

**NEW BRITAIN BOROUGH
BUCKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. 379

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN, BUCKS COUNTY, COMMONWEALTH OF PENNSYLVANIA PROVIDING FOR THE CREATION OF A BOROUGH SHADE TREE COMMISSION; PROVIDING FOR ORGANIZATION OF SAID COMMISSION; ENUMERATING THE DUTES OF THE SHADE TREE COMMISSION; AND PROVIDING FOR THE ADOPTION OF RULES AND STANDARDS FOR THE PLANTING, MAINTENANCE AND REMOVAL OF SHADE TREES WITHIN THE PUBLIC RIGHT-OF-WAY.

WHEREAS, the Borough Council of the Borough of New Britain is charged, pursuant to Chapter 27 of the Borough Code, with the exclusive care, custody and control of shade trees in the Borough, and empowered to plant, transplant, remove, maintain and protect shade trees on the streets and highways of the Borough;

WHEREAS, Borough Council is empowered to make and enforce regulations as may be necessary for the care and protection of the shade trees of the Borough, including the assessment of costs on property owners for failure to comply with those regulations, after notice;

WHEREAS, Borough Council is further empowered to delegate its exclusive care, custody and control of shade trees to a Shade Tree Commission; and

WHEREAS, Borough Council believes it to be in the best interest of the Borough to provide regulations for shade trees in the Borough and to establish a Shade Tree Commission and provide for the organization, and enumerate the duties, of the Shade Tree Commission, while retaining certain powers and duties over the shade trees of the Borough for itself.

NOW THEREFORE, be it **ORDAINED** and **ENACTED**, by the Council of the Borough of New Britain, Bucks County, Commonwealth of Pennsylvania, as follows:

SECTION 1.

The Code of New Britain Borough is hereby **AMENDED** to include the following new Chapter, Chapter 350 *Shade Tree Commission*, with the following provisions:

§ 350-1 Title.

This Ordinance shall be known as the Shade Tree Ordinance of the Borough of New

Britain.

§ 350-2 Definitions.

The following definitions shall apply to this Chapter:

BOROUGH The Borough of New Britain, Bucks County, Pennsylvania.

BOROUGH COUNCIL The Borough Council of the Borough of New Britain, Bucks County, Pennsylvania.

COMMISSION The Shade Tree Commission of the Borough of New Britain, Bucks County, Pennsylvania.

RIGHT-OF-WAY The area of any public street, road, highway, sidewalk, or other publicly held thoroughfare within the corporate limits of the Borough that has been designated by law as a public right-of-way.

SHADE TREE Any tree, shrub, or other woody plant, which is planted in any Right-of-Way, or has at least one half of trunk, branches or roots extending into any Right-of-Way.

§ 350-3 Legislative Intent.

The Borough recognizes that properly planted, maintained and protected Shade Trees add to the esthetics and health and welfare of the citizens of the Borough. Therefore it shall be the intent of this ordinance to establish a Shade Tree Commission for the Borough, define the mission and enumerate the powers and duties of that Commission, and establish rules and regulations to encourage the planting of appropriate Shade Trees, provide for the proper maintenance of the trees, protect Shade Trees and provide guidelines for the removal and replacement of Shade Trees.

§ 350-4 Shade Tree Commission.

- A. A Shade Tree Commission is hereby established. The Commission shall consist of five (5) members who are citizens of the Borough, appointed to serve five (5) year terms by Borough Council. Borough Council may also appoint a liaison to the Commission, who shall have no voting power. No Borough Council Member may serve as a member of the Commission.
- B. The Shade Tree Commission shall serve as an advisory panel to Borough

Council when called upon by Borough Council on all Borough matters having an impact on the Borough's Shade Trees.

- C. The Shade Tree Commission shall have the power to establish Shade Tree regulations, including standards for the pruning and planting of Shade Trees in the Borough, subject to the approval of Borough Council.
- D. The Shade Tree Commission shall have the power to create a list of Shade Trees to be planted within the Borough. Every Shade Tree planted, or replanted, in the Borough shall be chosen from the Shade Tree list, unless a waiver is obtained from Borough Council, with the recommendation of the Shade Tree Commission.
- E. The Shade Tree Commission shall have the power to compile an inventory of existing Shade Trees in the Borough.
- F. The Shade Tree Commission shall have the power to create a Community Tree Plan and Community Tree Education Program.
- G. The Shade Tree Commission shall coordinate with the Borough's Park and Recreation Committee on the Borough's Arbor Day celebration, if any.
- H. The Shade Tree Commission shall report directly to Borough Council on a monthly basis at Borough Council's monthly general meeting, or more often as the President of Borough Council shall direct. The Shade Tree Commission shall provide a written report to the Borough Manager at least one week prior to the regular Borough Council meeting.
- I. The Shade Tree Commission may recommend to Borough Council the employment of persons to make and enforce regulations for the care and protection of Shade Trees in the Borough. The Shade Tree Commission itself has no powers of employment and no expenditure power.
- J. The Shade Tree Commission shall review all applications for subdivision and land development, and shall make a recommendation to Borough Council for approval, or denial, of the application on the basis of compliance with the Borough's Shade Tree regulations.
- K. The Shade Tree Commission shall have no power to regulate Shade Trees on Borough Property, within Borough parks, or within the Wilma Quinlan Nature Preserve.

