

**TOWN OF BLOOMSBURG
COLUMBIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A SHADE TREE COMMISSION; PROVIDING FOR PERMITS, RULES AND REGULATIONS FOR THE PLANTING, MAINTENANCE, PROTECTION AND REMOVAL OF TREES IN THE PUBLIC RIGHT-OF-WAY FOR PUBLIC HEALTH, SAFETY AND WELFARE; AND PROVIDING ENFORCEMENT AND CREATING PENALTIES FOR VIOLATIONS OF THE ORDINANCE

BE IT ENACTED AND IT IS HEREBY ORDAINED, by the Town council of the Town of Bloomsburg that the Shade Tree Ordinance of the Town of Bloomsburg is hereby amended as follows:

§25-101. Commission created.

There is hereby created a commission to be known and designated as the "Shade Tree Commission of the Town of Bloomsburg, Pennsylvania."

§25-102. Membership.

Said Commission shall consist of five residents of the Town of Bloomsburg. The Town Council shall appoint one person for a term of three years, two members for a term of four years and two members for a term of five years. Upon the expiration of any term, a successor shall be appointed, or the member whose term has expired shall be re-appointed, to serve for a term of five years. In the event of a vacancy occurring during any term, such vacancy shall be filled by Council for the then-remaining portion of the unexpired term. Shade Tree Commission members shall serve without compensation. Three members of the Commission shall constitute a quorum. The Commission may organize, selecting a chairman or other officers deemed necessary.

§25-103. Powers and duties of Commission.

1. The Shade Tree Commission shall have custody and control of the shade trees on the public streets and highways of the Town of Bloomsburg (hereinafter referred to as "shade trees"), and is authorized to plant, remove, maintain and protect such shade trees. The Commission, if it so desires, may delegate the issuance of permits required under the regulations contained herein to the Secretary of the Town or their designee.

2. The duties of the Commission shall be as follows:

A. to study the problems and determine the needs of the Town regarding shade trees on the public streets;

B. to recommend to property owners and the Town Council the type and size of trees to be planted upon the Town streets or parts thereof, as designated;

C. to assist the Town Council and Town Officials in the dissemination of news and information regarding the selection, planting and maintenance of trees upon the streets, and to make such recommendations

from time to time to the Town Council as to desirable legislation concerning the shade tree program and activities for the Town;

D. to conduct regular and special public meetings at which the subject of shade trees may be discussed by the members of the Commission, officers and personnel of the Town and all others interested in the shade tree program;

E. to annually report in full to the Town Council the transactions and expenses of the Commission for the previous fiscal year; and

F. to publish notice whenever said Commission proposes to plant, transplant or remove shade trees on any street or highway, giving notice of the time and place of the meeting at which such work is to be considered shall be given in one newspaper of general circulation in Bloomsburg once per week for two weeks immediately preceding the time of the meeting. The notice shall specify, in detail, the streets or portions upon which trees are proposed to be so planted, replanted or removed; and

G. TO OTHERWISE PERFORM ALL DUTIES AND EXERCISE ALL THE POWERS CONFERRED TO IT BY THE ADOPTION OF Ordinance 693 on July 6, 1987, as amended.

3. The Commission shall meet and organize by the annual election of a chairperson. The said Commission shall then provide for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

4. The Commission may employ and pay such necessary assistants as the proper performance of the duties devolving upon it shall require, and enforce regulations for the care and protection of the shade trees of the Town. No such regulation shall be enforced until it has been approved by the Town Council and enacted as an ordinance.

§25-104. Definitions.

ANSI -- American National Standards Institute

HAZARDOUS BRANCHES – any dead, diseased, structurally defective, broken or mutilated branches or parts of trees which are in a state of decomposition and pose a threat to public safety.

HAZARDOUS TREES – any dead, diseased, structurally defective, broken or mutilated trees or parts of trees, which are in a state of decomposition and pose a threat to public safety.

LARGE TREES – designated as those attaining a height of forty-five feet (45') or more at maturity.

NATURALLY GROWING TREE – trees that grow from natural succession (from a parent tree, without human interference) in the right of way.

