

## 1026.015 SHADE TREE COMMISSION ESTABLISHED.

(a) Creation of a Shade Tree Commission.

(1) Composition. A Shade Tree Commission is hereby established and shall be composed of seven members, of which the City Manager and a Public Works Department representative shall be permanent members. The remaining five positions shall be appointed by the Mayor and City Council for a term of five years and shall serve without compensation. At least one of the members shall be experienced in forestry, horticulture, landscape architecture or related fields. City Council has the option to further appoint a liaison from its membership to the Commission for the purpose of keeping City Council informed of Commission activities. Such liaison will be a non-voting member of the Shade Tree Commission.

(2) Appointment of non-residents. At the discretion of the Mayor and City Council, two members who reside outside the corporate limits of the City may be appointed if there are no qualified, experienced or interested residents available.

(3) Vacancies. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

(b) Authority of the Shade Tree Commission. The Shade Tree Commission shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites. All actions to plant new trees, prune (canopy and root) and/or remove existing trees shall be taken following a public meeting. Advertisements for such meetings shall be in accordance with the Sunshine Act of the Commonwealth of Pennsylvania. The by-laws of the Shade Tree Commission shall determine the frequency of said meetings and the agenda for each.

(1) Condition of permit. The Shade Tree Commission shall have the authority to affix reasonable conditions to the granting of a shade tree work permit. Permits must be submitted to the Commission for the planting, pruning (canopy and root), removal of trees, as well as laying down barriers or storage underneath a tree, which may damage the trees' general health.

(2) Master shade tree plan. The Shade Tree Commission shall have the authority to formulate a master shade tree plan. Public hearings will be held as necessary. The master street tree plan shall specify the species of trees to be planted on streets or other public sites of the Municipality, a citywide tree planting strategy, and a correct standard for tree trimming and maintenance. The Commission, in making its decisions, shall use the master shade tree plan. From and after the effective date of the master shade tree plan, or any amendment thereof, all planting shall conform thereto.

A. The Shade Tree Commission shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the Municipality.

B. The Shade Tree Commission shall have the authority to amend or add to the master shade tree plan at any time that circumstances make it advisable.

(c) Operation of the Shade Tree Commission. The Commission shall choose its own officers, make its own rules and regulations, unless otherwise stated by ordinance, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The Commission shall be required to submit to City Council an annual report of its activities and official actions.

(Ord. 4820. Passed 2-28-01.)

## 1026.02 PERMIT REQUIRED; TIME LIMITS FOR COMPLETION.

(a) Permits Required.

(1) Planting, maintenance or removal. No person, firm or utility shall plant, prune (canopy and root), remove, cut or otherwise disturb any tree on any street or municipal-owned property without first filing an application with the Public Works Department and procuring a permit from the Shade Tree Commission.

A. A permit must be obtained and be on file in the Office of the Public Works indicating approval of and permission by the Shade Tree Commission, in writing, for the action to be taken. If a contractor is to do the work sought, the contractor must be authorized by permit. The name, address and telephone number of the contractor must be identified on the permit.

B. Applications for permits must be made at the Office of the Public Works. The cost of the permit is ten dollars (\$10.00).

C. The application for the permit requires the location; the number of trees to be removed and/or replaced; species/variety of each tree; the name of the individual or contractor removing, trimming or planting

said tree(s); the presence of electric, water, and sewer lines; distance from intersections; proximity to neighboring trees; and other information the Shade Tree Commission deems necessary to determine whether a permit should be issued. The Shade Tree Commission shall issue the permit provided for herein, when, in their judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature.

D. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

(2) Removal, damage, replanting and replacement. No person or property owner shall remove or damage a tree from public property for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Shade Tree Commission. The person or property owner shall bear the cost of removal and replacement of all trees. Stumps shall be removed below ground level so that the top of the stump shall not project above the surface of the ground.

(3) Emergency removal. When an emergency condition or situation exists such as trees severely damaged by acts of nature (e.g., lightning, storm, automobile accident) or similar situations, and when it has been determined that the tree(s) poses an immediate and specific threat to public safety, pedestrian or vehicular traffic or property, the Commission or City Manager may authorize immediate removal of the tree without Commission review or permit.

(4) Severe site constraints. In cases where there exists a severe site constraint so that compliance with this chapter would directly result in a danger to the public health, welfare and/or safety, the Shade Tree Commission may waive any or all necessary requirements. For purposes of this section, "site constraint" is defined to mean the location, use, and/or existing physical condition or features of the site, where compliance will interfere with the following:

- A. Overhead or underground utilities;
- B. Utility poles, signs, fire hydrants, or parking meter standards;
- C. Reduce visibility necessary for public safety; and/or
- D. Crowd or confine tree growth.

