

Chapter 25

Trees

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Part 1**Diseases****§25-101. Diseased and/or Hazardous Plants, Shrubs and Trees Declared Nuisances.**

Plants, shrubs and trees afflicted with the Dutch elm or other diseases which threaten to injure or destroy plants, shrubs and shade trees, and hazardous plants, shrubs and trees which due to their location or condition present a hazard to the public rights-of-way in the Forest Hills Borough are hereby declared to be a nuisance.

(*Ord. 377, 7/19/1961, §1; as amended by Ord. 925, 1/22/2003*)

§25-102. Investigation of Nuisances.

A duly authorized representative or representatives of the Borough hereby are authorized to enter upon private property to investigate and determine if a nuisance as defined in §25-101 hereof exists, either upon complaint by a citizen that such nuisance exists, or on its own motion if it has reasonable cause to believe such a nuisance exists. Such entry shall be made with the permission of the occupant of said property, if it can be obtained, and if permission to enter is refused by such occupant the representative of the Borough is authorized, subject to Council's approval in each case, to apply to a court of competent jurisdiction for a warrant to authorize such entry.

(*Ord. 377, 7/19/1961, §2; as amended by Ord. 597, 6/14/1972, §1; and by Ord. 925, 1/22/2003*)

§25-103. Notice to Cut and Remove Diseased and/or Hazardous Plants, Shrubs and/or Trees.

If upon such investigation, the representative of the Borough finds that such a nuisance exists, he shall forthwith give notice in writing by certified mail to the owner of the property where the same is located to cut and remove, within 30 days from the date of such notice, the diseased plant, shrub and/or tree under such regulations as the Council shall promulgate.

(*Ord. 377, 7/19/1961, §3; as amended by Ord. 597, 6/14/1972, §2; and by Ord. 925, 1/22/2003*)

§25-104. Authority for Borough to Do Work Where Property Owners Fail to Do So.

Upon failure of any such owner to comply with such notice, the Borough shall cause the work to be done.

(*Ord. 377, 7/19/1961, §4; as amended by Ord. 597, 6/14/1972, §3; and by Ord. 925, 1/22/2003*)

§25-105. Collection of Cost of Work; Cost Constitutes Lien.

The Borough shall 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 Borough Engineer and shall be filed

with the Borough Secretary. Any such lien maybe collected by action in assumpsit, or by lien filed in the manner provided by law for the filing and collection of municipal claims.

(*Ord. 377*, 7/19/1961, §5; as amended by *Ord. 925*, 1/22/2003)

Part 2**Injury and Removal****§25-201. Definitions.**

As used in this Part the following terms shall mean: [Ord. 925]

Borough - the Forest Hills Borough, Allegheny County, Pennsylvania.

Committee - the Shade Tree and Shrub Committee of the Borough.

Council - the Council of the Borough.

Person - any natural person or corporate entity. In the application of §25-207 of this Part to a corporation, "person" means any of the officers thereof.

Private tree - any tree other than a public tree. [Ord. 925]

Public tree - a tree growing on any municipally-owned land of the Borough and any tree planted on or within the right-of-way of any public street of the Borough. [Ord. 925]

Public utility - any entity regulated by the Pennsylvania Public Utility Commission, any officer, director or employee thereof, or any other person contracted by a public utility to provide tree cutting, trimming or removal services. [Ord. 925]

Right-of-way of any public street - the land within the ordained or dedicated limits of any public street, road, highway, thoroughfare or footpath in the Borough. (Ord. 615, 11/28/1973, §1; as amended by Ord. 925, 1/22/2003)

§25-202. Permits Required; Cost of Removal; Payment of Value of Tree.

No person shall intentionally cut, mark, trim, remove or otherwise injure a public tree without first having obtained a permit therefor from the Borough. Any such activity, if permitted by the Borough, shall be at the expense of the applicant. Prior to removal of a public tree, the applicant shall also pay to the Borough the value of the tree as established by a reputable landscaper selected by the Committee.

(Ord. 615, 11/28/1973, §2; as amended by Ord. 925, 1/22/2003)

§25-203. Rules and Regulations; Administration and Enforcement.

1. Council shall adopt, by resolution, rules and regulations setting forth specific details, consistent with this Part, for the proper administration and enforcement of this Part.