MEDIUM TREES – those attaining a height of thirty feet (30') to forty-five feet (45') at maturity.

PERMIT – document issued in writing by the Shade Tree Commission or its designee granting permission to plant, prune, remove or sever roots. The fee for the issuance of such permits shall be established, from time to time, by resolution of Town Council.

PERSON – an individual, firm, partnership, association, corporation, company, or organization.

PRUNING – the proper removal of tree branches back to a branch collar or parent branch. No more than twenty-five percent (25%) of live crown shall be removed at any one pruning. Pruning should adhere to the most recent edition of ANSI A300 - Pruning Standards – “Tree, Shrub and Other Woody Plant Maintenance – Standard Practices.”

SHADE TREE or STREET TREE - any planted tree located within the right-of way of the public streets and highways of the Town. “Shade tree” (“street tree”) does not include trees growing naturally within the Town right-of-ways.

SHADE TREE COMMISSION – the body that has jurisdiction over all shade trees.

SMALL TREES – designated as those attaining a height of twenty feet (20’) to thirty feet (30’) at maturity.

STREET OR HIGHWAY – the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular and pedestrian traffic.

TOWN – the Town of Bloomsburg.

TREE – a large perennial plant, usually with one main trunk and many branches, but may also have multiple trunks.

TREE LAWN – that part of the street or highway right-of-way adjacent to developed property, not covered by sidewalk or other paving, lying between the sidewalk and that portion of the street or highway used for vehicular traffic.

TREE TOPPING – the drastic removal or cutting back of large branches to stubs which leads to decay, disease, weak limbs, starvation and tree death. Topping is also referred to as heading, stubbing, dehorning, rounding-over or tipping.

§25-105. Obtaining a Permit.

1. The application for any permit required shall be made, in writing, to the Secretary of the Town, or their designee, upon forms furnished by them and shall specify the particular kind of work or operation the applicant desires to perform and shall state the exact location and species of any tree or trees affected. The Town Secretary shall promptly review every application received. The Town Secretary may refer any application to the Town Engineer or the Director of Public Works for their opinions on such application. In addition, the Town Secretary may, if they deem it necessary, refer any application to the Shade Tree Commission established herein for its decision on the application. The permit, when issued, shall be effective for such length of time as the Commission shall determine, which shall be indicated on the permit, and such permit may be revoked at any time at the direction of the Commission upon proof satisfactory to the Commission that the terms and conditions upon which the permit has been issued are or have been violated. The Commission may, at its discretion, as a condition to the issuance of a permit, require the applicant to file a bond satisfactory to the Commission or to deposit securities

satisfactory to guarantee the compliance by the applicant with the terms and conditions upon which the permit is issued.

2. Permit Required. It shall be unlawful for any person, without first obtaining a permit, to cut, prune, break, climb with spurs, injure in any manner or remove any shade tree, to cut down or interfere in any way with the main roots of any shade tree, to spray with any chemicals or insecticides any tree, to place any rope, guy wire, cable, signs, posters or other fixtures on a tree or tree guard or to injure, misuse or remove any device placed to protect shade trees, except in case of immediate necessity for protection of life or property.

§25-106. Duties and responsibilities of property owners.

1. It is the duty and responsibility of the property owner abutting streets and highways in the Town to properly maintain any street trees within tree lawns adjoining the property, including watering, pruning, mulching, fertilizing, and weeding.

A. Property owners shall maintain trees and other vegetation in the right of way in a manner so as not to create a safety or liability problem for motorists, pedestrian traffic or other activities within the right-of-way.

B. Where circumstances permit, it is the duty and responsibility of the property owner to plant a shade tree or shade trees, if none exist(s) (see 25.116). Tree planting shall follow the requirements detailed elsewhere in this ordinance (see 25.117, 118, and 119).

C. Tree lawns, tree pits, and tree roots shall be preserved during sidewalk renovation, replacement or repair.

2. All trees and other vegetation within the Town right-of-way must be pruned or trimmed in a manner to allow for full visibility of street signage and the minimum required site distance.

