

ORDINANCE NO. 26-4

BE IT ORDAINED by the Council of the Borough of West Kittanning, Pennsylvania, and it is hereby ordained by authority of the same:

SECTION 1:

There is hereby created a commission to be known and designated as the "Shade Tree Commission of the Borough of West Kittanning and" pursuant to the provisions of the General Borough Act of May 4, 1927, P.L. 519, Article XXVII, Section 2730, as amended, and the Borough Code of 1965.

SECTION 2:

The Shade Tree Commission shall be composed of three residents of the Borough who shall be appointed by the Council for a term of five (5) years and shall serve without compensation. The Borough ~~PRESIDENT~~ shall serve as a member ex officio for an indefinite term and shall be designated as Secretary of the Commission. Members first appointed pursuant to this ordinance shall be appointed so that the term of one member shall expire after three (3) years, the term of another member shall expire after four (4) years, and the term of the third member shall expire at the end of five (5) years. Vacancies shall be filled by appointment by the Council for the unexpired term.

SECTION 3:

The Shade Tree Commission shall annually report in full to the Mayor and Council, its transactions.

SECTION 4:

The Shade Tree Commission may make, publish and enforce regulations for the care and protection of the shade trees of the Borough. No such regulation shall be in force until it has been approved and ordained by the Borough Council and published at least once in a newspaper of general circulation in the Borough.

SECTION 5:

The Commission shall have exclusive custody and control of the shade trees in and upon the highways of the Borough, and of trees whose branches extend over and above such highways, or

whose continued existence shall be a menace to the using of such highways, and is authorized to plant, remove, maintain and protect shade trees on said highways and on all property of the Borough of West Kittanning.

SECTION 6:

The Commission may with the approval of the Borough Council, employ and pay such necessary assistants as may be required to perform the duties devolving upon it.

SECTION 7:

Whenever said Commission proposes to plant or transplant any shade trees or remove shade trees on any highways, which may be a menace to the users of such highways, notice of the time and place of the meeting at which such work is to be considered shall be given once a week for two (2) weeks immediately preceding the meeting, in a newspaper having general circulation in the Borough, which notice shall specify in detail the highways or portions thereof upon which the work is to be done; or by personal service of ten (10) days written notice thereof to the owner or owners; or by leaving ten (10) days written notice thereof to the owner or owners, or by leaving ten (10) days written notice thereof at the place of business of the owner; or if the owner is not found in West Kittanning, Pennsylvania, then by sending ten (10) days written notice thereof by United States mail with the return address thereon to the last known address of said owner; or by posting copy of said written notice thereon in a conspicuous place on the property affected.

SECTION 8:

The cost of planting, transplanting or removing of any shade trees in the highways, or which are a menace to the public use of such highways, the construction of guards, curbing or grading for the protection thereof, and the replacement of any pavement or sidewalk necessarily disturbed, shall be paid by the owner of the real estate in front of whose property the work is done, which cost as to each freeholder shall be ascertained by the Commission and certified to the Borough Council and to the Borough Treasurer.

SECTION 9:

Upon the filing of the certificate of cost with the Council, the Borough Clerk shall cause thirty (30) days written notice to be given by mail to the person or persons against whose property an assessment has been made, stating the amount of the assessment, the time and place of payment and accompanied with a copy of the certificate. Said cost so certified shall be a

lien from the time of filing of the certificate with the Council and if not paid within thirty (30) days from date of notice, a claim may be filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected.

SECTION 10:

Any person or persons violating or failing to comply with any of the provisions of this Ordinance or any regulations adopted in pursuance of this Ordinance shall, upon conviction, be required to pay a penalty of not less than Twenty Five (\$25.00) Dollars nor more than Three Hundred (\$300.00) Dollars; and in default of payment thereof suffer imprisonment in the Armstrong County Jail for a period not exceeding one day for each dollar of penalty assessed.

SECTION 11:

The Commission shall have such other powers and duties as are set forth in the Borough Code. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

ENACTED AND ORDAINED this 2nd day of Sept, 1986.

