

CHAPTER 25

TREES

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PART 1

TREES

§101. Short Title.

This Part shall be known and may be cited as the “Tree Ordinance of the Borough of Sewickley, Pennsylvania.”

(Ord. 1152, 10/16/1995, §1)

§102. Definitions.

As used within this Part, the following terms shall have the meanings set forth in this Section:

DIAMETER AT BREAST HEIGHT, (D.B.H.) — a tree’s diameter in inches measured by a diameter tape at 4 1/2 feet from the surface of the ground. On trees having multiple stems, the largest diameter stem will be measured.

DRIPLINE — the approximately circular vertical extension to the ground of the outermost branches and/or leaves of the tree as an indication of the spread of the root system.

HAZARD ZONE — of a tree is the area inside a circle whose radius is equal to the height of the tree, the center being the trunk.

LARGE TREES — are designated as those attaining a height of 45 feet or more.

MEDIUM TREES — are designated as those attaining a height of 30 to 45 feet.

PARKS — any Borough public spaces designated for recreation and/or conservation.

PROPERTY LINE — the legal boundary line between private and city owned land.

PROPERTY OWNER — that person owning such property as shown by the Block and Lot Records of Allegheny County, State of Pennsylvania.

PUBLIC SITE — any other ground owned by the Borough.

PUBLIC TREES — includes all trees now or hereafter growing on any street, park or any other public site.

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REMOVE or REMOVAL — the removal of all above and below ground parts, including the stump and roots.

SMALL TREES — designated as those under 30 feet.

STREETS, ALLEYS, HIGHWAYS or WAYS — the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

TREE –

- A. Any living plant with needles or scale type leaves that has a well defined stem or stems with a diameter of at least six inches at 4 1/2 feet from the surface from the ground.
- B. Any living, self-supporting woody broad leaf plant that has a well-defined stem or stems with a diameter of at least two inches at 4 1/2 feet from the surface of the ground.
- C. Any living self-supporting woody plant that has a well-defined stem or stems which has been intentionally cultivated and established.

TREE COMMISSION — the five members appointed by Council.

TREE LAWN — that part of a street not covered by a sidewalk or other paving, lying between the property line and that portion of the street usually used for vehicular traffic.

(Ord. 1152, 10/16/1995, §2)

§103. Establishment of a Tree Commission.

1. A Tree Commission is hereby established, and the same shall consist of at least five members and shall serve without compensation. The membership positions shall be filled in conjunction with the procedure of appointments by the Council of the Borough of Sewickley.
2. After initial staggered terms of one member for one year, one member for two years, one member for three years, one member for four years and one member for five years, each Commission member shall serve a five-year term of office. Any appointed member of the Commission may be removed from office for just cause by Council. An appointment to fill a vacancy shall be only for the unexperienced portion of the term.
3. Officers. Prior to January 31 of each year, the Tree Commission shall meet and elect a member to serve as chairperson. The chairperson shall have the authority to call and conduct meetings of the Commission, and to receive all permit applica-

tions, correspondence and other materials on behalf of the Commission. The secretary of the Commission shall be elected by the Commission and shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations.

4. Meetings.
 - A. The Tree Commission shall meet once a month and shall hold its first meeting following the enactment of this Part.
 - B. All members of the Commission shall be entitled to vote and the decision of the Commission shall be determined by a majority vote of the Commission.
 - C. The Chairperson may call a special meeting, or in his/her absence, any two Commissioners may call a special meeting.
5. Professional Services. The Tree Commission may retain the services of qualified professionals, with the prior approval of the Borough Manager, within the budgetary limits established as may be necessary to facilitate the function of the Tree Commission.
6. Annual Budget and Reports. The Tree Commission will be required to submit budgets and annual reports to the Borough Manager in the manner and date as determined by the Borough Manager's office.

(Ord. 1152, 10/16/1995, §3)

§104. Duties and Responsibilities.

1. The Tree Commission, when requested by Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. The Tree Commission shall study the problems and determine the needs of the Borough in connection with its tree planting program.
2. The Tree Commission shall recommend to the Borough Manager and Public Works Director the type and kind of trees to be planted upon such Borough streets or parts of Borough streets or in parks as designated.
3. The Tree Commission shall assist the Borough Manager, as well as the Council and Citizens of the Borough, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property and to make such recommendations from time to time to Council as to desirable legislation concerning the tree planting program and activities for the Borough. The Tree Commission shall work in conjunction with civic and public interest groups devoted to tree care and preservation.

