

BOROUGH OF NEWPORT
231 Market Street
Newport, PA 17074

ORDINANCE NO. 387

AN ORDINANCE AMENDING ORDINANCE NO. 348 RELATING TO CHAPTER 55, SHADE TREE COMMISSION BY THE BOROUGH OF NEWPORT, INCLUDING DEFINITIONS, POWERS AND DUTIES, VIOLATIONS AND PENALTIES, SEVERABILITY CLAUSE AND SETTING AN EFFECTIVE DATE.

WHEREAS the Borough of Newport is a body corporate and political, duly organized, and existing in accordance with the laws of the Commonwealth of Pennsylvania and the Borough Code, PA C.S. Title 8, §101 et seq. (Boroughs Code), and

WHEREAS the Borough of Newport adopted by the Borough Council on 12-1-1971 by Ord. No. 175 (Ch. 1, Part 3, of the 1985 Code), Amended 1-8-2013 by Ordinance No. 348, relating to the Shade Tree Commission in the Borough, and

WHEREAS, the Borough Council of the Borough of Newport has determined that amendments to this ordinance are necessary; and

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Newport as follows:

SECTION I. Chapter 55 of the Code of the Borough of Newport, Pennsylvania is amended to read as follows:

§55-1. Creation of Shade Tree Commission. [Amended 1-8-2013 by Ord. No. 348]

A. Definitions.

- 1) APPROPRIATE SHADE TREES – All non-invasive shade trees referenced in the permit.
- 2) BOROUGH – The Borough of Newport, Perry County, Pennsylvania.
- 3) BOROUGH COUNCIL – The Borough Council of the Borough of Newport.
- 4) NEWPORT BOROUGH PLANNING COMMISSION – Pursuant to Act No. 170 of 1988 of the General Assembly of the Commonwealth of Pennsylvania, known as the Pennsylvania Municipalities Planning Code, (MPC) P. L.805, as reenacted, 53 P.S. §10101, et seq, a Planning Commission was established and created for the Borough of Newport.
- 5) PERMIT – A written form issued by the Newport Borough Code Enforcement Officer at the direction of the Shade Tree Commission, granting authority to the applicant to plant, maintain and/or remove a shade tree in the right-of-way.

- 6) RIGHT-OF-WAY – A public thoroughfare, for public use by vehicular traffic and/or pedestrian traffic, whether designated as a street, avenue, land, alley or other designation.
- 7) ROOT BARRIER – An underground wall placed to block plant roots in order to protect adjacent structures, including but not limited to, sidewalks, curbing, roads, buildings and underground utilities. Acceptable industrial standards the Shade Tree Commission will accept for construction of the root barrier are available upon request.
- 8) SHADE TREE – Any tree, shrub or other woody plant, which is planted in any right of way, or has at least one half of the trunk branches or roots extending into any right of way.
- 9) SHADE TREE COMMISSION – The duly appointed members of the Shade Tree Commission of the Borough of Newport, comprised of three members of the Newport Borough Planning Commission.
- 10) WORKING DAYS – Monday through Friday.

B. Intent.

- 1) The Borough of Newport recognizes that properly planted, maintained, and protected shade trees add to the esthetics and health and welfare of their citizens. The purpose of a Shade Tree Commission is to establish a desirable amount of shade tree cover on public lands within the Borough, from maintained shade trees in healthy and nonhazardous condition through good maintenance practices, within Borough public lands and right-of-ways. Therefore, it shall be the intent of this ordinance to establish a Shade Tree Commission for the Borough of Newport, define the mission of that Shade Tree Commission and establish rules and regulations to encourage the planting of appropriate shade trees, provide for the proper maintenance of the shade trees, protecting shade trees and provide guidelines for the removal and replacement of shade trees. The Borough of Newport's Code Enforcement Officer shall have the power to issue a permit by this ordinance, and the recommendation of the Shade Tree Commission and to enforce the provisions of this ordinance as provided by law.
- 2) The Shade Tree Commission shall, when called upon, act as an advisory panel to the Borough Council on matters having an environmental impact on the Borough, including, but not limited to, land development, park development or improvements, and downtown revitalization projects.
- 3) The Shade Tree Commission shall report to and give recommendations to the Borough Council through the Newport Borough Planning Commission.