(b) Violation and Penalty. The City Manager, or his designee, is authorized to enforce this chapter and issue violation notices. Any person, business or entity who shall violate any of the provisions of this chapter, or who shall fail to comply with any of the requirements thereof, shall, upon conviction thereof, be fined no less than twenty-five dollars (\$25.00) and no more than three hundred dollars (\$300.00). Said fine may include a separate restitution in an amount equal to the replacement value of the tree or value of damage committed. Each day on which a violation occurs or continues shall be deemed a separate offense. The imposition of any fine for any violation of this chapter shall not excuse such violations or permit the same to continue.

(c) Appeal Process. An applicant aggrieved by the Shade Tree Commission's denial of their application to remove or trim a tree, may appeal to the City Council.

(1) Written notice. Applicant must file written notice of such an appeal with the City Manager within ten days of receiving notice of denial from the Shade Tree Commission.

(2) Action by City Council. The City Council shall act on the appeal within thirty days of the date of appeal to review and either affirm or reverse the denial. In considering the case, the City Council shall include in its review a "finding of fact" prepared by the Shade Tree Commission. Failure of the Council to act within the thirty day period shall result in automatic granting of the approval per the original application.

(3) Council findings. The City Council may affirm or reverse the determination of the Shade Tree Commission and shall either adopt or modify the findings of fact by the Shade Tree Commission, of which, may be reduced to writing or may be entered into the minutes.

(Ord. 4820. Passed 2-28-01.)

#### 1026.03 PERMIT APPLICATIONS; REVOCATION; CONDITIONS FOR ISSUANCE; BOND.

(a) An application for any permit required under this chapter shall be made in writing to the Bureau of Parks, Department of Public Works. Such permit shall describe the work to be done, specify species or variety, size, nursery grade and location, and briefly specify the method of planting, method of support and trimming of all trees or shrubs concerned and contain a definite expiration date. The Bureau shall have the authority to designate a suitable type of tree and may refuse a permit to plant any type of tree which, in its opinion, is not

suitable to the location. The permit may be revoked at any time upon proof, satisfactory to the Bureau, that any of the terms or conditions upon which such permit was issued has been violated.

(b) The Bureau, at its discretion, may, as a condition precedent to the issuance of a permit, require a contractor, authorized by the homeowner to plant a tree, to guarantee such tree for one year against defects in materials or workmanship. If death of the tree results within this time period for either of such reasons, the contractor will incur the cost of removal, the cost for a new tree and the cost of replanting for each tree planted. All trees shall be removed so that the stump is not more than three inches higher than the ground.

A contractor hired to trim or remove a tree must file a bond with the Bureau, sufficient to cover injury to any person or property damage.

(Ord. 4234. Passed 4-8-81.)

#### 1026.04 LOCATIONS.

##### (a) Specifications for selecting, planting, and maintenance of street trees.

###### (1) Preferred tree species.

A. All plant materials used shall be selected from the official list published and revised by the Shade Tree Commission in the master shade tree plan. Only plant material grown in nurseries shall be procured for shade tree planting. Trees should be true to form and typical of the species.

B. The use of any tree other than those mentioned above shall require the approval of the Shade Tree Commission.

C. Not all trees on this list are suitable for all situations. The Shade Tree Commission shall determine suitability. Additionally, as new varieties are developed and existing ones improved, this list shall be amended.

###### (2) Tree specifications.

A. Each tree shall meet the Rules of Arbor Work, adopted by reference and made a part of these Codified Ordinances, as if fully set forth herein. The Shade Tree Commission may amend said rules when then-current arbor standards are revised.

B. As different trees require different soil conditions, it may be necessary to add amendments or replace existing soil prior to planting.

(b) Planting Locations. The actual location of each individual tree shall be determined upon due consideration of visibility, proximity of utility poles, overhead and guy wires, driveways, and underground utility installations. No landscaping, tree, or shrub shall be maintained in the vicinity of any corner, street, intersection, or accessway intersecting a public right-of-way that is an obstruction to visibility, interferes with the clear sight triangle requirements, extends into street corner visibility areas, or is a traffic hazard.

(1) Visibility at intersections. On a corner lot in any zone, a clear sight triangle shall be provided at all street and alley intersections. Within such triangles, no vision-obstructing object other than utility poles shall be permitted.

###### (2) Planting specifications.

A. Planting specifications shall conform to the Rules of Arbor Work, adopted by reference and made a part of these Codified Ordinances, as if fully set forth herein. The Shade Tree Commission may amend said rules as then-current arbor standards are revised.