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4. The Tree Commission shall convene regular and special meetings at which the subject of trees, insofar as it relates to the Borough, may be discussed by members of the Tree Commission, officers and personnel of the Borough and its several divisions and all others interested in the tree program.
5. The Tree Commission shall be responsible for reviewing plans for residential, commercial and industrial developments in order to ascertain the number and size of trees proposed to be removed from building sites and to make recommendations concerning the retention of existing trees on said sites and the planting of new trees in areas where trees have been removed.
6. The Tree Commission shall have the authority to investigate and recommend "reasonable conditions" to the granting of a permit in accordance with the terms of this Part.
7. The Tree Commission shall have the responsibility of inventory (and classifying as to location, species, size, condition and evaluation) the existing public trees, as an integral part of the Master Tree Plan. This inventory shall be updated annually.
8. The Tree Commission shall consider all existing and proposed buildings, utilities and environmental factors when recommending the planting of a specific species or other work for all streets and public sites within the Borough.
9. The Tree Commission shall have the authority to amend or add to the Master Tree Plan at any time that circumstances make it advisable.
10. The Tree Commission shall develop and maintain a list of desirable large, medium and small trees for planting in parks, along streets and on other public sites based on mature height. Lists of trees not suitable for planting in these areas shall also be created by the Tree Commission.
11. The Tree Commission shall have the authority to formulate a Master Tree Plan. The Master Tree Plan shall include the inventory of existing public trees and shall specify the requirements for the care, preservation, pruning, planting, replanting and removal or disposition of trees in parks, along streets and on other public sites and shall specify the species of tree to be planted in these areas. The Master Tree Plan shall be updated and presented to Council annually and upon their acceptance and approval shall constitute the official comprehensive Master Tree Plan for the Borough. From and after the effective date of the Master Tree Plan, or any amendment thereof, all planting shall conform thereto.

(Ord. 1152, 10/16/1995, §4)

§105. Public Tree Care.

1. Public Tree Care. The Borough shall have the right to plant, prune, maintain and remove all public trees, as may be necessary to insure public safety or to preserve

or enhance the symmetry and beauty of public sites. The Tree Commission may remove, or cause to be removed, any public tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious disease, insect or fungus.

2. Distance Requirements.
 - A. No tree shall be planted closer than 30 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines.
 - B. No tree shall be planted closer than 10 feet from any fire hydrant.
 - C. All trees are to be planted equidistant from curb or street line and sidewalk line in concurrence of Tree Commission approval.
 - D. No trees may be planted closer than 30 feet from any other tree, except in special plantings designed or approved by the Tree Commission.
3. Additional Plantings. This Section does not prohibit the planting of a tree along streets by property owners providing that the selection of said tree is in accordance with §104(10) of this Part. No property owner shall plant a tree within the right-of-way without first obtaining a permit from the Zoning Officer.
4. Abuse and/or Mutilation of Public Trees. Unless specifically authorized by the Borough Council, no person or firm shall intentionally damage, cut, carve, transplant, whether above or below ground, or transplant or remove any public tree; attach any rope, wire, nails, advertising posters or other contrivance to any public tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or heat therefrom will injure any portion of any public tree. No person shall pour salt water or a chemical or chemicals upon any street or right-of-way in such a way as to injure any tree planted or growing thereon. The Borough shall not use excessive amounts of anti-icing materials in the maintenance of roads.
5. Placing Materials on Public Property. No person shall deposit, place, store or maintain upon any public place or the Borough, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any public tree growing therein, except by written approval of the Borough Council.
6. Protection of Public Trees.
 - A. All public trees located near any excavation or construction of any building, structure, or street work shall be guarded with a good substantial fence, frame or box not less than four feet high placed at the dripline. All laborers, building material, dirt or other debris shall be kept outside this barrier. The Borough Council may permit a variance in cases where the barrier would

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impede the flow of traffic on a street, private street or driveway and where the dripline overhangs a building or permanent structure.

- B. No person shall excavate any ditches or trenches within the dripline of a public tree or lay any drive within 15 feet of a public tree without first obtaining the written approval of the Borough Council.

(Ord. 1152, 10/16/1995, §5)

§106. Removal, Replanting and Replacement of Public Trees.

