

**BOARD OF SUPERVISORS
TOWNSHIP OF PALMER
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2024-485

AN ORDINANCE OF THE PALMER TOWNSHIP BOARD OF SUPERVISORS AMENDING CHAPTER 32 OF THE PALMER TOWNSHIP CODE TO REVISE THE SPECIFIC POWERS OF THE SHADE TREE COMMISSION AND ENACTING A NEW CHAPTER 176 ENTITLED "TREES" WHICH SETS FORTH: DEFINITIONS AND COMPREHENSIVE REGULATIONS FOR THE MAINTENANCE, REMOVAL, REPLACEMENT, AND PERMITTING RELATED TO STREET TREES AND SHADE TREES; APPEAL AND ENFORCEMENT MECHANISMS RELATED TO STREET TREES AND SHADE TREES; PENALTIES FOR NONCOMPLIANCE; SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES AND AN EFFECTIVE DATE FIVE DAYS AFTER ENACTMENT

WHEREAS, Palmer Township is a Second Class Township organized and operating under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Second-Class Township Code authorizes the Board of Supervisors to regulate the planting, maintenance, and removal of shade trees in the Township and authorizes the Board of Supervisors to appoint a shade tree commission to administer regulations for shade trees (53 P.S. §67901); and

WHEREAS, the Board of Supervisors desires to grant the Palmer Township Shade Tree Commission ("Shade Tree Commission") the authority to administer regulations for shade trees

WHEREAS, It is the purpose of this chapter to promote and protect public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees within the Township; and

WHEREAS, the Board of Supervisors desires to encourage the planting and maintenance of attractive and desirable shade trees along streets, sidewalks and pathways, and other planting easements for the benefit of present and future citizens of the Township.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE Board of Supervisors of Palmer Township, Northampton County, Pennsylvania, and the same is hereby ordained and enacted as follows to wit:

SECTION I SHADE TREE COMMISSION

Chapter 32, Section 7 of the Palmer Township Code is hereby amended and restated so that the revised Chapter 32, Section 7 reads as follows:

§32-7 Specific Powers.

- A. The Shade Tree Commission may administer regulations for shade and street trees in the Township.
- B. The Shade Tree Commission may make regulatory recommendations to the Board of Supervisors for adoption of ordinances and regulations for the care and protection of Shade Trees and Street Trees, as those terms are defined in Chapter 176, entitled "Trees",
- C. Pursuant to regulations adopted by the Board of Supervisors, the Shade Tree Commission may require maintenance or removal of trees and/or remaining stumps in the public right-of-way if the condition of the trees, through disease or otherwise unreasonably affects or interferes with the health of the tree and the health, safety or welfare of the public or the right of the public to the unobstructed use of public roads or public property.
- D. Power to recommend new planting. The STC, may, in conformance with this chapter and/or with the regulations adopted pursuant to this chapter, recommend locations for new street or shade trees to be planted within the Township.

SECTION II TREES

The Palmer Township Code is hereby amended with the creation of a new Chapter 176 of the Palmer Township Code, entitled "Trees". The new Chapter 176 shall read as follows:

§176-1. Definitions. Within this chapter, the following terms shall have the meanings ascribed below :

Applicant- Any person (individual, contractor, firm, association, corporation, partnership, etc.) who applies for approval to remove a tree regulated under this ordinance.

Approved Shade Tree List (Appendix A)- A list of trees acceptable for planting within the Township as is listed in Appendix "A," which may be amended from time-to-time by resolution of the Board of Supervisors.

Board of Supervisors- The Board of Supervisors of Palmer Township, Northampton County, Pennsylvania, or their duly appointed representatives.

Dead Tree- A tree that is no longer alive, has been damaged beyond repair, or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs or branches exists to sustain life) and has been determined to be in such a state by the Township or its designee during a nondormant or other natural stage of the tree that would minimize the likelihood that the tree would be mistakenly identified as being in such a dead state.

