

Chapter 55 Tree Protection Standards [1]

[HISTORY: Adopted by the Board of Supervisors of the Township of Whitmarsh 6-23-2005 by Ord. No. 803. Amendments noted where applicable.]

GENERAL REFERENCES

Grading, erosion control, storm water management and best management practices — See Ch. [58](#).

Shade trees — See Ch. [100](#).

Subdivision and land development — See Ch. [105](#).

[\[1\]](#)

Editor's Note: Former Ch. 55, Fire Prevention, adopted 12-13-1984 by Ord. No. 502, as amended, was repealed 6-24-2004 by Ord. No. 791.

Chapter 55 Tree Protection Standards

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§ 55-1 Purpose.

To preserve and protect the urban forest and shade tree canopy of Whitmarsh Township. Trees improve air and water quality, reduce soil erosion, noise and glare, provide habitat for desirable wildlife, moderate the climate and enhance community image and property values. Therefore, the purpose of these regulations is to encourage the protection of trees through sound land use practices. Therefore, the goals of this chapter are to:

A.

Ensure that all applications for earth disturbance permit, grading permit, demolition permit, building permit, subdivision, land development or zoning change application shall respect existing trees as a natural resource. As such, impervious areas shall be laid out in a manner so as to preserve the healthy trees on the site whenever possible.

B.

To ensure that no trees are destroyed on any property scheduled for development within five years prior to the submission of an application for earth disturbance permit, grading permit, demolition permit, building permit, subdivision, land development or zoning change application.

C.

To preserve and protect all trees with a DBH of thirty-inches or greater as defined as a heritage tree.

D.

To strictly prohibit any clear-cutting of trees.

E.

To preserve, protect and encourage the replacement of native species with native species.
[Added 1-23-2014 by Ord. No. 933]

§ 55-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT

The property owner or his authorized representative; the term includes "developer."
[Added 1-23-2014 by Ord. No. 933]

APPROVED PRESERVED TREE

Any tree that is inside the limit of disturbance and is to be properly protected and not destroyed or injured during construction as required by this chapter and as approved by the Shade Tree Commission.
[Amended 1-23-2014 by Ord. No. 933]

BOUNDARY TREE

A tree on an adjacent property whose root protection zone intrudes across the property line of the property under consideration.
[Amended 1-23-2014 by Ord. No. 933]

CALIPER

A measure of nursery stock measured in diameter. For four-inch diameter stock or smaller, the measure is taken at six inches above the root ball. For stock above four inches, the measurement is taken at 12 inches above the root ball.
[Added 1-23-2014 by Ord. No. 933]

CANOPY TREE

Large, shade trees with deciduous foliage (bare in winter) generally reaching at least 40 feet in height at maturity.

CLEAR-CUTTING

The indiscriminate and broad removal of trees, shrubs or undergrowth with the intention of preparing real property for nonagricultural development purposes. This definition shall not include the selective removal of nonnative tree and shrub species when the soil is left relatively undisturbed, the removal of dead or significantly diseased trees and those trees which pose an imminent danger to the public health, safety or welfare.

DBH (or dbh)

Diameter at breast height; a measure of trunk diameter in inches, taken at 4 1/2 feet above the natural ground line. The measured section of the tree should be free of branches and representative of the typical age of the tree species. DBH measurement is applied to existing trees (compared to caliper used for nursery stock).
[Amended 1-23-2014 by Ord. No. 933]

DRIPLINE

The boundary created by the outermost branches of a tree.

EVERGREEN TREE

A woody plant capable of reaching a minimum mature height of 20 feet with foliage persistent for more than one full year, resulting in a year-round (evergreen) foliage screening capacity.

FLOWERING/ORNAMENTAL TREE

A deciduous tree, single or multi-stem, with a minimum height of 15 feet. Single-stem variety must be a minimum of two-inch caliper. Multi-stem must have no less than three stems with a minimum caliper of 0.75 inch per stem.

[Added 1-23-2014 by Ord. No. 933]

GROUND COVER

A low-growing perennial plant.

[Added 1-23-2014 by Ord. No. 933]

HAZARD TREE

A tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the Township Shade Tree Commission.

HEDGEROW

A narrow linear vegetated area with a mix of woody trees and shrubs formed along farm fields and pastures. Hedgerows may be considered as a desirable visual characteristic of a rural landscape, warranting preservation during the subdivision or land development process.

