

SHADE TREE ORDINANCE

BOROUGH OF WEST NEWTON
WESTMORELAND COUNTY, PENNSYLVANIA
ORDINANCE 1994-2

AN ORDINANCE OF THE BOROUGH OF WEST NEWTON, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING A SHADE TREE COMMISSION IN AND FOR THE BOROUGH; ESTABLISHING RULES AND REGULATIONS AND PROCEDURES UNDER WHICH THE SAME SHALL OPERATE; AUTHORIZING OTHER FURTHER ACTION CONSISTENT THEREWITH.

The Borough of West Newton hereby ordains as follows:

SECTION 1. Shade Tree Commission is hereby established for the Borough of West Newton in accordance with the provisions of (Article 38 of the Act of June 23, 1931, P.L. 932, Article 3801 to 3810 as amended.)

SECTION 2. The Commission shall be composed of five residents of the Borough of West Newton as appointed and for terms to be determined by West Newton Borough Council. Three members of the Commission shall be members of the Borough Council and two at large members shall be citizens of the Borough of West Newton. Prospective members may be recommended in writing by the Board of Directors of Downtown West Newton, Inc. Members of the Commission shall serve without compensation.

SECTION 3. Definitions: The words "Shade Tree" whenever used in this ordinance shall be taken to mean any shade tree, shrub or other woody plant within the lines of any public highway or street, including the sidewalk area, in the Borough of West Newton, or that part of any shade tree, shrub or other wood plant which extends over, upon or within the line of any public highway or street, including the sidewalk area, in the Borough of West Newton; the association or corporation; the word "permit" shall be taken to mean a permit in writing as issued by the Borough Secretary on a form to be furnished by the Borough Secretary of the Borough of West Newton; the word "Commission" shall mean the Shade Tree Commission hereby established.

SECTION 4. The application for any permit required hereunder shall be made in writing to the Borough Secretary upon forms furnished by him/her and shall specify the particular kind of work or operation the applicant desires to perform thereunder, shall state the exact location and species of any shade tree or trees affected. It shall be the duty of the Borough Secretary to submit every such application promptly to the Commission for approval or disapproval. Permits shall be effective for such length of time as the Commission shall determine in each case, 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 had been issued are, or have been, violated. The Commission may, in permit, require the applicant to file a bond satisfactory to the Commission, or to deposit security satisfactory to the Commission, or to deposit security satisfactory to the Commission, to guarantee the compliance by the applicant with the terms and conditions upon which the permit is issued.

SECTION 5. It shall be unlawful for any person, without first obtaining a permit from the commission, to cut, plant, transplant, remove, or damage 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 insecticide any shade tree; to place any rope, guy wire, cable, sign, poster, or other fixture on a shade tree; or to injure misuse or remove any device placed to protect such shade tree except in case of immediate necessity for protection of life and property. Shade tree means only as defined in Section 3.

SECTION 6. This ordinance shall be administered by the Supervisor of the Borough street Department.

SECTION 7. The Commission may, with the approval of Council, employ and pay, or make contract for, such personnel and professional services as may be required in the proper performance of the duties devolving upon it; and may make, publish, and enforce regulations for the planting, care and protection of the shade trees of the Borough. No such regulation shall be enforced until approved by Council and until it has been published as prescribed by law.

SECTION 8. The Shade Tree Commission shall annually report in full to the Council at Council's first stated meeting in October. It will report on its activities and any transactions and expenses for the last fiscal year of the Borough.

SECTION 9. Whenever the Shade Tree Commission proposes to plant, transplant, or remove shade trees, notice of the time and place of the meeting at which the work is to be considered shall be given by a publication in a newspaper published in the Borough as prescribed by law. The notice shall specify in detail the hour and place of the meeting and streets or sidewalks or portions thereof upon which trees are proposed to be so planted, replanted or removed.

SECTION 10. Any tree which has been planted by the owner of the property or prior owner shall be the responsibility of the owner of the property to plant, maintain or remove as set forth in the regulations of the Shade Tree Commission. The amount each owner is to pay is ascertained and certified by the Commission to the Council, upon filing of the certificate with the Council, the Borough Secretary may cause thirty days' written notice to be given by mail to the person against whose property the assessment has been made. The notice shall state the amount of the assessment and time and place of payment and shall be accompanied with a copy of the certificate. The amount assessed against the real estate shall be a lien from the time of the filing of the certificate with the Borough Council and, if not paid within the time designated in the notice, a claim may be filed and collected in the same manner as municipal claims are filed and collected.

SECTION 11. Costs and expenses in caring for shade trees after they have been planted by the Borough shall be paid by the Borough.

SECTION 12. In connection with any building operation or performance of any work whatsoever in the Borough in the vicinity of any shade trees, before any such work shall be commenced, guards shall be placed at all shade trees which may be affected by such work so as to effectively prevent injury.

SECTION 13. Any person who shall violate or fail to comply with any of the regulations of the Shade Tree Commission or of this Ordinance shall, on conviction thereof, pay a fine or penalty not to exceed \$50.00 for each and every offense, and whenever such person shall have been notified by the Shade Tree Commissioner by service of a summons, or prosecution or in any other way, that he/she is committing any such violation, each day in which he/she shall continue such violation after such notification shall constitute a separate offense punishable by a like fine or penalty. All penalties or assessments imposed under this Ordinance shall be paid to the Borough Treasurer to be placed to the credit of the Commission subject to be drawn upon by the Commission for the purposes authorized in this Ordinance.

SECTION 14. The provisions of this Ordinance are separable and if any provision shall be held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

SECTION 15. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

ORDAINED AND ENACTED THIS 12th day of December, 1994.

Borough of West Newton

Daniel B. Palfev
Marlene Yurkovich, President
Daniel PALFEV, Vice President

ATTEST:

Pamela M. Fleshman
Pamela M. Fleshman, Secretary

EXAMINED AND APPROVED this 12th day of December, 1994.

George J. Thuransky
George J. Thuransky, Mayor