

PART 1  
SHADE TREES

**§ 25-101. Definitions. [Ord. 06-2010-560, 6/24/2010, § I]**

As used in this Part 1 certain terms are defined as follows:

MAINTENANCE OR MAINTAIN — Clipping, trimming, fertilizing, spraying, treating for disease or injury and similar acts to promote health, growth or beauty to trees.

OFFICIAL — The Shade Tree Official of the Township of Salisbury.

PERSON — Individuals, partnerships, associations and corporations.

PLANTING — Putting or setting into the ground.

PUBLIC RIGHT-OF-WAY — The land between property lines set aside for public use or ownership as a street, alley, crosswalk, easement or otherwise.

SHADE TREE — Unless otherwise specified, includes all trees, shrubs, and woody vegetation in the public right of way or that part of any shade tree shrub or other woody plant which extends over, upon or within the line of any public highway or street, including the sidewalk area, in the Township.

**§ 25-102. Shade Tree Code Official. [Ord. 06-2010-560, 6/24/2010, § II]**

1. Appointment. The Board of Commissioners shall, by resolution, appoint an individual to serve as the Shade Tree Code Official who is knowledgeable of shade trees and their maintenance to administer the rules and regulations of this Part 1.
2. Functions. The Official shall act as an advisor to the Board of Commissioners on matters concerning shade trees within the public right-of-way. The Board of Commissioners shall consider the advice of the Official on matters concerning the application of this Part 1. The Official shall carry out any duties and responsibilities conferred upon same by the Board of Commissioners including those herein conferred.
  - A. The Official shall keep full records of its business and shall submit a report of its activities to the Board of Commissioners at least once a year.
  - B. The Township, having exclusive custody and control of all shade trees in the public right of way, may plant, remove, maintain and protect such shade trees. The Official shall give recommendations and advice as to species selection, planting, maintenance or removal of trees on all public rights of way.

- C. The Official shall also work with all other concerned agencies in the planning of trimming, planting, transplanting and removal of shade trees in public right of way.

**§ 25-103. Permits. [Ord. 06-2010-560, 6/24/2010, § III]**

1. No person, without first obtaining a permit from the Township, shall:
  - A. Prune, spray, plant, remove or cut any shade tree on the public right of way.
  - B. Cut, break bark or otherwise injure or disturb any shade tree, tree guard or support thereof.
  - C. Attach a guy rope, cable, electric wire or other fixture to any shade tree, tree guard or support thereof.
  - D. Fasten or maintain any sign on any shade tree or tree guard support thereof.
  - E. Lay any pavement within an area of 12 square feet around the base of the trunk of any tree on public right of way or deposit any stone, gravel, cement, lumber or other material in such a way as to obstruct the free access of air and water to the roots of any tree in such public right of way.
  - F. Allow a shade tree on the public right of way to be injured or removed during the erection, repair, alteration or removal of any building or structure. No person in charge of such erection, repair, alteration or removal shall leave any tree on the public right of way in the vicinity of such building or structure without such good and sufficient guards or means of protection as shall prevent injury to the tree, arising out of or by reason of such erection, repair, alteration or removal.
  - G. Cause or allow any boiler, heater, machine or device generating fumes, fires, gas, smoke or vapor to remain under or adjacent to any tree in or on any public highway, street or avenue, or cause or allow it to be done.
2. All work required to be done under any permit issued hereunder shall be completed within the time period specified but not to exceed 60 days from the date issued, unless the time period has been extended by the Official. A permit shall be secured not less than five days in advance of the time the work is to be done. The Official shall also be notified within five days of completion of the work to allow for inspection.
3. Every person desiring to plant, set out, trim or remove, any shade tree, on or from any public street or highway in the Township, shall make application in writing to the Township for permission to do so, which application shall state

specifically the location and kind of tree proposed to be planted, set out, trimmed or removed, and the reason for the removal, including condition of tree.

4. A person who is denied a permit may file an appeal with the Salisbury Township Board of Commissioners in writing within 30 days following the date the denial is issued.

