

**COLLEGE TOWNSHIP
CENTRE COUNTY, PENNSYLVANIA
ORDINANCE O-21-01
PUBLIC AND PRIVATE TREES**

ORDINANCE TO ESTABLISH THE AUTHORIZED ACTIVITIES OF COLLEGE TOWNSHIP FOR THE PROTECTION OF PUBLIC TREES AND ADDRESSING HAZARDOUS TREES ON BOTH PUBLIC AND PRIVATE PROPERTY.

BE IT RESOLVED AND ORDAINED, by the College Township Council, Centre County, Pennsylvania and the authority of the same, does hereby adopt, made this 4th day of January, 2021, by amending the Code of the Township of College, Pennsylvania by the repeal of Chapter 113 entitled Heritage Tree, and replacement with a new Chapter 113 entitled Public and Private Trees, as follows:

SECTION 1. PURPOSE

To establish the authorized activities of College Township for the maintenance of both public and private trees, the promotion of proper tree health and the protection of both the general public and property, whether public or privately held. Further, to provide the rights and responsibilities pertaining to the reporting, monitoring, maintenance and/or removal of trees deemed hazardous on both public and private property. Finally, to establish the guidance, procedures and protocols of the Heritage Tree Program.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following definitions shall have the following meanings:

CALIPER — The diameter of a tree measured at 4 1/2 feet above the natural grade. In the case of a multistem tree, the caliper is determined by the size of the largest of the stems.

CANOPY — The upper portion of a tree's limbs, branches and leaves.

COUNCIL — The elected governing body of College Township.

COUNCIL OF TREE AND LANDSCAPE APPRAISERS – An association representing seven supporting organizations within the green industry. The Council of Tree and Landscape Appraisers is responsible for developing industry consensus methodologies for determining the value of vegetation in the landscape. Representatives to the council collaborate as authors of the Guide for Plant Appraisal publication.

HAZARDOUS TREE — A tree determined by a certified arborist or Public Works Director to constitute a threat to the health or structure of other trees or that presents a risk of property damage or personal injury.

HERITAGE TREE — A tree that, due to its age, size, species, quality, or historic association, is of importance with unique value that makes it irreplaceable, and its retention as such will not unreasonably interfere with the use of the property upon which it is located.

INJURIOUS SUBSTANCE – Acid, salt, brine water, oil, wood killer or any other substance injurious to plant growth in any tree.

MAILED NOTICE — Notice given by a municipality by certified mail to the affected property owner(s).

PARK TREE — Any tree whose trunk is located in a park controlled by the Township or its designated agent.

PERSON — Any individual, firm, partnership, association, corporation, company or organization of any kind and includes the plural of each.

PRIVATE TREE — A tree whose trunk is entirely on private property.

PUBLIC AREA — Any public right-of-way, park, easement or other area to which the Township has title.

PUBLIC NOTICE — Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality.

PUBLIC TREE — Any tree whose trunk is located in a public right-of-way, park easement or other area to which the Township or other municipal authority has title.

PUBLIC WORKS DIRECTOR — The College Township Public Works Director or their designee, be it an employee or contractor.

RIGHT-OF-WAY, RIGHTS-OF-WAY or ROW - The surface of and space above and below any real property in the Township of College in which the Township 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, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes but excluding lands other than Streets that are owned by the Township. The phrase "in the right(s)-of-way" means "in, on,

over, along, above and/or under the right(s)-of-way."

STREET TREE — A public tree whose trunk is located in the public right-of-way.

TRANSPLANT - To lift and reset (a tree, shrub or other plant) in another soil or situation.

TREE — A woody perennial plant, usually having one dominant vertical trunk and a mature height greater than 15 feet.

TREE CONDITION — A measure of both a tree's structural stability and health.

TREE DRIP LINE — The perimeter of a tree's canopy as measured by a circle extending upward from the ground to the outermost tips of branches.