Diameter at Breast Height (DBH)- The diameter of the trunk of a tree measured at a point four and half feet above original ground level on the uphill side of the tree (“breast height”). If the tree forks below breast height, each trunk is treated as a separate tree.

Existing Tree- Any live tree not otherwise classified and regulated as a shade tree or street tree in this chapter.

Flush Cuts- Pruning cuts that originate inside the branch bark ridge or the branch collar, causing unnecessary injury to stem tissue.

Hazard Tree- A tree that may fail due to mortality or a structural defect or changed stand conditions and, as a result, may cause property damage or personal injury.

Permit- Written authorization or consent by the Board of Supervisors or its designee to perform an activity regulated under this Chapter.

Person- Any individual, partnership, firm, association, or corporation.

Right-of-Way- The surface of and space above and below any real property in the Township in which the Township, County or Commonwealth has a regulatory interest, or interest as a trustee for the public as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, County or Commonwealth, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes.

Shade Tree- Any tree as specified, by resolution of the Board of Supervisors (or any tree which is otherwise approved by the Board of Supervisors) and is located within:

- a. Any public street or highway right-of-way;
- b. Any planting easement adjacent to a public street or highway;
- c. Any public lands; or
- d. Any designated:
 - i. Tree planting or tree protection easement;
 - ii. Planting easement or strip;
 - iii. Landscaping easement or strip; or
 - iv. Landscaping buffer strip or area.

Shade Tree Commission (“STC”) - The Shade Tree Commission of Palmer Township

Street Tree- Any tree located within the right-of-way of any public street or adjacent thereto in a planting easement or that part of any tree, shrub or other woody plant which extends within the right-of-way of any public street.

Tree Maintenance- Includes, but not limited to, proper pruning, trimming, removing vines and dead or diseased limb(s) to ensure the health and longevity of the tree, and to ensure public safety, including views of traffic signs and free passage of pedestrians or vehicles.

Topping (Top)- The severe cutting back of limbs to stubs within the tree’s crown to such a degree to remove the normal canopy and disfigure the tree.

Township- Palmer Township, Northampton County, Pennsylvania.

Tree Dripline- The outer most circumference of the trees canopy, from which water drips to the ground.

Tree Protection Zone (TPZ)- An area around the trunk of a tree in which construction activity shall be restricted. The tree protection zone shall extend 20 feet from the center of the trunk of the tree, or the distance from the trunk to dripline, whichever is greater. Where there is a group of trees or woodland, the tree protective zone shall be the aggregate of the protection zones for the individual trees.

Tree Row- A line of existing trees at least 100 feet in length containing at least four existing trees as located by the center of their trunks.

Woodlands- A parcel of land and/or portion of a lot that is covered with existing trees, as determined by the limit of their driplines, and meeting or exceeding the following areas and density of trees:

- a. Twenty thousand square feet or more in areas in any geometric configuration; and
- b. Containing one or more existing tree(s) per 1,000 square feet as located by the limit of its dripline.

§176-2. Regulated Activities.

- A. Removal. No Shade Tree or Street Tree shall be removed or disturbed without a permit.

