

Ferguson Township Tree Commission (FTTC)

Date June 15, 2020

Meeting Agenda

Time 5:30pm

Join Zoom Meeting

<https://us02web.zoom.us/j/81275956289>

Meeting ID: 812-7595-6289

<https://www.twp.ferguson.pa.us/administration/pages/how-participate-online-meetings>

<https://www.twp.ferguson.pa.us/administration/pages/zoom-instructions>

Dial In: (814) 238-4651, extension 3799

Call to Order

May 18th Meeting Minutes (5 Minutes)

The FTTC shall review and approve the minutes from the May meeting.

Citizen's Input For Items Not On The Agenda (5 Minutes)

Any citizens in attendance are welcome to address the FTTC at this time. **The Chairman has asked the following question:**

If no members of the public attend, we will use this 5 minutes to address 'organization stewardship'. This refers to FTTC self-improvement assessments to critique/ improve group interactions and efficiency

Question to be answered:

1. Does FTTC support making this a monthly action item we report on?

Communications to Commission Members (5 Minutes)

This is an opportunity for FTTC members to report on any contact by residents regarding FTTC matters.

Tree Preservation Ordinance (15 Minutes)

The Arborist provided the FTTC with a draft of the tree preservation ordinance on 6/3/2020. The FTTC shall provide comments and recommendations on this draft. **The Chairman has asked the following questions:**

Questions to be answered:

- 1. What date does FTTC want to designate as the deadline to finalize comment on TPO?**
- 2. Does FTTC need to schedule additional meeting times to finalize TPO by this deadline**
- 3. Do we propose to circulate TPO among community members prior to recommending staff prepare for Board of Supervisor review? If FTTC will seek public input, when do we announce this request to the public?**

Heritage Tree Ordinance Amendment (15 Minutes)

The Arborist provided the FTTC with a draft of the heritage tree ordinance amendments on 6/3/2020. The FTTC shall provide comments and recommendations on this draft. **The Chairman has asked the following questions:**

Questions to be answered:

- 1. What date does FTTC want to designate as the deadline to finalize comment on HTO?**
- 2. Does FTTC need to schedule additional meeting times to finalize HTO by this deadline**
- 3. Do we propose to circulate HTO among community members prior to recommending staff prepare for Board of Supervisor review? If FTTC will seek public input, when do we announce this request to the public?**

Official Township Plant List (15 Minutes)

The Arborist has updated the Official Township Plant List. The updated list along with the current list was provided to the FTTC for review and comment on 5/19/2020. The FTTC shall view the latest draft and provide any further comments. **The Chairman has asked the following question:**

Question to be answered: 1. Does FTTC approve current version of plant list?

Tree Canopy Survey (5 Minutes)

The Arborist will provide an update on the status of project 2020-C14 (Tree Canopy Survey)

FTTC Outreach and Education (5 Minutes)

The Outreach and Education subcommittee will provide an update to the FTTC on podcasts and other upcoming initiatives.

Arborist report: (5 Minutes)

The Arborist will provide an update regarding current projects.

Future agenda items

Review of proposed street tree removals for 2020, tree preservation ordinance, tree canopy survey, outreach and education

Other

Next meeting date and time is July 13th at 5:30pm (Zoom Meeting)

**FERGUSON TOWNSHIP TREE COMMISSION
MEETING MINUTES
Monday, May 18, 2020
5:30 PM**

I. ATTENDANCE

The Tree Commission held its public meeting on Monday, May 18, 2020 via ZOOM. In attendance were:

COMMISSION:

Scott Pflumm – Chair Person
Marc McDill – Vice Chair
Allyson Muth
Josh Potter
Mike Jacobson

STAFF:

Lance King, Arborist
David Modricker, Public Works Director
Jenna Wargo, Planning and Zoning
Summer Krape, Recording Secretary

Others in Attendance: John Quinn, Ferguson Township Resident.

II. CALL TO ORDER

Mr. Scott Pflumm called the Monday, May 18, 2020 Ferguson Township Tree Commission (FTTC) meeting to order at 5:30 pm.

III. APRIL 27TH MEETING MINUTES

Mr. Scott Pflumm called for a motion to approve the April 27, 2020 meeting minutes with one correction; that it be made clear that he was the one that dissented the vote in section seven. Dr. Marc McDill made a motion to approve, Mr. Pflumm seconded the motion, and the motion passed unanimously.

IV. CITIZEN'S INPUT FOR ITEMS NOT ON THE AGENDA

Nothing was discussed.

V. COMMUNICATIONS TO COMMISSION MEMBERS

Nothing was discussed.

VI. TREE PRESERVATION ORDINANCE

Mr. Lance King and Ms. Jenna Wargo met with Mr. David Pribulka, Township Manager and Mr. David Modricker, Township Public Works Director to review their comments/suggestions on the Tree Preservation ordinance. Mr. King stated that they are still addressing staff's comments. A key item they are discussing is where the ordinance will reside. Dr. Mike Jacobson asked why the question of where the ordinance will reside is being asked when no one has seen the draft and what is in it. The Commission discussed this and Ms. Wargo stated that the Township Manager believes the tree preservation ordinance should be in the SALDO since it is tied to land development submissions. Ms. Wargo also stated that it was suggested to remove the heritage/significant tree aspect of the

preservation ordinance and move it to the tree ordinance. Ms. Wargo stated that staff is looking to move the buffer planting requirements from Zoning to SALDO with the ordinance and consolidate the two. Ms. Wargo explained that the incentives that staff will be proposing will be in regards to parking for land development plans.

