

**AN ORDINANCE**  
**NO. 870**

An ordinance, to amend the Code of the Township of Upper Dublin, Title 8 thereof, entitled Streets and Highways, to add a new Chapter 8, Shade Trees; to establish a five (5) member Shade Tree Commission and provide for their appointment by the Board of Commissioners; to define the duties and powers of the Shade Tree Commission, including executive custody and control of all shade trees on Township property and within public rights of way, authority to plant, remove, maintain and protect all shade trees on Township property and within the rights of way of public streets and highways, and authority to enact its own rules and regulations; and providing for public meetings of the Shade Tree Commission and annual reports to the Board of Commissioners.

The Board of Commissioners of the Township of Upper Dublin does hereby enact and ordain:

Section 1. The Code of the Township of Upper Dublin, Title 8 thereof, entitled Streets and Highways, shall be amended by adding a new Chapter 8, Shade Trees, to provide as follows:

**Chapter 8**

**SHADE TREES**

**Section 1.01 Word usage; definitions.**

- A. Word usage. The singular number includes the plural, and the plural includes the singular. The masculine gender includes the feminine.
- B. Terms defined. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this section:

BOARD - The Board of Commissioners of the Township of Upper Dublin.

COMMISSION - The Shade Tree Commission.

DBH - Diameter at breast height, four and five-tenths (4.5) feet from the ground.

DIRECTOR - The Director of Public Works.

PERMIT - A permit in writing as issued by the Director pursuant to application approval by the Commission.

PERSON - Any individual, firm, association, partnership or corporation.

PRUNING - Removal of branches from a tree or bush using proper tools and approved cutting techniques.

PUBLIC STREET OR HIGHWAY - Any public right-of-way, a portion of which is used for vehicular travel, in the Township.

RIGHTS-OF-WAY - The width of each public street, including sidewalks and/or adjoining land, as indicated on Township maps maintained by the Public Works Department.

SHADE TREE - Any tree having more than fifty percent (50%) of its trunk diameter at breast height within the right-of-way of a public street or on Township property.

SHADE TREE COMMISSION - A Commission established pursuant to powers granted by the First Class Township Code.

STREET - Any public right-of-way, all or a portion of which is used for vehicular travel, in the Township.

TOWNSHIP - The Township of Upper Dublin.

Section 1.02. Establishment of Commission.

A Commission to be known as the "Shade Tree Commission" is hereby established.

Section 1.03. Composition; appointments; terms; vacancies.

- A. The Commission shall be composed of five (5) residents of the Township who are appointed by the Board and who shall serve without compensation.
- B. Each member shall serve a term of five (5) years. All initial terms shall commence on the first day of June following the appointment. The initial appointments shall be made for staggered terms so that the term of one member shall expire each year.

- C. Vacancies on the Shade Tree Commission shall be filled by the Board for the unexpired term.

Section 1.04. Powers and Duties

- A. The Commission shall have exclusive custody and control of all shade trees on Township property and on public streets, and is authorized to plant, remove, maintain and protect all such shade trees in accordance with the authority provided by law.
- B. The Commission's meetings shall be held in the Township Administration Building, shall be open to the public and shall be publicly advertised.
- C. The Commission may prescribe rules and regulations for the conduct of its affairs and for carrying out its duties.

Section 1.05 Annual Report; budget.

The Commission shall, by July 1 of each year, submit a report to the Board summarizing accomplishments during the past fiscal year together with plans and a proposed budget for the next year.

Section 1.06 Planting, maintaining and removal of shade trees.

- A. Whenever the Commission proposes to plant or remove shade trees all property owners involved shall be notified by the Commission. Notice of such work shall be sent by regular mail at least four (4) weeks in advance, except in emergency situations, as described in Section 1.08, when immediate action is required.
- B. Any property owner who wishes to have a shade tree in the Township right-of-way planted, pruned, sprayed or removed shall submit a written request to the Director. The Commission shall investigate the request and advise the property owner whether it can be carried out and, if so, whether or not there will be any charge.
- C. If a property owner requests work to be done on a shade tree on the owner's property and the Township Public Works Department is not in a position to do it, the owner, with the permission of the Commission, may engage a contractor to do the work. Before proceeding, the contractor must obtain a permit from the Director of Public Works.

