

**BOROUGH OF JERMYN  
LACKAWANNA COUNTY**

**ORDINANCE NO. 5-03**

**BE IT ORDAINED** by the Borough Council of the Borough of Jermyn, Lackawanna County as follows:

**SECTION I - PURPOSE**

The purpose of this ordinance is to establish a desirable amount of tree cover on public lands within the Borough; maintain Borough trees in a healthy and non-hazardous condition through good arboricultural practices; establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable suburban forest; promote conservation of tree resources; and select, situate and maintain street trees appropriately to minimize hazard, nuisance, hardscape damage and maintenance costs.

**SECTION II - DEFINITIONS**

- A. "Hazardous Trees/Branches" shall include any dead, diseased, broken or mutilated branches or parts of trees which are in a state of decomposition and pose a threat to public safety.
- B. "Large Trees" are designated as those attaining a height of forty-five feet (45') or more at maturity.
- C. "Medium Trees" are designated as those attaining a height of thirty feet (30') to forty-five feet (45') at maturity.
- D. "Small Trees" are designated as those attaining a height of twenty feet (20') to thirty feet (30') at maturity.
- E. "Tree" a large perennial plant with one main trunk and many branches.
- F. "Person" shall mean any individual, firm, partnership, association, corporation, company or organization of any kind.
- G. "Shade Tree" shall mean any publicly planted tree located within the right-of-way of the public streets, highways and public parks of the Borough. "Shade Tree" does not include trees growing naturally within the Borough right-of-way or planted by others than the Borough.
- H. "Shade Tree Commission" shall mean the body that makes recommendations about all street trees.
- I. "Street or Highway" shall mean the entire width of every municipal way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

- J. "Borough" shall mean the Borough of Jermyn.
- K. "Tree Lawn" is that part of the street or high right-of-way adjacent to developed property, not covered by sidewalk or other paving, lying between the sidewalk and that portion of the street or highway used for vehicular traffic.

### **SECTION III - ESTABLISHMENT OF SHADE TREE COMMISSION**

- A. There is hereby created a commission to be known and designated as the "Shade Tree Commission." The Commission shall consist of three (3) members all of whom shall be residents of the Borough. All shall serve without compensation.
- B. One member shall serve for three (3) years, one for four (4) years, and one for five (5) years. At inception on the expiration of the term of any commission member, a successor shall be appointed by the Borough Council to serve for a term of five (5) years. Vacancies in the office of a commission member shall be filled by the Borough Council for the unexpired term.

### **SECTION IV - POWER AND DUTIES OF COMMISSION**

- A. The Shade Tree Commission shall make recommendations about the control of the shade trees in the Borough, and will recommend the planting, removal, maintenance and protection of all shade trees on the public street within the municipality.
- B. The duties of the Commission shall be as follows:
  - 1. To study the problems and determine the needs of the Borough regarding shade trees on public streets;
  - 2. To recommend to the Borough Council the type and size of trees to be planted upon the Borough streets or parts thereof designated;
  - 3. To assist Borough Council and Borough Officials in the dissemination of news and information regarding the selection, planting and maintenance of trees upon the streets and to make such recommendations from time to time to the Borough Council as to desirable legislation concerning the shade tree program and activities of the Borough;
  - 4. To conduct regular and special meetings at which the subject of shade trees may be discussed by the members of the Commission, officers and personnel of the Borough of all others interested in the shade tree program; and
  - 5. To annually report in full to the Borough Council the transactions and expenses of the Commission for the previous fiscal year.
- C. Within a reasonable time after the appointment of said Commission and the approval of the commission members thereof, upon call of the Borough Council, said Commission shall meet and organize by the election of a chairman. The said Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

## SECTION V - RULES AND REGULATIONS

Rules and Regulations pertaining to street, highway, lane, alley, or avenue trees solely within the right-of-way of such streets, highways, lanes, and avenues within the Borough of Jermyn as well as trees on public parks and places within the Borough of Jermyn. This ordinance does not pertain to private property.

- A. The Borough shall have the right to plant, prune, maintain and remove trees, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such trees. The Borough Shade Tree Commission may remove or cause order to be removed, any trees or part thereof which is an unsafe condition or which by reason of its nature is injurious to sewers, sidewalks, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest.
- B. It shall be unlawful for any person, firm corporation, or Borough employee, without the written permit of the Shade Tree Commission to plant or set any tree within the Borough of Jermyn, or to cause or authorize or procure any person to plant or set out any trees without first obtaining a written permit from the Shade Tree Commission.
- C. It shall be unlawful as a normal practice for any person, firm, corporation, or Borough employee to top any tree. Topping is defined as the severe cutting back of limbs of stubs larger than five inches (5") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Shade Tree Commission.
- D. During the erection, repair, alteration or removal of any building, structure, or utility within the Borough of Jermyn, it shall be unlawful for the person or person in charge of such erecting, repair, alteration or removal to leave any tree in the vicinity of such building or structure without such good sufficient guards or means of protection as shall prevent injury to said tree arising out of or by reason of said erection, repair, alteration or removal.
- E. It shall be unlawful for any person, firm, corporation, or Borough employee, except with the written permit of the Shade Tree Commission, to place or maintain upon the ground any stone, cement or other impervious material or substance in such manner as may obstruct any tree; and unless otherwise provided for in such permit.
- F. It shall be unlawful for any person, firm, corporation, or Borough employee to cause, or authorize or procure wire or conductor, charged with electricity, to come in contact with any tree in such a manner as may injure such tree.
- G. Unless specifically authorized by the Shade Tree Commission, no person shall intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree; allow any gaseous, liquid, or solid substance which is harmful to such public trees to