**§ 25-104. Prohibited Activities. [Ord. 06-2010-560, 6/24/2010, § IV]**

1. No person under any circumstances shall:
  - A. Fasten a bicycle, carriage, animal or motor vehicle of any kind to any shade tree, tree guard or support thereof.
  - B. Authorize or procure any gas, hot water, steam brine water, oil, dye or other substance deleterious to tree life to lie, pour, flow, leak or drip on or into the soil about the base of a tree in any public highway, street or avenue.
  - C. Build or kindle a fire near to any shade tree on any public right of way, as to endanger the trunk, limbs or foliage of such shade tree.
  - D. Interfere or cause or authorize or procure an interference with the agents or employees of the Township while they are engaged in or about the planting, cultivating, mulching, pruning, spraying or removing of trees, or removing stone or cement sidewalk or other material of substance as may be necessary for the protection and care of any tree in accordance with the requirements set forth in the section dealing with the area of open ground to be maintained about the base of the trunk of each shade tree in the public right of way.
  - E. Attach any advertisements to any shade tree or shrub in any street, highway, avenue or any public right of way.

**§ 25-105. Trees in Public Right of Way. [Ord. 06-2010-560, 6/24/2010, § V]**

1. Notice to Remove Tree. The owner of a property abutting a public right of way and having a shade tree growing in such public right of way, which is deemed by the Township Official to be a danger to the life, health, safety or property of the public, or which is afflicted with any contagious disease or insect infestation, will be requested by mail by the Township to remove such tree within a time period specified. If the property owner neglects or refuses to remove such tree as required by this section within the time period specified in such notice, the Township may cause such removal to be done at the expense of the property owner; and the entire cost thereof shall be paid by the property owner within 60 days. If not paid by the property owner within 60 days, a lien upon such premises and a claim therefore shall be filed

and collected by the Township Solicitor in the same manner as municipal claims are filed and collected.

2. Care Provisions.
  - A. The owners of property abutting a public right of way and having shade trees growing in such public right of way shall trim or cause such trees to be trimmed of all branches interfering with free access on the public right of way to a minimum height of, at least, 10 feet above the sidewalk and 14 feet above the street, highway or avenue, or higher if deemed necessary for an unobstructed view of the public.
  - B. The land owner, tenant, or his agent, if any, shall be jointly and severally responsible for maintaining all shade trees in good condition, free from refuse, debris, weeds, and undergrowth; except as provided in the Salisbury Township Subdivision and Land Development Ordinance [Chapter 22]. Any shade tree must be replaced within 120 days if such tree dies or becomes unhealthy because of accidents, drainage problems, disease, or other causes.
  - C. If any property owner neglects or refuses to trim any shade tree as required by this Part 1 upon notice by mail from the Township within the time limit specified on the notice, the Township may cause such trimming to be done at the expense of the owner and the entire cost thereof shall be paid by the property owner within 60 days. If not paid by the property owner within 60 days, a lien upon such premises and a claim therefore shall be filed and collected by the Township Solicitor in the same manner as municipal claims are filed and collected.
3. Liability for Damage. Any person who inflicts damage to a shade tree in a public right of way, either willfully or negligently, shall be liable to the Township for costs of professional care in the treatment of the tree wounds. If the tree dies within one growing season as a direct result of such damage, or if the damaged tree shall be rendered unsuitable and condemned by the Township, then the person responsible shall pay all costs of removal of such tree and its stump and costs of replacing it with a young tree of approved specifications. Such work shall be performed by the Township or contracted by the Township, and the costs assessed to the responsible person. If the damage described above shall be willful, then the responsible person shall also be subject to the penalties hereinafter provided for violations of this Part 1.
4. Property Owner's Privilege. Minor tree work may be done by an individual property owner to trees or shrubs planted in the public right of way adjacent to his property, provided he has obtained prior written approval from the Official. The Official shall advise the property owner whether or not the proposed work is minor.
5. Kind and Location of Trees to Be Planted along Streets.