Donald Morris
President

ATTEST:

Bruce Bruce
Secretary

APPROVED this 7 day of September, 1986.

John Beach
Mayor

SHADE TREE REGULATIONS

BOROUGH OF WEST KITTANNING

The following regulations are adopted by the Shade Tree Commission of West Kittanning at a meeting held on the 2ND day of SEPT, 1986, are hereby approved by the Council of the said Borough:

SECTION 1:

The following words and phrases, when used in these regulations, shall have the meaning hereby ascribed to them except in those instances where the context already indicates a different meaning:

- a. The term "Shade Tree" shall mean any tree, shrub, or other woody plant on any public highway in the Borough of West Kittanning, or that part of any tree, shrub or other woody plant which extends within the lines of any public highway.
- b. The word "person" shall mean any natural person, firm, association, partnership or corporation.
- c. The word "permit" shall mean any permit in writing as issued by the Secretary of the Shade Tree Commission.
- d. The term "public highway" shall mean any street, sidewalk or alley open to the public.
- e. The word "Commission" shall mean the Shade Tree Commission of the Borough of West Kittanning.
- f. The word "Secretary" shall mean the Secretary of the Shade Tree Commission of the Borough of West Kittanning.

SECTION 2:

The Shade Tree Commission shall have the exclusive custody and control of the shade trees on and along the streets and highways of the Borough, and may plant, remove, maintain and protect shade trees along the streets and highways of the Borough. The Commission may require the planting or replanting of shade trees along the streets and highways of the Borough. The kind of trees and alignment and locations of the trees shall be determined by the Commission but shall not prevent necessary and reasonable use of the streets, sidewalks, abutting property or the conduct of business.

SECTION 3:

The application for any permit required hereunder shall be made in writing to the Commission. It shall specify the particular kind of work or operation the applicant desires to perform thereunder and shall state the exact location and the species of trees to be affected. It shall be the duty of the Secretary to submit every such application promptly to the Commission for approval or disapproval. Any application not acted upon within sixty (60) days from the date thereof shall be deemed to have been approved and allowed. The permit shall be effective for such length of time as the Commission shall in each case determine, and such time shall be indicated on the permit. Any such permit may be revoked at any time upon proof satisfactory to the Commission, that any of the terms or conditions of the permit have been violated.

SECTION 4:

No person shall plant, cut down, or remove any shade trees under the jurisdiction of the Shade Tree Commission, or fasten any sign, wire, rope or other materials to, around, or through any such shade tree, or deposit, place, store or maintain any stone, brick, sand, concrete, or other material which may impede the free passage of water, air, or fertilizer to the roots of any such shade tree, unless he shall first obtain a permit from the Shade Tree Commission so to do. Exception: Newly planted trees may be guyed to proved stability during the first growing season.

No person shall move any building or other object on or over any public street or highway within the Borough in such a manner as to damage or injure any shade tree or shrub in such street or highway unless he first obtain a permit from the Shade Tree Commission to do so.

As a condition to any permit to move any buildings or object on or over any public street or highway, the Shade Tree Commission may require the applicant to furnish bond in the amount sufficient to cover any damage or injury to any shade tree or shrubs in such street and it may direct the route of any such moving so as to minimize damage or injury to shade trees and shrubs.

SECTION 5:

As a condition to any permit to remove any shade tree, the Shade Tree Commission may require that the applicant plant at his expense, another tree in the place of the one removed.

The Shade Tree Commission in such case shall direct the type, size, and location of the tree to be planted and the time within which the work shall be done.

SECTION 6:

In the event of a shade tree being damaged, the Shade Tree Commission may make a charge for repairs to the tree, plus the devaluation of the tree against the person causing the damage to the said tree. In the event of a shade tree being destroyed by any person, the Shade Tree Commission may make a charge for the appraised value of the tree, plus the cost of removal and replacement thereof, against the person causing the destruction of said tree.

SECTION 7:

In the event any shade tree or trees are felled by storm or other casualty, the said trees, branches or stumps thereof, shall be removed from the cartway by the Borough without charge. Replacement of such trees will be made at the discretion of the Shade Tree Commission and at the expense of the property owner, or Borough as determined by the Commission.