B. Any nursery stock may be planted during any period of the year when the soil is frost-free.

C. If balled and burlapped, the twine covering the upper half of the ball shall be rolled back or cut away after the plant has been set. If stock is grown or wrapped in a non-biodegradable container, the container or wrap (i.e., plastic, treated burlap) shall be removed before planting.

D. The planting hole shall be backfilled three-quarter full with soil, followed by at least five gallons of water. When the water has been absorbed, the hole shall be filled with topsoil and tamped lightly to finished grade and followed with an additional five gallons of water. An area of no less than fifteen square feet shall remain open (free of bricks, concrete, asphalt, etc.), around the base of the tree unless otherwise approved by the Shade Tree Commission.

E. Upon completion of the transplanting operation, the landowner may apply three inches of bark mulch over the planting area to retain moisture and prohibit weed growth.

(Ord. 4820. Passed 2-28-01.)

#### 1026.05 CARE AND MAINTENANCE; NONCOMPLIANCE; REMEDY OF CITY.

(a) Obstruction - Trees Pruned. It shall be the duty of any person or persons owning or occupying real estate bordering on any street upon which property there may be trees, to prune such trees in such a manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or marginal access street intersection.

(1) Notice to prune. Should any person or persons owning real estate bordering on any street fail to prune trees as provided herein, the Public Works Department shall order such person or persons, within a specified number of days after receipt of written notice, to so prune trees.

(2) Order required. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

(b) Abuse or Mutilation of Shade Trees. Unless specifically authorized by the Shade Tree Commission, no person shall intentionally damage, cut, carve, transplant, or remove any tree; climb with spurs; attach rope, wire, nails, advertising posters, or other contrivance to any tree; store construction or other materials and equipment which may be hazardous; allow any gaseous, liquid, or solid substance, which is harmful to the continued vitality of trees, come in contact with them; or set fire or permit any fire to burn when such fire or the heat therefrom will injure any portion of any tree.

(c) No person shall, without first obtaining a permit therefor, place any stone, cement or other substance which impedes the passage of water and air to the roots of any shade tree, unless such person has an open space of ground surrounding the trunk of such tree.

(d) No person shall pour salt water, oil or any other material at any place in such a manner that injury might result to any shade tree.

(e) Tree topping. It shall be unlawful as a normal practice for any person or firm to top any shade tree. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(Ord. 4234. Passed 4-8-81; Ord. 4820. Passed 2-28-01.)

#### 1026.06 PROTECTION OF TREES DURING CONSTRUCTION.

In the erection or repair of any building or structure, the builder, contractor or owner thereof shall place such guards around all nearby trees on the public street or highway as will effectively prevent injury to them.

(Ord. 4234. Passed 4-8-81.)

#### 1026.07 NOTICE TO TRIM OR REMOVE; NONCOMPLIANCE; REMEDY OF CITY.

Any person owning a shade tree which is deemed by the Bureau of Parks, Department of Public Works, to be a danger to public welfare and property by reason of its damaged or diseased condition or its not being maintained in compliance with Section 1026.05, will be notified, in writing, to remove or trim the tree, as appropriate, within such time as is therein specified. If the notice to remove or trim the tree is not complied with within the time period specified in the notice, the Bureau may cause the removal or trimming, as appropriate, to be done at the expense of the property owner and the entire cost thereof shall be a lien upon such premises and a claim therefor shall be filed and collected by the City Solicitor in the same manner as Municipal claims are filed and collected.

(Ord. 4234. Passed 4-8-81.)

#### 1026.08 REMOVAL OF ELECTRICALLY CHARGED WIRES.

Any person having any wire charged with electricity running through a public street or highway shall temporarily remove any such wire or the electricity therefrom when it is necessary in order to take down or prune any tree growing in a public street or highway, within twenty-four hours after the service upon the owner of such wire, or his or her agent, of a written notice to remove the wire or the electricity therefrom, upon the request of the Bureau of Parks, Department of Public Works, unless such person elects to do the necessary work on the tree involved.

(Ord. 4234. Passed 4-8-81.)

#### 1026.09 RESPONSIBILITY FOR DAMAGES TO SHADE TREES.

Any person using or traveling upon any public street or highway who damages any shade tree meeting the minimum clearance requirement of Section 1026.05(a) shall be liable to the tree owner for any damage to the tree resulting from such person's use or traveling upon such street or highway. This section shall not relieve any tree owner from such owner's responsibility to comply with any notice issued under Section 1026.07.

(Ord. 4234. Passed 4-8-81.)