

Chapter 25

Trees

Part 1

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

1. The following words and phrases, when used in this Part, shall have the meanings hereby ascribed to them, except in those instances where the context clearly indicates a different meaning.

Borough - the Borough of Thornburg.

Commission - the Borough Council of the Borough acting in its capacity as a Shade Tree Commission.

Nuisance tree - any tree, shrub or other woody plant, including shade trees, which have been inspected by the Mayor of the Borough or his designee, and found by the Mayor or his designee to be a nuisance due to the tree's condition, based on the tree's condition or likelihood of collapse. [Ord. 390]

Permit - any permit in writing as issued by the Borough Secretary.

Person - any natural person, firm, association, partnership or corporation.

Public highway - any street, sidewalk or alley or public right-of-way open to the public.

Secretary - the Borough Secretary in his capacity as Secretary of the Shade Tree Commission.

Shade tree - any tree, shrub or other woody plant on any public highway in the Borough, or that part of any tree, shrub or other woody plant which extends within the line of any public highway.

2. In this Part the singular shall include the plural, and the masculine shall include the feminine.

(Ord. 251, 3/9/1970; as amended by Ord. 390, 2/14/2011, §A)

§25-102. Powers of Commission.

The Commission shall have exclusive custody and control of the shade trees in the Borough and is authorized to plant, maintain and protect shade trees on the public highways in the Borough. The Commission, Borough Council, and the Mayor, or his designee, shall have the authority to order the removal of a nuisance tree.

(Ord. 251, 3/9/1970; as amended by Ord. 390, 2/14/2011, §B)

§25-103. Permit Required for Certain Acts.

1. No person shall, without first obtaining a permit therefor, cut, break, climb with spurs, injure in any manner or remove any shade tree; or cut down or interfere in any way with the main roots of any shade tree; or spray any shade tree with any chemical or insecticide; or place any rope, guy wire, cable, sign, poster or any other fixture on any shade tree or guard for any shade tree; or injure, misuse or remove any device placed to protect any shade tree, except in case of immediate necessity for the protection of life and property. No person shall put saltwater, oil or any other material

at any place in such manner that injury might result to any shade tree.

2. No person shall, without first obtaining a permit, place or hereafter maintain any stone, cement or any other substance which shall impede the passage of water and air to the roots of any shade tree unless such person shall have an open space of ground surrounding the trunk of such tree, such space to be not less than 4 feet square.

3. No person shall, without first having obtained a permit therefor, attach any electric wire, insulator or any device for the holding of an electric wire to any shade tree. Every person having any wire charged with electricity running along or through a public highway shall securely fasten such wire or place an adequate shield thereon, so that such wire shall not come into contact with any shade tree, so as not to injure the same. Whenever, in order to take down or prune any shade tree in any public highway or having branches extending over any public highway, it shall be deemed necessary to remove any wire running through or along such public highway, the owner of such wire shall temporarily remove the same or cut off the flow of current therefrom within 24 hours after service of written notice from the Commission to do so.

(Ord. 251, 3/9/1970)

§25-104. Guards near Work Areas.

In connection with any building operation or the performance of any work whatsoever in the Borough in the vicinity of any shade tree, before any work shall be commenced, guards shall be placed at all shade trees which might be affected by such work, so as effectually to prevent injury to them.

(Ord. 251, 3/9/1970)

§25-105. Trimming; Failure to Comply.

All shade trees shall be kept trimmed by the owner of the property on or abutting that on which they are located:

A. So as not to interfere with the proper lighting of the public highways by the streetlights.

B. So that the minimum clearance of any public highway of any overhanging portion thereof shall be 9 feet, provided that the Commission shall have the authority to designate a higher clearance on any public highway where heavy traffic or other conditions make it expedient.

C. If any owner shall neglect or refuse to trim any shade tree as required by this Section, upon notice in writing by the Commission, within the time limit specified in such notice, the Commission may cause such trimming to be done at the expense of such owner, and the entire cost thereof shall be a lien upon said premises. A claim therefor shall be filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected.

(Ord. 251, 3/9/1970)

§25-106. Trees and Shrubs on Private Property.

The Commission may, upon 20 days notice posted upon the property or mailed to the address of the owner as shown upon the tax assessment books, require the owners of such property to cut and remove plants, shrubs and trees afflicted with the Dutch elm

or other disease or which have died or become injured or damaged from causes known or unknown and which threaten, within the opinion of the Commission, to injure or destroy persons or property, plants, shrubs and shade trees in the Borough. Upon failure of any such owner to comply with such notice, the Borough may cause the work to be done by the Borough and levy and collect the cost thereof from the owner of the property. The cost of such work shall be a lien upon the premises from the time of the commencement of the work, which date shall be fixed by the Borough Engineer and shall be filed with the Borough Secretary. Any such lien may be collected by action in assumpsit or by lien filed in the manner provided by law for the filing and collection of municipal claims.

(*Ord. 251, 3/9/1970*)

§25-106A. Notice Period.

The notice to the owner under §25-106 may be reduced to less than 20 days if the Mayor of Thornburg or his designee determines that a shorter notice period is necessary to protect the public from a nuisance posed by any plant, shrub or tree, or if the condition of the plant, shrub or tree is so dangerous that it creates an emergency situation that must be rectified in order to protect the public.

(*Ord. 251, 3/9/1970; as added by Ord. 390, 2/14/2011, §C*)

§25-107. Application Contents; Conditions.

The application for any permit required hereunder shall be made in writing to the Secretary. It shall specify the particular kind of work or operation the applicant desires to perform thereunder and shall state the exact location and the species of any tree affected. It shall be the duty of the Secretary to submit every such application promptly to the Commission for approval or disapproval. The permit shall be effective for such length of time as the Commission shall in each case determine, and such time shall be indicated on the permit. Any such permit may be revoked at any time upon proof satisfactory to the Commission that any of the terms or conditions upon which such permit was issued are or have been violated. The Commission, in its sole discretion, may, as a condition precedent to the issuance of the permit, require the applicant to file a bond satisfactory to the Commission or to deposit security satisfactory to it to guarantee the compliance by the applicant with terms and conditions upon which such permit is issued.

(*Ord. 251, 3/9/1970*)

§25-108. Enforcement.

The provisions of this Part may be enforced by the Borough Council, the Shade Tree Commission, the Mayor, and the local police department.

(*Ord. 251, 3/9/1970; as amended by Ord. 390, 2/14/2011, §D*)

§25-109. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate

offense.

(*Ord. 251*, 3/9/1970; as amended by *Ord. 357*, 12/13/1996, §88-9; and by *Ord. 387*, 12/14/2009)