

ORDINANCE NO. 2007-04

Clarks Summit, PA Borough Tree Ordinance

Be it ENACTED and ORDAINED by the Council of the Borough of Clark Summit, County of Lackawanna, State of Pennsylvania and it is hereby Enacted and Ordained by with the authority thereof as follows:

Preamble

Trees provide a positive environment in our urban setting. They cool in the summer and provide wind breaks in winter. Aesthetically, trees soften the streetscape and provide value to residential and commercial property. Tree lined streets help intercept rainfall and reduce storm water runoff and flooding. Well maintained trees also provide habitat for birds and small animals. It is the intent of this Ordinance to provide more comprehensive regulation of planting, pruning, care and protection of trees in or extending over the municipal streets, to provide for the organization, duties and responsibilities of the shade tree commission, and to provide for the enforcement of the regulations including the imposition of penalties for violations for public health, safety and welfare.

Title

An ordinance of the municipality of Clark Summit, Lackawanna County, Pennsylvania, to regulate the planting, maintenance, and removal trees in the public right of way and other borough-owned property to public's health, safety and welfare. This ordinance also provides for the issuing of permits for the planting, maintenance, protection and removal of trees in borough-owned places as well as fines for failure to comply with this ordinance.

This ordinance shall be known and may be cited as the "Borough Tree Ordinance".

Definitions. For the purpose of this Ordinance, the following terms shall have the following meanings:

"Municipality" shall mean the Municipality of Clark Summit.

"Commission" shall mean the Shade Tree Commission of the Municipality of Clark Summit.

"Person" shall mean any individual, firm, partnership, association, corporation, company or organization of any kind and includes the plural of each.

"Street, Highway or Right-of-Way" means 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.

"Public Place" shall include all parks and other grounds owned by the Municipality of Clark Summit.

"Tree Lawn" is that part of any right-of-way not covered by sidewalk or other paving.

"Public Trees" shall include all shade and ornamental trees now or hereafter growing on any public right-of-way and any public places.

"Tree" shall mean any woody plant having on or more erect perennial stems or trunks at least 3 inches (7.5cm) in diameter at breast height (4.5 feet or 1.3 meters above ground level) or capable of attaining this diameter, having a more or less well defined crown of foliage, and a height of at least 13 feet (4 meters).

"Property Owner" shall mean the person owning such property as shown on Lackawanna County Tax Assessors List.

"Substantial Injury" shall mean such injury and damage which endangers the continued life or structural stability of any tree.

"Hazardous Tree" shall mean a tree with structural defects likely to cause failure of all or part of the tree, which could strike a vehicle, building, or a place where people gather

"Top" or **"Topping of a Tree"** shall mean the indiscriminate and drastic cutting back and removal of a tree's branches/limbs, leaving large stubs that dieback and cause major internal decay and rot. Topping causes a slow decline in tree health and creates future hazardous trees due to the internal decay/rot that enters the tree.

"Permit" shall mean the written permission given to plant, prune or remove a public tree according to the standards and specification that is issued by the commission and the code enforcement officer of the municipality.

"ANSI A300 National Tree Care Standards" shall mean the American National Standards Institute's A300 an industry consensus document that outlines the standard practices for tree care operations that should be adhered to and which can be used to judge and evaluate tree care work.

"Public Nuisance Tree" Any tree situated at the intersection of two or more streets, alleys or driveways in the Borough so that it obstructs the view of the operator of any motor vehicle with regard to other vehicles or pedestrians approaching or crossing the intersection.

Establishment of the Shade Tree Commission

- There shall be 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 municipality. All shall serve without compensation.
- One member shall serve for two (2) years, one for three (3) years, one for four (4) years and two for (5) five years.
- On the expiration of the term of any commissioner, a successor shall be appointed by the Council to serve for a term of five (5) years.
- Vacancies in the office of commissioner shall be filled by appointment by the Council for the unexpired term.

Power and Duties of the Shade Tree Commission

The Shade Tree Commission shall have exclusive custody and control of the shade trees in the Borough and is authorized to plant, remove, maintain, and protect the shade trees on the public streets and parks within the municipality.

Duties of the Commission shall be as follows:

- To study the problems and determine the needs of the Borough regarding shade trees on the public streets and parks.
- To recommend to the Borough Council the type and size of trees to be planted upon the borough streets or parts thereof as designated.
- To assist the Borough Council and Borough 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 Borough Council as to desirable legislation concerning the shade tree program and activities for the Borough.
- 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 Borough and all others interested in the shade tree program.
- To annually report in full to the Borough Council the transactions and expenses of the Commission for the previous fiscal year.