§ 350-5 General Regulations.

- A. The maintenance, care or removal of any Shade Tree as defined herein, and required compliance with any provision of this ordinance shall be the

responsibility of the property owner on whose property the Shade Tree is located or whose property abuts the Right-of-Way in which the Shade Tree is located.

- B. Maintenance of Shade Trees within the public Right-of-Way shall occur in compliance with the Borough's Shade Tree Regulations. Any person cutting, pruning, breaking, affixing a foreign object to, or in any way injuring a Shade Tree within the public Right-of-Way, or violating the Borough's Shade Tree regulations shall be subject to the penalties enumerated in section 350-8 hereof. The Shade Tree Commission, upon notice of the violation, shall notify Borough Council.
- C. No person, without first obtaining a permit from the Shade Tree Commission, shall plant a shade tree within any public Right-of-Way within the Borough.
- D. No person, without first obtaining a permit from the Shade Tree Commission, shall remove a Shade Tree within any public Right-of-Way within the Borough. Shade Trees shall be removed in their entirety, including the stump. All Shade Trees removed from a public Right-of-Way shall be replaced. Replacement of removed Shade Trees shall be a condition of the permit for removal of a Shade Tree. In cases where the planting of a new Shade Tree in place of the one removed would, in the judgment of the Shade Tree Commission, prevent the necessary and reasonable use of a street, sidewalk, abutting property, or the conduct of business, the Shade Tree Commission may waive the replacement Shade Tree requirement, provided that the responsible property owner agrees to pay the Borough a fee-in-lieu in the amount of \$300, or such other fee as may be set by resolution of Borough Council, which sum shall be set aside by the Borough and deposited into the Borough's Tree Fund.
- E. No persons, without first obtaining a permit from the Shade Tree Commission, shall prune or cut a Shade Tree within the public Right-of-Way. This section shall not apply to public utilities operating pursuant to the provisions of the Public Utility Code.
- F. All Shade Trees shall be kept trimmed to a minimum branching height of ten (10) feet, except that Shade Tree Commission may require greater height clearances to avoid interference with traffic, traffic lights, street lights, and other hazards.
- G. Whenever, in the opinion of the Shade Tree Commission, a health or safety hazard is caused by a Shade Tree, including Shade Trees affected by disease or insect infestation, the Commission may issue a notice or order to the responsible property owner, directing the responsible property owner to take

action to correct the condition within ten (10) days of the date of the notice or order. A copy of the notice or order shall be provided to Borough Council. If after written notification, the responsible property owner fails to take corrective action, the Shade Tree Commission may recommend to Borough Council to have the required work accomplished to remedy the health or safety hazard. Borough Council, should it determine that the work shall be performed, shall perform the required work to correct the health or safety condition and the Borough shall bill the responsible property owner. Failure to remit by the responsible property owner may result in a lien placed against the property by the Borough.

§ 350-6 Permit Fees.

Fees for permits shall be set from time to time by Resolution of Borough Council.

§ 350-7 Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this ordinance shall upon conviction thereof, be guilty of a summary offense, and may be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs; and/or undergo imprisonment not to exceed ninety (90) days. Every day that a violation of this ordinance continues shall constitute a separate offense.

SECTION II Repealer.

All ordinances, code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION III Savings Clause.

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.

SECTION IV Effective Date.

This Ordinance shall become effective immediately.

ORDAINED and ENACTED an ordinance of the Borough of New Britain this 12th day of April, 2017.

BOROUGH OF NEW BRITAIN:

Robyne J Kelemen
ROBYNE KELEMEN, COUNCIL PRESIDENT

ATTEST:

Carrie Gamble
CARRIE GAMBLE, BOROUGH SECRETARY

Examined and Approved by me this 12th day of
April, 2017
David Holewinski
DAVID HOLEWINSKI, MAYOR