

PART A

TREES

Section 101. Definitions. For the purpose of this ordinance, the following terms shall have the following meanings:

a. **Arborist** shall mean the Arborist/Horticulturist of this Borough of State College, supervised by the Director of Public Works.

b. **Borough.** The Borough of State College.

c. **Commission.** The Tree Commission of the Borough.

d. **Council.** The Council of the Borough.

e. **Department.** The Department of Public Works of the Borough.

f. **Director.** The Director of the Department of Public Works or his/her designee.

g. **Manager.** The Manager of the Borough or his/her designee.

h. **Notice.** Notice shall mean either publication in a newspaper of general circulation once a week for two consecutive weeks or written notification sent by first class mail to property owners immediately affected, or notification posted on the affected tree. Notice of public hearings shall be published and sent to affected property owners within 30 calendar days of the hearing date.

i. **Person.** Any individual, firm, partnership, association, corporation, company or organization of any kind and includes the plural of each.

j. **Public Area.** Any public right-of-way, park, easement or other area under the control of the Borough.

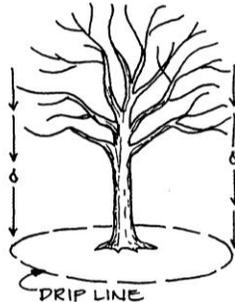
k. **New Tree.** Any tree planted by the Borough in a public right-of-way, except a replacement tree.

l. **Replacement Tree.** A tree planted in a location formerly occupied by another tree.

m. **Work Days.** Monday through Friday, excluding legal holidays when Borough offices are closed.

n. **Tree Protection Zone.** The 3-dimensional area within the drip line, including from the crown to the root system of each public tree.

o. **Tree Drip Line.** A line derived by the horizontal line extending along a radius from the trunk of a tree to the outermost tips of branches.



p. **Public Tree.** Any tree located in a public right-of-way, park, easement, or other area under the control of the Borough.

(Ordinance 1254, September 25, 1989, Section 101, as amended by Ordinance 1618, April 3, 2000, Section 101.)

Section 102. Tree Commission.

a. **Creation and Membership.** A Tree Commission is hereby created which shall consist of 5 members, all of whom shall be residents of the Borough. At least 2 of the members shall be professionals in forestry, horticulture, plant pathology, entomology, landscape architecture or related fields.

Members of the Commission shall be appointed by Council for staggered terms of 3 years. The first member shall be appointed to serve 1 year. The second and third members appointed shall serve 2 years, and the fourth and fifth members appointed shall serve 3 years. Thereafter, each member appointed shall serve 3 years.

The members of the Commission shall serve without pay but they may be reimbursed for actual authorized expenses within the funds budgeted for such activities by Council.

A vacancy on the Commission, which occurs for reasons other than the expiration of a term, shall be filled by Council for the unexpired portion of the term.

b. **Organization, Records and Meetings.** Members of the Commission shall elect a Chairman, Vice-Chairman, and such other officers as they may determine necessary. All officers shall be eligible for reelection.

The Commission shall keep a written record of its meetings in accordance with law. The Commission shall provide Council with minutes and annual or other reports of its activities, as may be requested or required.

For the purpose of taking action, a quorum of 3 members must be present.

c. Responsibilities. The Commission shall have the following responsibilities:

(1) The Commission shall advise the Director and the Arborist on the planting, maintenance and removal of trees. Such advice may include:

- (a) Recommendations of tree species for public areas;
- (b) Recommendations for controlling diseases and pests damaging trees;
- (c) Recommendations for tree maintenance;
- (d) Recommendations for a public education/information program concerning the importance and care of trees; and
- (e) Recommendations on Departmental rules and regulations regarding tree planting, maintenance and removals.

(2) The Commission, through the Department, shall prepare for Council's approval a Plan for street trees in the Borough. The plan should include a list of existing trees (including species and location). The Plan should also include suggested policies for the planting of trees (including suitable species for various environments and spacing of trees). The Plan may also identify locations for new plantings, desirable specie changes, etc.

In developing the plan, the Commission should consult with the Director and Arborist and may consult with other Borough Authorities, Boards and Commissions. The Plan should recognize the benefits of a public tree program and the need to control expenses (both in the short- and long-term) of planting, maintenance, removals, clean-up and all other costs associated with a tree program. The Commission shall review the Plan annually and/or at other times, at the request of the Director.

(3) The Commission may, with the approval of Council, solicit and accept grants and contributions on behalf of the Borough. All funds obtained by the Commission shall be expended for the specific purpose(s) or under the stipulations set by the contributor or the Commission with specific approval of Council.