§176-3. Permit Procedure

- A. Application and permit procedure. The application for any permit required in this chapter shall be made in writing accompanied by the permit fee and necessary documentation and submitted to the Township Permit Coordinator. Necessary documentation includes:
- i. Tree removal permit application
 - ii. Site plan for removal (can be hand drawn)
 - iii. Photographs of trees requested for removal
 - iv. Site plan for replanting (can be hand drawn)
 - v. Identified tree species selected for replanting in accordance with the Township-approved species list.
- B. Permit application review. The STC will review the removal request at the next monthly meeting and make a recommendation regarding the approval or denial of the permit. The applicant shall be notified of the meeting and encouraged to attend and provide any supporting documentation or professional opinions. Considering the STC's recommendation, Township staff shall grant or deny the permit. Valid reasons for pursuing a permit for the removal of a Street Tree or Shade Tree include the following:
- i. Death or disease of tree
 - ii. Significant history or imminent risk of damage to underground utilities
 - iii. Imminent risk of property damage beyond risk typically associated with trees. Such risk must be unable to be mitigated by routine maintenance described in §176-4 of this Chapter.
- C. Permit Posting. If the tree removal permit is approved, the applicant must post the permit on-site during the removal of the tree and its associated stump. Permit may not be posted on the intended tree or any other tree.
- D. Replanting requirement. Following the approved removal of a diseased or dead tree and its associated stump, property owners are responsible for planting a new tree in its place, consistent with the approved site plan detailed on the permit issued.
- i. Planting selection. All replanted trees shall comply with the Townships approved tree list, which will be provided to the applicant at time of permit approval (See Appendix A).
 - ii. Tree size. Unless otherwise noted on the permit site plan, replacement trees must measure two and a half inches at DBH.

- iii. Time frame. Replanting time frame should be suitable for the identified tree species within the permit site plan.
- E. Inspection. During the replanting phase, the Township will ensure the tree is planted correctly, and the species, size, and location are exact to the plan associated with the permit.
- F. Associated expense. Property owners are responsible for all costs associated with the removal, replanting, and maintenance of trees including existing and replacement trees.
- G. Time. Permits shall be valid for 12 months from the issuance date.
- H. Revocation. Permits may be revoked after issuance if the application is later determined incorrect, misleading, or otherwise invalid or if the work violates any provision of this ordinance.

§176-4. Maintenance.

- A. Maintenance responsibility. Property owners abutting the right-of-way are responsible for proper maintenance and care of all street trees and shade trees within the public right-of-way. This includes, without limitation:
 - i. Minimum height. Trees shall be trimmed so that the minimum clearance height where they overhang any walkways and sidewalks shall be eight feet, and fifteen feet above roadways. The Board of Supervisors reserves the right to designate a higher clearance on certain roadways where heavy traffic or other special clearance requirements may exist.
 - ii. Sight clearance. Proper sight clearance must be maintained along public roads or intersections in accordance with Township ordinances.
 - iii. Pruning. All pruning cuts shall be made close to the trunk or parent limb but without cutting into the branch collar leaving a protruding stub, according to the National Arborist Association Standards.
 - iv. All pruning cuts must be made in such a way as to prevent bark from being torn from the tree and to facilitate rapid healing. Flush cuts are unacceptable.
 - v. Dead branches. Property owners are responsible for properly removing dead branches from all trees.
 - vi. Vines. Property owners are responsible for keeping trees free of vines. Vines can interfere with the health of the tree by depriving the tree of water and nutrients in the soil, shading the tree's inner canopy growth, and weighing down

limbs. Vines can also hide structural defects in trees, which means that minor problems would be left untreated and become more substantial.

- B. Notice to maintain. If a tree under this ordinance is determined to be not properly maintained, written notice will be sent to the property owner with instructions on how to address the maintenance required.
- C. Failure to maintain. If a property owner neglects or refuses to maintain a tree under this ordinance within 30 days of being notified in writing by the Township, the Township may, after the expiration of the date specified in said notice, cause such trimming to be done at the expense of the owner. Upon failure of the owner to reimburse the Township within 60 days for the necessary work, the Township shall impose the entire cost of this work with the additional cost of collection as a lien upon the property. This lien shall be filed in the manner provided by law for filing and collection of municipal liens.

§176-5. Notice to Remove Dead or Diseased Trees.