2. The Borough Manager is hereby charged with the administration and enforcement of this Part, with the assistance of the Committee, in accordance with any such rules and regulations passed by resolution of Council. [Ord. 925]

(Ord. 615, 11/28/1973, §3; as amended by Ord. 925, 1/22/2003)

§25-204. Investigations Prior to Removal; Determination of Value of Tree; Notice.

1. The Borough shall cause the Shade Tree and Shrub Committee to investigate

the necessity for, or the desirability of, a tree removal. If, in the judgment of the Committee, removal is necessary or desirable, the Committee shall cause a further determination to be made by a reputable landscaper as to the value of the tree.

2. Notice of the estimate of the value of the tree and the necessity or desirability of removal shall be given to the applicant for a tree removal permit and to the Borough Manager. Notice shall be served by an adult person in the manner provided for the service of a writ of summons under the Pennsylvania Rules of Civil Procedure or sent by registered or certified mail to the resident's address of the individual to be notified. [Ord. 925]

(Ord. 615, 11/28/1973; as added by Res. 535, 11/28/1973, §2; and as amended by Ord. 925, 1/22/2003)

§25-205. Construction Near Public Trees; Parking Areas.

1. All applications for street opening permits, grading permits, zoning certificates and building permits shall be examined to determine the position of any public trees and the prospective effect of any activity contemplated by the applicant upon the public trees.

2. No ditching, grading or similar equipment shall be operated within 10 feet of any public tree.

3. Any excavation of land in the Borough or within the right-of-way of any public street of the Borough must be made without severing a public tree root larger than 2 inches in diameter.

4. Openings for pipes, conduits, etc., passing within 5 feet of the tree trunk, must be tunneled under the public tree within a 5-foot radius of the tree trunk.

5. Any change of grade on land of the Borough, or within the right-of-way of any public street of the Borough, shall not occur unless the original grade of the public trees is maintained. Such maintenance shall be in the form of a well, if the grade is raised, or a mound, if the grade is lowered. The well or mound shall be at least 6 feet in diameter around the center of the tree. The side of any well or mound shall be protected by a substantial revetment.

6. No pavement shall be located within 2 feet of any public tree.

7. No sidewalk shall be located within 1 foot of any public tree.

8. All public trees in parking areas and rights-of-way shall be examined for potential automobile bumper damage. The Committee shall determine those trees which need protection from cars and make a recommendation to Council.

9. Any construction or other work constituting a threat to public trees shall not occur until a protective barrier of suitable materials is constructed around the tree. Such barrier shall be located 7 feet from the tree.

(Ord. 615, 11/28/1973; as added by Res. 535, 11/28/1973, §3; and as amended by Ord. 925, 1/22/2003)

§25-206. Waiver of Regulations.

1. The Borough Manager, upon the recommendation of the Committee, may waive any of the provisions of this Part upon written application therefor. Notice of the decision of the Manager to waive such a provision shall be communicated to the

Committee and Council.

2. The standard for the decision of the Manager shall be that the contribution of the proposed construction or improvement to the public health, safety and welfare exceeds the diminution in the public health, safety and welfare brought about by the potential damage to the public trees by waiver of any of the provisions of this Part.

(*Ord. 615*, 11/28/1973; as added by *Res. 535*, 11/28/1973, §4; and as amended by *Ord. 925*, 1/22/2003)

§25-207. Public Utilities.

1. No public utility shall trim or remove public trees within the Borough without complying with the notice and other requirements of this Section, and without first obtaining written approval from the Committee.

2. No public utility shall trim or remove private trees within the Borough without first providing notice to the owner thereof in accordance with this Section.

3. *Notice and Approval Requirements.*

A. General notice of an intention to undertake tree trimming or removal activity within the Borough shall be given to the Borough in writing by the public utility at least 120 days in advance of the commencement of said activity. The purpose of this general notice requirement is to enable the Borough to provide notification to Borough departments, other utilities, Borough residents and the media.

B. A specific written plan indicating the type, location and nature of work to be performed on each public tree and private tree, with site diagram showing the location of each tree and a description of the proposed cut for each, and the proposed commencement date and estimated completion date of said work, shall be submitted in writing to the Borough at least 60 days in advance of the proposed work.

C. The public utility shall give written notice to the owner of any property upon which a private tree is proposed to be trimmed or removed and to the owner of any property immediately adjacent to a public tree proposed to be trimmed or removed at least 60 days in advance of the proposed activity. Written notification to the property owner shall be in the form of a door hanger or other method approved by the Committee in writing. Said form, at a minimum, shall contain check-off boxes for the following options:

(1) That the property owner has no objection to the proposed trimming activity.

