or other woody plant, which is planted in any right of way, or has at least one half of trunk, branches or roots extending into any right of way.

Section 3. Legislative Intent

1. The borough recognizes that properly planted, maintained and protected shade trees add to the esthetics and health and welfare of the citizens of the borough. Therefore it shall be the intent of this ordinance to establish a Shade Tree Commission for the Borough, define the mission of that commission and establish rules and regulations to encourage the planting of appropriate shade trees, provide for the proper maintenance of the trees, protect shade trees and provide guidelines for the removal and replacement of shade trees.

Section 4. Shade Tree Commission

1. A Shade Tree Commission is hereby established. The commission shall consist of three members who are citizens of the Borough, appointed to serve five (5) year terms. The members of this current Shade Tree Commission in existence at the adoption of this ordinance shall continue to serve the remainder of their term, and then shall be re-appointed or replaced in accordance with this ordinance.
2. The Shade Tree Commission shall have the power to issue permits required by this ordinance, and to enforce the provisions of this ordinance as provided by law.
3. The Shade Tree Commission shall, when called upon, act as an advisory panel to borough council on all borough matters having an environmental impact on the borough, including, but not limited to, land development, park development or improvements, and downtown revitalization projects.
4. The Shade Tree Commission shall report to borough council through the Parks and Recreation Committee, or as the President of Council may otherwise direct.

Section 5. General Regulations

1. The maintenance, care or removal of any shade tree as defined herein, and required compliance with any provision of this ordinance shall be the responsibility of the property owner on whose property the tree is located or whose property abuts the right of way in which the shade tree is located.
2. No person, without first obtaining a permit, shall cut, prune, break, affix any foreign object to, or in any way cause injury to any shade tree within any public right of way or municipal park within the borough.
3. No person, without first obtaining a permit, shall plant a shade tree within any public right of way or municipal park within the borough.
4. No person, without first obtaining a permit, shall remove a shade tree within any public right of way or municipal park within the borough.
5. All mature shade trees shall be kept trimmed to a minimum branching height of ten (10) feet, except that the commission may require greater height clearances to eliminate traffic and other hazards.
6. Whenever, in the opinion of the commission, a health or safety hazard caused by a shade tree, the commission may issue a written order to the responsible property owner to take action to correct the condition within ten (10) days of the date of the order. If after written notification, the responsible property owner fails to take corrective action, the borough shall have the required work accomplished to correct the health or safety condition and shall bill the responsible property

owner. Failure to remit by the responsible property owner may result in a lien placed against the property by the borough.

7. Whenever a new shade tree is planted within ten (10) feet of a curb or public sidewalk, a root barrier of a type approved by the commission shall be required.

Section 6. Special Provisions for Shade Trees Located in Retail-Commercial District

1. In addition to the foregoing general provisions, the following special provisions shall apply to shade trees located in the retail commercial districts of the borough.
 - a. A minimum sidewalk opening of four (4) feet square shall be required for each shade tree. The opening shall be paved with a flush, smooth, hard surface such as brick or concrete pavers laid on sand.
 - b. Only the following types of trees may be planted in the tight of way: Hybrid Red Maples, Lindens, Thornless Honey, Locusts, Pears and Elms. The planting of any other type of tree shall require permission from the commission.
 - c. Whenever a shade tree is removed in a Retail Commercial District, the shade tree shall be replaced in accordance with this ordinance. All removed shade trees shall be replaced except when a change in street construction or land development makes it impossible, or would cause the replacement to be a safety or health hazard. A decision not to replace a removed shade tree must be approved by the commission.
 - d. The commission shall annually inspect all shade trees within the Retail Commercial District and shall file a report with the Chamber of Commerce and Borough Council on the condition of the trees and needed maintenance. The inspection shall be done in late summer and the report filed by the first day of October.

Section 7. Special Provisions for Shade Trees Located in Borough Parks, Open Space and Recreation Areas.

1. The commission shall annually inspect all shade trees in the parks of the borough and all open space and recreational areas owned by the Borough, and shall file a report with Borough Council on the condition of the trees and needed maintenance. The inspection shall be done in late summer and the report filed by the first day of October.
2. Any new planting proposals shall be reviewed by the commission and the commission shall make recommendations on the type of tree that should be planted.

Section 8. Permit Fees

1. Fees for permits shall be set from time to time by Resolution of Borough Council.

Section 9. Violations and Penalties

1. Any person, firm or corporation who shall violate any provision of this ordinance shall upon conviction thereof, be guilty of a summary offense, and may be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs; and/or undergo imprisonment not to exceed ninety (90) days. Every day that a violation of this ordinance continues shall constitute a separate offense.

Section 10. Severability

1. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, section or parts of this ordinance. It is hereby declared as the intent of the Borough that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 11. Effective Date

1. This ordinance shall become effective 30 days after the date of approval by Borough Council.

This is a sample ordinance. We suggest that it be modified, as appropriate, to fit the needs of your borough. We also suggest that all proposed ordinances be reviewed by your solicitor. Although these are samples of ordinances which have been adopted by other municipalities, the Association cannot assume responsibility for ensuring their legality. We are pleased to provide this service free of charge to our members. If we can be of further assistance, please do not hesitate to contact us: PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES, 2941 North Front Street, Harrisburg, PA 17110. 717-236-9526.