- A. Notice to remove. The STC or designee, upon written notice, shall require owners of property abutting the right-of-way to cut and remove shade trees and street trees and their associated stumps afflicted with Dutch Elm disease, Emerald Ash Borer Infestation, or other disease which threatens to destroy or injure trees in the Township.
- B. If a property owner disagrees with the determination that a Street Tree or Shade Tree is diseased and shall be removed, they may appeal the determination to the Shade Tree Commission.
- C. Permit requirement. Should the STC or designee identify a dead or diseased shade tree, street tree in need of removal, the property owner is required to obtain a permit.
- D. Replacement. Any tree required to be removed shall be replaced by the property owner with an approved tree, and planted as designated on the approved permit site plan, at the property owner's expense.
- E. Failure to remove. Upon failure to comply with such notice within 60 days of receipt, the Township may cause the work to be done at the expense of the owner.
- F. Collection of costs. Upon failure of the owner to reimburse the Township within 60 days for the necessary work, the Township shall impose the entire cost of this work with the additional cost of collection as a lien upon the property. This lien shall be filed in the manner provided by law for the filing and collection of municipal claims.

§176-6. Stumps in the Right-of-Way

- A. Notice to remove. The STC or designee, upon written notice, shall require owners of property to grind stumps of previously removed trees remaining within the right-of-way at the property owner's expense. This includes stumps of trees that may have been removed by a previous property owner.
- B. Failure to remove. Upon failure to comply with such notice within 60 days of receipt, the Township may cause the work to be done at the expense of the owner.
- C. Collection of costs. Upon failure of the owner to reimburse the Township within 60 days for the necessary work, the Township shall impose the entire cost of this work with the additional cost of collection as a lien upon the property. This lien shall be filed in the manner provided by law for the filing and collection of municipal claims.
- D. Replacement. The STC may require the property owner plant a replacement tree from the approved tree list, at the property owners expense.

§176-7. Prohibited Activities

Prohibited activities. It shall be unlawful for any reason, except in case of immediate necessity for protection of life or property, to top; break; climb with spurs on; injure in any manner; place any rope, guy wire, cable, signs, posters, surveillance equipment or other fixtures on; injure, misuse, or remove any device placed to protect; discharge or pour salt, saltwater, oil, or other noxious liquids or materials; place stone, cement or other natural material around the base so as to impede on natural passage of water and air to roots; fasten any animal, thing, or object to; or place any animal, thing or object so as to cause injury to, any tree protected under this ordinance.

§176-8. Enforcement

- A. Township ability to do work. Upon the failure of any owner to comply with an order of the Township, or STC, pursuant to this chapter, the STC may cause the work to be done and the Township may collect the cost thereof and the cost of collection from the owner of the property.
- B. Cost shall be a lien on property. The cost of such work and the cost of collection shall be a lien upon the premises from the time of the commencement of work, which date and costs shall be certified to by the Township Engineer and filed with the Township.
- C. Written notice of cost. Upon the filing of the Township Engineer's certification, the Township shall cause 30 days written notice to be given to the person against whose

property an assessment has been made, said notice to be given by certified mail, return receipt requested. The notice shall state the amount of the assessment and the time and place of payment and shall be accompanied by a copy of the certification of the Township Engineer.

- D. Filing of municipal lien. The amount assessed against the real estate shall be a lien from the time of filing of the certification with the Township, and if not paid within the time designated in the notice, a claim may be filed and collected by the Board of Supervisors in the same manner as municipal claims are filed and collected.
- E. Any designated Township official is authorized to carry out the duties of this Ordinance.

§176-9. Violations and Penalties

- A. Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$500 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Whenever such person shall have been notified by the Township or by service of summons in prosecution, or in any other way, that the offender is committing such violation, then after any such notification, each day that a violation continues shall constitute a separate offense punishable by like fine or penalty.
- B. In case of damage or destruction, including non-approved removal of a tree under this jurisdiction without approval of the STC, each tree damaged or destroyed shall constitute a separate violation of this chapter. Such fines or penalties shall be collected as prescribed by law.
- C. Payment of a fine for a violation shall not relieve the owner of the requirement to replace trees as required by this chapter.

