

ORDINANCE NO. 365

EAST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE CODE OF EAST NORRITON TOWNSHIP, BY ADDING CHAPTER 39 TO THE CODE ENTITLED "SHADE TREE COMMISSION". THE PURPOSE OF THIS ORDINANCE IS TO CREATE A SHADE TREE COMMISSION WHICH WILL BE CHARGED WITH THE OVERSIGHT OF SHADE TREES WITHIN THE RIGHT-OF-WAYS OF PUBLIC STREETS OF THE TOWNSHIP AND GRANTING THE COMMISSION THE AUTHORITY TO PLANT, REMOVE, MAINTAIN AND PROTECT SUCH TREES AND THE RESPONSIBILITY FOR THE REVIEW OF SUBDIVISION AND LAND DEVELOPMENT PLANS PURSUANT TO THE TOWNSHIP ZONING ORDINANCE AND SUBDIVISION ORDINANCE WITH REGARD TO SHADE TREES.

The Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania under and by virtue of the authority granted by the Second Class Township Code does hereby enact and ordain:

SECTION 1.

The Code of East Norriton Township, Chapter 39, being the East Norriton Township Shade Tree Commission Ordinance is hereby adopted as follows:

Section 39-1. Creation.

A Shade Tree Commission is hereby created by the Board of Supervisors of East Norriton Township.

Section 39-2. Members; Appointment; Term; Vacancy.

A. The Shade Tree Commission shall be comprised of THREE members who shall be residents of the Township and who shall be appointed by the Board of Supervisors. All members of the Commission serve without compensation, but may be reimbursed for necessary and reasonable expenses. Elected officers of the Township shall not serve on the Shade Tree Commission.

B. The term of each of the members of the Shade Tree Commission shall be four (4) years or until his successor is appointed and qualified, except that the terms of the members first appointed pursuant to this ordinance shall be so fixed that no more than two (2) shall be reappointed or replaced during any future calendar year.

C. The Chairman of the Shade Tree Commission shall be designated by the Board of Supervisors.

D. The Chairman of the Shade Tree Commission shall promptly notify the Board of Supervisors concerning any vacancies in the Commission, and such vacancy shall be filled for the unexpired term. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term according to the terms of this ordinance.

Section 39-3. Purpose.

The Shade Tree Commission (hereinafter called "Commission") of East Norriton Township (hereinafter the "Township") shall have authority and control of the shade trees within the right-of-way of public streets of the Township, including residential subdivisions in the Township, and shall have authority to plant, remove, maintain and protect such trees and shall be responsible for the review of subdivisions and land developments, and the plans as are authorized by the Township Zoning Ordinance and Subdivision Ordinance.

Section 39-4. Removal from Office.

Any member of the Commission, once qualified and appointed, may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by majority vote of the Board of Supervisors taken after the member has received fifteen (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 be only for the unexpired term.

Section 39-5. Definitions.

A. Shade Tree. The words "shade tree" whenever used in these regulations shall be taken to mean any tree, shrub or other woody plant within the right-of-way of any public street in the Township, or that part of any tree, shrub, or other woody plant which extends within the lines of any right-of-way of any public street in the Township.

B. Person. The word "person" shall be taken to mean any individual, firm, association or corporation.

C. Permit. The word "permit" shall be taken to mean a permit in writing as issued by the Chairman of the Shade Tree Commission of the Township.

Section 39-6. Application and Permit Procedure.

A. Application. The application for any permit required hereunder shall be made in writing to the Chairman of the Shade Tree Commission upon forms furnished by the Commission and

shall specify the particular kind of work or operation the applicant desires to perform thereunder and shall state the exact location and species of any tree or trees effected. It shall be the duty of the Chairman of the Shade Tree Commission to submit every such application promptly to the Commission for approval or disapproval.

B. Time of Permit. The permit shall be effective for such length of time as the Commission shall in each case determine, which shall be indicated on the permit.

C. Revocation. The Commission may revoke any permit issued pursuant to this ordinance upon notice to the permittee, for violation of the conditions of the permit or of this ordinance.

D. Permit Fees. Fees for all permits issued pursuant to the provisions of this ordinance shall be established by resolution of the Board of Supervisors.

E. Posting of Escrows. The Commission at its discretion, as a condition precedent to the issuing of the permit, may require the applicant to post escrow satisfactory to the Commission to guarantee the compliance by the applicant with the terms and conditions upon which the permit is issued.

Section 39-7. Subdivision and Land Development Requirements.

A. Trees Required. Shade trees shall be planted in all new residential subdivisions and land developments including land abutting any street previously opened as required under any of the Township's zoning and subdivision ordinances. The type of shade tree shall be subject to approval of the Commission and installation shall be made under the supervision of the Commission.

B. Permit Prior to Building or Zoning Permit. There shall not be issued to any person a building and/or zoning permit unless a shade tree permit, or waiver therefrom, has been issued and appropriate escrow posted with the Commission to insure compliance with this ordinance and regulations adopted hereunder. No certificate of occupancy shall be issued without filing a certificate of compliance by the Commission; such certificate shall state the necessary work has been completed or that sufficient escrow has been posted.

C. Determining Escrow. The escrow to be posted shall equal the cost, as determined by the Commission, of purchasing, planting and maintaining, for eighteen (18) months, the required shade trees.

D. Number, Size and Location of Shade Trees. The number, size, species and location of shade trees planted in subdivisions and land developments shall be in accordance with a plan approved by the Shade Tree Commission.

