

ORDINANCE 2020-06

AN ORDINANCE OF THE BOROUGH OF NEWVILLE, CUMBERLAND COUNTY, PENNSYLVANIA, ESTABLISHING A SHADE TREE ORDINANCE FOR THE BOROUGH.

WHEREAS, the Newville Borough Council desires to regulate the planting, removal and maintenance of shade trees along the streets of the borough; and

WHEREAS, the Pennsylvania Borough Code, Title 8, Act 2018-164, PA Consolidated Statutes, Section 501, Subchapter (B), Section 2720 enables the Newville Borough Council to enact regulations governing the planting, removal and maintenance of borough shade trees.

IT IS HEREBY ENACTED AND ORDAINED by the Newville Borough Council, Cumberland County, Pennsylvania, as follows:

SECTION 1, ENFORCEMENT: The Newville Borough Council shall be responsible for the enforcement of this Ordinance. The Newville Borough Council Quality of Life Committee shall process and review all applications for the planting, removal, and pruning of shade trees and shall make an appropriate recommendation to the Newville Borough Council after reviewing the written application, conducting a site visit to the property and interviewing the property owner. The Newville Borough Council shall perform the duties and may exercise all the powers as listed in this Ordinance.

SECTION 2, DEFINITIONS: The following words and phrases, when used in this Ordinance, are defined as follows:

Council: The Newville Borough Council of Cumberland County, Pennsylvania.

Person: Any natural person, firm, association, partnership, or corporation.

Permit: A permit in writing as issued by the Secretary of the Borough of Newville, upon authorization of the Newville Borough Council.

Public Highway: Any street, sidewalk, or alley open to the public.

Quality of Life Committee: The Quality of Life Committee is an appointed committee of the Newville Borough Council charged with the processing of applications under this section.

Secretary: The appointed Borough Secretary of the Newville Borough Council.

Shade Tree: Any tree, shrub, or any other woody plant on or along any public highway or street in the borough, or that part of any tree, shrub or other woody plant that extends within the lines of any public highway.

Tree Lawn: The part of a street not covered by a sidewalk or other paving lying between the property line and that portion of a public highway usually used for vehicular traffic.

SECTION 3. JURISDICTION OF THE COUNCIL:

The Council shall have supervisory custody and control of the shade trees within the street right-of-ways, and along the public highways of the borough, and may suggest the planting, replanting or the removal of shade trees. Additionally, it shall regulate the planting, pruning, trimming, removal or replanting of shade trees and shall maintain and protect these trees.

SECTION 4. PERMITS:

Permits are required for the planting, pruning, trimming or removing or replanting of shade trees.

The application for any permit required by this ordinance shall be made in writing to the Secretary on a form approved by the Council. It shall specify the work that the applicant desires to perform and shall state the exact locations and the species of the trees affected. The Secretary shall promptly refer the application of the Quality of Life Committee for examination and a recommendation as to the approval or disapproval of the application.

The Council shall have sixty (60) days to act upon said application. A permit shall be issued upon an affirmative vote by a majority of the Council. Any application not acted upon within sixty (60) days from the date of its submission shall be deemed to have been granted. The permit shall be effective for one (1) year from the date indicate on the permit. Any such permit may be revoked at any time if the Council determines that any of the terms or conditions have been violated.

SECTION 5. SPACING AND PLANTING OF NEW TREES:

The spacing and position of newly planted shade trees shall be determined by the Council, based upon a recommendation of the Quality of Life Committee.

A sidewalk cut and tree planting permit of 36" x48" shall be required for each street tree. A minimum sidewalk width of 36" shall remain. The tree pit shall in no manner restrict the sidewalk width or safe pedestrian travel.

The council shall permit to be planted trees with a caliper of not less than two inches (2"), measured six inches above the ground. The trees shall be a single stem, single leader specimen that are symmetrical and have clean trunks. The Council shall require the planting of shade trees from an approve list of small and medium sized shade trees, that will make good street trees.

SECTION 6. DAMAGE TO TREES FROM HUMAN CAUSES:

No person shall break, injure, mutilate, kill or destroy any shade tree or permit any toxic chemical, either solid or liquid to seep, drain or empty on or about it. No person shall excavate any ditches, tunnels, or trenches or lay any driveway within ten feet (10') of any shade tree without first obtaining a permit from the Council to do so.

No person shall cut down, prune or remove any shade tree(s) under the Council's jurisdiction of fasten any sign, wire, rope or other materials to, around, or through any shade tree, or deposit, place, store or maintain any stone, sand, concrete, plastic or other material that may impeded the free passage of air, water or fertilizer to the roots of any shade tree without first obtaining a permit from the Council to do so.