§ 55-2. Powers and duties. {Amended 1-8-2013 by Ord. No. 348}

A. Shade Tree Planting, Maintenance and Removal Permits.

- 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) Permit fees shall be set from time to time by Resolution of the Borough Council.
- 3) No person without first obtaining a permit shall plant an appropriate shade tree within any public right of way or municipal park within the Borough.
- 4) 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 with the Borough
- 5) All mature shade trees shall be kept trimmed to a minimum branching height of 12 feet above the street with exceptions that the Shade Tree Commission may require greater height clearances and 8 feet over sidewalks to eliminate hazards.
- 6) No person, without first obtaining a permit, shall remove a shade tree within any public right of way or municipal park within the Borough. All tree maintenance contractors who trim, remove or otherwise maintain trees located within the Borough right-of-way and park shall possess general liability insurance coverage with a policy limit of not less than \$250,000 for each occurrence.
- 7) Whenever, in the opinion of the Shade Tree Commission, a health or safety hazard is caused by a shade tree, the Shade Tree Commission shall issue a written order defining the corrective action, to a responsible property owner, to initiate the corrective action to remediate the condition within 30 days of the date of the order. If after written notification, the responsible property owner fails to initiate 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 payment to the Borough by the responsible property owner may result in a lien placed against the property by the Borough.
- 8) In the event any shade tree or shade trees fall by storm, winds or other accidents, the tree or trees shall be removed from the street or alley by the Borough. Property owners shall only be responsible for other removal or cleanup of their property outside the right-of-way. Replacement of the trees will be required at the expense of the property owner.
- 9) Whenever a new shade tree is planted within 10 feet of a curb or public sidewalk, a root barrier of a type approved by the Shade Tree Commission shall be required.

B. Appropriate Shade Trees.

All shade trees planted within Borough public lands and rights-of-way shall be non-invasive. The acceptable list of non-invasive shade trees shall be included with the permit application packet. The list of non-invasive shade trees shall be routinely reviewed and updated by the Shade Tree Commission.

C. Special Provisions for Shade Trees Located in Commercial Downtown and Commercial Neighborhood Districts.

- 1) In addition to the foregoing general provisions, the following special provisions shall apply to all shade trees located in the Commercial Downtown and Commercial Neighborhood Districts of the Borough.
 - a. The types of trees that may be planted in the Commercial Downtown and Commercial Neighborhood District in the right-of-way of the Borough, are referenced in the application packet for the shade tree permit. The planting of any other type of tree shall require permission from the Shade Tree Commission.
 - b. Whenever a shade tree is removed in the Commercial Downtown or Commercial Neighborhood 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 Shade Tree Commission.
 - c. The Shade Tree Commission shall annually inspect all shade trees within the Commercial Downtown and Commercial Neighborhood Districts and shall file a report with the 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. Upon review of the Shade Tree Commission's report, the Borough Council shall delegate the necessary maintenance of the shade trees to the appropriate entities.

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

- 1) The Shade Tree 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. Upon review of the Shade Tree Commission's report, the Borough Council shall delegate necessary maintenance of the shade trees to the appropriate entities.

2) Any new planting proposals shall be reviewed by the Shade Tree Commission, and they shall make recommendations to the Borough Council on the type of trees that should be planted.

§55-5. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 and/or to imprisonment for a term not to exceed 30 days. Every day that a violation of this chapter continues shall constitute a separate offence.

SECTION II. Severability.

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 of Newport that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence clause, section or part thereof not been included herein.

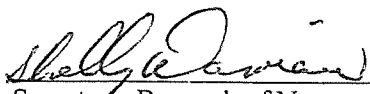
SECTION III. Effective Date.

This Ordinance shall take effect and be in force on the earliest date permitted by the Borough Code.

DULY ADOPTED by the Council of the Borough of Newport, Perry County, Pennsylvania, this

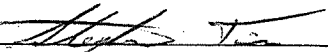
5th day of November, 2024.

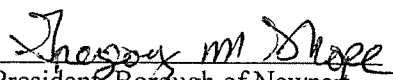
ATTEST:


Secretary, Borough of Newport

(Seal)

BOROUGH OF NEWPORT
Perry County, Pennsylvania

By: 
Mayor, Borough of Newport

By: 
President, Borough of Newport