3. In rural or undeveloped areas where sidewalks and curbs are not present, the right-of-way may vary in width, but does exist. The abutting property owner shall be responsible for trees and other vegetation growing in the area between the edge of the cartway and the right-of-way line in such rural or undeveloped areas. Trees in these areas shall be pruned to conform with this ordinance. Likewise, tree planting in these areas shall follow the requirements detailed elsewhere in this ordinance (see 25.116-120).

4. The cost of pruning, planting, or removing any shade trees and stumps within a public right-of-way in the Town shall be the responsibility of the owner of the property abutting the tree. In addition, the cost of necessary suitable guards, curbing or grading for the protection thereof, and the replacement of any pavement, driveway or sidewalk necessarily disturbed in the execution of such work, shall also be paid by the owner of the real estate abutting the location of the work done.

§25-107. Cutting and removal of trees.

1. The Shade Tree Commission may, upon thirty (30) days written notice, require a property owner to cut and remove trees afflicted with any disease deemed a hazard due to structural defects, or infested

with any insect or other organism that threatens to injure or destroy such shade tree, in the interest of safety or to conform with the regulations of this Ordinance. Upon failure of any such owner to comply with such notice, the Town may undertake the work to be done and collect the costs thereof from the owner of the property.

2. Criteria for removal of any tree shall include:

A. An analysis by a Shade Tree Commission member in which he or she concludes that the tree is diseased and dying, or damaged beyond recovery of health or poses a threat to property or safety because of dying.

B. A condition of permission to remove a tree is that, unless the Commission says in writing otherwise, the tree shall be replanted on the same lot, and within the right-of-way of the same lot in which the tree was removed.

Replacements must be planted in accordance with this ordinance (see 25.116-120).

C. When permission is granted for tree removal, the tree stump must be ground out or cut below ground level.

3. Removal by the property owner of non-diseased trees, or those not infested by insects or other organisms, shall not be permitted unless, in the judgment of the Shade Tree Commission, one or more of the following criteria exists:

A. a tree will sustain substantial damage due to the installation or repair of underground utilities where no other alternative, such as tunneling, sleeving, or relocation exists;

B. a tree is causing traffic safety problems and pruning or other less invasive techniques would not eliminate the problem; and/or

C. the maintenance of overhead utilities would require that a tree be severely pruned resulting in the removal of two-thirds (2/3) or more of the crown thereby causing irreparable damage to the tree.

4. In an emergency where a tree poses an immediate threat to health, property or safety, the Director of Public Works may order the removal of a tree. Prior to the removal of the tree, the Director of Public Works shall make written findings setting forth how the tree poses an immediate threat to health, safety in view of the above criteria. Prior to removal of the tree, the Director of Public Works shall notify the property owner prior to the removal.

5. Tree removal shall be carried out in accordance with the safety standards outlined in the most recent edition of ANSI Z133.1 (Safety Requirements for Pruning, Trimming, Repairing, Maintenance, Removing Trees and Cutting Brush).

§25-108. Manner of pruning.

1. No person, corporation or public utility may remove, prune or alter a shade tree along Town streets or roads without a permit issued upon application to the Shade Tree Commission. The permit shall specify the address or blocks where any such tree maintenance activity shall be undertaken. (See 25.105, Permits required.)

2. All pruning of shade trees and naturally growing trees along Town streets and roads shall conform to the most recent edition of ANSI A300: Pruning Standards – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices. A copy of this standard is on file at the Town Hall. Thus, in Bloomsburg as in the ANSI standards, topping is prohibited. Improper pruning is subject to fines to the property owner (see 25.111, unnecessary harm to trees prohibited, and 25.126, Penalty).

3. All work must conform to the most recent edition of ANSI Z133.1: Safety Requirements for Pruning, Trimming, Repairing, Maintenance, Removing Trees and Cutting Brush. A copy of this standard is on file at the Town Hall.

4. Whenever, in order to take down or prune any shade tree in the public highway or having branches extended over the public highway, it shall be deemed necessary to remove any wire or wires, every person having any such wires running through a public highway shall immediately notify the public utility company of his intention in order that service may not be interrupted.

§25-109. Clearance of trees over sidewalks and streets.

1. All branches of shade trees shall be kept trimmed in a manner to maintain a minimum height of fourteen feet (14') where they overhang any public street and eight feet (8') where they overhang a sidewalk. However, the Commission reserves the right to designate a higher clearance on certain streets and highways where heavy traffic or other conditions make it expedient. All shade trees standing on private property and having branches overhanging sidewalks or streets shall also be kept pruned by the owner so the lowest branches are in compliance with this section.

2. In the event the property owner neglects or refuses to maintain trees at the prescribed level within the time specified as notified in writing, the Town may undertake the work to be done at the owner's expense, in the same manner as otherwise specified in this Ordinance.

§25-110. Removal of fallen trees and parts of trees.

In the event a shade tree or its parts are felled by storm or other accident, the portion of the tree on the street or road shall be removed from the cartway of the street by the Town, without charge. Property owners shall be responsible for any other removal or cleanup.

§25-111. Unnecessary harm to trees prohibited.

1. No person shall break, injure, mutilate, top, kill or destroy any shade tree or set fire to or permit fire to burn any shade tree.

2. Permanent fixtures and punctures to a shade tree are prohibited. No person shall attach, or permit to be attached, any cables, ropes, wires, nails, spikes or other injurious fasteners to any shade tree.

3. No person shall allow any toxic chemicals, salt water, oil, gasoline or other materials, which are hazardous or injurious to plant life, to empty, drain, or seep onto any shade trees or their root systems or in such a way to injure any shade tree.

4. No person shall excavate any ditches, tunnels, holes or trenches, or lay any driveway, or deposit or store within the root protection zone (roughly the perimeter of the tree's outer branches) of any shade tree, or maintain any asphalt, concrete, stone or any other impervious material which may impede the free passage of air, water and fertilizer to the roots of any shade tree, without first obtaining a permit. In the event of imminent danger to life or property, digging near a shade tree may be undertaken without permission of the Commission provided that such action must be reported to the Commission and a permit placed on file within forty-eight (48) hours of its occurrence.

5. No person shall injure, misuse, or remove any device placed to protect shade trees, except in case of immediate necessity for protection of life, property, or in consultation with the Shade Tree Commission, or its designee.

§25-112. Repair or replacement of damaged trees.

In the event a shade tree is damaged, the Town shall charge for repairs or replacement, or make a charge for the appraised value of the tree, against the person responsible for the damage of said tree. Damage is to be repaired immediately at no expense to, and to the satisfaction of, the Shade Tree Commission. If the Shade Tree Commission determines that the damage warrants removal, the cost of tree and stump removal and the planting of replacement trees will be paid by the person or entity that caused such damage. Failure to comply shall cause such work to be completed by the Town and billed to the person or entity that caused such damage. If damage resulted in removal or death of the tree, the Town may require replacement trees whose combined diameter is equal to that of the tree removed. All replacement trees shall meet the planting requirements for shade trees. In addition to costs for repair or replacement, the Town may also impose penalties as provided for in 25.126 (Penalty).

§25-113. Removal of tree stumps.

After removal of a tree, the remaining stump shall be removed to a point not less than six inches (6") below the grade of the surrounding area. If a replacement tree is to be planted at the same location, the stump will be removed to accommodate the replacement tree.

§25-114. Hazardous shade trees and branches.

Where hazardous shade trees or branches overhang the cartway of a street or otherwise exist within the right-of-way, the Town may cause them to be removed at the expense of the abutting property owner so as to maintain public safety within the right-of-way. In the event of an emergency or hazardous situation, the Shade Tree Commission may require them to be removed within twenty-four (24) hours.

§25-115. Requirements to plant trees.

1. As a condition to any permit to remove any shade tree, the Town or the Shade Tree Commission may require that the permittee plant, at its own expense, another tree in place of the one removed, and in such case, direct the type, size, and location of the tree to be planted and the season within which the work shall be done.

2. Trees shall be added to the public right-of-way in areas where an inventory of Bloomsburg street trees has identified a need for trees, or wherever the Commission determines a need.

