

Part 1
Shade Tree Commission

§25-101 Creation.

A Shade Tree Commission is hereby created in and for the Borough of Selinsgrove.

(Ord. 382, 4/3/1972, §1)

§25-102 Composition; Compensation; Terms; Removal.

1. The Commission shall be composed of five residents of the Borough appointed by the Borough Council and shall serve without compensation.
2. Initially, the Borough Council shall appoint one member for a term of 5 years, one member for a term of 4 years, one member for a term of 3 years, one member for a term of 2 years, and one member for a term of 1 year. On the expiration of the term of any Commissioner, a successor shall be appointed by the Borough Council to serve a term of 5 years. Vacancies in office shall be filled by Borough Council for the unexpired term.
3. *Removal.* Any member of the Selinsgrove Shade Tree Commission, once qualified and appointed, may be removed from office for malfeasance, misfeasance, or nonfeasance in office, or for other just cause by a majority vote of the Selinsgrove Borough Council which appointed the member, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in

writing. Any appointment to fill a vacancy created by removal shall only be for the unexpired term.

(*Ord. 382, 4/3/1972, §2; as amended by Ord. 434, 10/4/1976; and by Ord. 730, 12/6/2004, §3*)

§25-103 Powers.

The Shade Tree Commission shall have exclusive custody and control of the shade trees on Borough property along the streets and highways and is authorized to plant, remove, maintain, and protect shade trees on the streets and highways in the Borough. Shade trees subject to this Part shall include, but not be limited to, all trees, shrubs, and other woody plants, living or dead, occupying or designated by the Shade Tree Commission as occupying a public place on all streets, alleys, lands, parks, or other public highways or rights-of-way of the Borough. Vegetation subject to this Part shall be known as "public shade trees."

(*Ord. 382, 4/3/1972, §3; as amended by Ord. 434, 10/4/1976; and by Ord. 759; 11/12/2007, §3A*)

§25-104 Promulgation of Rules and Regulations.

The Shade Tree Commission may make and enforce regulations for the care and protection of the shade trees of the Borough; however, no such regulation shall be in force until it has been approved by the Council and enacted as an ordinance.

(*Ord. 382, 4/3/1972, §4; as amended by Ord. 759, 11/12/2007, §3B*)

§25-105 Employment to Perform Duties.

The Commission may employ and pay such superintendents, engineers, foresters, tree wardens or other assistants as the proper performance of the duties devolving upon it shall require.

(*Ord. 382, 4/3/1972, §5*)

§25-106 Notice of Actions; Meeting.

Whenever the Commission proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given 2 weeks before the meeting to each adjoining landowner along said street by certified mail and in one newspaper of general circulation in the Borough once a week for 2 weeks immediately preceding the time of the meeting. The notice shall specify in detail the streets or portions upon which such trees are proposed to be so planted, replanted or removed.

(*Ord. 382, 4/3/1972, §42-7; as amended by Ord. 434, 10/4/1976*)

§25-107 Protection and Maintenance of Shade Trees.

1. No person shall remove, destroy, break, cut, inject, prune, trim, scrape, paint, whitewash, or in any way, deface, injure or interfere with the roots, trunk, bark, branches, leaves, flowers or fruit of any public shade trees in the Borough without the written permission of the Shade Tree Commission for the work to be done.

2. No person shall cut the root of any public shade tree to enable sidewalk, curb, pipe, conduit, or electrical wire installation or other similar repair without the written permission of the Shade Tree Commission for the work to be done. Whenever a landowner is notified by the Borough of the necessity to replace existing or install new curbing and/or sidewalk and such work shall affect the root of any public shade tree, the landowner shall immediately contact the Borough Manager and the Shade Tree Commission to inform them of the replacement and/or installation work and its impact on such root or roots and the Borough Manager and the Shade Tree Commission shall be responsible for minimizing the effect of such replacement or installation on the public shade tree.

3. No person shall spray or otherwise treat any public shade tree infected or infested with any parasite, disease, or insect pest with an intention to its preservation from disease or insects without the written permission of the Shade Tree Commission for the work to be done.

4. No person shall spray or otherwise treat any public shade tree with any type of fertilizer without the written permission of the Shade Tree Commission for the work to be done. All work shall be performed in accordance with ANSI A300 Standards, which standards are incorporated herein by this reference.
5. No person shall attach any wire, insulator, or any other device for holding such wire to any public shade tree. All wires shall be securely fastened so as not to come in contact with any public shade tree or any part thereof.
6. The use of implements with sharp, penetrating points is positively prohibited for the purposes of climbing any public shade tree, unless for the sole purpose of that tree's removal.
7. No person shall attach any rope, wire, sign, poster, handbill, or other object to any public shade tree or guard thereof.

(Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007)

§25-108 Planting and Removal of Public Shade Trees; Public Notice Required.