- A. In order to secure uniformity and the best results, the species and location of shade trees to be planted in and upon the public streets and highways in the Township shall be subject to the approval of the Township.
- B. Street trees of approved deciduous hardwood varieties shall be planted within the street right-of-way by the property owner. Tree species and spacing for planting shall follow the guidelines of this section.
- (1) The shade and street trees shall be planted at minimum intervals of between 30 and 40 feet, depending upon the type of tree.
  - (2) Trees shall be of a nursery stock quality, grown under the same climatic conditions as at the location of the development.
  - (3) All planting shall be performed in conformance with good and accepted nursery and landscape practices.
  - (4) All trees shall be balled and burlapped unless this requirement is waived by the Official, as the case may be, for any specified variety.
  - (5) Trees permitted shall be of symmetrical growth, free of insect, pests and disease.
  - (6) The size of the shade and street trees shall be three to 3 1/2 inches (caliper) measured six inches above the ground level. Trees shall have a minimum of a seven-foot single straight stem to the first lateral branches above ground level.
  - (7) In all subdivisions and land developments street trees shall be planted midway between the curb and sidewalk, with a width in accordance with the following standards:
    - (a) In a fifty-foot street right-of-way, with a ten-foot sidewalk area, the planting area is 3 1/2 feet.
    - (b) In a sixty-foot street right-of-way, with a twelve-foot sidewalk area, the planting area is 5 1/2 feet.
    - (c) In a situation where curbing and/or sidewalks are deferred or waived, the street trees shall still be planted in the same intervals as Subsections (1) and (2) above, providing for the future installation of curb or sidewalk.
  - (8) The following is a list of trees recommended for planting as shade or street trees between the curb and sidewalk.

- (a) Trees recommended for planting strips at minimum spacing of 30 feet between trees. All trees should be of single-stemmed treeform:

Hedge maple — *Acer campestre*.

Kwanzan cherry — *Prunus serrulata* Kwanzan.

Pyramidal singleseed hawthorn — *Crataegus monogyna stricta*.

Rancho Columnar Sargent Cherry — *Prunus sargentii* Rancho.

Tschonoskii crabapple — *Malus tschonoskii*.

Upright European hornbeam — *Carpinus betulus fastigiata*.

Washington hawthorn — *Crataegus phaenopyrum*.

- (b) Trees recommended for planting strips at a minimum spacing of 40 feet between trees:

American Sycamore — *Platanus Occidentalis*.

European Hornbeam — *Carpinus Betulus*.

Fraxinus Pennsylvania lanceolata.

Ginkgo — *Ginkgo biloba fastigiata*.

Green Ash (Marshall's seedless type).

Green Mt. Sugar Maple — *Acer Saccharum* Green Mt.

Greenspire Linden — *Tilia cordata* Greenspire.

Hop Hornbeam — *Ostrya Virginiana*.

Katsura Tree — *Cercidiphyllum Japonicum*.

Korean Mountain-Ash — *Sorbus Alnifolia*.

Littleleaf Linden — *Tilia Cordata*.

Pin Oak — *Quercus palustris*.

Red Maple — *Acer Rubrum*.

Red Oak — *Quercus Rubra*.

Scarlet Oak — *Quercus Coccinea*.

Shademaster Thornless Honeylocust — *Gleditsia*

*Triacanthos Inermis* Shademaster.

Shingle Oak — *Quercus Imbricaria*.

Skyline Locust — *Gleditsia Triacanthos Inermis* Skyline.

Sour Gum (Black Tupelo, Black Gum) — *Nussa Sylvatica*.

Sugar Maple — *Acer Saccharum*.

White Ash — *Fraxinus Americana*.

Zelkova — Zelkova Serrata.

- (c) Additional varieties not listed above may be utilized as street trees if the applicant provides adequate reference material or a letter from a registered landscape architect to prove to the satisfaction of the Shade Tree Official, as the case may be, that a substitute would be appropriate, but in no case shall the following species be utilized as street trees:

<b>Common Name</b>	<b>Botanic Name</b>
Boxelder	Acer Negundo
Norway Maple	Acer Platanoides
Silver Maple	Acer Saccharinum
Horsechestnut	Aesculus species
Tree of Heaven	Tilanthus
Silk Tree or Mimosa	Albizia Julibrissin
Catalpa	speciosa
Ginko (female)	Ginko Biloba
Thorned Honeylocust	Gleditsia triacanthos
Black Walnut	Juglans Nigra
Hopa, Eley and Almey and Crabapple	Malus Hopa, Eley, Almey
Mulberry	Morus species
Plane Tree or Sycamore	Plantanus species
Black Locust	Robinia Pseudoacaia
Willows	Salix species
Regent Scholartree	Sophora Japonica
European Mountain Ash	Sorbus Aucuparia
American Elm	Ulmus Americana
Birch	Betula species
Lussian Olive	Elaeagnus species
Osage Orange	Macluna Pomifera
Apple	Malus Pumila
Poplar, Aspen	Poplus species
Coniferous Order	Coniferates ord.
Fruit Trees	
Dogwood	
Thorned Trees	
Crimson Cloud hawthorn	Crataegus osyacantha Crimson Cloud.

Common Name	Botanic Name
Bradford Callery Pear	Pyrus Calleryana Bradford
Chinese Elm	
Sawtooth Oak	Quercus Acutissima

**§ 25-106. Trees on Private Property. [Ord. 06-2010-560, 6/24/2010, § VI]**

1. Any tree or parts thereof growing upon private property, but overhanging or interfering with the use of any street, highway, avenue or any public right of way in the Township, and which, in the opinion of the Township, endangers the life, health, safety or property of the public, is hereby declared a public nuisance.
2. If the owner of any shade tree declared to be a public nuisance neglects or refuses to correct or remove the shade tree upon notice by mail from the Township within the time limit specified on the notice, the Township may cause such correction or removal to be done at the expense of the owner, and the entire cost thereof shall be paid by the property owner within 60 days. If not paid by the property owner within 60 days, a lien upon such premises and a claim therefore shall be filed and collected by the Township Solicitor in the same manner as municipal claims are filed and collected.

**§ 25-107. Compliance With Zoning Ordinance and Subdivision and Land Development Ordinance. [Ord. 06-2010-560, 6/24/2010, § VII]**

All planting of shade trees in the public right of way shall be in compliance with the Salisbury Township Zoning Ordinance [Chapter 27] and the Salisbury Township Subdivision and Land Development Ordinance [Chapter 22] or any amendments thereto.

**§ 25-108. Penalty. [Ord. 06-2010-560, 6/24/2010, § VIII]**

Any person violating any provisions of this Part 1 shall be fined not more than \$500 or imprisoned not more than 90 days, or both.

**§ 25-109. Right to Appeal. [Ord. 06-2010-560, 6/24/2010, § IX]**

Any person aggrieved by a notice, determination, refusal, act or failure to act issued, taken or omitted under this Part 1 shall have the right to a hearing at a regular meeting to be held by the Board of Commissioners, which hearing shall be held pursuant to the First Class Township Code. In the event of a notification for the proposed planting, replanting or removal, in whole or in part, of any shade tree, notice shall be provided as required by the First Class Township Code. In all other cases, notice of the time and place of the meeting at which said hearing shall occur shall be given according to law. In all cases, the aggrieved party shall be given personal notice by regular mail of the date, time and place of the meeting, which notice shall generally specify the rights granted to the party under law. Any person



aggrieved by a decision of the Board of Commissioners shall have the right to further appeal said decision to the Court of Common Pleas of Lehigh County within 30 days of the date of said decision. Should no appeal be filed, the cost of the work and any penalty imposed by the Official shall be certified by the Official to the Board of Commissioners to be thereafter filed as a municipal lien as set forth in this Part 1 and as provided by law.

**§ 25-110. Miscellaneous Provisions. [Ord. 06-2010-560, 6/24/2010, § X]**

1. Rules of Interpretation. The use of the singular shall include the plural. The use of headings is for convenience only.
2. Severability. The sections of this Part 1 are severable, and if any section or part thereof is found to be unconstitutional or unenforceable, then such finding shall not affect the validity of the remaining sections or parts.
3. Repeal of Conflicting Ordinances. The within ordinance supersedes and repeals all former and/or prior ordinances or parts thereof which conflict, or are in any way inconsistent, with the provisions of this Part 1 and, to the extent that any prior or existing ordinances of Salisbury Township are inconsistent with the terms of the within ordinance, said inconsistent ordinances, or portions thereof, are hereby expressly repealed.
4. Effective Date. This Part 1 shall be immediately upon adoption.