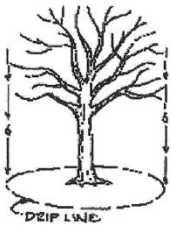


Figure 113-1. **Tree Drip Line.** Area within drip line is tree protection zone

SECTION 3. AUTHORIZED ACTIVITIES OF THE DEPARTMENT OF PUBLIC WORKS

1. Authorized Activities, Public Trees. The Department of Public Works is authorized but not limited to perform activities in regard to public trees including: adopting policies, rules and regulations for tree management and maintenance; selecting and planting trees in public areas; ordering the removal of hazardous and/or diseased trees on public property; overseeing tree maintenance operations; overseeing tree planting and maintenance operations undertaken by contractors; reviewing land development plans for landscaping including zoning and building permit applications; completing and updating inventories of public trees; completing and updating public tree and landscape management plans; completing annual work plans and budgets; and developing and implementing programs of public participation and education.

2. Authorized Activities, Private Trees. The Department of Public Works is authorized but not limited to entering private property and performing activities in regard to private trees including: identifying potentially hazardous and/or diseased trees, or any part thereof, on private property, ordering testing, pruning and/or removal of hazardous, potentially hazardous and/or diseased trees, or any part thereof, on private property; and in the event of non-compliance by a property owner remove, prune, treat, conduct root trenching or otherwise abate the imminent risk posed by hazardous, potentially hazardous and/or diseased trees using Department of Public Works or other authorized agency or contractor forces.

SECTION 4. PROTECTION OF PUBLIC TREES

1. Duty to Protect, Public Trees. In any public park, public area or in any public right-of-way to which the Township has title, no person shall without written permission, cut, prune, break, destroy, overthrow, injure, scrape, paint, deface or remove any street, park or other public tree; or cut, disturb or interfere in any way with the roots of any tree; or remove leaves, flowers or fruit from any tree; or spray with any chemicals or insecticides any tree; or place any rope, sign, poster or other fixture on a tree or tree guard or other device erected to protect such tree; or injure, misuse, or remove any guard or device placed to protect such tree. The penalties for violations of this section shall be those provided in § 113-7.2.

2. General Protection of Public Trees. The penalties for violations of this section shall be those provided in § 113-7.2.

A. Hitching Animals, etc., to Trees. No person shall fasten a dog or other animal in any manner to a tree or tree guard or other device erected to protect such tree, nor cause a dog or other animal to stand so that such dog or animal can injure a tree.

B. Regulations and Standards for Arbor Work. The planting, removal, pruning, treatment or maintenance of any public tree shall be done in accordance with ANSI A300 Tree Care Standards, as revised and be under the supervision and control of the authorized agents of the Department of Public Works.

C. Protection of Public Trees During Grading, Building Construction or Repair Work on Public or Private Property. In the grading for, destruction, erection or repair of any building or structure, the property owner thereof shall place, or require to be placed, a chain link fencing, or such guards as approved by the Public Works Director, around the drip lines of all nearby public trees as shall effectually prevent injury to such trees. Any trenching, excavating, filling or pruning of limbs or roots within the drip line of any public tree shall be done with written permission of the Department of Public Works.

D. Pouring Injurious Substances to Injure Trees. No person shall purposely pour salt, salt water, acid, oil, wood killer or any injurious substance in such a way as to injure any public tree.

E. Attaching Signs, Wires, Etc., to Trees. No person shall, without written permission from the Department of Public Works, drive nails, spikes or by any other manner attach any sign, wire, insulator or any device for the holding of a wire to any shrub or tree growing or planted in or upon any public property, in any park or in or upon any public right-of-way in the Township.

F. Free Passage of Water and Air to Tree Roots. Every person placing or maintaining upon the ground in a public right-of-way any stone, cement, mulch, or other substance or combination thereof, which shall impede the free passage of water and air to the roots of any public tree, shall

be required to leave open space of ground outside of the trunk of the tree as may be designated by the Department of Public Works.