VII. OFFICIAL TOWNSHIP PLANT LIST

Mr. King stated that the official Township plant list is a list of plant material that land developers are allowed to use in a land development plan that requires landscaping. Mr. King stated that this list was last updated in 1999. The goal is to update this list and get rid of invasive species. Mr. King noted that he sent the Commission member's the updated list and Dr. Allyson Muth, her husband Norris, and Dr. McDill reviewed and submitted comments. Dr. McDill stated that the objective/goal is to remove invasive species and add more native species to give people more options.

VIII. TREE CANOPY SURVEY RFP

Mr. Modricker recapped that at the last meeting the Commission recommended that the Board of Supervisors award the tree canopy survey to SavATree. The BOS awarded the Tree Canopy Survey to SavATree. Mr. Modricker stated that there was a kick off meeting with the consultant, BOS member Prasenjit Mitra, and Tree Commission Chair were present. Mr. Modricker gave the Commission a time line for the Tree Canopy Survey.

IX. FTTC PODCAST

Mr. Modricker stated that from his prospective the Tree Commission wants to move forward with the podcast. Mr. Modricker noted that the Township Arborist has concerns and would like to postpone the podcasts until the podcast subcommittee is able to meet in person. Mr. Modricker stated that today's discussion should be focused on what moving forward will look like. Mr. Pflumm gave a summary of the podcast topic for Mr. John Quinn, Township resident. Mr. King stated that he has had conversations with Township staff members close to this project - Nick Fugaro Communications Coordinator and Ms. Centrice Martin Assistant to the Manager. Mr. Fugaro is concerned with the quality of recording via Zoom, and feels that people aren't interested in tree podcasts at this time. Ms. Martin has concerns that the Township's webpage isn't ready for the podcasts.

Mr. Joshua Potter disagreed and stated that people are looking for this during this time. Mr. Potter also stated that Zoom is a way of life right now and most people are utilizing it. As for the webpage not being ready, these podcasts could be live streamed on Township's Facebook account. He also stated that Shaver's Creek has audio and recording equipment and offered to meet in a wooded area and social distance to record a podcast. Mr. Modricker noted that another issue is that Mr. King is working remotely from home some days and is not always at the Township building and asked if any other Commission members would be interested in recording these for the time being.

Mr. Modricker stated that if this is something the Commission is trying to pursue we should include both Ms. Martin and Mr. Fugaro in a meeting and explain what the Commission is trying to do and figure logistics out with them.

X. ARBORIST REPORT

Mr. King stated that he has been working in the office/doing field work two days a week and working remotely from home the other three days. Last week he completed some clearance pruning, inspection work, and has started injections for emerald ash borer. Mr. King stated that they will be moving forward with planting contract for this spring and will start to plant a week from now.

XI. FUTURE AGENDA ITEMS

None

XII. OTHER

None

XIII. ADJOURNMENT

The May 18, 2020 Tree Commission meeting adjourned at 6:45 pm.

RESPECTFULLY SUBMITTED,

David Modricker, Director of Public Works
For the Tree Commission

**FERGUSON TOWNSHIP
TREE PRESERVATION AND PROTECTION ORDINANCE**

Intent.

The purpose of these regulations is to encourage the protection of trees through sound land use practices. 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, and protect the public health, safety, and general welfare by:

1. It is the intent of this Chapter to:
 - a. Preserve, protect and maintain existing trees in Ferguson Township and to increase the overall tree canopy and understory on both public and private lands.
 - b. To preserve healthy trees on site whenever possible by ensuring that all applications for grading permit, and subdivision and land development shall respect existing trees as a natural resource.
 - c. To preserve and protect all individual (and groups of) heritage and significant trees as defined herein.
 - d. To preserve, protect and encourage the replacement of native species with native species.

Definitions.

Words and terms in this part shall have the meanings given herein. Unless expressly stated otherwise, and pertinent word or term not part of this part but vital to the interpretation of this part shall be construed to have their legal definition, or in absence of a legal definition, their meaning as commonly accepted.

1. Words used in the present tense shall include the future tense;
2. Words used in the plural number shall include the singular and plural number, and the plural number shall include the singular number;
3. The words "shall" and "will" are mandatory and are not discretionary;
4. The word "may" is permissive;
5. The word "lot" shall include the words "place," "parcel," and "premises";
6. The word "building" means a structure, including any part thereof having a roof and used for shelter or enclosure for persons or property;
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," or any other legal activity;
8. The word "person" shall include the words "individual," "corporation," "Governmental agency," "trust," "estate," "partnership," "association," "venture," "joint venture," "participant," or any other legal activity;
9. As used in this part, the following terms shall have the meanings indicated;

APPLICANT—The property owner or authorized representative; the term includes "developer".