- come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.
- H. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten feet (10') from any public tree without first obtaining a written permit from the Shade Tree Commission.
- I. Repair or replacement of damaged trees: In the event a shade tree is damaged, the Borough may charge for repairs or replacement or make a charge for the appraised value of the tree, against the person responsible for the damage of said tree.
- J. Removal of tree stumps.
- K. Removal of debris: Property owners have the responsibility for the removal of leaves, twigs, or branches from sidewalks on their property.
- L. Tree Branch Obstruction: The property owner shall trim, or cause to be trimmed, any non-shade tree branches so that they do not obstruct light from streetlights. In the event the Borough performs the work, the abutting property owner may be responsible for the expense as otherwise specified in this Ordinance. The Borough will trim shade trees that obstruct streetlights.
- M. It shall be unlawful for any person, firm, corporation, or Borough employee, without the written permit of the Shade Tree Commission, to remove any tree without first showing proof of insurance to the Shade Tree Commission.
- N. It shall be unlawful for any person to prevent, delay or interfere with the Borough Shade Tree Commission, or any of its agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any trees, as authorized in this Ordinance.
- O. Deviation from strict compliance: The Shade Tree Commission shall have the power in appropriate cases to permit deviations from strict compliance with this Ordinance whenever, due to special circumstances, literal enforcement of this Ordinance would be impossible, impractical or not in the best interest of the Borough.
- P. Collection of costs for work done by Borough: Payment of costs for justified work done by the Borough shall be due and payable thirty (30) days after proper invoice by the Borough to the property owner. If the property owner does not make payment within thirty (30) days, said costs shall be considered as an assessment to the property and the Borough Solicitor shall file a lien against the property to insure payment as may be provided by law.
- Q. Authorized species of trees: The planting of any species of tree within the Borough right-of-way, other than those approved by the Shade Tree Commission is prohibited. A list of approved trees shall be maintained by the Commission and made available to the public through the Office of the Borough Manager. Any person desiring to plant a tree, which does not appear on the list, within the Borough right-of-way shall make application to the Shade Tree Commission for approval of the desired species.

R. Penalty:

1. Any person or persons who violate any of the provisions of this Ordinance shall, upon conviction, be sentenced to pay a fine of not less than fifty dollars (\$50.00) or more than six hundred dollars (\$600.00) plus the costs of prosecution. Each day during which the violation occurs or persists shall constitute a separate offense. Any penalty under Section V - Paragraph O or this Paragraph shall be a lien upon the real estate of the offender and may be collected as municipal claims with all costs, expenses, fees and attorney's fees being paid by the offender and/or property owner.
2. This Ordinance may be enforced by the Zoning Officer, Building Inspector, Borough Administrator, or Police Department of the Borough of Jermyn and authority to enforce same is hereby granted to all those individuals.

### **SECTION VI - LICENSING VENDORS/CONTRACTORS OF TREE SERVICES.**

It shall be unlawful for any person, firm, corporation to engage in the business or occupation of pruning, treating, or removal of trees, as defined by this Ordinance, within the Borough of Jermyn without first applying for and procuring a license from the Shade Tree Commission. The license fee shall be \$35.00 annually in advance; provided however, that no license shall be required of any public service department or Borough of Jermyn employee doing such work in the pursuit of their public services endeavors. Before any license shall be issued each Vendor/Contractor's application will be reviewed by the Shade Tree Commission for evidence of training, experience and tree equipment. In addition each applicant shall file evidence with the Shade Tree Commission of possession of liability insurance in the minimum amounts of \$300,000 for bodily injury and \$100,000 for property damage, indemnifying the Borough or any person injured or damages resulting from the pursuit of such endeavors as herein described. The license of any vendor/contractor can be revoked at any time for just cause by the Shade Tree Commission.

Any person violating any provisions of Section VI above shall upon conviction or a plea of guilty, subject to a fine not to exceed \$1,000.00.

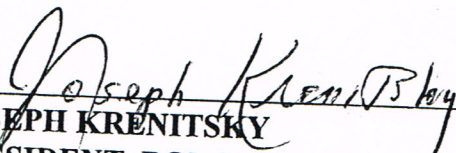
### **SECTION VII**

If any parts of this Ordinance proves to be invalid the rest shall remain in full force and effect.

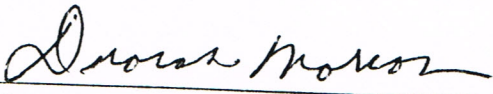
### **SECTION VIII**

This Ordinance shall become effective December 12, 2002.

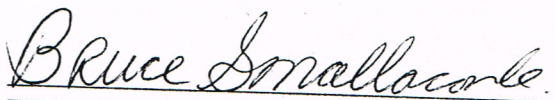
ENACTED and ORDAINED this 12th day of December 2002.

  
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JOSEPH KRENITSKY  
PRESIDENT, BOROUGH COUNCIL  
BOROUGH OF JERMYN

ATTESTED:

  
\_\_\_\_\_  
DEBORAH MORCOM  
SECRETARY  
BOROUGH OF JERMYN

APPROVED this 12th day of December 2002.

  
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BRUCE SMALLACOMBE  
MAYOR  
BOROUGH OF JERMYN