G. Utility Lines Not to Contact Trees. Every public utility or individual having any utility line running through, on or over a public highway in the Township shall securely fasten such wires so that they shall not come in contact with any tree.

3. Permits for Planting, Removal and Pruning of Public Trees. Trees shall be planted in accordance with approved Land Development Plans. A permit shall be required for planting, removing or pruning of any public tree.

A. Permit Required. No public tree shall be planted, removed or pruned (including pruning roots over two inches in diameter) without obtaining a written permit from the Department of Public Works. No person shall plant any tree in a location, or of a different species or variety, or of a different size, or contrary to the specifications as given on the permit by the Department of Public Works.

B. Permit Application; Review by Department of Public Works. The College Township Department of Public Works shall review and recommend for approval or denial all permit applications for the planting, removing and pruning of public trees requested by property owners, neighborhood associations, organizations, other departments and alike, or in neighborhood development or other development proposals.

C. Permit Approval. A permit will be granted by the Department of Public Works to any person to plant, remove or prune trees on the condition that the work to be performed shall be done in accordance with ANSI A300 Tree Care Standards, as revised and be under the supervision and control of the authorized agents of the Department of Public Works.

D. Permit; Removal of Public Trees to Accommodate Grading or Construction on Private Property. If grading or construction on private property requires the removal or canopy or root pruning of any public tree a permit from the Department of Public Works shall be required. If a permit for the removal of a public tree is granted by the Township to accommodate development on private property the applicant shall provide one of the following as a condition of the permit:

(1) Transplanting of the public tree to a location approved by the Public Works Director. The value of the tree as appraised by a method recognized by the Council of Tree and Landscape Appraisers, said appraisal shall be paid for by the applicant and provided to the Township as a bond for one year after the tree's transplanting. If the tree dies within the one year bonding period the applicant shall forfeit the bond to the Township.

(2) Providing the Township with payment for the value of the tree as appraised by a

method recognized by the Council of Tree and Landscape Appraisers said appraisal shall be paid for by the applicant and provided to the Township.

E. Permit Approval/Denial; Appeal to Township Manager and Council. The applicant or all affected property owners shall have ten (10) days following the approval or denial of a tree planting, removal or pruning permit by the Department of Public Works to appeal in writing to the Township Manager. If resolution cannot be reached in consultation with the Township Manager, the appeal shall be forwarded to the Township Council. Council shall hear the appeal and make a determination within sixty (60) days of the receipt of the appeal. Further appeal may be pursued as provided by law.

SECTION 5. ADDRESSING HAZARDOUS TREES ON PUBLIC AND PRIVATE PROPERTY

1. Duty of property owners, reporting. It shall be the duty of every property owner in College Township to report any trees that are known or suspected to have disease or infestation by pests; or that pose an imminent danger to the public, to the public right-of-way, or to any other trees or property.

2. Duty of property owners, maintenance. It shall further be the duty of every property owner in College Township to test, treat, prune, remove and properly dispose of or destroy any tree or any part thereof on their respective property(s) that constitutes an imminent danger to the public, to the public right-of-way or to other trees or property, whether such condition is a result of disease, infestation by pests, injury, structure, poor condition, act of God or any other cause, and is such that there is imminent or likely danger of the trees or any part thereof failing, falling, dropping or collapsing upon, or is such that it in any other way is imminently or likely to cause injury to any person within close proximity or is imminently or likely to cause damage to any vehicle, structure, building or other property that is within close proximity from their property in accordance with the best practices recommended by the Pennsylvania State University, their Extension Service, or the United States Department of Agriculture.

3. Duty of property owners and others, limiting spread of disease and pests. It shall further be the duty of every property owner; and every arborist, landscaper, utility company, contractor or other vendor providing tree care services in College Township to follow the best practices in limiting the spread of disease and/or pests including, but not limited to, observation of appropriate pruning schedules, sealing and wound dressings and limiting the use of boot spurs or spikes, or the like where appropriate. The penalties for violations of this section shall be those provided in § 113-7.4 and § 113-7.5.