HERITAGE TREE

~~A tree located on public or private property:~~

~~A.~~

~~Which is specifically identified and considered worthy of preservation by the Township because of the species, size, rarity or historical importance; or~~

~~B.~~

~~Having a dbh greater than 40 inches or an age greater than 75 years.~~

HERITAGE TREE

A tree having a thirty-inch-or-greater DBH.

INVASIVE SPECIES

Any plant that appears in the most recent invasive plants list published by the Pennsylvania Department of Conservation and Natural Resources (DCNR).

[Added 1-23-2014 by Ord. No. 933]

LIMIT OF DISTURBANCE

Boundary line to be shown on a plan delineating the area outside of which no activity of any sort relating to transplanting, demolition, grading, construction, drainage, storage or any other project activities is permitted.

[Added 1-23-2014 by Ord. No. 933]

LOT

A designated parcel, tract or area of land established by a plot or otherwise as permitted by law to be used, developed or built upon as a unit and which is described and/or held in single and separate ownership.

[Added 4-6-2006 by Ord. No. 810]

NATIVE PLANTS

A plant species indigenous to the Northeastern United States that occurs naturally in a particular region, state, ecosystem, and habitat without direct or indirect human actions.
[Added 1-23-2014 by Ord. No. 933]

PLUG

Small plant grown in a tray with its own separate cell of compost to minimize disturbance.

[Added 1-23-2014 by Ord. No. 933]

PROPERTY OWNER

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the Commonwealth of Pennsylvania, County of Montgomery or Whitemarsh Township as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

[Added 1-23-2014 by Ord. No. 933]

REMOVED TREE

Any tree that is destroyed, injured or otherwise not protected according to the provisions of this chapter.

REPLACEMENT TREE

A tree required to be planted per this chapter to compensate for the removal or damage of existing trees on a site.

ROOT PROTECTION ZONE

The area within a tree's temporary protection fencing which is to be maintained throughout the entire period of any construction. The protective fencing shall be placed at a distance calculated at 1.25 feet (radius) per each one inch of (DBH) diameter breast height or to the outer edge of the dripline, whichever is greater.

SEEDED MEADOW

Area that contains native and/or nonnative annual and perennial plants, including a mix of grasses and herbaceous flowering plants that match the growing conditions of the site.

[Added 1-23-2014 by Ord. No. 933]

SHADE TREE

A woody plant or a portion thereof that has a minimum three-inch caliper, is 14 feet or more in height, has eight feet minimum spread with clear trunk to seven feet, and has full branching structure within an ultimate right-of-way in Whitemarsh Township.

[Amended 1-23-2014 by Ord. No. 933]

SHADE TREE COMMISSION

The Township's Shade Tree Commission.

[Amended 1-23-2014 by Ord. No. 933]

SHRUB

A woody plant, usually with multiple stems, each of which has a DBH of less than three inches with a minimum height of 24 inches.

[Amended 1-23-2014 by Ord. No. 933]

TREE

Any hard-wooded perennial plant, whether evergreen or deciduous, or a species which normally reaches a height of eight feet or more at maturity.

TREE INVENTORY

Plan identifying the size, species and location of all existing trees having a diameter at breast height (DBH) of six inches or greater and denoting each tree to be saved, removed or planted with the location of the tree protection fences and the proposed schedule of replacement trees.

[Amended 1-23-2014 by Ord. No. 933]

§ 55-3 Applicability.

A.

Unless exempt, any property owner or developer who makes application for an earth disturbance permit, grading permit, demolition permit, building permit, subdivision, land development or zoning change application shall comply with the terms of this chapter.

[Amended 1-23-2014 by Ord. No. 933]

B.

No clear-cutting shall be permitted under any circumstance **without prior approval from the Board of Supervisors.**

C.

Except as to heritage trees, this chapter is not intended to apply to:

(1)

The removal of trees from a lot containing an existing single-family residence, unless such removal is a part of grading activities that impact 5,000 square feet or more of area. However, no property owner or occupant shall be permitted to remove trees if such trees have been planted or preserved to meet the requirements of Township ordinances or an application approved by the Township.

(2)

The removal of trees identified as dead or diseased by the Township Manager or his/her designee.

(3)

The removal of trees for sale in the ordinary course of business from horticultural properties, such as farms, nurseries or orchards.

(4)

The removal of any tree which become or threatens to become a danger to life or property.

(5)

The removal of trees required for approved utility construction within established easement areas.