ARBORIST—The Arborist for Ferguson Township. The Arborist is a professional in the practice of arboriculture. This term shall include the Township Arborist as well as any consultants engaged to perform similar services in the promulgation and enforcement of this Part and the Ferguson Township Tree Ordinance.

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 Township Arborist.

BOUNDARY TREE—A tree on an adjacent property whose root drip line intrudes across the property line of the property under consideration.

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.

CANOPY TREE—A tree, either single-stemmed or multi-stemmed (clump form), which has a caliper of at least 2 inches at planting and is of a species which, at maturity, shall reach a height of at least 30 feet with a spread of at least 30 feet. See the Township's official plant list for a listing of permitted canopy trees.

DBH—Diameter at breast height; a measure of trunk diameter in inches, taken at 4 ½ 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).

DRIPLINE—The boundary created by the outermost branches of a tree.

EVERGREEN TREE—A tree, either single-stemmed or multi-stemmed (clump form), which is a minimum of six (6) feet tall at planting and is a species which at maturity can be expected to reach a height of at least 20 feet. See the Township's official plant list for a listing of permitted evergreen trees.

FLOWERING/ORNAMENTAL TREE—A tree, either single-stemmed or multi-stemmed (clump form), which has a caliper of at least 1 1/2 inches at planting and is of a species which, at maturity, can be expected to reach a height of at least 10 feet. See the Township's official plant list for a listing of permitted trees.

GROUND COVER—A low-growing perennial plant.

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 Arborist and defined by ISA Tree Risk Assessment.

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—Any tree or stand of trees located on public or private property, of landmark importance due to age, size, species horticultural quality or historic importance that has a DBH greater than 36 inches or an age greater than 75 years, and has been approved as a heritage tree by the Board of Supervisors and which has been accepted by the tree owner or responsible party.

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

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.

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.

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.

PROPERTY OWNER—Any person, agent, operator or corporation having a legal or equitable interest in the property; or recorded in the official records of the Commonwealth of Pennsylvania, County of Centre or Ferguson 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.

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.

SIGNIFICANT TREE—Any tree or stand of trees located on public or private property that is of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a significant tree by Ferguson Township's Tree Commission and which status has been accepted by the tree owner or responsible party.

TREE COMMISSION—Ferguson Township's Tree Commission.

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

TREE CANOPY—The layer of leaves, branches, and stems of a tree or trees that cover the ground when viewed from above.

TREE CONDITION—An assessment of tree health and structure by the Arborist or a qualified arborist as approved by Ferguson Township's Arborist.

TREE SURVEY PLAN—Plan identifying the size, species and location of all existing trees having a diameter at breast height (DBH) of six inches or greater

Applicability.

1. Any property owner or developer who submits an application for a grading permit, and subdivision and land development application shall comply with the terms of this chapter.
2. Any property owner or developer who submits a Minor Alteration Plan may choose to take advantage of incentives within this chapter by compliance with the terms herein.
3. Except to heritage trees this chapter is not intended to apply to:
 - a. Agricultural businesses.

- b. The removal of trees from a lot containing an existing single-family residence, unless such removal is a part of grading activities that impact one acre 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.
- c. The removal of trees identified as dead or diseased by the Township Arborist.
- d. The removal of trees for sale in the ordinary course of business from horticultural properties, such as farms, nurseries or orchards.
- e. The removal of any tree, including preserved, Heritage and Significant, which is deemed a probable or imminent hazard by the Arborist as established by ISA Tree Risk Assessment.
- f. The removal of trees required for approved utility construction and maintenance within established easement areas.
- g. Timbering and forestry practices, in keeping with established best management practices for selective harvesting and sustained yield forestry.
- h. The removal of trees by the Ferguson Township Public Works Department or its contractor for the construction of an approved capital improvement.

Tree preservation, protection and replacement.

1. Tree Survey Plan.
 - a. Every application for a grading permit, and subdivision and land development application shall include an existing tree survey plan and a proposed tree plan except any action that does not include ground coverage disturbance.
 - i. Minor Alteration Plans that choose to take advantage of the incentives within this Chapter shall submit an existing tree survey plan, a proposed tree plan and comply with the terms of this chapter.
 - b. Existing Tree Survey Plan. The existing tree survey plan shall contain existing topographic information at two-foot contour intervals and shall show all existing buildings and structures, driveways, parking areas, drainage structures, water detention/retention areas, utilities and all limits of grading.
 - i. The existing tree survey plan shall denote each tree currently on the lot and the existing canopy coverage. It will denote each tree that will be saved, the location of the tree protection fences for each tree to be saved and trees to be removed.
 1. Existing tree survey methodologies must be approved by the Township Arborist.
 - c. Proposed Tree Plan. The proposed tree plan shall contain proposed topographic information at two-foot contour intervals and shall show all proposed buildings, structures, driveways, parking areas, drainage structures, water detention/retention areas, utilities and all limits of grading.
 - i. The proposed tree plan shall denote the proposed tree replacement schedule, including the pre-existing trees that will be saved, and the proposed tree canopy of the replacement trees at maturity. The species of proposed replacement and additional trees shall be species listed on the Official Township Planting List. The proposed tree plan shall also include the landscaped buffer and all interior landscaping as required in §27-707, Landscaping.