- To review tree planting, removal and pruning permit requests and vote to approve or deny such applications based on existing conditions.
- To evaluate and assess the condition of trees that may pose a threat to property or persons, and make recommendations to the Borough Council.

Authority

The Shade Tree Commission, in consultation with the Borough Council, shall have the authority to implement and enforce the provisions of the Borough Tree Ordinance and shall have the authority to adopt rules and regulations governing the planting, maintenance, removal, pruning, and protection of trees on public streets, parks or other borough property. Standards shall be adhered to at all times, but may be amended at any time that experience, new research, or laws indicate improved methods.

Permits Required

No Person shall plant, cut, prune, or remove any shade tree under the jurisdiction of the Borough, or fasten any sign, wire, rope or other material to, around, or through any shade tree without a permit from the Shade Tree Commission. No electrical installations shall be attached to any shade tree nor shall excavation of trenches or tunnels be dug within twenty (20) feet of any shade tree without first obtaining a permit from the Shade Tree Commission.

Requests for permits must be submitted at 15 days in advance of the time the work is to be performed.

Applications for permits shall be obtained at the municipal building. All permit applications shall state the number and species of trees to be removed or pruned; the address and location of the tree(s); the exact nature and description of the work to be completed; and other information that the Shade Tree Commission shall find reasonably necessary.

Utilities or their contractors may apply for and receive blanket permits that shall be valid for multiple locations for routine tree maintenance.

Whenever a person obtains a permit to remove a tree from any borough-owned land for the purpose of construction or for any other reason, such person shall subsequently replace the tree within one (1) year of the issuance of the tree-removal permit in a location to be determined by the Shade Tree Commission somewhere in the borough or have the borough replace such tree at the expense of the person who obtained such permission. Replacement trees shall meet the standards of size, species and placement as provided for in the tree removal permit. (Minimum of a 1.5- 2" caliper tree of an approved species for the streets).

Duties and Responsibilities of Adjacent Property Owners

It is the duty and the responsibility of the property owner or occupier of property abutting streets and highways in the Borough, to properly maintain any tree lawns adjoining the property. This includes the maintenance of trees and other vegetation 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. The cost of tree planting, transplanting, pruning and removal of street trees in the tree lawns shall be paid for by the owner of the real estate abutting the street where the work is to be done. In areas where tree lawns exist, the setback for tree planting shall be at a point half-way between the curb and the sidewalk. However, no tree shall be planted in a tree lawn within twenty-five feet (25') of the near edge of the curb of an intersecting street.

In rural and 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.

All trees and other vegetation within the Borough right-of-way shall be pruned in a manner to allow for full visibility of street signage and the minimum site distance.

Costs

The Cost of pruning, planting, or removing any shade tree and stumps within the public right-of-way in the Borough shall be the responsibility of the proper owner 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 where the work is done.

Repair or Replacement of Damaged Trees

In the event a shade tree is damaged, the Borough shall require that it is repaired immediately at no expense to and to the satisfaction of the Shade Tree Commission. Trees damaged as judged by the Shade Tree Commission, shall be appraised by an ISA Certified Arborist to determine the extent and value of the damage. The Borough shall charge for repairs or replacement or make a charge for the appraised value of the tree, against the person responsible for the damage to said tree. If the Shade Tree Commission determines that the damage warrants removal, the cost of tree and stump removal and the planting of replacement trees shall be paid by the person or entity that caused such damage. Failure to comply shall cause such work to be completed by the Borough and billed to the person or entity that caused such damage. If damage resulted in removal or death of the tree, the Borough may require the payment of the appraised value of said tree or require the replacement of trees whose combined diameter is equal to that of the tree removed. All replacement trees shall be a minimum of 2 inch caliper, balled and burlapped and of a species approved by the Shade Tree Commission. Replacement trees shall be delivered and planted between April 1 and May 15 or September 30 and November 15 of the year following the damage.

Planting, maintenance and removal regulations

- A. No person shall plant, prune, remove, replace, or disturb the root system of any tree on any public street, park or other borough-owned property without first submitting a Permit Request to the Shade Tree Commission. The request must be submitted at least 15 days in advance of the time the work is to be performed. A permit application for tree removal shall be accompanied by a \$25 fee.
 - a) The request shall state the number and species of trees to be pruned or removed.
 - b) The location of the tree(s) to be removed or trimmed.
 - c) The exact nature of pruning.
 - d) Other information as the Shade Tree Commission shall find reasonably necessary.
- B. After work for which the permit was granted has been completed, a Notice of Completion shall be given within five days to the Shade Tree Commission for subsequent inspection.