Notwithstanding the above, newly planted shade trees may be guyed for stability during the first two growing seasons, and seasonal holiday lights may be strung in the shade trees.

SECTION 7. DAMAGE TO TREES BY NATURAL CAUSE:

If a shade tree is felled by a storm or other casualty, the Council may suggest that the property owner plant, at his own expense, a replacement tree. A permit will be required to replace said tree.

SECTION 8. UNSOUND TREES:

If the Council determines that any shade tree endangers the life, health, safety or property of the public, the Council may recommend the removal of the tree. The owner of the property shall be notified in writing of the danger. A reasonable time in which to remedy or remove the tree shall be suggested by the Council, but in no event shall the time limit exceed thirty (30) days.

If such a tree is not removed or otherwise remedied, the Council may take correction action. The owner shall be liable for all costs.

SECTION 9. REMOVAL OF TREES:

As a condition to any permit to remove any shade tree, the Council shall recommend that the applicant plant, at his own expense, another tree in its place. The Commission shall recommend the size, and location of the tree to be planted, the time within which the work shall be done and shall suggest the species of tree to be planted, the time in which the work shall be done and shall suggest the species of tree to be planted. In the event the resident does not wish to replace the tree, a flowering sidewalk planting pit may be substituted or the tree pit may be closed permanently with concrete or brick pavers, subject to Borough Council approval

SECTION 10. PRUNING OR TRIMMING OF TREES:

A permit is required to prune or trim a shade tree. Such pruning or trimming shall be performed in a manner prescribed by the Council.

Utility owners must submit to the Council for approve a proposed schedule and description of the work to be performed in the borough, insofar as it affects the shade trees of the borough. The utility must obtain a permit from the borough before beginning the work. For non-emergency work the utility owners shall give the Council at least thirty (30) days to review the application for permits.

SECTION 11. EMPLOYEES AND SUBCONTRACTORS OF THE BOROUGH:

The Council may employ and pay, subject to approve of Council, such superintendents, foresters, tree wardens or other professional assistants, as the performance of the duties devolving upon it shall require.

SECTION 12. COOPERATION BETWEEN THE COMMISSION AND BOROUGH:

There shall be close cooperation between the Council and other borough departments on any matter involving shade trees. The Council shall have the right to review all Zoning Permit applications involving shade trees.

Whenever any of the regulations of this ordinance conflict with the zoning regulations adopted by the borough, the zoning regulations shall apply.

SECTION 13. PENALTIES:

Any person who violates any provision of this Ordinance shall, upon conviction thereof before a Magisterial District Judge, be subject to a fine of note less than \$100.00 but not greater than \$300.00.

SECTION 14. REPEAL OF CONFLICTING ORDINANCES:

All ordinances or parts of ordinances in conflict with this shade tree ordinance are hereby repealed, excepting however, zoning ordinance regulations as outlined in Section 12 above.

SECTION 15. EFFECTIVE DATE:

This Ordinance shall become effective ten (10) days from the date of adoption.

DULY ENACTED AND ORDAINED this 30th day ^{June}~~May~~, 2020 by the Newville Borough Council, Cumberland County, Pennsylvania in lawful session, duly assembled.

BOROUGH OF NEWVILLE

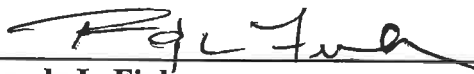
By: 
Scott L. Penner
President of Newville Borough Council

Attest:


Lindsay A. Williamson, Borough Secretary



Examined and approved, this 30th day of June May, 2020.


Randy L. Finkey
Mayor, Borough of Newville
Cumberland County, Pennsylvania

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of Ordinance 2020-06 which was duly enacted by affirmative vote of a majority of the members of the Newville Borough Council at a ~~work~~^{regular} session meeting held on ~~May 26~~^{July 30}, 2020 at 7:00PM; at which meeting a quorum was present; the said Ordinance has been duly recorded in the Ordinance Book of the Newville Borough Council, that said Ordinance remains in full force and effect, without amendment, alteration or repeal, as of the date of this Certificate.

I further certify that the meeting at which the Newville Borough Council adopted said Ordinance was a public meeting, duly held after giving public notice of the date, time and place of such meeting by posting and publishing such notice at the time and in the manner required by Act No. 84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986 and Act No. 15 of the General Assembly of the Commonwealth of Pennsylvania approved April 14, 2020.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this
~~26th~~^{30th} day of ~~May~~^{June}, 2020.



Lindsay A. Williamson
Lindsay A. Williamson
Borough Secretary