3. Street trees shall be required whenever a proposed subdivision shall average three or more lots per gross acre, or where the proposed subdivision is adjacent to any existing or recorded development having street trees (other requirements of the Town's Subdivision and Land Development Ordinance [Chapter 22], as regards trees, are applicable).

§25-116. Location and spacing of trees.

1. Spacing between newly planted shade trees, unless otherwise stated in writing by the Shade Tree Commission, shall not be less than twenty-five feet (25') nor more than forty feet (40'), with some variation with the species of tree(s) being planted. Whenever practicable, trees shall be planted at least twenty feet (20') from intersections. Shade trees shall be planted at least twelve feet (12') from a light standard, six feet (6') from a utility pole, and six feet (6') from a fire hydrant.

2. In areas where a tree lawn exists, the setback for tree planting shall be at a point half way between the curb and sidewalk. However, no tree shall be planted in a tree lawn within twenty feet (20') of the near edge of the curb of an intersecting street.

3. Where no curbing exists, the setback for tree planting shall be eight feet (8') from the center of the drainage swale; the setback shall be eight feet (8') from the edge of the cartway. However, no tree shall be planted within twenty feet (20') of the near edge of the cartway of an intersecting street.

4. In areas such as downtown, which have tree pits rather than tree lawns, tree pits will measure at least ten inches (10") wider than the diameter of the root ball, or at least five feet (5') by five feet (5') by three feet (3') deep (or the depth required for the root ball), whichever is larger. In some circumstances an equivalent area, reasonably proportioned, is permitted. Tree pits must be filled with high-quality topsoil. The use of adjoining tree pits and pavers, or of technologies such as structural soils, are encouraged. If a property owner elects to plant the tree him or herself, the Director of Public Works must first inspect the site to insure that the area is free of underground pipes, sewer lines or other hazard.

§25-117. Specifications for selection and planting of new trees.

1. Size. All replacement trees shall be at least six feet (6') in height and measure at least one and one-half inches (1½") in caliper, which is diameter measured at a point six inches (6") above planting level.

2. Quality. Only plant material grown in nurseries shall be procured for shade tree planting. Either balled and burlapped or bare root material is acceptable. All replacement trees shall conform to the most recent edition of ANSI-Z60 American Nursery Standards, with particular attention to appropriate (large) root ball size on balled and burlapped stock.

3. Timing. Replacement trees shall be delivered and planted between April 1st and May 15th or September 30th and November 15th.

4. Tree Species.

A. The Shade Tree Commission shall maintain a periodically revised list of tree species approved for planting as shade trees. The Commission may specify which species are appropriate to certain locations. (See addendum for acceptable tree species).

B. Tree species selections for shade trees must be made from the current list of approved species and in consultation with the Commission. As not all trees on this list will be suitable for all situations, suitability will be determined by the Shade Tree Commission or its designee.

C. The use of any tree other than those listed above under the preferred sections requires approval by the Commission.

§25-118. Planting under existing utility lines.

Commission shall give due consideration to the prevention of interference by the shade tree with existing overhead and underground utility fixtures. Trees planted under wires or utility lines shall be appropriate to the height and pruning requirements imposed by the presence of the existing wires or lines.

§25-119. Root zone controls.

The Commission may, in some cases, require root control devices or material to minimize the effect of root growth on sidewalks, curbs or underground utilities. The need and type of control shall be prescribed by the Commission, where necessary.

§25-120. Maintenance of newly planted trees.

1. Watering. New trees shall be given 10-20 gallons of water weekly from the time of planting until frost and weekly throughout the first complete growing season. In this area, rain almost never provides sufficient water, and as a general rule deep watering must be done rain or shine. Additional watering of young trees will be needed during periods of drought.

2. Mulching. New trees should be properly mulched to protect against mower damage, from competing weeds, and water evaporation. Mulch shall not make contact with the trunk of the tree.

3. Stakes, guys, or tree wraps. Except in high-traffic areas where vandalism is a possibility, staking is generally not necessary. Stakes or guys shall be removed no later than one year after staking. Tree wraps shall be removed upon planting.

§25-121. Town maintenance.

