

Radnor Township, Delaware County, PA

Chapter 263. TREES

[HISTORY: Adopted by the Board of Commissioners of the Township of Radnor 11-24-2003 by Ord. No. 2003-21. Editor's Note: This ordinance also repealed former Ch. 263, Trees, adopted 10-27-1997 by Ord. No. 97-34, as amended. Amendments noted where applicable.]

§ 263-1. Legislative intent.

The purpose of this chapter is to provide a mechanism for the establishment of a commission which shall encourage proper selection, planting, replanting and care and establish protective regulations for trees within Radnor Township in order to control problems of air and noise pollution, soil erosion, aesthetic depreciation, and to make Radnor Township a healthier and safer place to live.

§ 263-2. Establishment of Commission.

A commission to be known as the Shade Tree Commission is hereby established.

§ 263-3. Personnel of Commission; appointment; terms; vacancies.

A. The Commission shall be comprised of five residents of the Township, two of whom shall be appointed annually, one from the Parks and Recreation Board and one from the Planning Commission, all of whom shall serve without compensation. Where possible, at least two of the members shall be professionally trained in a field related to tree care, forestry, etc.

B. On the expiration of the term of any Shade Tree Commissioner, a successor shall be appointed by the Board, to a term of five years.

C. Vacancies in the office of Shade Tree Commission shall be filled by the Board of Commissioners for the unexpired term.

D. Any Commission member may be removed at the discretion of the Board of Commissioners.

§ 263-4. Word usage; definitions.

A. The singular number includes the plural, and the plural includes the singular. The masculine gender includes the feminine and neuter.

B. As used in this chapter, the following terms shall have the meanings indicated:

AREA OF DISTURBANCE

An area proposed to be disturbed in any manner, temporary or permanent, as a result of construction activities, plus a buffer zone of 20 feet.

BOARD

The Board of Commissioners of the Township of Radnor.

CALIPER

Standard measurement of a tree's diameter taken at breast height (4 1/2 feet above the ground).

HERITAGE TREE

A tree having a thirty-six-inch or greater caliper.

MASTER STREET TREE PLAN

The plan developed by the Shade Tree Commission and adopted by the Board of Commissioners which delineates species of trees and areas for implementation in the Township.

PARKS AND RECREATION BOARD

The Park and Recreation Board of Radnor Township.

PERMIT

A permit in writing as issued by the Township Manager or Township Engineer pursuant to application approval by the Shade Tree Commission.

PERSON

Any individual, firm, association, partnership, corporation or any other legal entity, other than the Township.

PLANNING COMMISSION

The Planning Commission of Radnor Township.

PROTECTIVE TREE FENCE

A temporary fence installed, at minimum, around the dripline of any tree which is to be preserved during construction or demolition operations, inside of which no grading, storing or dumping of any material may occur.

PUBLIC PROPERTY

All property owned or under the control of the Township, including but not necessarily limited to all property or the School District of Radnor Township, all public parks and playgrounds, municipal building property, public library and fire station(s).

PUBLIC STREET OR HIGHWAY

Any Township right-of-way, a portion of which is used for vehicular or pedestrian travel.

SHADE TREE

Any tree with a six-inch or greater caliper which is subject to review and/or approval by the Shade Tree Commission under any section of this chapter.

SHADE TREE COMMISSION

A commission established pursuant to powers granted by the Radnor Township Home Rule Charter.

STREET TREE

Any tree on any public property or public street or highway in Radnor Township.

STREET TREE PERMIT

A permit in writing issued by the Township Manager upon application approval to any arborist or person certified by the International Society of Arboriculture (ISA) to do any work on a shade or street tree in Radnor Township.

TREE REPLACEMENT FORMULA

Replacement of any tree removed or recommended to be removed by the Shade Tree Commission as follows: one replacement tree per every tree removed that is one inch to 23 inches in caliper; three or more replacement trees per every heritage tree removed that is 36 inches or greater in caliper. The Shade Tree Commission may require that a heritage tree be replaced caliper for caliper. Replacement trees should have a minimum two- to 2 1/2-inch caliper.

TOWNSHIP

The Township of Radnor.

TOWNSHIP ARBORIST

The duly appointed arborist of the Township or his designee.