(4) The Commission shall conduct all Public Hearings required by this Chapter. After hearing testimony, the Commission may make recommendations to the Director concerning the subject of the Hearing.

(5) In accord with Section 103.d of this ordinance, the Commission shall hear appeals by property owners of notifications by the Director to eliminate immediate hazards on private property.

(6) The Commission may, at the request of the Arborist, review land development plans to determine the impact of such plans on public trees and to make recommendations on steps needed to mitigate said impacts.

(Ordinance 1254, September 25, 1989, Section 102, as amended by Ordinance 1618, April 3, 2000, Section 102.)

Section 103. Authorized Activity. The Department is hereby authorized, but is not limited to, to perform the following activities in regard to trees:

a. Adopt Policies Rules and Regulations. Policies, rules and regulations may be adopted to control tree trimming, cabling, spraying, root cutting, and other work on trees by contractors, abutting property owners, and/or others.

b. Select and Plant New Trees in Public Areas. If a plan has been approved by Council in accord with Section 102.c, selection and planting of new trees should generally be in accord with that Plan. Prior to the planting of any new tree in the right-of-way, a Public Hearing shall be held to hear comments from property owners who will be assessed. Notice of the Hearing shall include the address, location, and species of trees to be planted.

c. Potentially Hazardous Trees on Private Property. Trees on private property, which, in the opinion of the Arborist or Director, are sufficiently damaged, diseased or in such condition as to contribute a potential hazard to the public or to other trees on public property, may be ordered removed, partially removed, or treated. Property owners so ordered shall have 10 days following receipt of the order to appeal, through the Director, to the Tree Commission. The Tree Commission shall hear the appeal and make a determination within 10 days of the receipt of the appeal. Decisions of the Commission shall be appealable as provided by law. Appeals to the Tree Commission shall be recorded and decisions shall be written and shall include findings of fact. Following a determination by the Commission that said tree should be removed, partially removed or treated, the property owner shall comply within 5 days. If the property owner shall fail or refuse to remove or treat said tree, the property owner shall be subject to the penalty specified in Section 108.b. In addition, the Director is authorized to remove said hazardous tree or portions thereof. All costs for such work shall be assessed and, if not paid, shall be a lien against the property in accord with Section 104.

d. Immediate Hazards on Private Property. When, in the opinion of the Arborist or the Director, a tree or portion(s) of a tree on private property which is infected with Dutch Elm

Disease or otherwise constitutes an immediate hazard to the public or other trees on public or private property, the property owner shall immediately be notified of the hazard and requested to eliminate it. If the hazard is not eliminated, the matter shall be considered by the Commission at a public meeting. In the absence of a quorum of the Commission, the matter shall be considered at the next meeting of Borough Council. Upon determination that the tree is an immediate threat or hazard, the

Director is authorized to remove or order the removal of the tree or portion of the tree after 5 days' notice to the property owner. All costs for such work shall be assessed and, if not paid, shall be a lien against the property in accord with Section 104.

e. Potentially Hazardous Trees in Public Areas. Trees in public areas, which, in the opinion of the Arborist or the Director, are seriously damaged, diseased, disfigured or constitute a hazard to the public or to trees on private property, may be removed or pruned by the Director. Prior to tree removals from public rights-of-ways, notice shall be provided to the property owner(s) immediately adjacent to the tree(s) to be removed. Notice shall also be provided to the Council and the Mayor. The property owner may appeal the removal to the Director, Council and the Mayor. If not satisfied with the Director's decision, the property owner may appeal to the Manager. At any time prior to a decision by the Manager, the property owner, the Director or the Manager may request an advisory opinion by the Commission.

f. Immediate Hazards in Public Areas. When, in the opinion of the Arborist or the Director, a tree or portion(s) of a tree in public areas constitutes an immediate hazard to persons or property, the Arborist or Director shall remove the hazard without notice or appeal.

g. Trees/Maintenance Operations. Maintain all trees; administrative budget involving tree maintenance; reporting on tree maintenance activities.

h. Review of Land Development Plans.

(1) Concept Plan. The Planning Department shall forward 1 copy of any concept (preliminary) plan submitted for review to the Planning Department to the Arborist, or his or her designee, for a review of the proposed land development's affect on any public tree(s). Within 15 working days of the receipt of a concept plan from the Planning Department, the Arborist, or his or her designee, shall provide the Planning Department with written comments on the affect of said land development on any public tree(s).

