

**ABINGTON TOWNSHIP**  
**Lackawanna County, Pennsylvania**

ORDINANCE # 112

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC RIGHTS-OF-WAY, PARKS, AND OTHER TOWNSHIP-OWNED PROPERTY; ESTABLISHING A SHADE TREE COMMISSION; AND PROVIDING FOR THE DEVELOPMENT OF REGULATIONS RELATING TO THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC PLACES, AND OTHER CONCERNS RELATING TO PUBLIC HEALTH AND SAFETY.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF ABINGTON, COUNTY OF LACKAWANNA, AND COMMONWEALTH OF PENNSYLVANIA.

**SECTION 1. SHORT TITLE**

This ordinance shall be known and may be cited as the Shade Tree Ordinance of the Township of Abington, County of Lackawanna, and Commonwealth of Pennsylvania.

**SECTION 2. DEFINITIONS**

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

*Cartway*: The graded portion of a public right-of-way, including travelway and shoulders.

*Park*: All public parks.

*Person*: Any person, firm, partnership, association, corporation, company, or organization of any kind.

*Principal Thoroughfare*: Any public right-of-way upon which trucks are not prohibited.

*Property Line*: The perimeter or edge of any parcel of real estate within the Township.

*Property Owner*: The person owning such property as shown by the County's Assessor's Plat of Lackawanna County.

*Public Places*: All other grounds owned by the Township of Abington.

*Public Right-of-Way*: The entire width of a public way or right-of-way when any part thereof is opened for the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

*Public Trees*: All shade and ornamental trees now or hereafter growing within any public right-of-way or in any park or public place within the Township.

*Shade Tree Commission*: The body under whose jurisdiction all public trees fall.

*Township:* The Township of Abington, County of Lackawanna, and Commonwealth of Pennsylvania.

*Tree Lawn:* That part of a public right-of-way, not covered by sidewalk or other paving, lying between the property line and that portion of the public right-of-way or highway usually used for vehicle traffic.

*Trees:*

*Large:* Those trees attaining a height of forty-five (45) feet or more.

*Medium:* Those trees attaining a height of thirty (30) to forty-five (45) feet.

*Small:* Those trees attaining a height of twenty (20) to thirty (30) feet.

### **SECTION 3. ESTABLISHMENT OF A SHADE TREE COMMISSION**

- I.** There shall be created a commission to be known and designated as the "Shade Tree Commission." The commission shall consist of five (5) members, all of whom shall be residents of the Township. All will serve without compensation.

One member shall serve for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, and one for five (5) years.

Upon the expiration of the term of any commissioner, a successor shall be appointed by the Township governing body to serve for a term of five (5) years.

Vacancies in the office of commissioner shall be filled by the Township governing body for the unexpired term.

- II.** The duties of the Shade Tree Commission shall be as follows:

*General Powers:*

The commission shall have exclusive custody and control of the shade trees in the Township, and is authorized to plant, remove, maintain, and protect shade trees on public rights-of-way, parks, and public places within the Township.

*Specific duties include, but are not limited to:*

To study the problems and determine the needs of Abington Township in connection with its tree planting program.

To recommend to the proper authority the type and kind of trees to be planted upon such Township public rights-of-way or Township parks and/or public places as is designated.

To review any subdivision or land development plan submitted to the Township proposing dedication of public rights-of-way and/or open space to the Township to recommend the type and kind of trees to be planted within such rights-of-way and open-space areas.

To assist the properly constituted officials of Abington Township, as well as the Township governing body and citizens of the Township, in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits, whether the same be on private or public property,

and to make such recommendations from time to time to the Township governing body as to desirable legislation concerning the tree program and activities for the Township.

To adopt Regulations governing the planting, maintenance, and removal of all shade trees under the jurisdiction of the Shade Tree Commission.

To provide regular and special meetings at which the subject of trees insofar as it relates to the Township may be discussed by the members of the Commission, officers, and personnel of the Township, and all others interested in the tree program.

**III.** That within a reasonable time after the appointment of said Commission and the approval of the members thereof, upon call of the Township governing body, said Commission shall meet and organize by the election of a chairman. The said Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

**SECTION 4. ENACTMENT**

This Ordinance is hereby enacted this 25<sup>th</sup> day of February, 2002, and shall take effect immediately.

**SECTION 5. SEVERABILITY**

Should any section, clause, or provisions of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

**SECTION 6. PENALTIES**

Any person, firm, or corporation violating or failing to comply with any of the provisions of this Ordinance or the provisions of the Regulations as adopted pursuant to this Ordinance shall be subject to a fine of \$500.00 and the costs incurred to trim or remove a tree(s) and/or prune same as provided in the Regulations adopted in furtherance of this Ordinance. That fine, if not paid within thirty (30) days from notice to so do, may be enforced as a municipal lien and collected in the manner for collecting municipal liens as provided under Pennsylvania law.