TOWNSHIP ENGINEER

The duly appointed engineer of the Township or his designee.

TOWNSHIP MANAGER

The duly appointed manager of the Township or his designee.

§ 263-5. General powers and duties of Shade Tree Commission.

A. General.

(1) The Shade Tree Commission shall formulate a Master Street Plan recommending locations for new trees and/or the removal of unsuitable trees on all streets within the Township which are plantable. This plan shall be revised at least on an annual basis and submitted to the Planning Commission and to the Park and Recreation Board, and finally to the Board of Commissioners for adoption by resolution.

(2) The Shade Tree Commission may recommend suitable species of trees for planting along streets and in other areas, as well as appropriate size, spacing, planting, bracing, fertilization, maintenance and pruning of trees.

(3) The Shade Tree Commission may, with approval of the Board of Commissioners, consult a qualified arborist or landscape architect to advise on suitable species or trees, their planting, durability, rate of growth, litter tendencies, care, protection and treatment, tolerance to impervious coverage and traffic, and other such advice that may be useful or appropriate to the duties and responsibilities of the Shade Tree Commission.

(4) The Shade Tree Commission shall recommend to the Board of Commissioners rules and regulations to further carry out its duties and responsibilities, which may include the issuance of mandatory or voluntary guidelines governing the planting, maintenance and removal of trees.

(5) The Shade Tree Commission may periodically conduct a survey of heritage trees within the Township and shall encourage the protection of all such trees.

(6) The Shade Tree Commission shall administer the Commemorative Shade Tree Fund, a fund comprised of contributions from interested persons and other entities, for the purpose of maintaining the wooded character of the streets and lands within the Township.

(7) The Shade Tree Commission shall recommend to the Board of Commissioners a budget for the care, planting, replacement and maintenance of street trees within the Township.

(8) The Shade Tree Commission shall hold public meetings on a regular basis, but not less frequently than eight times a year, and shall publish its schedule. Meetings and notices thereof shall be governed by the Radnor Township Home Rule Charter and appropriate state law.

(9) The Shade Tree Commission shall submit a regular written report to the Board of Commissioners summarizing its public meetings.

B. The Shade Tree Commission shall review or cause to be reviewed all applications submitted to the Township for the following:

(1) Land development.

(2) Subdivision.

(3) Grading in excess of 300 cubic yards.

(4) Grading for parking lots of five or more cars.

(5) Clearing on any building lot of six or more trees, each having a caliper of six inches or greater.

(6) Removal of a heritage tree.

C. The Shade Tree Commission may review, if directed by the Township Engineer or Director of Community Development, any applications submitted to the Township for the following:

(1) Demolition permits on any building lot whereby the proposed work may impact or causes the removal of trees; and

(2) Commercial tree removal permits.

§ 263-6. Emergency tree removal.

In the case of immediate necessity for the protection of life or property, any shade or street tree described in this chapter may be removed without first obtaining a permit after inspection by a member(s) of the Shade Tree Commission or its designee.

§ 263-7. License requirements.

A. License required. Effective the date of this chapter, it shall be unlawful for any person, firm, or corporation to prune or remove a street tree without first having obtained a license as a specialty contractor from the Community Development Department, as required by Chapter 145 of the Township Code.

B. Application. Application for license shall be made on a form provided by the Township and shall include name and address of the business, partnership or corporation, and the name of the individual to be licensed, along with any additional information which the Township may require. One member of the business, partnership or corporation shall be sufficient for the issuance of a license.

C. Certification. Upon the filing of an application for license, applicants shall be required to provide evidence of current certification through the International Society of Arboriculture. Certification as an ISA arborist shall be required for renewal of a contractor's license pursuant to this subsection.

§ 263-8. Review of permit applications.

A. Land development/subdivision.

(1) The developer shall submit a plan illustrating:

(a) The size, species and location of all shade and street trees with a caliper of six inches or greater which are in the proposed area of disturbance;

(b) All trees to be removed designated with an X; and

(c) Approximate location of trees on adjoining properties that are located within 10 feet of the property line (said locations can be approximated from the subject property or via existing aerial photographic data).

(2) A planting plan shall also be required illustrating the size, species and location of trees to be planted in compliance with the tree replacement formula. The planting plan shall include a chart summarizing sizes of trees to be removed and trees to be planted.

