

BOROUGH OF ALLENTOWN  
 COUNTY OF MONMOUTH  
 STATE OF NEW JERSEY

JUN 27 2017

RECEIVED

ORDINANCE NO. 08-2017

AN ORDINANCE OF THE BOROUGH OF ALLENTOWN,  
 COUNTY OF MONMOUTH, STATE OF NEW JERSEY  
 SUPPLEMENTING THE REVISED GENERAL ORDINANCES  
 OF THE BOROUGH TO ADD NEW CHAPTER 28:  
 "PROTECTION OF TREES" (PREVIOUSLY RESERVED)

BE IT ORDAINED by the Mayor and Council of the Borough of Allentown, County of Monmouth, State of New Jersey, that the Revised General Ordinances of the Borough of Allentown are hereby supplemented to include the following new Chapter 28: "Protection of Trees" as follows:

CHAPTER XXVIII: PROTECTION OF TREES

28-1 Definitions.

"Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land comprising the Borough's right-of-way on either side of all streets, avenues, or ways within the Borough.

"Park Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks, and all areas owned by the Borough, or to which the public has free access as a park.

28-2 Street Tree Species Permitted.

The following list constitutes and includes the species of trees, shrubs, and bushes that may be planted as Street Trees within the Borough of Allentown:

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Amelanchier Canadensis, Serviceberry Crataegus viridis, Winter King Hawthorn Carpinus caroliniana, American hornbeam Cercis canadensis, Eastern Redbud, Acer buergerianum, Trident Maple, Acer griseum, Paperbark Maple Acer campestre, Hedge Maple Lagerstroemia spp, Crape Myrtle Parrotia persica, Persian Ironwood	Nyssa sylvatica, Black Gum Acer x freemanii, Freeman Maple Ostrya virginiana, American hophornbeam Cercidiphyllum japonicum Cladrastis kentukea, Yellowwood Gleditsia triacanthus inermis., Honeylocust Koelreuteria paniculata, Golden Rain Tree	Acer rubrum, Red Maple Celtis occidentalis, Hackberry Platanus x acerifolia 'Bloodgood', Sycamore Ulnus Americana, American Elm resistant var. Ulmus parvifolia, Lacebark Elm Zelkova serrata, Zelkova Ginkgo biloba, Male Ginko Tilia cordata, Littleleaf Linden Liriodendron tulipifera, Tuliptree

Syringa reticulata, Japanese Tree Lilac Prunus okame, Okame Cherry Prunus autumnalis, Autumn Flowering Cherry Prunus yeodensis, Yoshino Cherry Styrax japonica, Japanese Snowbell Cornus florida cvs, Dogwood cultivars Cornus kousa cvs, Kousa Dogwood cultivars Cornus Rutgers Hybrids, Rutgers hybrid Dogwoods Cornus mas, Cornelian Cherry		Acer saccharum, Sugar Maple
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No species other than those included on the above list may be planted as Street Trees within the Borough of Allentown with the written permission of the Shade Tree Commission.

**28-3 Park Tree Species Permitted.**

The following list constitutes and includes the species of trees, shrubs, and bushes that may be planted as Park Trees within the Borough of Allentown:

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Amelanchier Canadensis, Serviceberry Crataegus viridis, Winter King Hawthorn Carpinus caroliniana, American hornbeam Cercis canadensis, Eastern Redbud, Acer buergerianum, Trident Maple, Acer griseum, Paperbark Maple Acer campestre, Hedge Maple Lagerstroemia spp, Crape Myrtle Parrotia persica, Persian Ironwood Syringa reticulata, Japanese Tree Lilac Prunus okame, Okame Cherry Prunus autumnalis, Autumn Flowering Cherry Prunus yeodensis, Yoshino Cherry Styrax japonica, Japanese Snowbell Cornus florida cvs, Dogwood cultivars Cornus kousa cvs, Kousa Dogwood cultivars Cornus Rutgers Hybrids, Rutgers hybrid Dogwoods	Aesculus hippocastanum, Horsechestnut Aesculus flava, Yellow Buckeye Betula nigra, River Birch Liquidambar styraciflua, Sweetgum Nyssa sylvatica, Black Gum Acer x freemanii, Freeman Maple Ostrya virginiana, American hophornbeam Cercidiphyllum japonicum Cladrastis kentukea, Yellowwood Gleditsia triacanthus inermis., Honeylocust Koelreuteria paniculata, Golden Rain Tree Taxodium distichum, Baldcypress	Acer rubrum, Red Maple Celtis occidentalis, Hackberry Platanus x acerifolia 'Bloodgood', Sycamore Ulmus Americana, American Elm resistant var. Ulmus parvifolia, Lacebark Elm Zelkova serrata, Zelkova Ginkgo biloba, Male Ginko Tilia cordata, Littleleaf Linden Liriodendron tulipifera, Tuliptree Acer saccharum, Sugar Maple Tilia cordata, Littleleaf Linden

No species other than those included on the above list may be planted as Park Trees within the Borough of Allentown with the written permission of the Shade Tree Commission.

**28-4 Street Tree Spacing.**

- a. The distance between Street Trees will be in accordance with the three species size

classes listed in Section 28-3 hereof, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by the Shade Tree Commission.

b. The distance that Street Trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 28-3 hereof, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.

c. No Street Tree may be planted within 10 feet of any fire hydrant.

#### **28-5 Utilities.**

No Street Trees other than those species listed as Small Trees in Section 28-2 hereof may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

#### **28-6 Public Tree Care.**

The Shade Tree Commission and/or the Mayor and Council shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines and rights-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds in accordance with the procedures set forth in Section 2-56 of this Code.

#### **28-7 Tree Topping.**

It shall be unlawful for any person, firm, or Borough employee to top any Street Tree, Park Tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches 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 with the written permission of the Shade Tree Commission.

#### **28-8 Pruning, Corner Clearance.**

Every owner of any tree overhanging any street or right-of-way within the Borough shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 8 feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Shade Tree Commission and/or the Mayor and Council shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign in accordance with the procedures set forth in Section 2-56 of this Code.

#### **28-9 Dead or Diseased Tree Removal on Private Property.**

The Shade Tree Commission and/or the Mayor and Council shall have the right to cause the

removal of any dead or diseased trees on private property within the Borough, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Borough in accordance with the procedures set forth in Section 2-56 of this Code.

**28-10 Removal of Stumps.**

All stumps of Street Trees and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

**28-11 Violations and Penalties.**

a. Any person who violates any provision of this chapter shall, upon conviction thereof in Municipal Court, for a violation of any provision of this chapter, be liable to the penalty stated in Chapter I, Section 1-5 of this Code. Each instance of engaging in a separate regulated activity, including specifically each tree removed, in the violation of this chapter shall be deemed a separate offense.

b. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provisions of this chapter including requiring the replacement of all trees illegally removed and/or, at the option of the Borough, the payment of a contribution to allow equivalent mitigation on public land.

**BE IT FURTHER ORDAINED** by Mayor and Council that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

**BE IT FURTHER ORDAINED** by Mayor and Council that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

**BE IT FURTHER ORDAINED** by Mayor and Council that this ordinance shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.

ATTEST:

  
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GREGORY WESTFALL, Mayor

DATED: 6/27/2017

  
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LAURIE A. GAVIN, Municipal Clerk

DATED: 6/27/17

**PUBLIC NOTICE**

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced and passed on first reading on the 13<sup>th</sup> day of June, 2017, at a meeting of the Mayor and Council of the Borough of Allentown and will be taken up for final consideration and passage at a regularly scheduled meeting of the Mayor and Council of the Borough of Allentown to be held on the 27th day of June, 2017 at the Municipal Building, 8 N. Main Street, Allentown, New Jersey.

  
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LAURIE A. GAVIN, RMC  
Municipal Clerk