(2) That the property owner requests that the tree be removed altogether.

(3) That the property owner desires to undertake trimming of the tree by a private contractor of his or her choice at his or her cost. In this event, trimming must take place within 45 days of receipt of the notice by the property owner, must be undertaken by a qualified line clearance professional, and must provide for 2 years clearance. The property owner shall not commence any trimming until receipt of written approval from the Committee.

(4) A request to further discuss the proposed activity with the Borough arborist and public utility arborist before the trimming or other activity takes

place.

D. The public utility shall provide to the Borough written evidence of written notification made to all property owners identified in subsection .3 at least 30 days in advance of trimming or removal. The utility's written plan and the aforementioned notices shall be reviewed by the Borough arborist, who in turn will forward recommendations to the Committee. The Committee will review and approve, approve with conditions or disapprove the plan. Conditions imposed will be those that promote the finding of this ordinance and sound arbor practices.

4. Before work can commence, the public utility and its contractor shall deliver to the Borough certificates of insurance for liability insurance coverage in the minimum amount of \$1,000,000 per occurrence and worker's compensation insurance as required by law.

5. In the event an eminent threat to public safety requires immediate trimming, or removal of a tree due to an act of God, accident or the like, prior notice shall be given to the Borough Police Department before any such activity is undertaken.

6. *Trimming Standards.*

A. A public utility shall employ a "just in time pruning" program limiting trimming to branches that would touch conductors in the next two growing seasons.

B. Trimming elm trees between March 15 and October 15 of any calendar year is prohibited.

C. Bench cuts and V cuts are prohibited except where specifically authorized in writing by the Committee.

D. All trimming shall be undertaken in accordance with industry standards, specifically ANSI, A-300.

E. Upon completion of trimming, trees shall have, to the maximum extent possible, the appearance and shape typical of the species trimmed.

(*Ord. 615, 11/28/1973, §2; as added by Ord. 925, 1/22/2003*)

§25-208. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with Chapter 1 of this Code.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(*Ord. 615, 11/28/1973, §4; as amended by Ord. 830, 3/18/1992; by Ord. 925, 1/22/2003;*

and by *Ord. 976*, 1/16/2008)

Part 3**Prohibited Planting****§25-301. Definitions.**

As used in this Part:

Borough - the Forest Hills Borough, Allegheny County, Pennsylvania.

Person - any natural person or corporate entity. In the application of §25-304 of this Part to a corporation, "person" means any of the officers thereof.

Right-of-way - the land within the ordained or dedicated limits of any public street, road, highway, thoroughfare, walkway or footpath in the Borough, or any land within the limits of any easement or right-of-way for storm or sanitary sewers or other utilities, including all easements in relation thereto in the Borough.

(Ord. 655, 11/17/1976, §2)

§25-302. Prohibited Trees.

No person shall plant or cause to be placed on or within any right-of-way or easement of the Borough any of the following trees:

- A. Willow - Salicaceae salix Sp.
- B. Poplar - Salicaceae populus Sp.
- C. Elm - Ulmaceae ulmus Sp.
- D. Silver Maple - Acer saccharinum (no species).
- E. Walnut.
- F. Horse chestnut and buckeye.
- G. Apple - Malus Sp. (not including those varieties commonly referred to as flowering).
- H. Peach - Prunus Sp. (not including those varieties commonly referred to as flowering).
- I. Pear - Pirus Sp. (not including those varieties commonly referred to as flowering).
- J. Plum - Prunus Sp. (not including those varieties commonly referred to as flowering).

(Ord. 655, 11/17/1976, §1)

§25-303. Rules and Regulations; Administration and Enforcement.

1. Council may adopt, by resolution, rules and regulations setting forth specific details consistent with this Part for the proper administration and enforcement of this Part.

2. The Ordinance Enforcement Officer is hereby charged with the administration and enforcement of this Part in accordance with any such rules and regulations passed by resolution of Council.

(Ord. 655, 11/17/1976, §3)

§25-304. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with Chapter 1 of this Code.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(*Ord. 655*, 11/17/1976, §4; as amended by *Ord. 830*, 3/18/1992; and by *Ord. 976*, 1/16/2008)