(3) The plan(s) shall illustrate the location of protective tree fence around trees to remain, including a detail of such. Additionally, the following measures must be addressed by the applicant and inspected by the Township Engineer or Township Arborist prior to the start of work or issuance of the permit: protective tree fence must be installed. All trees to be removed and all trees to remain within the area

of disturbance must be clearly marked at the base of each tree with visible nonremovable marking indicating the status of each tree. It is recommended that permanent spraypaint be used for trees to be removed (red) and trees to remain (green). The cost of such inspections will be charged against the applicant's obligation escrow as more described in § 263-10.

(4) Trees shall be planted by the developer for any land development or subdivision where suitable as part of the construction of:

(a) New streets.

(b) New sidewalks.

(c) Existing streets, highways, sidewalks, pedestrian ways, bicycle trails or pathways when they abut or lie within the subdivision or land development.

(d) Access driveways to residential development.

(5) The Shade Tree Commission shall review the proposed application for compliance with the requirements of the Township's tree replacement formula. The Shade Tree Commission shall also consider the impact, if any, on all trees with a caliper of six inches or greater and shall make recommendations for the preservation of existing trees and for the species, location and size of new plantings.

(6) Such recommendations shall be made in writing to the Planning Commission. Upon satisfactory resolution of the Shade Tree Commission's comments, the Planning Commission may approve the plans.

B. Grading and clearing permits.

(1) The application for a grading permit for grading in excess of 300 cubic yards, or for grading in a parking lot of five or more cars, shall be made in writing to the Township Engineer upon forms furnished by him, together with the required filing fee.

(2) The application for a clearing permit on any lot in which six or more trees of six or inches or greater caliper are proposed to be removed shall be made in writing to the Township Engineer upon forms furnished by him, together with the required filing fee.

(3) The applicant shall submit a plan:

(a) The size, species and location of all shade and street trees with a caliper of six inches or greater which are in the proposed area of disturbance:

(b) All trees to be removed designated with an X; and

(c) Approximate location of trees on adjoining properties that are located within 10 feet of the property line (said locations can be approximated from the subject property or via existing aerial photographic data), A planting plan shall also be required illustrating the size, species and location of trees to be

planted in compliance with the tree replacement formula. The plan shall include a chart summarizing sizes of trees to be removed and trees to be planted.

(4) The plan(s) shall illustrate the location of protective tree fence around trees to remain, including a detail of such. Additionally, the following measures must be addressed by the applicant and inspected by the Township Engineer or Township Arborist prior to the start of work or issuance of the permit:

(a) Protective tree fence must be installed and maintained until the work is complete and not removed until directed by the Township;

(b) All trees to be removed and all trees to remain within the area of disturbance must be clearly marked at the base of each tree with visible nonremovable marking indicating the status of each tree. It is recommended that permanent spray paint be used for trees to be removed (red) and (green),

(c) The cost of such inspections will be charged against the applicant's obligation escrow as more fully described in § 263-10.

(5) The Shade Tree Commission may review the application for compliance with the requirements of the Township's tree replacement formula. The Shade Tree Commission shall also consider the impact, if any, on all trees with a caliper of six inches or greater and shall make recommendations for the preservation of existing trees and for the species, location and size of new plantings.

(6) The Shade Tree Commission shall approve or disapprove each grading or clearing permit application before them and provide a written basis for its findings. If approved, the Township Engineer may issue a grading or clearing permit. If a grading or clearing permit application is not acted upon within 60 days, it shall be considered to be approved by the Shade Tree Commission.

(7) The grading or clearing permit shall be effective for such length of time as the Shade Tree Commission shall in each case determine, which length of time shall be indicated on the permit, and such permit may be revoked at any time by the Township Manager upon proof satisfactory to the Township Manager that the terms upon which the permit have been violated.

(8) The Shade Tree Commission can, in its discretion as a condition of a permit, require the applicant to file a bond or to deposit security satisfactory to it to guarantee compliance with the terms and conditions upon which the permit is issued.

C. Removal of a heritage tree.

(1) The application for the removal of a heritage tree shall be made in writing to the Township Engineer upon forms furnished by him, together with the required filing fee.