- d. The existing tree survey plan and proposed tree plan shall be reviewed by the Township Arborist.
 - e. The number of trees shall be calculated using the guidelines listed in this chapter.
 - f. Heritage, Significant and boundary trees shall be individually noted on the existing and proposed tree plans.
2. Tree preservation and protection.
- a. Tree preservation. Every application for a grading permit, and subdivision and land development application shall preserve 20% of the existing tree canopy on the lot, except where it can be demonstrated that it is not practical to do so and approved by the Township Arborist. The conditions for determining the practicality of tree preservation on a given lot shall be as follows:
 - i. Condition
 - ii. Species
 - b. The applicant may preserve more than the required 20% of the existing tree canopy on the lot to offset parking requirements for that site (as required by §22-501.C, Off-Street Parking and Loading in the Subdivision and Land Development Ordinance), not to exceed 20% of parking credited.
 - c. The applicant may plant additional trees on the lot to increase the overall tree canopy to offset parking requirements for that site (as required by §22-501.C, Off-Street Parking and Loading in the Subdivision and Land Development Ordinance), not to exceed 20% of parking credited.
 - d. The credit (round up) for approved preserved trees and additional shade tree plantings to offset parking requirements shall be calculated as follows:

Percentage of Existing Tree Canopy	Required Parking Credit
20%	Required
30%	10%
40%	15%
50%	20%

- i. Approved preserved trees around the perimeter of the property may offset the buffer requirements for the subdivision and land development (as required by §27-707, Landscaping, of the Zoning Ordinance). The number of trees required to be planted in buffer yards may be reduced by shade tree credit for approved preserved trees as follows:
 - 1. The credit for approved preserved trees to offset 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

- ii. Any tree preserved within 20 feet of any proposed building or within five feet of a proposed road or sidewalk (measured from edge of curb or edge of right of way) shall not be considered an approved preserved tree by this Ordinance.
 - iii. The Township Arborist will perform a tree assessment for each proposed preserved tree on the lot to assess the health and structure prior to credit calculations.
- e. Additional tree planting requirement.
 - i. If the applicant chooses to increase the tree canopy by planting additional trees, every additional tree must measure at a minimum 2 inches in caliper at time of planting.
 - ii. No heritage tree is to be removed for any reason without the prior approval of the Board of Supervisors after recommendation by the Tree Commission and Township Arborist. Any heritage tree removed without approval by the Board of Supervisors must be replaced with trees of equivalent value or size.
 - 1. The applicant shall plant similar trees to replace the equivalent total cross-sectional area of the Heritage Tree which was unlawfully cut, broken, destroyed or removed. In all instances of replacement pursuant to this subsection, such replacement trees shall be sufficient to replace the total cross-sectional area as measured at diameter at breast height (DBH) of the tree removed. For example, a removed Heritage Tree that is thirty-six-inches in diameter, shall be replaced with one thirty-six-inch tree, or eighty-one (81) four-inch trees, all in a manner satisfactory to and in locations approved by the Township Arborist.
 - iii. The species of additional planted shade trees shall be subject to the recommendation of the Tree Commission. Species are to be hardy to the area and noninvasive and 60% shall be native, consistent with the provisions of this section. The applicant can refer to Ferguson Township's Official Plant List for selections.
 - iv. Subject to the prior approval of the Tree Commission:
 - 1. A Maximum of 30% of the additional planted shade trees may be replaced with evergreen trees (at a minimum of 6 feet in height at the time of planting) at a ratio of two evergreen trees per required two-inch-caliper shade tree.
 - 2. A maximum of 20% of the additional planted shade trees may be replaced with ornamental/flowering trees at a ratio of two understory trees per required two-inch-caliper shade tree.
 - 3. A maximum of 10% of the additional shade trees may be replaced as shrubs with a minimum size of 2 gallons at time of planting and will reach 24" in height at maturity at a ratio of six shrubs per required two-inch-caliper shade tree.
 - 4. A maximum of 10% of the additional shade trees may be replaced as groundcover at a ratio of 40 plants to one two-inch-caliper shade tree. The minimum size of the groundcover will be a one-gallon container.

- v. Calculation and estimation of existing trees and canopy to be indicated on the existing tree survey plan shall be performed before any clearing commences and shall be performed in the presence of the Township Arborist.
- f. Protective fencing. Every application subject to this Ordinance shall be prepared in such a manner to preserve the healthy trees and shrubs on the site.
 - i. Prior to the preconstruction conference with the Township Arborist, protective fencing shall be placed around trees to minimize damage to root systems.
 - ii. The protective fencing shall be placed around the dripline of the tree. Nothing shall be stored, stockpiled, temporarily placed, excavated or allowed in the protective fencing
 - iii. This fence will be installed prior to any and all work conducted; e.g., excavation, grading, trenching (especially silt fence), cleaning, etc.
 - iv. No fuel storage, refueling or maintenance of equipment or wash down of cement handling equipment shall be permitted within any protective fencing.
 - v. Any damage to the fencing or encroachment on the protected areas shall be remedied immediately. Any observed damage to the trees or roots shall be immediately reported to the Township and remedied as soon as is practicable.
 - vi. At the discretion of the Township Arborist, 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 in addition to paying a fine of \$1,000.00.
 - 1. If the approved preserved tree was identified as a Heritage Tree, the applicant will be required to remove and replace the Heritage Tree in addition to paying a fine of \$1,000.00 and the appraised value of the Heritage tree as determined by the Township Arborist as determined in accordance with established ISA tree appraisal standards.
- g. Preconstruction conference. Upon approval of any permit subject to this Ordinance, and prior to any construction, or earth disturbance on the site, a preconstruction conference shall be held on the site between the Township Arborist and the applicant. The Arborist shall inspect the tree protection fences and other protective devices which have been installed to protect trees.
- h. Notification. After the preconstruction conference, the Township Arborist shall notify the Planning and Zoning Department of his/her findings in writing. Upon approval of the tree protection measures by the Township, grading and construction may proceed, provided that all pertinent permits have been secured.
- i. 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.
- j. Post-construction. Calculation of approved trees remaining after construction shall be performed by the applicant and reviewed and approved by the Township Arborist 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.

- k. Replacement guarantee. All replacement and additional tree plantings shall be guaranteed and maintained in a healthy and/or sound condition in perpetuity or shall be replaced with a new tree of the same species with a minimum caliper of 2 inches.

Modifications and Waivers.

1. Where the applicant shows to the satisfaction of the Township that compliance with any mandatory provision of these regulations and causes undue hardship to the Applicant because of peculiar conditions pertaining to the particular property, the Township may grant a modification or waiver to one or more provisions of this Chapter. Such modification and/or waiver, however, shall not have the effect of nullifying the intent and/or purpose of this Chapter.
 - a. The Applicant shall follow the procedure outlined in §22-105. Modification and Waivers.

Violations and penalties.

Failure to comply with any provisions of this Chapter shall be a violation of this Chapter.

1. Complaints Regarding Violations. Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a complaint to the Township Arborist stating fully the causes and basis thereof. The Township Arborist shall record such complaint, immediately investigate and take action thereon as provided by this Chapter.
2. Notice of Violation. If the Township Arborist shall find a violation, he shall initiate enforcement proceedings by sending an enforcement notice as provided herein:
 - a. The enforcement notice shall be sent to the owner of record of the lot on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
 - b. An enforcement notice shall state the following:
 - i. The name of the owner of record and any other person against whom the Township intends to take action.
 - ii. The location of the property in violation.
 - iii. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
 - iv. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - v. That the recipient of the notice has a right to appeal to the Courts within thirty (30) days by filing a request for appeal in writing with the Courts within the said thirty (30) days period.
 - c. That failure to comply with the notice within the said thirty (30) days, unless extended by appeal by the Courts, constitutes a violation with possible sanctions, which may be as much as five hundred dollars (\$500) per day of each violation plus all court costs, including reasonable attorney fees the Township incurs as a result of prosecution of such violation.
 - d. Civil Enforcement. The Township Arborist may institute civil enforcement proceedings as a means of enforcement if authorized by the Manager of the Board of Supervisors.

Heritage and Significant Trees

Purpose.

The purpose of this chapter is to recognize, appreciate and provide for voluntary protection of trees that are of landmark importance due to age, size, species, horticultural quality or historic importance.

Definitions.

Words and terms in this part shall have the meanings given herein. Unless expressly stated otherwise, and pertinent word or term not part of this part but vital to the interpretation of this part shall be construed to have their legal definition, or in absence of a legal definition, their meaning as commonly accepted.

1. Words used in the present tense shall include the future tense;
2. Words used in the plural number shall include the singular and plural number, and the plural number shall include the singular number;
3. The words "shall" and "will" are mandatory and are not discretionary;
4. The word "may" is permissive;
5. The word "lot" shall include the words "place," "parcel," and "premises";
6. The word "building" means a structure, including any part thereof having a roof and used for shelter or enclosure for persons or property;
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," or any other legal activity;
8. The word "person" shall include the words "individual," "corporation," "Governmental agency," "trust," "estate," "partnership," "association," "venture," "joint venture," "participant," or any other legal activity;

As used in this part, the following terms shall have the meanings indicated;

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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 Arborist and defined by ISA Tree Risk Assessment.

HERITAGE TREE—Any tree or stand of trees located on public or private property, of landmark importance due to age, size, species horticultural quality or historic importance that has a DBH greater than 36 inches or an age greater than 75 years, and has been approved as a heritage tree by the Board of Supervisors and which has been accepted by the tree owner or responsible party.

PROPERTY OWNER—Any person, agent, operator or corporation having a legal or equitable interest in the property; or recorded in the official records of the Commonwealth of Pennsylvania, County of Centre or Ferguson 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.

SIGNIFICANT TREE—Any tree or stand of trees located on public or private property that is of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a significant tree by Ferguson Township’s Tree Commission and which status has been accepted by the tree owner or responsible party.

TREE COMMISSION—Ferguson Township’s Tree Commission.

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

TREE CONDITION—An assessment of tree health and structure by the Arborist or a qualified arborist as approved by Ferguson Township’s Arborist.

General Provisions.

1. Heritage and Significant Trees may be of equivalent landmark importance due to age, size, species, horticultural quality or historic importance. The Tree Commission may approve designation as a Significant Tree for a tree nominated as a Heritage Tree if the review body determines the tree is of lesser landmark importance, but still worthy of recognition. Alternatively, a tree owner or responsible party may choose to nominate a tree as a Significant Tree rather than a Heritage Tree if they determine the tree is of lesser landmark importance, but still worthy of recognition, or if they desire no regulatory protection of the tree they would like to have recognized.

Nomination and Designation of Heritage Trees.

1. Any person may nominate a particular tree or group of trees to be designated as a Heritage Tree due to age, size, species, horticultural quality or historic importance. The nomination shall be submitted by the tree owner or responsible party or accompanied by the tree owner or responsible party’s written consent. If the nominated tree is located on Township property, the nomination shall be submitted by the Township Manager or designee or be accompanied by the Township Manager’s or designee’s written consent. Upon completion of the nomination process, the remaining portions of this subsection shall apply in the order listed.
2. After reviewing the nomination materials, and any supplemental information provided by the Township Arborist, the Tree Commission may decide by majority vote to:
 - a. Recommend approval of the tree to be designated as a Heritage Tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance, and forward their recommendation to the Board of Supervisors.
 - b. Approve the tree to be designated as a Significant Tree upon finding it is of landmark importance due to age, size, species, horticultural importance. Upon receipt of the tree owner’s or responsible party’s written consent for designation as a Significant Tree, the tree shall be included in a publicly accessible inventory of trees.
 - c. Deny the tree as a Heritage Tree and Significant Tree.
3. When the Tree Commission recommends that the Board of Supervisors designate a tree as a Heritage Tree, the Township Arborist shall prepare for the tree owner or responsible party the paperwork necessary to record the Heritage Tree designation on the owner’s or responsible party’s deed, noting on such deed that the tree is subject to the provisions of this chapter. If the tree owner or responsible party fails to sign the necessary paperwork, the Heritage Tree

Designation shall be void, the matter shall not move forward to the Board of Supervisors, and the provisions of this chapter shall cease to apply to the tree.

4. After reviewing the nomination materials, any supplemental information provided by the Township Arborist, and the Tree Commission's recommendation, the Board of Supervisors may decide by majority vote to:
 - a. Approve the tree to be designated as a Heritage Tree upon finding it is of landmark importance due to size, age, species, horticultural quality or historic importance, at which point the Township shall execute the necessary paperwork to record the Heritage Tree designation on the tree owner's or responsible party's deed, noting on such deed that the tree is subject to the provisions of this chapter. In addition, the tree shall be included in a publicly accessible inventory of trees.
 - b. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to size, age, species, horticultural quality or historic importance. Upon receipt of the tree owner's or responsible party's written consent for designation as a significant tree, the tree shall be included in a publicly accessible inventory of trees.
 - c. Deny the tree as a Heritage Tree and Significant Tree.
5. Ferguson Township Board of Supervisors may designate up to two (2) Heritage Trees per calendar year.

Maintenance of Heritage Trees.

Heritage Trees shall be maintained by the township in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in this Ordinance.

Nomination and Designation of Significant Trees.

1. Any person may nominate a particular tree or group of trees to be designated as a Significant Tree due to age, size, species, horticultural quality or historic importance. The nomination shall be submitted by the tree owner or responsible or accompanied by the tree owner or responsible party's written consent. If the nominated tree is located on Township property, the nomination shall be submitted by the Township Manager or designee or be accompanied by the Township Manager's or designee's written consent. Upon completion of the nomination process, the remaining portions of this subsection shall apply.
2. After reviewing the nomination materials, and any supplemental information provided by the Township Arborist, the Tree Commission may decide by majority vote to:
 - a. Approve the tree to be designated as a Significant Tree upon finding it is of landmark importance due to size, age, species, horticultural quality or historic importance. The tree shall be included in a publicly accessible inventory of trees.
 - b. Deny the tree as a Significant Tree.

Incentives for Heritage Tree Designation.

Designated Heritage Trees shall be eligible for the following incentives subject to availability of Township Funding and the Board of Supervisors approval.

1. Plaques which may be placed on or near Heritage Trees; and
2. Maintenance of Heritage Trees by the Ferguson Township Public Works Department or its contractor including, but not limited to:

- a. Pruning,
- b. Pest control,
- c. Unwanted plant removal along the perimeter,
- d. Fertilization,
- e. Soil amendment, and
- f. Cabling and bracing.
- g. Tree removal.

Removal of Heritage Tree Designation.

Heritage Trees and Heritage Tree designations shall not be removed, without prior written approval obtained through:

1. The Board of Supervisors shall use their discretion when issuing their decision of removal of Heritage Tree designation and include but not be limited to the following considerations:
 - a. Quality of tree species, condition and location; contribution to the environment;
 - b. Tree presents such a clear and present danger to people, structures, infrastructure or utilities; and
 - c. Contribution to the community.
2. The tree owner or responsible party are encouraged to take photographs of the subject tree and obtain written documentation from the Township Arborist.
3. If the Board of Supervisors permits the removal of the Heritage Tree designation and the tree is cut down, the property owner shall pay the Township the appraised value of the tree.
4. If the Heritage Tree is deemed hazardous by the Township Arborist and approved by the Board of Supervisors, the tree may be removed without penalty.

