

CHAPTER 25

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Part 1

Maintenance of Trees and Shrubbery Along Borough Property

§101. Premises.

WHEREAS, the General Plan of In-Lots of the Borough of Beaver was laid out by Daniel Leet, Surveyor, by direction of the Governor in 1792, as recorded in the Recorder's office in and for said County of Beaver in plan Book Vol. 1, page 60, showing the streets and alleys within the In-Lots Plan; and

WHEREAS, certain other plans have been added to said In-Lots Plan and the borough limits encompassing said plans have been extended to Fair Avenue in the east, Sassafras Lane on the west, and the Townships of Vanport and Brighton Township on the north; and

WHEREAS, in the improvements of the streets and alleys in said Plans, whether in the In-Lots Plan or in any other plan within the Borough of Beaver, in many cases pavement was made of only a portion of the width of the street as shown in said Plan and curbs were set at the limits of said pavement so that a certain portion of the street, unimproved in many cases, lies between the curblines and the property line of the owners of lots within said Plan, which said unimproved portion of the street is commonly known as "the Borough strip" and which, although owned by the Borough, is generally used as a yard area by the landowners adjacent thereto; and

WHEREAS - it is deemed advisable to set forth the duties of the adjoining landowners as to trees growing upon or to be planted upon said Borough strips or on other Borough property used by adjoining landowners.

(Ordinance 558, September 11, 1973, Preamble; as amended by Ordinance 612, November 11, 1980, §1)

§102. Responsibility of Landowners. Landowners within the Borough of Beaver, whether within the In-Lots Plan or in any other plan within the Borough (hereinafter in this Part 1 referred to as landowner), shall be responsible for the care and maintenance and, if required as set forth in this Part 1 shall be responsible for the removal of trees growing within the Borough strip lying between their property line and the adjacent curblines of the improved street or alley upon which their property abuts. (Ordinance 558, September 11, 1973, §1; as amended by Ordinance 612, November 11, 1980, §2)

§103. Standards for Maintenance of Trees and Other Vegetation.¹

1. It shall be the duty of the owners of all real estate located in the Borough to trim and keep trimmed all trees and shrubs located upon their property or upon or along the abutting street or sidewalk or upon any portion of the Borough strip so that:

1. This section was not a part of Ordinance 558 but has been added during codification to further clarify Borough expectations.

A. there shall at all times be a clear space of at least fourteen feet (14') between the lowest portion of every such tree or shrub and the surface of the cartway of the street below;

B. there shall at all times be a clear space of at least eight feet (8') between the lowest portion of every such tree or shrub and the surface of the sidewalk below;

C. no portion of any such tree or shrub shall extend horizontally onto the cartway of any street at any point less than fourteen feet (14') above the surface of that street, or onto any sidewalk at any point less than eight feet (8') above the surface of that sidewalk.

2. It shall be the duty of the owners of all real estate located in the Borough or owners of such property adjacent to the Borough strip, to trim and keep trimmed, or to remove all vegetation that is growing in such a manner as to impede passage on any abutting cartway or sidewalk, whether on that real estate or on the adjacent Borough strip.

3. It shall be the duty of the owners of all real estate located in the Borough or owners of property adjacent to the Borough strip, to remove all trees, shrubs or other vegetation, and their roots, that are growing in such a manner as to cause the upheaval or disturbance of an abutting street or sidewalk, and, as directed by Council, then to make or pay for the necessary repairs or reconstruction work to eliminate the disturbance or upheaval, whether on that real estate or on the adjacent Borough strip.

4. Any failure to perform any duty required by this section shall constitute a violation of this part.

(Ordinance 621, December 14, 1983)

§104. Care and Maintenance of Trees by Landowners. A landowner, at his own expense, shall care for and maintain such trees on his property or on adjoining Borough strip, so as to keep them free from disease, free of damaged or dead limbs, and free from any other condition which may constitute a hazard to persons or property lawfully on the public street or sidewalk or entry walk. (Ordinance 558, September 11, 1973, §2)

§105. Periodic Inspections by Borough; Correction of Hazardous Conditions. It shall be the duty of an inspector, to be periodically appointed by the Borough, to determine at intervals of not less than six (6) months, whether the trees growing on the Borough strip are in good condition or whether they constitute a hazard to persons or property lawfully upon the public street, sidewalk, or upon the entry walk across said Borough strip. He shall, in the event an inspection discloses a hazardous condition of any tree, determine whether such hazard can be corrected by pruning or other treatment or whether the condition requires the removal of such tree. (Ordinance 558, September 11, 1973, §3)

§106. Landowner Notified to Abate Hazard or Remove Tree.

1. Upon such determination being made, the Borough shall notify the landowner of the condition found by its inspector and shall also notify him of the nature of the work required to be done to abate the hazard, or, if it is deemed necessary by the inspector, shall notify the landowner that he is required to remove the tree.

2. The Borough shall also notify the landowner of the time in which such removal or repair work shall be completed which shall not be less than thirty (30) days.