1. No person shall plant or remove a public shade tree without the written permission of the Shade Tree Commission. All actions to plant new trees, and all actions to remove trees, shall be taken following a public meeting of the Shade Tree Commission. At such public meeting, the Shade Tree Commission shall determine whether or not to permit the planting of new public shade trees or the removal of public shade trees. The meeting shall be held no later than 30 days following receipt of the written request for the planting or removal of trees unless otherwise scheduled by the Shade Tree Commission in its sole discretion. By regular United States Mail, the Shade Tree Commission shall notify in writing the person filing the request of the time and date of the meeting. At the public meeting, the Shade Tree Commission shall grant or deny the request to plant or remove the

trees by a majority vote of the members of the Shade Tree Commission present at such meeting.

2. The Shade Tree Commission may, upon reasonable notice by the Commission, in writing, sent by certified mail, require owners of property to cut and remove, public shade trees afflicted with any disease which threatens to injure or destroy plants, shrubs, trees and public shade trees in the Borough. Upon failure of any such owner to comply with such notice for more than 30 days after receipt thereof, the Borough may cause the work to be done by the Borough or its private contractor and levy and collect the cost thereof from the owner of the property. Cost of such work shall be a lien upon the land upon which the work was performed from the time of the commencement of the work, which date shall be fixed by the Borough Manager and shall be filed with the Borough Secretary. Such lien may be collected by action in assumpsit or by lien filed in the manner provided by law for the filing and collection of municipal claims. [*Ord. 825*]

3. A public shade tree may be removed without a public meeting in the event of an emergency. An emergency exists when a tree poses an immediate and specific threat or hazard to public safety, pedestrian or vehicular traffic, or property. Such emergency removal may be authorized by the Mayor, Borough Manager, Street Superintendent, Chief of Police, or the officer in charge of emergency management personnel. Such removal shall be reported to the Shade Tree Commission as soon as possible after the emergency has been abated.

4. Except during an emergency, no public utility company, governmental agency or commercial tree trimmer, or contractor or any other person, shall perform any work pertaining to any of the foregoing without the written permission of the Shade Tree Commission for the work to be done. A permit acquired by the landowner shall constitute permission by the Shade Tree Commission. A landowner shall not be responsible for any and all acts performed by a public utility company,

governmental agency or commercial tree trimmer, or contractor or any other person, performed during an emergency or at any other time that such landowner did not have either actual or constructive notice of the work that needed to be done.

(*Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007; and amended by Ord. 825, 10/3/2016, §5(B)*)

§25-109 Permits.

All permission required under this Part shall be in writing on the permit form prepared and issued by the Shade Tree Commission. The permit shall specify name and address of the person requesting the permit, the location of the work, the type of work to be performed, and the time period during which the work is to be performed. The Shade Tree Commission or its designatee shall supervise the work to be done under the permit, and such permit may be revoked by the Shade Tree Commission if the terms and conditions of the permit are violated.

(*Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007*)

§25-110 Excavations.

1. All excavations in the planting strip within 5 feet of the center of any public shade tree shall be under the supervision of the Shade Tree Commission.
2. In the erection, alteration, repair, or removal of any building or structure, the owner thereof shall be responsible for the placing of such guards around all nearby public shade trees as shall effectively prevent injury to them.

(*Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007*)

§25-111 Locations of Public Shade Trees.

Public shade trees shall be planted along the strip between the sidewalk and the curb and such other locations as determined by the Shade Tree Commission. In this strip each tree shall be planted midway between the curb and the sidewalk. The location within the

strip between the sidewalk and the curb at which the shade tree may be planted shall be determined by the Shade Tree Commission.

(Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007)

§25-112 Spacing.

1. Trees shall be kept away at least 8 feet from lamp posts and 10 feet from fire hydrants, and 25 feet from any intersection.
2. The exact spot where a new public shade tree is to be planted shall be decided by the Shade Tree Commission in the field and not from maps.

(Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007)

§25-113 Species.

An official list of recommended public shade trees shall be established by the Shade Tree Commission and shall be maintained by the Borough Manager. Amendments to this list shall be made by the Shade Tree Commission as it deems necessary from time to time, which amendment shall be adopted at one of the Commission's regularly scheduled meetings.

(Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007)

§25-114 Planting.

All trees, when planted, shall not be less than 1½ inches in diameter, measured 6 inches above the ground, shall have straight stem, and shall be properly staked or supported if deemed necessary by the Shade Tree Commission. All planting shall be done in accordance with ANSI A300 Standards, which standards are incorporated herein by this reference, and the work shall be performed under the direction of a certified arborist, certified horticulturist, certified landscape technician, or Shade Tree Commission member. Care shall be given not to damage roots of any adjoining trees.

(Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007)

§25-115 Care of Trees.