(2) The plan shall illustrate the size, species and location of the heritage tree which is proposed to be removed, and the size, species and location of new trees to be planted in compliance with the tree replacement formula.

(3) The Shade Tree Commission shall have the authority to deny removal of a heritage tree. It shall have the authority to require that a heritage tree be replaced caliper for caliper.

(4) The Shade Tree Commission shall approve or disapprove each heritage tree permit application and provide a written basis for its findings. If approved, the Township Engineer may issue a heritage tree removal permit. If a heritage tree removal permit is not acted upon within 60 days, it shall be considered to be approved by the Shade Tree Commission.

(5) The heritage tree removal permit shall be effective for such a length of time as the Shade Tree Commission shall in each case determine, which length of time shall be indicated on the permit, and such permit may be revoked at any time by the Township Manager upon proof satisfactory to the Township Manager that the terms upon which the permit has been issued have been violated.

D. Tree removal in commercial districts.

(1) The application for tree removal in a commercial district shall be made in writing to the Township Engineer upon forms furnished by him, together with the required filing fee and shall be required when one or more trees of three inches in caliper or larger are to be removed from a commercially zoned property.

(2) A plan shall be submitted illustrating the size, species and location of the tree which is proposed to be removed, and the size, species and location of new trees to be planted in compliance with the tree replacement formula.

(3) At the request of the Township Engineer or the Director of Community Development, the Shade Tree Commission shall review the application for compliance with the requirements of the Township's tree replacement formula.

(4) The Shade Tree Commission shall approve or disapprove each application it receives and provide a written basis for its findings. If approved, the Township Engineer may issue a tree removal permit.

E. Demolition permit.

(1) The application for a demolition permit shall be made in writing to the Director of Community Development upon forms furnished by him, together with the required filing fee.

(2) The applicant may be required to submit a plan illustrating the size, species and location of all shade and street trees with a caliper of six inches or greater which are in the proposed area of disturbance; all trees to be removed designated with an X [It is recommended that permanent spray paint be used for trees to be removed (red) and trees to remain (green)]; and approximate location of trees on adjoining properties that are located within 10 feet of the property line (said locations can be approximated from the subject property or via existing aerial photographic data).

(3) At the request of the Township Engineer or the Director of Community Development, the Shade Tree Commission shall review the application for compliance with the requirements of the Township's tree replacement formula.

(4) The Shade Tree Commission shall approve or disapprove each application and provide a written basis for its findings. If approved, the Director of Community Development may issue a demolition permit.

§ 263-9. Street trees.

A. Planting.

(1) Street trees shall be planted by the developer for any land development or subdivision where suitable as part of the construction of:

(a) New streets.

(b) New sidewalks.

(c) Existing streets, highways, sidewalks, pedestrian ways, bicycle trails or pathways when they abut or lie within the subdivision or land development.

(d) Access driveways to residential development.

(2) The Shade Tree Commission encourages all residents to plant, maintain and assume stewardship for street trees within the Township. Appropriate species for new trees are recommended in Appendix A Editor's Note: Said appendix is on file in the Township offices. of this chapter. As to location, it is advisable to consult the Shade Tree Commission and its Master Street Tree Plan for appropriate locations for the new street trees.

(3) Whenever any street tree shall be planted in conflict with the provisions of this chapter, of an unsuitable species, or in an inappropriate location due to such conditions as traffic sight lines, overhead wires, insufficient area for root growth or similar, it shall be lawful for the Shade Tree Commission to cause the Township Manager or his similar designee to remove said street tree and to assign the cost of removal to the owner.

B. Maintenance of street trees.

(1) The cost and expenses of planting, pruning, maintaining, feeding, protecting and caring for street trees shall be borne by the Township when and only when the work is done by the Township.

(2) Any certified arborist or person contracted to prune or otherwise maintain or remove a street tree must first apply to the Township Manager or his designee for an annual permit to perform such activities. Certification shall be from the International Society of Arboriculture (ISA).

(3) Public utilities wishing to do routine maintenance shall apply to the Township Manager or his designee for an annual permit to perform such activities. The permit application shall specify the kind of

work the utility desires to perform and the area where the operation will occur during the period of the permit.