After a written, mailed, and/or delivered notice of violation, The Town, in its sole discretion, shall have the authority to plant, prune, remove or otherwise maintain any shade trees at its expense, the expense of the affected property owner, or a combination of both if the property owner should fail to comply with a written notice of violation.

§25-122. Tree maintenance contractors.

1. All trimming and pruning of shade trees and naturally growing trees along Town streets and roads shall conform to the most recent edition of ANSI A300 - Pruning Standards – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices. All work must also conform to the most recent edition

of ANSI Z133.1 (Safety Requirements for Pruning, Trimming, Repairing, Maintenance, Removing Trees and Cutting Brush). Copies of both standards (ANSI A300 and ANSI Z133.1) are on file at Town Hall.

2. All tree maintenance contractors who prune, remove or otherwise maintain trees located within the Town right-of-ways shall possess general liability insurance coverage with a policy limit of not less than five hundred thousand dollars (\$500,000.00) for each occurrence. The permittee is required to supply evidence of such insurance to the Town prior to starting work.

§25-123. Deviation from strict compliance.

The Shade Tree Commission shall have the power, in appropriate cases, to permit deviations from the strict compliance with this Ordinance whenever, due to special circumstances, literal enforcement of this Ordinance would be impossible, impractical or not in the best interest of the Town.

§25-124. Collection of costs for work done by Town.

Payment of costs for work done by the Town shall be due and payable thirty (30) days after proper invoice by the Town to the property owner. If the property owner does not make payment within thirty (30) days, there shall be considered a lien against the property. Any such lien may be collected by an action in assumpsit or by the filing of a lien in the manner provided by law for the filing and collection of municipal claims.

§25-125. Enforcement.

The provisions of this Ordinance shall be enforced by the Town of Bloomsburg Code Enforcement Office and Shade Tree Commission.

§25-126. Penalty.

Any person, firm or corporation violating any provision of this Ordinance shall be fined a maximum of \$600 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. This section shall not limit any other remedies and criminal sanctions provided in law or equity.

§25.127. Appeals

Any person aggrieved by any action or decision of the Commission may appeal to the Commission at its next public meeting. Alternatively or subsequently, any person aggrieved by any action or decision of the Commission may appeal to the Code Hearing Board by filing an appeal within 30 days from the action or decision appealed from on forms to be supplied by the Town Secretary or their designee. The fee for filing such an appeal shall be the fee established, from time to time, for code appeals by resolution of the Council of the Town of Bloomsburg.

§25-128. Municipal immunity and non-liability for damages.

1. In addition to all other immunity existing at law or in equity, nothing contained in this Ordinance shall create an obligation or duty upon the Town. No pedestrian, passenger, driver, owner of property or any person claiming an interest otherwise affected by provisions of this Ordinance shall have any claim against the Town for failure to perform any duty or for performance in a negligent manner.

2. This Ordinance shall not be construed to hold the Town of Bloomsburg, the Town Council, the Mayor, the Shade Tree Commission, or any of their respective officers, employees or their appointed agents (collectively referred to as "Municipal Parties") responsible for any damages, injuries, loss or death to person, persons or property by reason of any activity, omission or commission, or act by Municipal Parties authorized herein or otherwise arising under this Ordinance. The approval of any tree or type of tree shall not constitute a representation, guaranty or warranty of any kind or nature by the Municipal Parties and shall create no liability upon, or a cause of action against, the Municipal Parties for any damage or loss.

§25-129. Severability.

If any of the provisions of this Ordinance, or the application of any provisions hereof shall be held invalid, such invalidity shall not affect or impair the remainder of this Ordinance, it being the intention of Town Council that such remainder shall continue in full force and effect.

§25-130. Repealer.

All ordinances or parts thereof, which are inconsistent with this Ordinance, are hereby repealed to the extent of such inconsistency.

APPROVED AND ENACTED BY THE Town Council of the Town of Bloomsburg
THIS _____ DAY OF _____, 2019.

TOWN OF BLOOMSBURG

WILLIAM KREISHER, MAYOR

ATTEST:

LAUREN MARTZ, TOWN MANAGER/SECRETARY