- C. Wherever it is necessary to remove a tree from a public right-of-way in connection with the paving of a sidewalk or the paving or widening of a street, the borough or responsible person shall replant or replace it. If conditions prevent planting in the right-of-way, this requirement may be satisfied by planting elsewhere in the Borough, the location to be determined by the Shade Tree Commission.

Standards for Planting and Replacement Trees

Specifications governing tree species, size, spacing, planting method and location shall be approved by the Shade Tree Commission and subject to the following guidelines:

- a. Replacement or new trees planted in the Borough right of way shall be selected from the Clarks Summit Acceptable Street Tree List, available at the Borough Building during normal business hours. The Shade Tree Commission shall review the List at least once every two (2) years to determine if any trees species should be removed or if certain new species or varieties of proven dependability and value should be added.
- b. In order to prevent the spread of disease or insects, varieties of tree species shall be planted on all public properties.
- c. All planting work shall be performed using sound horticultural practices approved by the National Arborist Association and/or the International Society of Arboriculture.
- d. No planting pit shall be dug or approved until all underground utilities have been marked. Utility line locations may be obtained by calling Pennsylvania One Call at 1-800-242-1776.
- e. Trees shall be set plumb. All trees shall be set so that, after settlement, they are at the same level as when growing in the nursery. Trees shall be watered in at the time of planting to eliminate air pockets. The person/s planting street trees shall remove excess soil.
- f. Balled and burlapped trees may be placed with the wrapping in place if all materials are untreated and biodegradable. When burlap is left around trees, any string shall be removed and the burlap folded down from the top half of the root ball.
- g. Planting sites shall be mulched with an approved mulch material with neither more nor less than 4 inches of wood chips, fibrous bark, or composted wood debris after planting is completed. When practical the mulch shall be extended beyond the drip zone of the tree, and cover an area no less than the width of the planting hole. The trunk of the tree should be left uncovered.
- h. Trees may be staked with material as approved by the Borough. The tree shall be secured to the stakes with an approved rubber or approved other, adjustable, chain-lock "tree tie," no less than 1" wide and secured at no less than two points along the tree.
- i. When planting a tree that shall be surrounded by an water-resistant surface, there shall be a minimum of 16 square feet of porous surface, (with no dimension less than 3 feet), maintained around the trunk. Whenever possible 40 square feet of porous surface should be maintained around the trunk.
- j. Inspection of the trees shall be carried out, whenever possible, prior to planting in order to ensure tree health and quality. Whenever any person is required to replace a tree pursuant to this chapter, a one-year guaranty of the tree's health shall be provided for such replacement trees.

Pruning Shade Trees

Specifications governing the pruning of Street Trees shall be approved by the Shade Tree Commission:

- a. All pruning work shall be done in accordance with the American National Standard Institute (ANSI A300 – part 1). Work not adhering to the ANSI A300-Part 1 shall be subject to fines.
- b. Safety of pedestrians and vehicles must be maintained at all times and is the responsibility of the person or persons and/or owners of the trees being pruned.
- c. Street and sidewalk surfaces and all utilities in the area of the trimming must be protected from damage. Repair or replacement to these facilities shall be the responsibility of the person or persons responsible for the maintenance of the tree.
- d. Pruning cuts shall adhere to the ANSI A300-Part 1 and should be clean and smooth with the bark at the edge of the cut firmly attached.
- e. Large or heavy branches that cannot be thrown clear should be lowered on ropes to prevent injury to the tree or other property.
- f. Wound dressings and tree paints have not been shown to be effective in preventing or reducing decay and are therefore not recommended.
- g. Climbing and pruning practices should not injure the tree and therefore, the use of spurs or gaffs are prohibited. Spurs may be used to reach an injured climber or when removing a tree.
- h. Rope injury to thin barked trees from loading out heavy limbs should be avoided by installing a block in the tree to carry the load. This technique may also be used to reduce injury to a branch crotch from a climber's line.
- i. Any tree beneath or over an overhead-energized conductor shall be inspected by the appropriate utility before any pruning work begins or is approved.
- j. All pruning work within 10 feet of an overhead-energized conductor shall be assumed by the appropriate utility.
- k. Where inappropriate trees are planted under overhead utility lines and where the excessive size of the trees requires frequent and substantial pruning, efforts should be made to provide directional pruning before removing and replacing the trees with specific species approved for planting under overhead utilities.