(4) Whenever, in order to take down or prune any street tree, it shall be deemed necessary to remove any wire or wires, every person having any such wire(s) running through a public street or highway shall temporarily remove the same or cut off the flow of the current therefrom within 24 hours after service of written notice from the Township Manager to do so. Notice may be made by regular mail. Tree trimming near energized electrical conductors may be done by certified arborists trained to work in these conditions.

C. Acts injurious to street trees. Except in case of necessity for protection of life or property, it shall be a violation of this chapter for any person to do any of the following acts:

(1) To cut down any viable healthy street tree.

(2) To interfere with the roots of any street tree.

(3) To cut into, drive nails or spikes into, break, climb with spurs, or injure in any manner a street tree.

(4) To place any rope, guy wire, cable, sign, poster or other fixture on a street tree.

(5) To injure, misuse or remove any device placed to protect a street tree.

(6) To discharge or pour salt, saltwater, oil or other noxious liquids or materials on a street tree or around its base.

(7) To place any stone, cement or other material on a street tree or around its base so as to impede the natural passage of water and air into its roots.

(8) To attach any electrical wire, insulator or any device for the holding of an electrical wire to any street tree, without first obtaining a permit.

§ 263-10. Obligation escrow.

This chapter shall be enforced by the Township Engineer and his duly authorized representatives, and the Township Engineer shall carry out and enforce the requirements of this section.

A. An obligation escrow may be required to be funded by the applicant with the Township Engineer for all approved land development/subdivision applications, grading, clearing, and demolition permits (collectively the "approved permits").

B. The purpose of the obligation escrow is to guarantee the applicant's compliance with the approved permits as they relate to this chapter.

C. Each applicant shall be required to place in escrow the following amounts:

(1) An amount equal to \$500 per tree scheduled to remain up to a maximum of \$7,500;

(2) An amount equal to a minimum of \$2.00/LF of tree protection fence or the amount set annually by the Board of Commissioners, as required by the approved permit; and

(3) An amount equal to \$500, unless waived or modified by the Township Engineer, for inspections in accordance with § 263-8.

D. The applicant shall be subject to forfeiture of all or a portion of the obligation escrow for failure to comply with the approved permit, as follows:

(1) Five hundred dollars for each tree that is removed in violation of the approved permit, unless such removal is authorized in writing by the Township Engineer; and

(2) An amount equal to a minimum of \$2.00/LF of tree protection fence or the amount set annually by the Board of Commissioners, if the applicant fails to maintain said fencing in accordance with the approved permit or industry, after an initial written warning from the Township Engineer.

§ 263-11. Enforcement.

This chapter shall be enforced by the Township Manager and his duly authorized representatives, and the Township Manager shall carry out and enforce the recommendations of the Shade Tree Commission.

A. Fines shall be levied under the following circumstances:

(1) Failure to comply with a plan approved by the Shade Tree Commission.

(2) Failure to install protective tree fence on a construction site, or to remove such a fence during construction or clearing operations, or to violate the purpose of the fence by storing materials within the fence, thereby damaging tree roots.

(3) Injury or injuries (as described in § 263-9C) or removal of any street or shade tree in violation of this chapter.

B. Anyone who injures, cuts down, or removes a street or shade tree in violation of this chapter shall be subject to a fine which shall be calculated according to the International Society of Arboriculture (ISA) appraisal method, but which shall not in any case be less than \$1,000. In addition, a maximum fine of \$1,000 per day may be levied for each day after the date established for reconciliation until the injured or removed tree is replaced with a new tree, the size and species of which shall be recommended by the Shade Tree Commission. The cost and maintenance of the new tree shall be the responsibility of the offender, for a period of one year. If the replacement tree dies or becomes diseased within said one-year period, then same shall be replaced with a comparable tree. The obligation of such person will continue for another year. Such fines or penalties shall be lien upon the real estate of the offender, and may be collected as municipal fines are collected.

§ 263-12. Disposition of penalties or assessments.

Any penalties or assessments imposed under the chapter shall be paid to Radnor Township.

§ 263-13. Appeals.

Any person who shall deem that he has suffered damages by reason of enforcement of this chapter may appeal in writing to the Board of Commissioners within 10 days after the date of such action.