Section 1.07. Maintenance and removal of trees on private property.

- A. Notwithstanding any other provision of this chapter, the Commission shall, upon giving four (4) weeks' written notice to the owner of the property, require the owner to cut and remove any trees, or bushes, or parts thereof, on such owner's property (but not in the Township right-of-way) if such trees or bushes: (a) are afflicted with any disease which threatens to injure or destroy Township shade trees, or (b) constitute a hazard to those occupying public property or the public right of way. Such removal may be required at the owner's expense.
- B. Upon failure of the owner to comply with such notice, the Commission shall arrange for the work to be done and levy and collect the cost thereof from the owner of the property. The cost of such work shall be a lien upon the premises from the time of the commencement of the work, which date shall be fixed by the Director and shall be filed with the Township Secretary. Any such lien may be collected by appropriate legal action or by lien filed in the manner provided by law for the filing and collection of municipal claims.
- C. The Commission shall give said four-week notice by mailing to the last known address of the owner of the property and by posting the notice at the main entrance to the main habitable or occupied structure on the property.

Section 1.08. Emergency situations.

Notwithstanding any other provision of this chapter, the Commission shall have the right, without prior notice to any property owner, to perform any acts necessary to abate any clear, present and immediate threat to the public health, safety or welfare caused by the condition of any trees, bushes, or parts thereof. If any such threat is the result of any person's action or inaction, the Commission may assess the cost of such summary abatement against that person.

Section 1.09. Regulations on planting and removal.

- A. The following minimum planting standards regulate how trees should be planted and the objectives to be achieved:
  - 1. Planting should avoid any interference with public safety at intersections.

2. Planting should avoid any interference with underground and overhead utilities.
  3. There should be no planting less than fifteen (15) feet from fire hydrants, street lights or stop signs.
  4. Deep root barriers should be used to prevent cracked pavements.
  5. Trees should be spaced thirty (30) to fifty (50) feet apart and staggered along both sides of all streets.
  6. Replacement of existing trees should be as close to their original position as practicable.
- B. New shade trees shall have a minimum trunk diameter of two (2) to two and one-fourth (2-1/4) inches DBH and shall have one (1) foot of ball for each inch of trunk diameter. The hole for the tree shall be at least twelve (12) inches wider than the ball. If both a curb and sidewalk are present and the space between is inadequate, the tree shall be planted on the other side of the sidewalk but still within the Township right-of-way.
- C. In cases where there does not appear to be sufficient space to plant a shade tree within the public right of way on the noncurb side of a sidewalk, the Commission may plant one or more trees on private property with the permission of the owner.
- D. Preference shall be given to new shade trees that are native to this region, and that conform to the provisions outlined in the Township Landscape Ordinance.

Section 1.10 Acts injurious to shade trees prohibited.

Except in case of immediate necessity for protection of life or property, it shall be a violation of this chapter for any person to do any of the following acts:

- A. Cut, break, climb with spurs, injure in any manner or remove a shade tree.
- B. Cut down a shade tree or interfere in any manner with the roots of a shade tree.

- C. Spray a shade tree with any chemicals or insecticides.
- D. Place any rope, guy wire, cable, sign, poster or other fixture on a shade tree or on a shade tree guard.
- E. Use, store or pour any material in such a manner that it could result in injury to a shade tree.

Section 1.11 Violations and Penalties.

Any person who violates any of the provisions of this chapter shall upon being found guilty thereof, be liable to pay a fine or penalty in an amount not exceeding six hundred dollars (\$600.00). Each day that any such violation continues shall constitute a separate offense.

Section 2. Nothing in this Ordinance or in Title 8 of the Code of the Township of Upper Dublin, as hereby amended, shall be construed to affect any suit or proceeding in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Title 8 prior to the adoption of this amendment.

Section 3. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted as if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Section 4. This Ordinance shall take effect and be in force from and after its approval as required by law.

ENACTED AND ORDAINED this 14th day of June, 1994.

BOARD OF COMMISSIONERS OF THE  
TOWNSHIP OF UPPER DUBLIN

ATTEST:

Gregory N. Klemick  
GREGORY N. KLEMICK, SECRETARY

Richard R. Rulon  
RICHARD R. RULON, PRESIDENT

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Gregory N. Klemick