E. Shade trees shall be planted within two (2) years from the issuance of a permit or at such time as may be authorized by the Commission. Failure to plant the trees shall be a default and the escrow posted shall be forfeited. Any funds derived from a default shall be expended by the Commission to plant the required trees.

F. The person obtaining the shade tree permit shall maintain all shade trees for a period of eighteen (18) months following planting and shall replace trees as may be required.

Section 39-8. Shade Tree Planting Permit.

No shade tree shall be planted within any right-of-way of any public street or within ten (10) feet of a paved sidewalk or curb or within one hundred (100) feet of an intersection in the Township until a permit is granted therefore, such permit to designate the place where such tree is to be planted. The Commission may refuse a permit to plant any species of tree which in its opinion is not suited to the location. Every effort shall be made to locate trees so as not to interfere with the installation and maintenance of sidewalks and utilities.

Section 39-9. Shade Tree Protection.

A. Pruning, Trimming or Removal. It shall be unlawful for any person, without first obtaining a permit to cut, prune, break, climb with spurs, injure in any manner or remove 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 insecticides any shade tree; to place any rope, guy wire, cable, signs, posters or other fixtures on a shade tree or tree guard; or to injure, misuse or remove any device placed to protect shade trees, except in case of immediate necessity for protection of life or property.

B. Protection During Construction. Prior to any building operation or the performance of any work whatsoever in the Township in the vicinity of any shade trees, such builder or worker or subdivider shall submit to the Commission a plan of the area in which such building, work or construction shall be done and such plans shall include the location of all major shade trees clearly depicted by a mark showing approximate height and breadth or, if appropriate, shall be designated "wooded area". Upon receipt of such plans, which show the tree or trees to be cleared and those to remain, the Commission shall rule on such plans and may regulate which other trees are to be cleared or protected.

Before any such work shall be commenced, in connection with any building operation or the performance of any work whatsoever in the Township in the vicinity of any shade trees, guards shall be placed at all shade trees which may be affected by such work so as to effectively prevent injury to them. Plans should show all existing trees.

C. Protection from Animals. It shall be unlawful for any person to fasten any animal, thing or object to any shade tree or cause any animal, thing or object to be placed or to stand so as to cause injury to any shade tree.

D. Protection of Roots. No person shall, without first obtaining a permit, place or hereafter maintain any stone, concrete or other substance which shall impede the passage of water and air to the roots of any shade tree unless such person shall leave an open space of ground surrounding the trunk of the tree, such space to be not less than four (4) square feet.

Section 39-10. Shade Tree Trimming.

A. Minimum Height. All shade trees shall be kept trimmed so that the minimum height where they overhang any public walk or road shall be fifteen (15) feet. However, the Commission reserves the right to designate a higher clearance on certain highways, where heavy traffic or other conditions make it expedient. Shade trees having branches projecting over a public walkway shall be kept trimmed so that the lowest branches shall have a minimum height of eight (8) feet or such other height as may be specified by the Commission.

B. Failure to Trim Shade Trees as Required. In case the owner of such property shall neglect or refuse to trim such trees upon being notified in writing by the Commission to do so and within the time specified by such notice, the Commission may after the expiration of the date specified in such notice, cause trimming to be done at the expense of the owner and the entire cost thereof shall be a lien upon the premises and shall be filed and collected by the Township in the same manner as municipal claims are filed and collected.

Section 39-11. Removal of Diseased Trees.

A. Notice to Remove. The Commission may, upon written notice, require owners of property to cut and remove trees afflicted with the Dutch Elm or other disease which threatens to destroy or injure shade trees in the Township.

B. Failure to Remove. Upon failure to comply with such notice within thirty (30) days of receipt, the Township may cause the work to be done and levy or collect the costs thereof from the owner of the property.

C. Collection of Costs. The costs of such work shall be a lien upon the premises from the time of the commencement of work, which date shall be fixed by the Township Engineer and filed with the Township Secretary. Any 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.

Section 39-12. Advisory Services.

The Shade Tree Commission's permit requirements and regulatory powers do not apply to trees outside the right-of-way of public streets except as provided in Section 39-11.

However, many trees planted outside the right-of-way of public streets may grow into the right-of-way of the street and thereby become subject to the provisions of this ordinance.

Any person planting a tree within thirty (30) feet of the public street is advised to consult with the Commission to avoid possible future problems.

Section 39-13. Penalties.

Any person who shall violate or fail to comply with any of the regulations of the Shade Tree Commission shall upon a finding of a violation by a District Justice be fined not more than Six Hundred Dollars (\$600.00) for each and every offense. A new and separate violation shall be deemed to have been committed for each day that such violation exists. Such fines or penalties shall be collected as prescribed by law.

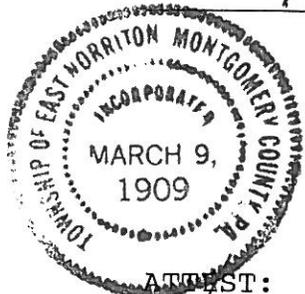
SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be separate, distinct and independent, and such holdings shall not effect the validity of the remaining portions of this ordinance.

SECTION 3. Ratification.

This ordinance shall in no other way affect, amend or modify the Code of East Norriton Township.

ENACTED AND ORDAINED by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania this 12th day of August, 1996.



BOARD OF SUPERVISORS
EAST NORRITON TOWNSHIP

By: Joseph C. Boncafi
Chairman

ATTEST:
Helmut J. Bauwald
Secretary