(6)

Forestry practices, in keeping with established best management practices for selective harvesting and sustained yield forestry.

[Added 4-6-2006 by Ord. No. 810]

§ 55-4 Tree preservation, protection and replacement.

[Amended 1-23-2014 by Ord. No. 933]

A.

Tree survey plan.

(1)

Each and every application for an earth disturbance permit, grading permit, demolition permit, building permit, subdivision, land development or zoning change application shall include a tree survey plan except any action that does not include ground coverage disturbance.

(2)

The tree survey plan shall contain existing and proposed topographic information at two-foot contour intervals and shall show all existing and proposed buildings and structures, driveways, and parking areas, drainage structures, water detention/retention areas, utilities, construction material staging area and all limits of grading.

(3)

The tree survey plan shall denote each tree to be saved, lost or destroyed, the location of tree protection fences for each tree to be saved **with a DBH of six-inches or greater**, and the proposed tree replacement schedule.

(4)

The tree survey plan shall be reviewed by the Shade Tree Commission in a public meeting.

(5)

Subject to the recommendation of the Shade Tree Commission, the number of trees shall be calculated using the guidelines listed in this chapter.

(6)

Any tree lost or destroyed within ~~five~~ **three** years prior to the submission of an application shall be shown on the tree survey plan as a "removed tree" and shall be replaced in accordance with this chapter.

(7)

Heritage trees and boundary trees shall be individually noted on the tree survey plan **and highlighted for easy identification**.

B.

Tree protection and preservation.

(1)

Protective fencing. Every application subject to this chapter shall be prepared in such a manner to preserve the healthy trees and shrubs on the site. Prior to the preconstruction conference with the Shade Tree Commission's designee, protective fencing shall be placed around trees to minimize damage to root systems. Nothing shall be stored, stockpiled, temporarily placed or allowed in the root protection zone. This fence will be installed prior to any and all work conducted; e.g., excavation, grading, trenching (especially silt fence), cleaning, etc. No fuel storage, refueling or maintenance of equipment or wash down of cement handling equipment shall be permitted within 100 feet of any tree to be preserved. Any damage to the fencing or encroachment on the protected areas shall be remedied immediately. Any observed damage to the trees shall be immediately reported to the Township and remedied as soon as is practicable. At the discretion of the Shade Tree Commission, approved preserved trees that have not been adequately protected or damaged may be required to be removed and replaced at the expense of the applicant. **Please refer to appendix A titled, Tree Preservation Detail.**

(2)

Preconstruction conference. Upon approval of any permit subject to this chapter, and prior to any construction, demolition or earth disturbance on the site, a preconstruction conference shall be

held on the site between the Shade Tree Commission's designee and the applicant. The Shade Tree Commission's designee shall inspect the tree protection fences and other protective devices which have been installed to protect trees.

(3)

After the preconstruction conference, the Shade Tree Commission's designee shall notify the Township of its findings in writing. Upon approval of the tree protection measures by the Township, demolition, grading and construction may proceed, provided that all pertinent permits have been secured.

(4)

Invasive vines. Invasive vines which threaten the health of any approved preserved tree shall be cut at the base using a hand saw, snips or loppers, and treated with a basal herbicide to minimize regrowth. The vine shall not be pulled out of the tree but shall be allowed to die in place.

(5)

Credit for approved preserved trees in subdivisions and land developments. The requirements for trees in Class A buffer yards in the Subdivision and Land Development Ordinance^[1] shall, whenever possible, be met by preserving existing trees. However, the number of trees required to be planted in Class A buffer yards may be reduced by a credit for approved preserved trees as follows:

(a)

Approved preserved trees around the perimeter of the property may offset the Class A buffer requirements for that site (as required by § 105-52, Buffer yards, of the Subdivision and Land Development Ordinance).

(b)

Any tree preserved within 20 feet of any proposed building or within five feet of a proposed road or sidewalk shall not be considered an approved preserved tree.

(c)

~~The credit for approved preserved trees to offset Class A buffer yard landscaping requirements shall be calculated as follows:~~

Diameter of Trunk of Preserved Tree

(dbh in inches)

Number of Trees Credited

30 or greater

8

18 to 29

6

12 to 17

4

6 to 11

2

(6)

Replacement tree requirement.