SECTION 8:

No person shall break, injure, mutilate, kill or destroy any shade tree or set fire or permit any fire to burn where such a fire or the heat thereof will injure any shade tree, and no person shall knowingly permit any leak to exist in any gas or steam pipe or main within the root zone of any such shade tree or permit any toxic chemical, either solid or liquid to seep, drain or be emptied on or about any such shade tree, or permit any wire designed to carry electric current to come in contact with any shade tree unless protected by a method to be approved by the Shade Tree Commission. No person shall attach any electric installation to any shade tree or excavate any ditches, tunnels or trenches or lay any driveway within a ten (10) foot radius of any shade tree without first obtaining a written permit from the Shade Tree Commission.

SECTION 9:

Whenever the Shade Tree Commission determines it to be necessary to prune, remove or do other maintenance work to any shade tree, which may temporarily interrupt electric or other utility services, the owner of such utilities shall be given written notices of such work and will be allowed twenty-four (24) hours in which to comply with said notice.

SECTION 10:

The owner of the property shall trim branches from any shade trees overhanging the streets and highway of the Borough so that they will not obstruct the light from any street light, and so that there shall be a clear height of twelve (12) feet above the surface of the street and eight (8) feet over the sidewalk. If any property owner shall neglect or refuse to trim any shade tree as required by this section, upon notice in writing by the Commission, within the time limits specified in such notice, the Commission may cause such trimming to be done at the expense of the owner.

SECTION 11:

All permits issued for the installation of public utility facilities shall have prior approval of the Commission.

SECTION 12:

The Commission shall plant or permit to be planted trees of not less than one and one-half (1½) inch caliber, eighteen (18) inches above the ground, symmetrical in shape with a clean trunk, and straight without branches for a distance of six (6) feet from the ground. The planting of any species other than those of the approved list on file in the Borough office is prohibited.

SECTION 13:

The spacing between newly planted shade trees shall be not less than forty (40) feet. No shade tree shall be planted less than thirty (30) feet from a curb intersection, or less than ten (10) feet from a fire hydrant, sewer inlet, light standard of utility pole.

SECTION 14:

When any tree along the streets or highways of the Borough, or growing on private property but overhanging any street or highway, in the opinion of the Commission, endangers the life, health, safety, or property of the public, or is affected by any contagious disease or insect infestation, it shall be within the discretion of the Commission to determine what remedy is necessary and whether or not such tree must be removed. The owner of the property shall be notified in writing of the existence of the danger, disease, or insect infestation and shall be given reasonable time for removal of the same, except when trees are infected with Dutch Elm disease. In such case, no notice is necessary, and the Borough shall immediately take steps to remove such trees. If a dangerous, diseased, or

infested tree is not removed or corrected within the allotted time by the property owner, the Commission shall cause the matter to be corrected or the tree removed, and the costs thereof shall be assessed to the owner of the property.

SECTION 15:

An open space of at least fifty (50) inches by thirty (30) inches must be allowed for the planting of a shade tree. When a tree has outgrown this space, or when a sidewalk has been laid without allowing for such space, the sidewalk must be repaired at the expense of the property owner, so that at least twelve (12) inches will be left between the base of the tree and the edge of the pavement.

SECTION 16:

No shade tree shall be planted on any street or highway of the Borough where curbs have not been constructed.

SECTION 17:

There shall be close cooperation between the Commission and other Borough Departments when their work affects shade trees on or along the streets and highways of the Borough. The Commission shall approve all building permits that may affect shade trees of the Borough. All sewer, lighting and paving plans shall be cleared with the Commission.

LIST OF TREES APPROVED BY THE
WEST KITTANNING SHADE TREE COMMISSION

1. Norway Maple
2. Red Maple
3. Sugar Maple
4. White Ash
5. Ginkgo
6. Thornless Honey Locust
7. Sweet Gum
8. Tulip tree
9. Black Gum
10. Red Oak
11. Scarlet Oak
12. Shingle Oak
13. Pin Oak
14. Willow Oak
15. Little Leaf Linden
16. American Elm
17. English Elm