BY ABINGTON TOWNSHIP BOARD OF SUPERVISORS:

[Signature]  
Chairman  
[Signature]

ATTEST:

[Signature]  
Secretary

**REGULATIONS**

**I. GENERAL CONSIDERATIONS**

*Section A. Permits Required*

1. REMOVAL, REPLANTING, AND REPLACEMENT

- a. Wherever it is necessary to move a tree or trees from a treelawn in connection with the paving or repair of a sidewalk or the paving or widening of the portion of a public right-of-way or highway used for vehicular traffic, the Township shall replant such trees or replace them. Provided that conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications are planted in an attractive manner on the adjoining property.
- b. No person or property owner shall remove a tree from the treelawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Shade Tree Commission, and without replacing the removed tree or trees in accordance with the adopted Arboricultural Specifications. Such replacement shall meet the standards of size, species, and placement as provided for in a permit. The person or property owner shall bear the cost of removal and replacement of all trees removed.
- c. Whenever the condition of a tree in the Township impacts the health, safety, or welfare of the public or interferes with the right of the public to the unobstructed use of public roads, the Shade Tree Commission and/or the Township may require the property owner to trim or remove the tree.

The property owner has thirty (30) days from certified mail notice from the Shade Tree Commission and/or the Township to trim or remove the tree(s). If the owner fails to do so, the Township may enter upon the property and trim or remove the tree at the owner's expense. The costs of removal of any such tree is chargeable to the property owner and, if not paid, becomes a municipal lien on the property.

*Section B. Obstruction - Trees Pruned*

It shall be the duty of any person or persons owning or occupying real property bordering on any public right-of-way upon which property there may be trees, to prune such trees in such a manner that they will not obstruct or shade the public right-of-way lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of a public right-of-way or alley intersection. The minimum clearance of the overhanging portion thereof shall be ten (10) feet over sidewalks, and twelve (12) feet over all public rights-of-way except truck thoroughfares which shall have a clearance of sixteen (16) feet.

1. NOTICE TO PRUNE. Should any person or persons owning real property bordering on any public right-of-way fail to prune trees as herein above provided, the Shade Tree Commission shall order such person or persons, within thirty (30) days after receipt of written notice, to so prune such trees.
2. ORDER REQUIRED. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.
3. FAILURE TO COMPLY. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Township to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

*Section C. Abuse or Destruction of Public Trees*

Unless specifically authorized by the Shade Tree Commission, no person shall intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree; allow any gaseous, liquid, or solid substance which is harmful to such public trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.

*Section D. Interference With Shade Tree Commission*

No person shall hinder, prevent, delay, or interfere with the Shade Tree Commission or any of his or their assistants while engaged in carrying out the execution or enforcement of the ordinance, regulations, etc.; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Township.

*Section E. Protection of Public Trees*

All public trees shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and eight feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches, whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Shade Tree Commission.

**II. SPECIFICATIONS FOR SELECTING, PLANTING, AND MAINTENANCE OF PUBLIC TREES**

*Section A. Shade Tree Commission Review*

The Shade Tree Commission shall review all development plans proposing public rights-of-way and open space intended for dedication to the Township to assure the planting of the proper trees.

*Section B. Installation and Completion of Improvements (of which shade trees are one)*

Before starting any construction or installation of improvements proposed for public dedication, the developer shall notify the Township of his intention to initiate such work. The Township shall authorize the Township engineer to monitor and inspect the installation of improvements during their construction. The Shade Tree Commission shall consult with and assist the engineer with regard to the portion of the proposed improvement which pertains to the planting of trees and maintenance of existing trees.

*Section C. Description*

Public trees to be provided pursuant to the provision of the Abington Township Subdivision and Land Development Ordinance shall be in accordance with these specifications and approved plans.

*Section D. Materials*

1. PREFERRED TREE SPECIES

- a. All plant material used shall be selected from the following plant list. If the developer is confronted with an unforeseen problem pertaining to tree species, the Shade Tree Commission shall be consulted for advice and recommendations.
- b. Public trees within the same block shall be of the same species except to achieve a special effect, as approved by the Shade Tree Commission.

The following list of public trees was developed for Pennsylvania.

Portions of the following basic list were taken from "Street trees for Southeastern Pennsylvania" by the Penn State Southeast Extension Region, and further adapted by the Penn State Cooperative Extension Service, Ornamental Horticulture Extension.