(a)

Every tree determined to be living and healthy, with a DBH of six-inches or greater and which is designated to be removed or which is destroyed, shall be replaced with one or more new shade trees of a type approved by the Township with a trunk diameter of not less than three-inches in caliper.

(b)

Replacement of any tree removed or recommended to be removed by the Shade Tree Commission as follows:

(1)

Replacement of any tree removed or recommended to be removed by the Shade Tree Commission as follows:

6 to 18 inch DBH removed	= One replacement tree
19 to 29 inch DBH removed	= Three replacement trees, Two of which must be canopy trees
30 inch DBH or greater removed	= Six replacement trees, three of which must be canopy trees

(2)

All replacement trees shall have a minimum three-inch caliper.

(3)

See approved Township tree replacement list on Appendix B^[1] for listing of species that should be used as replacement trees.

(c)

No heritage tree is to be removed for any reason without the prior approval of the Board of Supervisors after recommendation by the Shade Tree Commission. Any heritage tree removed without approval by the Board of Supervisors must be replaced with trees of equivalent value as recommended by the Shade Tree Commission and approved by the Board of Supervisors.

(d)

Replacement trees shall be planted in addition to the trees required by planting requirements otherwise set forth in the Subdivision and Land Development Code.^[2] All replacement trees shall have deer protection on the tree trunks at a minimum of 4 1/2 feet from the ground up to prevent bark damage without the use of chemicals. Said deer protection shall remain in place 18 months from the post-construction conference.

^[2]

Editor's Note: See Ch. 55, Subdivision and Land Development.

Replacement tree requirements.

(e)

If a subdivision or land development:

[1]

Trees were removed during the three-year period prior to filing an application for subdivision or land development without the filing of a timber harvesting, forest management, or forest stewardship plan, the applicant shall provide replacement trees consistent with this chapter. The determination of trees removed shall be based on the best available information, including, but not limited to, records of timber sales or contracts to remove trees, counting and measuring remaining stumps, and photographs of the site.

[2]

Trees included in the tree inventory report within the area of proposed development, i.e., within proposed street right-of-way, sanitary sewer, water line, storm sewer easements and initial building site locations, that were considered suitable for preservation with a suitability for preservation rating of excellent, good or fair and were harvested or removed for development shall be replaced with trees of the same species or an alternate species approved by the Board of Supervisors at the rate of one-half-inch replacement diameter per one-inch diameter of harvested or removed trees. Replacement trees shall have a minimum caliper of three-inches.

[3]

Trees included in the tree inventory report that are outside of the proposed development area and considered suitable for preservation with suitability for preservation rating of excellent, good or fair and were harvested shall be replaced in accordance with the timber harvesting plan, forest management plan or forest stewardship plan submitted as part of the timber harvest.

[4]

The replacement trees shall be in addition to any required street trees, buffer screens, and landscaping trees and shall be located within the development area.

[5]

When the Board of Supervisors determines that it is not feasible to accommodate all required replacement trees on the tract being developed, the number of replacement trees which cannot be accommodated on the developed tract may be placed on Township-owned property at the discretion of the Board of Supervisors, or, with the Township's approval, the developer may pay fees-in-lieu-of installing said replacement trees. The fee-in-lieu of payment shall be \$500.00 per tree for developers and \$250.00 per tree for single-family dwellings.

~~The fee in lieu of payment shall be used by the Township for environmental protection, preservation and restoration purposes within the Township as determined by the Board of Supervisors in its discretion (including, but not limited to, the purchase of environmentally sensitive land or prime agricultural land; the purchase of development rights; the purchase of areas of environmental importance; the establishment of conservation easements; the restoration of riparian corridors or steep slopes; efforts to protect and preserve watersheds, surface, and groundwater; the purchase and/or planting of replacement trees on Township owned property; or other purposes that protect or preserve unique environmental features, plants or animals, water quality, or that reduce objectionable noise or glare).~~

The fee-in-lieu of payment shall be used by the Township for environmental protection, preservation, and restoration purposes within the Township as determined by the Board of Supervisors in its discretion including but not limited to, tree planting, tree maintenance, restoration, creation, or repair of riparian buffers, protection and preservation of watersheds, and purchase of lands to be kept as protected forest areas in perpetuity.

(6)

Forest/woodland areas outside of the limits of disturbance of a proposed development and woodlands and trees running through the development area along streams, rivers, wetlands, and other natural drainage features as determined suitable for protection shall be protected by a conservation easement prohibiting the removal of trees, other than those that have degraded to a poor rating and are listed in the tree inventory report and those trees which constitute a hazard to

life or property, without first obtaining approval from the Board of Supervisors with recommendations from the Shade Tree Commission and Township Arborist.