(2) Final Plan. The Planning Department shall forward 1 copy of any development plan submitted for review and approval to the Planning Department to the Arborist, or his or her designee, for a review of the proposed land development's affect on any public tree(s). Within 15 working days of the receipt of a development plan from the planning department, the Arborist shall provide the planning department with written comments on the affect of said land

development on any public tree(s).

i. Review of Zoning Permit Applications. All applications for driveway permits and zoning permits for demolition, construction or expansion of any 1- or 2-family dwelling shall be referred to the Arborist, or his/her designee, for review as provided for hereunder.

Within 2 working days of the receipt of the driveway or zoning permit application from the Zoning Officer, the Arborist shall determine the need for and location of the tree protection zone fencing around all public trees located on or adjacent to the site.

Where determined necessary by the Arborist or his/her designee, the property owner shall install or cause to be installed a staked construction fence at least 4 feet high, or alternative as approved by the Arborist, around all portions of the tree protection zone located on public property, excluding any portions occupied by sidewalks, street cart way, curbs/gutters or a driveway.

No activity is permitted within the tree protection zone without a permit issued in accordance with Section 106 of this ordinance. Any activity occurring within a tree protection zone in violation of this ordinance shall be addressed as provided for in Sections 107 and 108 of this ordinance.

(Ordinance 1254, September 25, 1989, Section 103, as amended by Ordinance 1618, April 3, 2000, Section 103.)

Section 104. Payments, Assessments, Liens. The cost of planting new trees and planting in the public areas, together with the cost of necessary guards, curbing, grates, sidewalks, or grading, shall be paid by the owner of the abutting property. Replacement trees shall be planted at no cost to the owner. All costs of tree removal, partial removal, or treatment ordered by the Arborist, Director, or Commission, for trees on private property shall be paid by the owner of the property on which such trees are located. Owners shall have an opportunity to make written objections to proposed assessments, which objections shall be considered by the Council prior to approval. All costs incurred in repairing or replacing trees, as provided in Section 108, shall be assessed.

The amount each property owner is to pay shall be determined and certified by the Director to the Manager and approved by Council. Thereafter, the Finance Director of the Borough shall cause 30 days' written notice to be given to each person against whose property an assessment has been made. The notice shall state the nature and amount of the assessment and the time and place for payment thereof.

The amount assessed against the real estate shall be a municipal claim from the time of approval by the Council and, if not paid within the time specified in the notice, may be filed and collected by the Borough Solicitor in the same manner as municipal claims are, by law, recoverable.

(Ordinance 1254, September 25, 1989, Section 104, as amended by Ordinance 1618, April 3, 2000, Section 104.)

Section 105. Easements. The Borough is authorized to accept easements from property owners to plant and maintain trees on private property within 12 feet of the boundary of a public area. Such easements shall be in writing, executed, and acknowledged by such property owners, and shall be recorded in the office of the Centre County Recorder of Deeds. (Ordinance 1254, September 25, 1989, Section 105, as amended by Ordinance 1618, April 3, 2000, Section 105.)

Section 106. Permits. The Department is authorized to issue permits for certain work on Borough trees by persons not Borough employees. Permits shall be required for the following acts:

- a. Planting, treating, pruning, removing, or otherwise disturbing any tree located in public areas or within any tree protection zone;
- b. Trimming, pruning, or removing any tree or portions thereof, including limbs and roots, if such tree or portions thereof may reasonably be expected to fall in public areas and cause damage to persons or property, or interfere with pedestrian or vehicle traffic using the public rights-of-way or public easements;
- c. Placing in public areas or within any tree protection zone, either above or below ground level, a container for trees, shrubs or other plants;
- d. Transplanting any tree located in public areas or within any tree protection zone;
- e. Attaching any rope, wire, nail, sign, poster, or similar man-made object to any tree located in public areas;
- f. Damaging or cutting roots by tunneling, trenching, or digging in public areas or within any tree protection zone for the purpose of sidewalk, curb, pipe, conduit, electric wire, etc., installation and repair.
- g. Storage of construction materials within the tree protection zone;
- h. Soil compaction within the tree protection zone; or
- i. Construction of a cur cut and/or driveway within the tree protection zone.

Permits shall be in writing and shall specify the work permitted and the time period, not exceeding 1 year. All work shall be performed in accord with the Department's "*Rules and Regulations for Arbor Work.*" Such permits may be revoked by the Director if the terms and

conditions of the permit or the “*Rules and Regulations for Arbor Work*” are violated. Revocations may be appealed, in writing, to the Manager within 5 workdays of that notice of revocation.

Nothing in this Section shall be construed to exempt abutting property owners, public utility companies, or other agents from any of the requirements of this Chapter.