(Ordinance 558, September 11, 1973, §4)

§107. Duty of Landowner to Complete Work and Notify Borough of Completion. Upon receipt of that notice, the landowner shall, within the time limit, complete the repair or removal of the tree and within two (2) days after the completion of that work notify the Borough of the completion so that inspection may be made to determine that the hazard is abated or removed. (Ordinance 558, September 11, 1973, §5)

§108. Repair or Removal on Initiative of Landowner. The landowner may make such repairs as he may desire to trees on the Borough strip, or may remove those trees, provided only that at least five (5) days prior to making repair or removal, he notify the Borough of his intention, to allow the Borough inspector to determine whether protection of persons or property on the public street, sidewalk, or entry walk is required. If it is determined that protection is required, the landowner shall be notified of the required protection and shall not repair or remove trees until that protection is furnished. (Ordinance 558, September 11, 1973, §6)

§109. Replacement of Tree After Removal. Upon removal of a tree, upon the Borough strip, voluntarily or pursuant to notice, the landowner shall notify the Borough of the intention he has regarding replacement, or whether no replacement is contemplated, and shall specify the type or species of tree to be supplied and the time and place of planting. (Ordinance 558, September 11, 1973, §7)

§110. Unlawful to Injure Trees. It shall be unlawful to injure any tree now growing on any Borough property. (Ordinance 558, September 11, 1973, §8)

§111. Conditions for Attaching Wires to Trees. It shall be unlawful for any person or company to attach to any such tree any wire, other than as required for support of the tree, without permission of the Borough. (Ordinance 558, September 11, 1973, §9)

§112. Interference to View by Trees not to be Permitted. No tree shall be planted or maintained in a position which impedes or cuts off view of street or sidewalk from an intersecting street or sidewalk. (Ordinance 558, September 11, 1973, §10)

§113. Access by Borough Personnel. Anything in this Part 1 to the contrary notwithstanding, the Borough shall have the right to enter upon said Borough strip or upon adjacent property and prune or otherwise shape trees on it for the purpose of removing hazards to the fire alarm call system which extends through the Borough. (Ordinance 558, September 11, 1973, §11)

§114. Unauthorized Persons not to Trim or Shape Trees. No person, other than agents of the Borough or the landowner, upon direction of the Borough or after giving notice as provided in §108, shall have the right to trim or shape trees within the Borough strip. (Ordinance 558, September 11, 1973, §12)

§115. Authority for Borough to do Work at Expense of Defaulting Landowner. In the event that a landowner, who has been notified under §106, to abate a hazard or do other work to repair or remove a tree, and has failed or neglected to do so for a period of thirty (30) days following the notice given him so to do, the Borough may complete those repairs or removal of the tree and charge the cost thereof to the landowner, said cost or expense of repair or removal to be collected by a suit against the landowner before a district justice for the recovery of the repairs or removal of the tree. (Ordinance 558, September 11, 1973, §13)

§116. Penalty for Violation. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 1 continues shall constitute a separate offense. (Ordinance 558, September 11, 1973; as amended by Ordinance 621, December 14, 1983)

Part 2
Shade Tree Commission

§201. Purposes. The purposes of this Part are to:

A. Preserve natural, scenic, historic and esthetic values of the environment in accordance with Article 1, §27, of the Constitution of the Commonwealth of Pennsylvania.

B. Promote and protect public health and general welfare, as trees produce cleaner air by removing carbon dioxide and generating oxygen, and provide a habitat for birds that consume insects.

C. Conserve and enhance the basic character of the community and the value of property therein by making the Borough an attractive place to live.

(Ordinance 676, July 11, 1995, §201)

§202. Shade Tree Commission.

1. Creation. A Shade Tree Commission is hereby established.

2. Membership. The Commission shall have three (3) members who shall be appointed by the Borough Council. In addition, the Commission shall have two (2) alternate members, either or both of whom shall be eligible to act whenever a regular member is absent.

3. Term of Office. A member of the Commission shall serve for a term of five (5) years, except that one (1) original member shall be appointed to a term of four (4) years and one (1) original member shall be appointed to a term of three (3) years. Alternate members shall serve for a term of three (3) years. Vacancies in the office of Commissioner will be filled by the Borough Council for the unexpired portion of the term. A member shall remain in office until his or her successor is appointed or until removed by the Borough Council.

4. Compensation. A member of the Commission shall serve without any compensation.

(Ordinance 676, July 11, 1995, §201)

§203. Functions. The Shade Tree Commission shall have the following responsibilities and authority:

A. To propose regulations as to the planting, replanting, maintenance and removal of shade trees.

B. To enforce such regulations as are approved by the Borough Council.

C. To generally oversee the care and protection of the shade trees of the Borough.

D. To enforce the provisions of Part 1 of this Chapter.

E. To plant, transplant and remove shade trees along the public streets of the Borough.

F. To ascertain and to certify to the Council and the Borough Treasurer the amount of the costs of planting, transplanting or removing shade trees along public streets and such other related work as may be done by the Commission.

G. To report annually and in full to the Council on all its transactions and expenses for the preceding fiscal year.

(Ordinance 676, July 11, 1995, §203)

§204. Penalties. The Commission shall have the authority to assess penalties for the violation of approved regulations relating to shade trees. The maximum amount of any such penalty shall be six hundred (\$600.00) dollars. (Ordinance 676, July 11, 1995, §204)

§205. Final Regulations. No regulation proposed by the Commission shall be in force until it has been approved by the Borough Council and enacted as an ordinance. (Ordinance 676, July 11, 1995, §205)

§206. Authority. This Part is enacted pursuant to §§2721-2730 and 2741-2743 of the Borough Code. (Ordinance 676, July 11, 1995, §206)

§207. Effective Date. This Part shall become effective immediately. (Ordinance 676, July 11, 1995, §207)