SECTION III: SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any article, section, subsection, paragraph, clause, phrase or provision of this Ordinance shall be held to be invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provisions hereof, other than the part determined to be invalid or unconstitutional.

SECTION IV: CONFLICTS

Any ordinance, resolution and/or other regulation of the Township, or any parts of ordinances, resolutions and/or other regulations of the Township, in conflict herewith are hereby repealed. All other provisions of the ordinances, resolutions and/or other regulations of Palmer Township, Northampton County, Pennsylvania shall remain in full force and effect.

SECTION V: EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

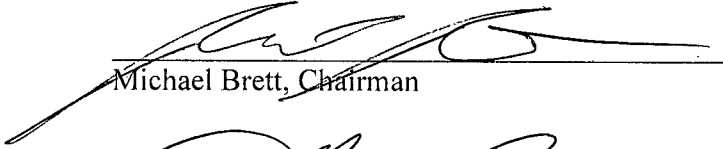
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BOARD OF SUPERVISORS
TOWNSHIP OF PALMER
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2024-485

SIGNATURE PAGE

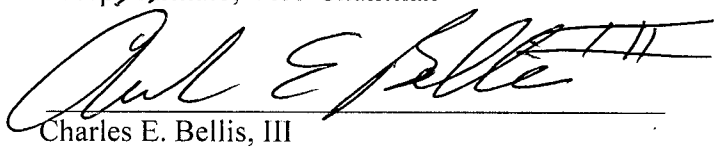
ENACTED AND ORDAINED BY THE TOWNSHIP OF PALMER, NORTHAMPTON
COUNTY, PENNSYLVANIA, THIS 01 DAY OF April, 2024



Michael Brett, Chairman

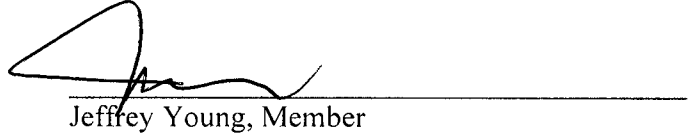


Joseph Armato, Vice-Chairman



Charles E. Bellis, III

K. Michael Mitchell, Member



Jeffrey Young, Member

Attest:


Brenda DeGerolamo
Assistant Township Manager
(Seal)

**Appendix A.
Approved Tree Species List**

<u>LARGE SHADE TREES SUITABLE FOR PLANTING</u>	<u>MEDIUM SIZE SHADE TREES SUITABLE FOR PLANTING</u>
<p>Acer rubrum (Red Maple) Acer saccharum (Sugar maple) Acer x Freemoni (Freemont hybrid maple) Betula nigra (River Birch) Carya spp (Hickory) Celtis occidentalis (Hackberry) Fagus spp (Beech) Gleditsia triacanthos inermis (Thornless Honeylocust) Gymnocladus dioicus (Kentucky coffeetree) Halesia spp (Silverbell) Juglans nigra (Black Walnut) Liquidambar styraciflua (Sweetgum) Liriodendron tuliperifera (Tulip Poplar) Nyssa sylvatica (Sourgum, black tupelo) Platanus x accerifolia (London planetree) Platanus occidentalis (Sycamore) Quercus imbricaria (Shingle Oak) Quercus bicolor (Swamp white oak) Quercus phellos (Willow oak) Quercus macrocarpa (Bur oak) Tilia americana (Linden) Ulmus americana (American elm, DED resistant varieties)</p>	<p>Carpinus carolinianum (American hornbeam) Cladrastrus kentuckea (Yellowwood) Magnolia cultivars (Magnolia (salt tolerant)) Ostrya virginiana (Hophornbeam)</p> <p align="center"><u>PROHIBITED TREES</u></p> <p>No Pyrus - flowering pear - invasive alien No Ash due to Emerald Ash Borer (EAB) No oaks in the red group due to Bacterial leaf scorch (BLS) No Acer platanoides - Norway maple - invasive alien Needs to be updated for completeness; also need a list of substitutes</p>