Damage prohibited

Unless specifically authorized in writing by the Shade Tree Commission, no person shall:

- A. Intentionally damage, cut, carve, transplant, or remove any tree on borough-owned property.
- B. Attach any rope, wire, nails, advertising posters or other contrivance to any such tree.
- C. Allow any gas, liquid or solid substance which is harmful to any such tree to come in contact with it.
- D. Set fire or permit any fire to burn when such fire or heat will injure any portion of any tree on borough property.
- E. Remove any guard, stake, or other device or material intended for the protection of any public tree or close or obstruct any open space about the base of a public tree designed to permit access of air, water and fertilizer.

Protection

- A. Without written permission from the Shade Tree Commission, no person shall:

- a) Undertake any construction or development activity (including but not limited to the excavation of any ditches, tunnels, or trenches or the laying of pavement) within the dripline of any borough tree.
 - b) Move or park vehicles associated with any construction or development activity which may affect any tree on borough property.
- B. No person shall deposit, place, store or maintain upon any public place of the borough any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots on any tree growing thereon, except by written permit of the Shade Tree Commission.

Obstruction of streets

- A. It shall be the duty of any person owning real property bordering on a public street to ensure that trees on that property are pruned in a manner that will not obstruct or shade streetlights; obstruct the passage of pedestrians on sidewalks; obstruct vision of traffic signs; or obstruct the view of any street or alley intersection. If trees are interfering with utility wires, it is the obligation of the appropriate utility company to correct the situation.
- B. Should any person owning real property bordering on any public street fail to comply as hereinabove provided, the Borough Council from the recommendation from the Shade Tree Commission, shall order the owner to take corrective action within fifteen (15) days after receipt of written notice. The order shall be served by mailing a copy of it to the last known address of the property owner.
- C. When a person to whom an order it directed shall fail to comply within the specified time, the borough shall prune such trees or to pay for such pruning, and the cost thereof shall be assessed to the owner.

Appeals

Should a dispute arise in the administering of this ordinance, an appeal can be requested by petitioning, in writing, the Shade Tree Commission. The Commission shall have five (5) working days to reply in writing. Should this provide an unsatisfactory resolution, a second appeal can be requested by petitioning the Borough Council. In such event, the Council shall consult with the Commission. The Council shall have ten (10) working days from the filing of the second appeal to reply in writing.

Penalties for offenses

Any person who violates or fails to comply with any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined a sum not more than two hundred fifty dollars (\$250) plus the cost of rectifying damage to any tree on borough-owned property.

REPEALER.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

EFFECTIVE DATE.

This Ordinance shall become effective immediately upon passing.

COUNCIL OF CLARKS SUMMIT BOROUGH

BY: _____
DONALD H. MOYER, III
Clarks Summit Borough President

ATTEST:

VIRGINIA KEHOE, Manager
Clarks Summit Borough

HAROLD P. KELLY, Mayor
Clarks Summit Borough

Passed by Clarks Summit Borough Council the _____ day of _____ 2007,
receiving the Affirmative Votes of _____

Negative Votes of _____

**BOROUGH OF CLARKS SUMMIT, PA
SHADE TREE PERMIT APPLICATION**

Property Owner Name _____

Address _____

Phone Number _____ Best time to call _____

Date _____

Please draw location of tree using street and mark location of tree with an "X".

Application is for: (Select at least one)

1) Tree Trimming

2) Tree Removal

Reason for trimming or removal:

Endangering property and/or structures

Endangering people

Tree in poor health

Other: _____

3) New Tree Planting

Approximate size of planting area (distance of curb and sidewalk):

Name, address and phone number of person or firm doing the work:

SIGNATURE _____

By signing, I verify that I own the tree(s) noted on the permit.

If a permit is approved for removal, a second permit for replacement is not necessary.

Tree replacement must be done within one year of removal of any tree.

Tree stumps must be removed or cut below ground level.

For Shade Tree Commission use only:

- APPROVED
- NOT APPROVED

DATE DECISION SENT TO APPLICANT _____

SHADE TREE COMMISSION REVIEW BY

ADDITIONAL COMMENTS:

**NOTICE OF COMPLETION
SHADE TREE PERMIT
BOROUGH OF CLARKS SUMMIT, PA**

Mail within 5 days of work completion to:
Clarks Summit Shade Tree Commission
304 South State Street
Clarks Summit, PA 18411

Permit Number

Property Owner Name _____

Address _____

Phone Number _____

Date of trimming, removal or planting. _____

For Shade Tree Commission use only:

Verified by:

Date:

Comments: