

Chapter 25

Trees

Part 1

Shade Tree Commission

- §25-101. Definitions
- §25-102. Creation and Establishment of a Shade Tree Commission
- §25-103. Term of Office
- §25-104. Commission Duties and Responsibilities
- §25-105. Employees
- §25-106. Report of Commission
- §25-107. Operation
- §25-108. Obstructions
- §25-109. Utilities
- §25-110. Public Tree Care
- §25-111. Prohibited Activity
- §25-112. Deviation from Strict Compliance
- §25-113. Dead or Diseased Tree Removal on Private Property
- §25-114. Removal of Stumps
- §25-115. Work Permits and Bonds
- §25-116. Penalty
- §25-117. Municipal Immunity and Non-liability for Damages

Part 1**Shade Tree Commission****§25-101. Definitions.**

Borough—the Borough of Clarks Green.

Borough Council—the Clarks Green Borough Council.

Permit—the written approval from the Shade Tree Commission that is required before any person shall plant, prune, sever roots, or remove any street tree.

Person—any individual, firm, partnership, association, corporation, company or organization of any kind.

Personal trees—those trees on private property.

Regulations and standards of tree work (planting, maintenance and removal of street trees)—the work standards developed by the Shade Tree Commission that are required before any person shall plant, prune, sever roots, or remove any street tree.

Shade Tree Commission—the body created hereunder to have jurisdiction over all street trees.

Street trees—trees on public land or on any public right-of-way.

Substantial injury—the injury/damage that endangers the continued life of any tree.

Tree topping—the cutting back of branches to stubs or lateral branches which are not large enough to assume a terminal role.

Trees—shade or ornamental woody plants with one main trunk.

(Ord. 2-2011, 12/12/2011, §1)

§25-102. Creation and Establishment of a Shade Tree Commission.

There is hereby created and established a Shade Tree Commission (“Commission”) for Clarks Green Borough, Commonwealth of Pennsylvania, which shall consist of three members who shall be residents of this Borough and who shall be appointed by the Borough Council. Members of the Commission shall serve without compensation. Other volunteers may serve on various committees.

(Ord. 2-2011, 12/12/2011, §2)

§25-103. Term of Office.

The term of the three persons to be appointed by the Borough Council shall be for initial periods of 3 years, 4 years and 5 years respectively, and for all subsequent terms, 5 years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Borough Council for the unexpired portion of the term. At the end of each term, new Commission members may be appointed or existing Commission members may be reappointed at the discretion of the Borough Council.

(Ord. 2-2011, 12/12/2011, §3)

§25-104. Commission Duties and Responsibilities.

The Commission shall have exclusive control of street trees in the Borough and is authorized to plant, remove, maintain and protect street trees. It shall be the responsibility of the Commission to study, investigate, counsel and develop and/or update annually and administer, a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees. The Commission or its representative shall review all permit applications for tree work and will develop and revise when needed the regulations and standards of tree work that must be adhered to when working on street trees. The Commission shall develop and update a list of approved tree species recommended for personal trees to be planted adjacent to Borough roadways, streets, and State highways within the Borough. The Commission shall conduct regular and special meetings to review permit applications and discuss matters relating to street trees. The Commission, when requested by the Borough Council, shall consider, investigate, make findings, report and recommend any special matter or question coming within the scope of its work.

(Ord. 2-2011, 12/12/2011, §4)

§25-105. Employees.

The Commission may, with the approval of Borough Council, employ persons or use existing Borough employees to perform the duties and directions of the Commission and make, publish and enforce regulations for the care and protection of the street trees in the Borough.

(Ord. 2-2011, 12/12/2011, §5)

§25-106. Report of Commission.

The Commission shall annually make a written report by March 1 of each year of its activities to the Borough Council.

(Ord. 2-2011, 12/12/2011, §6)

§25-107. Operation.

The Commission shall choose its own officers, adopt its own rules and regulations and keep a record of its proceedings. A majority of the members shall constitute a quorum for the transaction of business.

(Ord. 2-2011, 12/12/2011, §7)

§25-108. Obstructions.

No tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines, or roadway or berm or sidewalk. No tree shall be planted closer than 10 feet of any fireplug. Every owner or 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 and 12 feet overhanging a street. 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 Borough shall have the right to prune any tree 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 the event the property owner neglects or refuses to maintain trees at the prescribed level with the time specified as notified in writing, the Borough may perform such work at owner's expense, in accordance with good arboricultural standards outlined in the regulations and standards of tree work.

(*Ord. 2-2011, 12/12/2011, §8*)

§25-109. Utilities.

All street trees planted under overhead primary electric utility lines shall be a species that does not obstruct the wires. They shall be trees that mature at a height of 20 to 30 feet and shall be specified by Commission.

(*Ord. 2-2011, 12/12/2011, §9*)

§25-110. Public Tree Care.

It is the duty and responsibility of the property owner or occupier of property abutting streets and highways in the Borough to properly maintain any personal tree on the property. This includes maintenance of trees, and other vegetation in a manner so as not to create a safety or liability problem for motorists, pedestrian traffic or other activities within the right-of-way. The Borough also has the right to prune, maintain and remove personal trees within the right-of-way of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Commission may remove, or cause or order to be removed, any personal tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other property and improvements. In such case, the cost of tree planting, transplanting, trimming and removal of personal trees shall be paid for by the owner of the real estate abutting the street where the work is to be done.

(*Ord. 2-2011, 12/12/2011, §10*)

§25-111. Prohibited Activity.

The following activities are hereby prohibited:

A. To plant, cut down, top, or cause to be planted, cut down or top any street tree within the Borough without a permit issued by the Commission or its representative and without the pruning being performed in accordance with ANSI-A300 National Pruning Standards. (Said standards shall apply to utility pruning and storm damaged trees).

B. To plant, cut down, prune, or cause to be planted, any street tree in the Borough without performing all work in accordance with the regulations and standards of tree work that are established by the Commission. Failure to abide by the regulations and standards of tree work shall cause the revocation of permits and penalties will be levied.

C. To plant or cause to be planted any street tree within the right-of-way of Borough streets except in accordance with spacing requirements set forth by the Commission. These spacing requirements shall establish required distances from other trees, street intersections, fire hydrants, curbs, sidewalks, underground

water or sewer.

D. The planting of any species of street tree within the Borough right-of-way, other than those approved by the Commission. A list of approved street trees shall be maintained by the Commission and made available to the public at the Borough office. Any person desiring to plant a street tree, which does not appear on the list, within the Borough right of-way shall make application to the Commission for approval of the desired species.

E. To cause or authorize in any public area, any oil, gasoline, herbicide, paint, brine, hot water, steam or other gas, liquid or solid substance deleterious to the tree to contact any street tree or to enter the soil about the base or root system of a street tree in any manner that may injure or kill it.

F. To cut or disturb roots, to obstruct free access of air and water to the roots or to maintain fires in close proximity to street trees or to undertake demolition or construction work without protecting or guarding nearby street trees, where such activity is likely to cause substantial injury or destruction of a street tree within the public right-of-way.

G. To fasten ropes, wires, cables, electric attachments, signs or other devices to a street tree within the public right-of-way.

(Ord. 2-2011, 12/12/2011, §11)

§25-112. Deviation from Strict Compliance.

Commission shall have the power in appropriate cases to permit deviations from strict compliance with this Part whenever, due to special circumstances, literal enforcement of this Part would be impossible, impractical or not in the best interest of the Borough.

(Ord. 2-2011, 12/12/2011, §12)

§25-113. Dead or Diseased Tree Removal on Private Property.

The Commission shall have the right to cause the cutting and removal of any dead or diseased street tree or personal tree on private property, if the condition of the tree, through disease or otherwise, unreasonably affects or interferes with the health, safety or welfare of the public or the right of the public to the unobstructed use of public roads or property. The Commission will notify in writing the owners of such personal trees. Removal shall be done by said owners at their own expense within 30 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Borough shall have the authority to remove such personal trees and charge the cost of cutting and removal to the property owner, which charge shall be a lien against the property.

(Ord. 2-2011, 12/12/2011, §13)

§25-114. Removal of Stumps.

All stumps of street 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 at the time of tree removal.

(Ord. 2-2011, 12/12/2011, §14)

§25-115. Work Permits and Bonds.

Any person or firm engaging in the business or occupation of pruning, treating, or removing street trees within the Borough must first apply for a permit from the Commission. Upon approval of request by the Commission, the owner of the property or the person or firm doing the work shall receive a permit and information which outlines the regulations and standards for tree work within the Borough. This permit shall not be issued unless the applicant shows proof of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$300,000 property damage indemnifying the Borough, the Commission or any person injured or damaged resulting in work done in the Borough. Permits will be valid for 6 months. If at any time tree work takes place on street trees without a permit or the required insurance bond, the individual or business shall be liable for any damage, and will be cited for doing the work without a valid permit, subject to a penalty.

(Ord. 2-2011, 12/12/2011, §15)

§25-116. Penalty.

Any person or firm violating any provision of this Part or its regulations shall be, upon conviction or plea of guilty, subject to a fine not more than the cost of replacement trees plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings or \$500, whichever is greater.

(Ord. 2-2011, 12/12/2011, §16)

§25-117. Municipal Immunity and Non-liability for Damages.

1. In addition to all other immunity, which exists at law or in equity, nothing contained in this Part shall create an obligation or duty upon the Borough or the Commission. No pedestrian, passenger, driver, owner of property or any person claiming an interest or is otherwise affected by provision of this Part shall have any claim against the Borough or the Commission for the failure to perform any duty or for performance in a negligent manner. This provision shall also extend, by explanation and not limitation, to all officers, agents, consultants, engineers, inspectors or other professionals, employees, officers or elected or appointed officials of the Borough.

2. This Part shall not be constructed to hold the Borough of Clarks Green, its Council, its Shade Tree Commission or any of their respective officers, employees or their appointed agents, (collectively referred to as "municipal parties") responsible for any damages, injuries, loss or death to a person, persons or property by reason of any activity, omission or commission, or the inspection or reinspection authorized herein or failure to plant, maintain, remove trim, prune, permit, inspect or reinspect or exception or any permit issued as herein provided or withholding of any permit, or by reason of the approval or disapproval of any tree, permit, or act authorized herein or otherwise arising under this Part. The approval of any tree or type of tree shall not constitute a representation, guaranty or warranty of any kind or nature by the municipal parties of the safety, use or from any cause whatsoever, and shall create no liability upon, or a cause of action against, the municipal parties for damage or loss that may result pursuant thereto. It is understood no duties are being created hereunder to be performed by the municipal parties for which liability may arise. Without creating any obligation on the part of the Borough or right of enforcement by non-municipal entities,

residents and owners should independently insure the compliance and continuing compliance with this Part.

(Ord. 2-2011, 12/12/2011, §17)