4. Hazardous Trees, Emergency Measures on Public Property. Whether in the public right-of-way or public area, if the condition of any tree or any part thereof constitutes an imminent danger to the public, to the public right-of-way or to other trees or property on Township property, whether such condition is a result of disease, infestation by pests injury, structure, poor condition, act of God or any other cause, and is such that there is imminent or likely danger of the trees or any part thereof failing, falling,

dropping or collapsing upon, or is such that it in any other way is imminently or likely to cause injury to any person within close proximity or is imminently or likely to cause damage to any vehicle, structure, building or other property that is within close proximity, then the Public Works Director shall be authorized to, or may by contract with an authorized agency, remove, prune, treat or otherwise abate the imminent risk, or cause the same to be done, in order to render safe such risk condition for any tree.

5. Hazardous Trees, Emergency Measures on Private Property. For trees on private property, if the condition of any tree, or any part thereof, is in the opinion of the Public Works Director constituting an imminent danger to the public, to the public right-of-way or to other trees or property on Township or private property, whether such condition is a result of disease, injury, structure, poor condition, act of God or any other cause, the Public Works Director shall require the pruning or removal of trees.

If within thirty (30) days after the date of mailed notice sent by certified mail with return receipt requested to prune or remove the trees, the property owner has not complied with that order, then the Public Works Director shall be authorized to, or may by contract with an authorized agency or contractor, remove, prune, treat or otherwise abate the imminent risk, or cause the same to be done, in order to render safe such risk condition for any tree. The cost of pruning and removal of trees by the Township shall be charged to the property owner. In the case of non-payment, the charge shall be issued in the form of a lien against the real estate of the property owner and shall be collected in the same manner as other municipal liens.

Further penalties for violations of this subsection shall be those provided in § 113-7.

6. Potentially Hazardous Trees On Private Property. For trees on private property which, in the opinion of the Public Works Director, are sufficiently damaged, diseased or in such condition as to contribute a probable or possible risk to the public, to the public right-of-way or to other trees or property on Township property, whether such condition is a result of disease, pest infestation, injury, structure, poor condition, act of God or any other cause, the Public Works Director may order the pruning or removal of trees of probable or possible risk by certified mail, return receipt requested.

Property owners required to prune or remove trees deemed potentially hazardous by the Public Works Director shall have thirty (30) days following receipt of the order to prune or remove such trees, to appeal through the Public Works Department to the College Township Council. The College Township Council shall hear the appeal and make a determination within sixty (60) days of the receipt of the appeal. Further appeal is as provided for by law.

If the property owner does not appeal the order within thirty (30) days of mailed notice, or does not prune or remove the trees within fourteen (14) days of the appeal decision, then the Public Works Director shall be authorized to remove, prune, treat, root trench or otherwise abate the imminent the risk condition for any tree. The cost of abating the risk condition by the Township shall be charged to the property owner. In the case of non-payment, the charge shall be issued in the form of a lien against the real estate of the property owner and shall be collected in the same manner as other municipal liens.

Further penalties for violations of this subsection shall be those provided

7. Trees Infected With Disease and/or Infested By Pests; Abatement Measures to Protect the Public. In any instance which in the professional judgment of the Public Works Director and/or Arborist, trees located on public or private property have the appearance of being infested by pests, such as Emerald Ash Borer, Asian Long Horned Beetle, Hemlock Woolly Adelgid, Spotted Lantern Fly or other nuisance type pests, or has the appearance of being infected by Dutch Elm Disease, Elm Yellows Disease, Oak Wilt or any other infectious disease, as such terms are known and used by and among Certified Arborists, the Public Works Director and/or Arborist or their agent shall inspect the condition of such trees. If upon such inspection, any tree is found to harbor any such pest or infectious disease as referenced above, the Public Works Director shall be authorized to declare the trees, or any part thereof, to be hazardous and through the Department of Public Works, order the monitoring, pruning, treatment, abatement or removal of the trees, or part thereof, within such period of time deemed appropriate by the Public Works Director and in accordance with requirements and stipulations outlined in § 113-5.4 and § 113-5.5.