1. A public shade tree should be symmetrical. The branches should begin at a height from the ground that will allow the free public use of the street and sidewalk. The tree should have a well-developed crown which retains, as nearly as possible, the normal characteristics of that species.
2. The fixing of the branching at a certain height above the ground shall be done gradually, year by year, after planting. Trees must grow in diameter as well as height in order to support the tops without bending. Low branches shall be removed only at intervals of a year or more until the proper height of clear stem 10 feet is reached. Ten feet in the clear, above the street level, shall be the height all trees will gradually have their crowns raised to.
3. No limbs or foliage shall be left to obstruct the street lights, any traffic sign or traffic signal. All dead and imperfect limbs shall be removed.
4. A tree with a diameter smaller than 1 inch, measured at 6 inches above the ground, may be removed without a permit.
5. All stumps shall be ground or removed at least 6 inches below grade without damaging the roots and any adjoining trees.
6. Pruning of public shade trees shall only be performed in accordance with the ANSI A300 Standards, also known as the Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices (Pruning) as set forth in the American National Standards for Tree Care Operations published by the National Arborist Association, Inc., and approved by the American Standards Institute, Inc., on May 22, 2001.
7. Topping of public shade trees is prohibited.

8. No permit is required for pruning lower branches for pedestrian clearance if the branches are smaller than 1 inch in diameter where the branch joins the trunk of the tree.

9. All cabling, bracing and guying of a public shade tree shall only be performed in accordance with ANSI A300 Standards, which standards are incorporated herein by this reference.

(Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007)

§25-116 Costs to Be Paid by Abutting Landowner.

The cost of planting, transplanting or removing any shade trees in and along the streets and highways in the Borough, of the necessary and suitable guard, curbing or grading for the protection thereof and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work shall be paid by the owner of the real estate abutting the area in which the work is done. The amount each owner is to pay shall be ascertained and certified by the Commission to the Council and to the Borough Treasurer.

(Ord. 382, 4/3/1972, §8)

§25-117 Notice of Assessment.

Upon the Commission filing the certificate with the Council, the Borough Secretary shall cause 30 days written notice to be given to every person against whose property an assessment has been made. The notice shall state the amount of assessment and time and place of payment and shall be accompanied with a copy of the certificate.

(Ord. 382, 4/3/1972, §9)

§25-118 Assessed Amount as Lien.

The amount assessed against the real estate shall be a lien from time of filing of the certificate with the Council, and if not paid within the time designated in the notice, a claim may be filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected.

(Ord. 382, 4/3/1972, §10)

§25-119 Costs to Be Paid by Borough.

The cost and expense of caring for such trees after having been planted and the expense of publishing the notice hereinbefore provided for shall be paid by the Borough. The needed amount shall each year be certified by the Commission to the Council and shall be drawn against as required by the Commission in the same manner as money appropriated for Borough purposes.

(Ord. 382, 4/3/1972, §11)

§25-120 Tax Levy; Provision for Expenses.

The Council may levy a general tax, not to exceed the sum of $\frac{1}{10}$ of one mill on the dollar, on the assessed valuation of the property in the Borough of Selinsgrove taxable for county purposes, for the purpose of defraying the cost and expenses of caring for such shade trees and the expense of publishing the notice or it may provide for the expenses of caring for trees already planted and of publishing the notice by appropriations equal to the amount certified to be required by the Commission.

(Ord. 382, 4/3/1972, §12)

§25-121 Appeal Procedure.

1. If any person is, or believes he has been, aggrieved by any action or decision of the Shade Tree Commission, such person shall have the right to file a written appeal to the Selinsgrove Borough Council. Such appeal shall specifically state the action of the Shade Tree Commission to which such person objects and shall be personally filed with the Selinsgrove Borough Manager. The filing fee for the appeal shall be in an amount as established, from time to time, by resolution of Borough Council. The appeal must be filed within 30 days after the date of the action or decision of the Shade Tree Commission or else such action or decision shall be final. [Ord. 825]

2. Upon filing such appeal, all action not yet performed or decision shall be stayed until the Selinsgrove Borough Council rules on the appeal.
3. Within 45 days of the filing of the appeal, Selinsgrove Borough Council shall conduct a public hearing on the appeal, either at a regularly scheduled meeting or at a special meeting duly called. In the event the appellant requests that the hearing be transcribed, he, she, it or they shall deposit the sum in an amount as established, from time to time, by resolution of Borough Council to cover such costs and shall agree to pay half of the actual costs so incurred. [*Ord. 825*]
4. Selinsgrove Borough Council shall render a decision on the appeal within 30 days after the conclusion of the public hearing.
5. If the appellant is aggrieved by the decision of the Selinsgrove Borough Council, such person may appeal that decision to the Snyder County Court of Common Pleas for further proceedings according to law. Such an appeal must be filed in writing within 30 days of the date of the Borough Council's decision or else such decision shall be final.

(*Ord. 382, 4/3/1972; as added by Ord. 759, 11/12/2007; and amended by Ord. 825, 10/3/2016, §5(B)*)

§25-122 Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceeding and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 382*, 4/3/1972, §14; as amended by *Ord. 434*, 10/4/1976; and by *Ord. 825*, 10/3/2016, §5(B))

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