(Ordinance 1254, September 25, 1989, Section 106, as amended by Ordinance 1618, April 3, 2000, Section 106.)

Section 107. Violations. It shall be unlawful for any person to carry out any of the following activities without a valid permit issued by the Department under the provisions of Section 106 of this Chapter:

a. Cut, break, prune limbs or trunks, climb with spikes, disturb or prune the roots of, store construction materials or compact soil, or otherwise injure or destroy trees in any public area or to authorize such actions. It shall not be considered a violation to trim limbs or roots or perform other activities with a valid permit from the Department specific to the tree(s) involved in accord with Section 106 of this Chapter.

b. Cause or authorize a wire or other conductor charged with electricity to come into contact with any tree in any public area or within any tree protection zone in a manner that may injure or kill it without a written permit from the Department, specific to the tree(s) involved.

c. Cause or authorize in any public area or within any tree protection zone, any oil, gasoline, herbicide, paint, brine, hot water, steam or other gas, liquid or solid substances deleterious to the tree to contact any tree or to enter the soil about the base or root system of a tree in any manner that may injure or kill it.

d. Interfere, cause or authorize an interference with the Borough or any of its agents or employees while they are engaged in planting, inspecting, maintaining or removing trees.

e. Supervise or authorize construction, alterations, repairs or demolition activities in the vicinity of any tree in any public area or within any tree protection zone without first placing sufficient guards or protectors as shall prevent injury or destruction of said tree arising out of such activities. The placement of guards or protectors shall be in accord with Department rules and regulations or with written authorization of the Arborist or the Director.

f. Place or maintain upon the ground any asphalt, cement, stone or other material or substances in such manner as may obstruct or further obstruct free access of air and water to the roots of any tree in any public area or within any tree protection zone.

g. Fasten any rope, wire, electric attachment, sign or other devices to any tree in any

public area or to any guard about such tree without written permit from the Department specific to the tree(s) involved.

h. Plant, prune, fertilize, or apply fungicides, insecticides or other chemical substances to any tree in any public area or within any tree protection zone without a written permit from the Department specific to the tree(s) involved.

i. Remove or tamper with any object or device set for the protection or treatment of any tree in any public area or within any tree protection zone without a written permit from the Department specific to the tree(s) involved.

j. Pile any building material or make any mortar or cement within 6 feet of any tree in any public area or within any tree protection zone.

k. Hitch or fasten any animal, bicycle or vehicle to any tree in any public area.

l. Construct site access, whether permanent or temporary, within any tree protection zone.

m. Construct a curb cut and/or driveway within any tree protection zone.

(Ordinance 1254, September 25, 1989, Section 107, as amended by Ordinance 1618, April 3, 2000, Section 107.)

Section 108. Penalties. Any person violating the provisions of this Chapter shall, upon conviction before a District Justice of appropriate jurisdiction, be liable to pay costs of prosecution and a fine as follows:

a. For willfully injuring or killing a living tree in any public area or within any tree protection zone by cutting, debarking, breaking, by the use of herbicides, use of a vehicle, or in any other manner wherein it is determined by the District Justice that such damage or destruction was intentionally inflicted, a fine of not less than \$100.00 nor more than \$600.00 plus the cost of prosecution and value of the destroyed or damaged tree and/or cost of repair shall be levied. The value of the tree or trees removed shall be determined by a certified Borough Arborist or other certified Arborist selected by the Borough using a valuation method approved by the International Society of Arboriculture. If the person found guilty of violating this Section is an abutting property owner, the cost of repair or replacing the damaged tree shall be assessed against the property in accord with Section 104 of this Chapter.

b. For failure of a property owner to remove, partially remove or treat a tree on private property, as ordered in accord with this ordinance, the guilty person shall be fined not more than \$100.00 per day. Each day the property owner remains in violation shall constitute a separate offense.

c. For all other violations, where it is determined by the District Justice that such damage or destruction was not intentionally willfully inflicted, a fine of not less than \$25.00 nor more than \$100.00 plus the cost of repairing or replacing the damaged tree shall be levied. The value of the tree or trees removed shall be determined by a certified arborist using a valuation method approved by the International Society of Arboriculture. If the person found guilty of violating this Section is an abutting property owner, the cost of repair or replacing the damaged tree shall be assessed against the property in accord with Section 104 of this Chapter.

In default of the payment of such fine and costs, such person shall be committed to the County Jail for a period not to exceed 10 days for each violation or a maximum of 30 days.

(Ordinance 1254, September 25, 1989, Section 108,¹⁰ as amended by Ordinance 1618, April 3, 2000, Section 108, and by Ordinance 1696, February 7, 2002.)