SECTION 6. HERITAGE TREE PROGRAM

Large mature trees of College Township are a distinct part of the Township's heritage and add to the quality of life valued by its residents. As such, College Township is establishing a voluntary program to reward owners of large, mature trees for keeping them in a state of good health.

1. Criteria. For any individual tree to be considered a heritage tree, it must meet the following requirements:

A. The tree must have a caliper of at least 40 inches as measured at 4 ½ feet above the natural grade. A tree smaller than 40 inches may be considered if it can meet two of the traits listed in Subsection C below.

B. The tree shall be a tree that is considered a noninvasive species as established by the Pennsylvania Department of Conservation and Natural Resources or its successor agency.

C. The tree must also possess one or more of the following traits:

(1) The tree has a distinctive size, shape, or age that is exceptional for its particular species;

(2) The tree is of a rare species;

(3) The tree is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or along ridgelines; or

(4) The tree has a documented association with an historical figure, property, or significant historical event.

D. The tree must be in good health as determined by a Certified Arborist.

2. Designation process. To receive status as a heritage tree, the owner of a tree must submit an application to the Township for staff review with the ultimate decision made by Council. The following is the process for submittal and review of an application for heritage tree status.

A. The following documentation must be submitted with the application.

(1) Along with the application, the applicant shall also submit a narrative stating the following:

(a) How the tree meets the above criteria listed in § 113-6.1;

(b) Its general location;

(c) General tree information such as species, approximate height and age; and

(d) Methods used both in the past and those that will be used in the future to preserve the tree.

(2) Photo(s) of the tree to be designated. Multiple angles and/or seasons would be ideal.

(3) Evidence that the owner will place a deed restriction on their property for their heirs and/or assigns to ensure they are aware of the heritage tree status.

(4) Signed statement from the property owner where the tree is located stating that he/she is aware of the restrictions that may come with owning a tree designated as a heritage tree, such as limitations on removal and the need to keep the tree in good health.

B. The Township shall have sixty (60) days to grant or deny heritage status. Within that sixty-day (60) time frame, Department of Public Works staff will review the application to determine whether or not it meets the minimum criteria, as well as assess the overall health of the tree by an arborist designated by the Township.

C. Upon completion of the Department of Public Works staff review, a report with a recommendation from staff will be provided to Council.

D. If Council grants heritage tree status for a tree, it shall be noted through resolution to be adopted by the Council noting the granting of the heritage tree status.

E. The Township shall prepare a plaque (if the owner chooses to have one) that will be placed on the property in the general vicinity of the heritage tree and will reimburse the owner fees for recording changes to the owner's deed.

3. Heritage tree removal. No persons shall cut or remove a heritage tree without first receiving permission from Council. This does not include tree pruning in which the majority of the crown is left in place. The removal of said tree shall only be permitted if one of the criteria is satisfied in accordance with arboricultural standard practices:

A. Retention of the tree would make reasonable use of the property allowed under the current zoning impractical or impossible, meaning that the property could not be used for anything other than what it is in its current state;

B. The tree is hazardous, diseased, or storm damaged and poses a threat to the health, safety, or welfare of the public including the tree's owner; or

C. The tree needs to be removed to accomplish a public purpose and no practical alternative exists. This would include road widening, installation or repair of utility lines, etc.

SECTION 7. VIOLATIONS AND PENALTIES

1. Failure to Comply with Order or Notice. Any person who violates any section of this ordinance, and subsequently fails to comply after receiving a written order or mailed notice from the Department of Public Works, or other form of charge of violation, as applicable, such person may, upon conviction, be guilty of a summary offense and subject to a fine of up to \$500 for each violation. This penalty is in addition to having a municipal lien placed against the real estate of the property owner as outlined in § 113-5.2 and § 113-5.3.