**Small Trees – Under 30 Feet**

1. Acer campestre - Hedge Maple
2. Acer ginnola - Amur Maple
3. Acer tataricum - Tatarian Maple
4. Amelanchier canadensis (tree form) - Shadblow Serviceberry
5. Amelanchier laevis (tree form) - Allegheny Serviceberry
6. Cornus florida - Flowering Dogwood
7. Cornus Kousa - Chinese Kousa Dogwood
8. Crataegus monogyna selected varieties
9. Crataegus phaenopyrum - Washington Hawthorn
10. Halesia carolina - Carolina Silverbell
11. Malus - selected varieties - Crab Apple
12. Prunes sargentii cv. Columnare - Columnar Sargent Cherry

13. Prunes serrulata cv. Amanogaws - Amanogawa Cherry
14. Prunes serrulata cv. Kwanzin - Kwanzan Cherry
15. Syringa amurense japonica - Japanese Tree Lilac
16. Pyrus calleryana cv. chanticleer - Chanticleer Pear

**Medium Trees – 30-45 Feet**

1. Carpinus betulus - European Hornbeam
2. Carpinus betulus cv. Fastigiata - Upright European Hornbeam
3. Cercidiphyllum japonicum - Katsuratree
4. Chionanthus virginicus - White Fringetree
5. Crataegus x lavalleyi - Lavalley Hawthorn
6. Koelreuteria paniculata - Goldenraintree
7. Malus cultivars - Crabapple

'Adams'

'Snowdrift'

'White Angel'

hupenhensis

zumi calocarpa

'Beverly'

8. Nyssa sylvatica - Sour Gum
9. Phelodendron amurense - Amur corktree
10. Prunus yedoensis - Yoshino Cherry
11. Pyrus calleryana cultivars - Callery Pear

'Aristocrat'

'Bradford'

'Dwark Korean'

12. Ulmus parvifolia - Chinese Elm
13. Quercus acutissima - Sawtooth Oak
14. Sorbus alnifolia - Korean Mountain-ash
15. Sorbus aucuparia - European Mountain-ash

**Large Trees – over 45 feet**

1. Acer rubrum (selected cultivars) - Red Maple
2. Acer saccharum (selected cultivars) - Sugar Maple
3. Corylus colurna - Turkish Filbert
4. Ginkgo biloba (male selections only) - Ginkgo
5. Metasequoia glyptostroboides - Dawn Redwood
6. Quercus alba - White Oak
7. Quercus borealis - Red Oak
8. Quercus cerris - Turkey Oak
9. Quercus imbricaria - Shingle Oak
10. Quercus phellos - Willow Oak
11. Quercus shumardi - Shumard Oak
12. Sophora japonica - Japanese Pagoda Tree
13. Taxodium distichum - Common Baldcypress
14. Tilia cordata - Littleleaf Linden
15. Tilia euchlora (selected cultivars) - Crimean Linden

16. *Tilia tomentosa* - Silver Linden

17. *Zelkova serrata* (selected cultivars) - Japanese Zelkova

- d. The use of any tree other than those listed above required the approval of the Shade Tree Commission.
- e. Not all trees on this list are suitable for all situations. Suitability shall be determined by the Shade Tree Commission. Additionally, as new varieties are developed and existing ones improved, this list should be amended.
- f. Any tree planted under any electric line must be approved by the Shade Tree Commission.

2. ACQUISITION OF TREES

Only plant material grown in nurseries shall be procured for shade tree planting. Trees should be true to form and typical of the species.

3. TREE SPECIFICATIONS

- a. Each tree shall be at least eight (8) feet in height and have a diameter of at least one and one-half (1-1/2) inches measured at a height of six (6) inches above the finished ground level.
- b. Plant material shall be balled and burlapped with native soil in which the material had been growing (no manufactured balls).
- c. The relationship between tree caliper, tree height, and diameter of the root ball shall be as follows:

<b>Caliper</b>	<b>Height Range</b>	<b>Minimum Ball Diameter</b>
1-1/2 to 1-3/4 inches	8 to 10 feet	20 inches
1-3/4 to 2 inches	10 to 12 feet	22 inches
2 to 2-1/2 inches	12 to 14 feet	24 inches

Trees with larger caliper trunks shall have ball diameters in proportion to their size and in accordance with accepted nursery practices.

4. SOIL AMENDMENTS

As different trees require different soil conditions, it may be necessary to add materials such as fertilizers, sand, etc., to the existing soil prior to planting. Shade Tree Commissions should consult with experts such as those from the



cooperative extension service. The appropriate soil mixtures for the various trees should become part of the regulations.