(7)

The subdivision or land development plan shall include a tree preservation plan, including any trees scheduled for preservation and measures necessary to ensure their preservation, including, but not limited to, the construction of retaining walls, no fill/cut zones, no construction traffic or stockpile of material zones, and maintenance recommendations from the tree inventory report.

(8)

Any deviation from the tree preservation plan resulting in impacts to or removal of trees designated for preservation shall require the approval by the Board of Supervisors with recommendations from the Shade Tree Commission and Township Arborist.

(f)

The species of replacement trees shall be subject to the prior recommendation of the Shade Tree Commission. Species are to be hardy to the area and noninvasive and 50% shall be native, consistent with the provisions of this section. The applicant can refer to the Pennsylvania Department of Conservation and Natural Resources Bureau of Forestry's latest publication of tree species for listing of selections.

(g)

Calculation and estimation of existing trees to be indicated on the tree survey plan shall be performed before any clearing commences and shall be performed in the presence of the Shade Tree Commission or its designee.

(9)

Post-construction. Calculation of approved trees actually remaining after construction shall be performed by the Shade Tree Commission or its designee based on a procedure similar to that used in completing the tree survey. In the event the completed project is not in compliance with the approved schedule of preserved trees on the final plan, the applicant shall receive written instructions from the Township addressing reparation for all removed trees. The applicant shall complete the reparation, weather permitting, within 45 days of receiving such notification.

(10)

Replacement guarantee. All replacement plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least ~~18-24 months~~ or shall be replaced.

§ 55-5 Violations and penalties.

[Amended 1-23-2014 by Ord. No. 933]

A.

In addition to the other provisions of this chapter, the penalties for any violation of this chapter, including, without limitation, failure to comply with a plan approved by the Shade Tree Commission, shall be guilty of a summary offense and upon conviction thereof shall be subject to the enforcement remedies within the Whitmarsh Township Code and any other applicable law.

B.

Any person who violates this chapter, including property owners, occupants, contractors, sub-contractors, tree companies, landscapers, and consultants may be held liable for a violation of this chapter. If a violation occurs during construction, the Township may issue a stop-work order suspending and prohibiting further activity on the property until a mitigation plan, including

protection measures for remaining trees on the property, has been approved by the Shade Tree Commission.

§ 55-6 – Commemorative Shade Tree Fund

A.

The Board of Supervisors shall administer the Commemorative Shade Tree Fund, a fund comprised of contributions from interested persons and other entities, for the purpose of maintaining the wooded character of the streets and lands within the Township.

(1) The Shade Tree Commission shall recommend to the Board of Supervisors a budget for the care, planting, replacement and maintenance of street trees within the Township.

(2) Notwithstanding the requirements of this section or any other section of this chapter, the following species of Ash trees, including horticultural cultivars of each species, are exempt from the requirements of this chapter.

(i)

Green (*Fraxinus pennsylvanica*).

(ii)

White (*Fraxinus americana*).

(iii)

Black (*Fraxinus nigra*).

(iv)

Blue (*Fraxinus quadrangulata*).

§ 55-7 Emergency tree removal.

A.

In the case of immediate necessity for the protection of life or property, any shade or street tree described in this chapter may be removed without first obtaining a permit. The property owner or designee shall report the emergency removal to the Township within five days of removal. If applicable, a hazardous tree report, including relevant documentation and photographs, shall be submitted by a certified arborist.

B.

Hazardous tree removal. The property owner is to contact the Township or fill out an online application before removing the tree. When the application has been approved by the Township, the tree may then be removed.

C.

If, upon determination by the Township Manager, or his/her designee, and after consultation with the Township Arborist that a tree or trees on private property are considered a hazard tree, or such trees are in imminent danger of falling or creating property damage or personal injury, the applicable property owner shall be notified of the hazard tree. The property owner shall then remove, in part or in whole, the tree or trees to correct the hazardous condition

within five days of notification by the Township. If the hazard tree is not removed within five days of notice, the Township may take such action as necessary to remedy the situation resulting in a lien being filed against the property to cover the Township's costs.

D.

Emergency tree removals shall not require Shade Tree Commission approval prior to the tree being removed, provided that the Township has been notified by the property owners.

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