2. Unlawful Public Tree Destruction, Removal or Injury. Any person who, without the written permission of the Department of Public Works, cuts, breaks, destroys or removes any public tree, or permits or allows any other person to do so shall:

A. Plant or cause to be planted, or if there is a written agreement signed by such person and accepted by the Department of Public Works, by which such person agrees to reimburse the Township for costs incurred by it, permit the Department of Public Works to plant similar trees to replace the equivalent total cross-sectional area of the tree which was unlawfully cut, broken, destroyed or removed. In all instances of replacement pursuant to this subsection, such replacement trees shall be sufficient to replace the total cross-sectional area as measured

at diameter at breast height (DBH) of the tree removed. For example, for every six-inch diameter tree removed, it shall be replaced with one six-inch tree, or four three inch trees or nine two-inch trees, all in a manner satisfactory to and in locations approved by the Department of Public Works. It shall be a violation of this Part for any person to fail to replant any tree when, as, and if directed by the Department of Public Works to do so. For purposes of this Part, the word similar shall mean and include a tree that has a minimum diameter of two inches or more and is approved by the Department of Public Works.

- B.** For willfully injuring or killing a living tree in any public area by cutting, debarking, breaking, pruning of roots over two inches, pruning for lights or views, by the use of herbicides, use of a vehicle or in any other manner wherein it is determined by that such damage or destruction was intentionally inflicted, such person may, upon conviction, be guilty of a summary offense and subject to a fine up to \$500 for each violation as well as the cost of repairing or replacing each damaged tree shall be levied. The value of tree(s) to be repaired or replaced shall be determined by an International Society of Arboriculture Certified Arborist using a valuation method approved by the Council of Tree and Landscape Appraisers, said appraisal shall be paid for by the property owner, contractor or other person who injured or killed a living tree in any public area and said appraisal shall be provided to the Township.

3. Interference with Township Departments. No person shall prevent, delay, harass or interfere with the Department of Public Works or any other Township department, or any of their agents or employees, including any employees of the Department of Public Works in the planting, pruning, spraying or removing of a public tree, or in the removal of any stone, cement or other substance about the trunk or roots of a public tree, or in any other aspect of the administration and enforcement of the provisions of this Part. Any person who violates the provisions of this section may, upon conviction, be guilty of a summary offense and subject to a fine of up to \$500.

4. Unlawful to Prune Oak Trees During Certain Times of the Year. To prevent the spread of Oak Wilt, within the Township, it shall be unlawful for any person to prune, or allow to be pruned, any private or public oak trees from April 1 to October 31 without first obtaining a permit from the Department of Public Works, which may be issued to address emergency conditions. Any person who violates the provisions of this subsection may, upon conviction, be guilty of a summary offense and subject to a fine ranging from \$500 to \$5,000 depending on the severity of the offense.

5. Unlawful to Climb Oak Trees With Boot Spurs or Spikes. To prevent the spread of Oak Wilt, it shall be unlawful for any person to climb, or allow to be climbed, any private or public oak trees at any time with boot spikes or spurs, except to remove the tree in its entirety. Any person who violates the provisions of this subsection may, upon conviction, be guilty of a summary offense and subject to a fine ranging from \$500 to \$5,000 depending on the severity of the offense.

SECTION 8. SEVERABILITY

If any sentence or clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such findings shall not affect or impair any of the remaining parts of this ordinance. It is hereby declared to be the intent that this ordinance would have been adopted had such part not been included.

SECTION 9. EFFECTIVE DATE

This ordinance shall take effect five (5) days after enactment and shall remain in force until such time as it is either repealed or replaced by the College Township Council.

ENACTED AND ORDAINED, this 4th day of January, 2021, by the College Township Council, Centre County, Pennsylvania.

ATTEST

COLLEGE TOWNSHIP COUNCIL

Adam T. Brumbaugh

L. Eric Bernier

Adam T. Brumbaugh
Secretary/Manager

L. Eric Bernier
Council Chair