*Section E. Construction Methods*

1. PLANTING LOCATIONS

- a. The actual location of each individual tree shall be determined considering views, proximity of utility poles, overhead and guy wires, driveways and subsurface utility installations. (In new subdivisions, all utility lines should be underground).
- b. Trees shall be planted at least thirty (30) feet from public right-of-way intersections, at least fifteen (15) feet from driveways and alleys, and at least ten (10) feet from utility poles.
- c. Spacing of trees should be determined by the Shade Tree Commission according to local conditions, the species, cultivars, or varieties used, their mature height, spread, and form. Generally, all large trees shall be planted forty (40) to sixty (60) feet on center; all medium-sized trees shall be planted a minimum of thirty-five (35) feet on center; and all small trees shall be planted a minimum of twenty-five (25) feet on center. Whenever possible shade trees shall be planted alternately along each side of all public rights-of-way of the development. Trees shall be spaced without regard to property lines.
- d. The cross-sectional location of public trees shall be as follows (as a guide):
  1. No overhead utility wires - trees shall be located within the right-of-way, on-center between the curb and sidewalk; or, in areas where no curbing exists, they shall be planted eight (8) feet from the center of the drainage swale which parallels the cartway. In the absence of a drainage swale, the setback shall be eight (8) feet from the edge of the cartway.
  2. Utility wires overhead - trees shall be located between the sidewalk and building setback line, and at least five (5) feet from the sidewalk or eight (8) feet from the center of the drainage swale. In the absence of a drainage swale, the setback shall be eight (8) feet from the edge of the cartway.
  3. Planting specification.
    - a. Tree pits shall be at least ten (10) inches wider in diameter than the diameter of the root ball. Unless building debris is encountered, the hole shall be excavated to a depth no greater than to permit the

top of the ball to be level with the rim of the hole. All encountered debris should be removed to a minimum depth of thirty (30) inches.

- b. Planting time - except where waived by the Shade Tree Commission, trees within the same block shall be planted at the same time. Balled and burlapped material may be planted during any period of the year when the soil is frost-free and friable.
- c. The burlap and twine covering the upper half of the ball shall be rolled back or cut away after the plant has been set.
- d. Trees shall be staked with no less than 2 by 2 inch stakes driven 2-1/2 to 3 feet into the ground. Two stakes shall be required for trees less than 2 inches in caliper and three for trees greater than 2 inches in caliper. The trunk shall be protected by placing a short piece of 3/4 inch diameter, two ply, reinforced hose around the guy wire where it comes in contact with the tree. All stakes shall be of the same height for uniform appearance and support.
- e. The planting hole shall be backfilled to three-fourths full with soil, followed by ten (10) gallons of water. When the water has been absorbed, the hole shall be filled with topsoil and tamped lightly to finished grade.
- f. Upon completion of the transplanting operation, a wood chip or bark mulch, 2 inches deep, shall be placed over the planting area.
- g. All unused soil or other debris resulting from the planting or plant material shall be removed from the project area.

3. 9.

*Section F. Period of Establishment*

1. MAINTENANCE

- a. Plant maintenance shall begin immediately after each plant is satisfactorily installed and shall continue until final inspection by the Shade Tree Commission.
- b. Plant maintenance shall include, but need not be limited to, replacing mulch that has been displaced by erosion or other means, maintaining stakes and guys as originally installed, watering when needed or directed, and performing any other work required to keep the plants in a healthy condition. An adequate moisture supply is estimated to be the equivalent of 1 inch of water per week, delivered at weekly intervals in the form of rain, or augmented as required by periodic watering.
- c. The developer shall remove and replace all dead, defective, and rejected plants as occur during this period.

2. GUARANTEE

In addition to other standard provisions, the developer's improvement bond shall also provide for the following:

- a. Maintenance necessary during establishment period.
- b. Replacement in kind, or with a substitute acceptable to the Shade Tree Commission, of all plant material which is not a healthy growing condition, which had died back, or is beyond normal pruning limits.

**SOURCES OF ASSISTANCE**

Keystone College  
LaPlume PA 18440

The County Cooperative  
Extension Service  
Office

or

Penn State University  
Horticultural Extension  
Service  
103 Tyson Building  
University Park PA 16802  
814/865-6519

A District Forester  
in the appropriate  
Forest District  
Office

or

Bureau of Forestry  
Dept. of Environmental  
Protection  
109 Evangelical Press  
Harrisburg PA 17120  
717/787-2708

International Society  
of Arboriculture  
P. O. Box 71  
Urbana IL 61801