Removal of Significant Tree Designation.

1. Significant tree designation shall be removed when requested in writing by the tree owner or responsible party.
2. The tree owner or responsible party shall notify the Township in writing of the removal of any Significant Tree.

RESOLUTION NO. _____

A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY PENNSYLVANIA, AMENDING RESOLUTION 2000-22, AND 1999-36, THE OFFICIAL TOWNSHIP PLANT LIST

Section 1. The Board of Supervisors of the Township of Ferguson established by Resolution 1999-36 and amended by Resolution 2000-22, an Official Township Plant List to be used as a guide for the selection of appropriate trees and landscape planting materials. Said Official Township Plant List is required to be used for land development and subdivision plans where a landscaping plan, tree preservation plan, or street trees are required.

Section 2. The Official Township Plant List is hereby amended by both adding and subtracting species based on current pest and disease issues, invasive species lists provided by the Pennsylvania Department of Conservation and Natural Resources, and to promote the use of native species in the Township.

Section 3. Now, therefore, the Board of Supervisors of the Township of Ferguson resolves to amend the Official Township Plan List for the Township of Ferguson, attached hereto.

RESOLVED, this ____ day of _____, 2020

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

[SEAL]

ATTEST:

Canopy Trees

- *Acer campestre*-Hedge Maple
- *Acer rubrum*-Red Maple
- *Acer saccharinum*-Silver Maple
- *Acer saccharum*-Sugar Maple
- *Acer truncatum* X *A. Platanoides*-Pacific Sunset Maple
- *Aesculus c. carnea*-Horsechestnut
- *Aesculus glabra*-Ohio Buckeye
- *Betula lenta*-Sweet Birch
- *Betula nigra*-River Birch
- *Betula papyrifera*-Paper Birch
- *Carpinus betulus*-European Hornbeam
- *Carya glabra*-Pignut Hickory
- *Carya laciniosa*-Shellbark Hickory
- *Carya ovata*-Shagbark Hickory
- *Carya tomentosa*-Mockernut Hickory
- *Catalpa speciosa*-Catalpa
- *Celtis occidentalis*-Northern Hackberry
- *Cercidiphyllum japonica*-Katsura Tree
- *Cladrastis kentukea*-American Yellowwood
- *Eucommia ulmoides*-Hardy Rubber Tree
- *Fagus grandifolia*-American Beech
- *Ginkgo biloba*-Ginkgo
- *Gleditsia triacanthos*-Thornless Common Honeylocust
- *Gymnocladus dioica*-Kentucky Coffee Tree
- *Halesia carolina*-Carolina Silverbell
- *Koelreuteria paniculata*-Golden Raintree
- *Liquidambar styraciflua*-Sweetgum
- *Larix laricina*-American Larch
- *Liriodendron tulipifera*-Tulip Tree
- *Magnolia acuminata*-Cucumber Tree
- *Metasequoia glytostroboides*-Dawn Redwood
- *Nyssa sylvatica*-Blackgum
- *Ostrya virginiana*-American Hophornbeam
- *Oxydendrum arboreum*-Sourwood
- *Platanus X acerifolia*-London Plane Tree
- *Platanus occidentalis*-Sycamore
- *Populus grandidentata*-Bigtooth Aspen
- *Prunus sargentii*-Sargent Cherry
- *Prunus serotina*-Black Cherry
- *Prunus serrulata*-Kwanzan Cherry
- *Quercus acutissima*-Sawtooth Oak

- *Quercus alba*-White Oak
- *Quercus bicolor*-Swamp White Oak
- *Quercus coccinea*-Scarlet Oak
- *Quercus imbricaria*-Shingle Oak
- *Quercus macrocarpa*-Bur Oak
- *Quercus muehlenbergi*-Chinkapin Oak
- *Quercus palustris*-Pin Oak
- *Quercus phellos*-Willow Oak
- *Quercus prinus*-Chestnut Oak
- *Quercus rubra*-Northern Red Oak
- *Quercus shumardii*-Shumard Oak
- *Robinia pseudoacacia*- Black Locust
- *Sassafras albidum*-Common Sassafras
- *Taxodium distichum*-Baldcypress
- *Tilia Americana*-American Linden
- *Tilia cordata*-Littleleaf Linden
- *Tilia tomentosa*-Sterling Silver Linden
- *Zelkova serrata*-Japanese Zelkova

Understory Trees

- *Acer buergeranum*-Trident Maple
- *Acer griseum*-Paperbark Maple
- *Acer Tatarian*-Tatarian Maple
- *Amalanchier sp.*-Serviceberry
- *Carpinus caroliniana*-American Hornbeam
- *Cercis Canadensis*-Eastern Redbud
- *Cornus alternifolia*-Pagoda Dogwood
- *Cornus florida*-Flowering Dogwood
- *Cornus Kousa*-Kousa Dogwood
- *Cornus mas*-Cornelian Cherry Dogwood
- *Crataegus phaenopyrum*-Washington Hawthorn
- *Crataegus punctata*-Pioneer Hawthorn
- *Crataegus viridis*-Winter Green Hawthorn
- *Magnolia*-Galaxy Magnolia
- *Magnolia stellata*-Star Magnolia
- *Magnolia virginiana*-Sweetbay Magnolia
- *Malus*-Crabapple
- *Prunus okame*-Okame Cherry
- *Prunus virginiana*-Canada Red Cherry
- *Syringa reticulata*-Japanese Tree Lilac

Evergreens

- *Abies fraseri*-Fraser Fir
- *Picea abies*-Norway Spruce
- *Picea pungens*-Colorado Blue Spruce
- *Pinus bungeana*-Lacebark Pine
- *Pinus flexilis*-Limber Pine
- *Pinus Nigra*-Austrian Pine
- *Pinus resinosa*-Red Pine
- *Pinus rigida*-Pitch Pine
- *Pinus strobus*-Eastern White Pine
- *Pinus sylvestris*-Scotch Pine
- *Pinus taeda*-Loblolly Pine
- *Pinus virginiana*-Virginia Pine
- *Pseudotsuga mezesii*-Douglas Fir

Shrubs

- *Aesculus parviflora*-Bottlebrush Buckeye
- *Alnus serrulata*-Smooth Alder
- *Aronia arbutifolia*-Red Chokeberry
- *Azalea* species-Azalea
- *Buxus sempervirens*-English Boxwood
- *Calycanthus floridus*-Sweetshrub
- *Ceanothus americanus*-New Jersey Tea
- *Cephalanthus occidentalis*-Buttonbush
- *Chaenomeles speciosa*-Flowering Quince
- *Clethra alnifolia*-Summersweet
- *Corylus Americana*-American Hazelnut
- *Cornus amomum*-Silky Dogwood
- *Cornus sericea*-Red-osier Dogwood
- *Cornus stolonifera*-Red Twig Dogwood
- *Cotoneaster apiculata*-Cranberry Cotoneaster
- *Cotoneaster horizontalis*-Rock Cotoneaster
- *Deutzia gracilis*-Slender Deutzia
- *Enkianthus campanulatus*-Redvein Enkianthus
- *Forsythia intermedia*-Border Forsythia
- *Hydrangea arborescens*-Smooth Hydrangea
- *Hypericum* species-St. John's Wort
- *Ilex crenata*-Japanese Holly
- *Ilex glabra*-Inkberry Holly
- *Ilex opaca*-American Holly
- *Ilex verticillata*-Winterberry

- *Itea virginica*-Virginia Sweetspire
- *Juniperus chinensis*-Juniper
- *Juniperus horizontalis*-Wiltion Juniper
- *Kalmia angustifolia*-Sheep Laurel
- *Kalmia latifolia*-Mountain Laurel
- *Kolkwitzia amabilis*-Beautybush
- *Leucothoe fontanesiana*-Drooping Leucothoe
- *Lindera benzoin*-Spicebush
- *Mahonia aquifolium*-Oregon Grape Holly
- *Myrica pensylvanica*-Northern Bayberry
- *Philadelphus species*-Mockorange
- *Photinia melanocarpa*-Black Chokeberry
- *Photinia pyrifolia*-Red Chokeberry
- *Physocarpus opulifolius*-Ninbark
- *Pieris japonica*-Japanese Pieris
- *Pinus mugo*-Mugo Pine
- *Prunus glandulosa*-Flowering Almond
- *Pyracantha coccinea*-Firethorn
- *Rhododendron catawbiense*-Hybrid Rhododendron
- *Rhododendron maximum*-Rosebay
- *Rhododendron periclymenoides*-Pinxter Flower
- *Rhododendron PJM*-PJM Rhododendron
- *Rhododendron viscosum*-Swamp Azalea
- *Sambucus Canadensis*-Common Elderberry
- *Sambucus racemose*-Red Berried Elder
- *Spiraea X bumalda*-Anthony Waterer Spirea
- *Spiraea thunbergii*-Thunberg Spirea
- *Spiraea X vanhouttei*-Vanhoutte Spirea
- *Stephanandra incisa*-Curly Stephanandra
- *Symphoricarpos albus*-Snowberry
- *Symphoricarpos orbiculatus*-Coralberry
- *Syringa meryeri*-Meyer Lilac
- *Syringa vulgaris*-Common Lilac
- *Taxus cuspidate*-Japanese Yew
- *Taxus media*-Hicks Yew
- *Vaccinium species*-Blueberries
- *Viburnum X burkwoodii*-Burkwood Viburnum
- *Viburnum carlesii*-Koreanspice Viburnum
- *Viburnum dentatum*-Arrow-wood Viburnum
- *Virburnum opulus*-Snowball Bush
- *Viburnum prunifolium*-Blackhaw Viburnum
- *Viburnum trilobum*-American Cranberry Bush
- *Weigela florida*-Weigela

Ground Covers

- *Ajuga reptans*-Bugleweed
- *Celastrus scandens*-Bittersweet
- *Clematis* species-Clematis
- *Hydrangea anomala petiolaris*-Climbing Hydrangea
- *Pachysandra terminalis*-Pachysandra
- *Parthenocissus*-Virginia Creeper
- *Parthenocissus tricuspidata*-Japanese Wisteria