1. Replanting. Whenever it is necessary to remove a public tree in connection with the paving of a sidewalk or the widening of the portion of a street or highway, the Borough shall cause to replant the tree or replace it with a species listed in §104(10) of this Part. This requirement will be satisfied if an equivalent number of trees are planted at the nearest appropriate location as determined by the Tree Commission.
2. Other than public employees on Borough business, no person shall remove or cause removal of a public tree for the purpose of construction or any other reason without the written permission of the Tree Commission. The Tree Commission may require replacement of a removed tree as a condition to said Commission's approval. Such replacement shall be in accordance with the species listed in §104(10) of this Part. The person or property owner shall bear the cost of removal and replacement of all public trees removed.
3. Topping of Public Trees. It shall be unlawful for any person, utility, firm or Borough Department to top any public tree. "Topping" is defined as the severe cutting back of limbs so as to remove the normal canopy and disfigure the tree. Public trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this Part at the determination of the Tree Commission.

(Ord. 1152, 10/16/1995, §6)

§107. Trees on Private Property.

1. It shall be the duty of any person owning real property bordering on any street upon which private property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct the vision of traffic signs or obstruct the view of any street intersection. Said persons shall remove all dead, diseased or dangerous trees, or broken decayed limbs which constitute a menace to the safety of the public in accordance to the rules and regulations set forth by the Shade Tree Commission. The minimum clearance of any overhanging portion thereof shall be eight feet over sidewalks, and 15 feet over all streets.

- A. Notice to Prune. Should any person or persons owning real property bordering on any street fail to preserve, maintain or remove as herein above provided the Borough Council shall order such person or persons, 30 days after receipt of written notice, to preserve, maintain or remove.
 - B. Order Required. The order herein shall be served by regular mail or by personal service or posting to the last known address of the property owner.
 - C. Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Borough to prune such trees and to recover from the property owner the cost of services rendered, and to lien the property for such costs and all costs associated with such lien.
2. The Borough shall have the right to cause the removal of any trees on property within the Borough, when such trees constitute a hazard to life and property of others or is affected with any injurious disease, insect or fungus.
- A. Notice to Remove. Should any person or persons fail to remove trees as herein provided, Sewickley Borough Council shall order such person or persons, within 10 days after receipt of written notice, to remove such trees.
 - B. Order Required. The order herein shall be served by regular mail or by personal service or posting to the last known address of the property owner.
 - C. Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Borough to remove such trees and to recover from the property owner the cost of services rendered, and to lien the property for such costs and all costs associated with such lien.
3. Permits. A permit issued by the Borough shall be required of any one owner removing, or causing the removal of any public or private tree whose hazard zone falls upon public land. The requirements for said permit shall be as follows:
- A. The permit fee shall be established by resolution of Council.
 - B. Tree Commission will render a decision within 30 days after the date of application. Decisions shall state the reasons for approval or nonapproval, and also state remedies as well as deadlines to appeal to Council.
 - C. In the event of an emergency, the Tree Commission chairperson or designee may, upon review with the Borough arborist or tree expert, issue a permit for the appropriate work to be performed.

(Ord. 1152, 10/16/1995, §7)

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§108. Public Utility Companies.

1. No public utility or contractor in the employ of a public utility shall maintain, trim or remove trees located in the public right-of-way within the Borough of Sewickley without approval from the Tree Commission.
2. A written plan indicating the type of tree, location of tree, proposed work to be performed on tree and amount of time for work is to be forwarded to the Borough Manager's office.
3. The written plan shall be forwarded to the Borough Manager's office 60 days in advance of proposed work.
4. The written plan will be reviewed by the Borough arborist or tree expert with recommendation(s) forwarded to the Tree Commission.
5. The Tree Commission will review and approve, approve with conditions or disapprove the plan. The review of the Commission will be based on the Master Tree Plan on file with the Borough. Conditions imposed will be those that promote the findings at the beginning of this Part. All decisions rendered by the Tree Commission shall state the reasons for approval, approval with conditions or disapproval. Also contained in decisions shall be stated the rights of applicant to appeal.
6. Before work can begin, the public utility and its contractors shall deliver certificates of insurance for liability insurance coverage and workman's compensation insurance.
7. In the event of emergencies due to Acts of God or Acts of Nature, trimming or removal may be done to the minimal extent for public safety and property, prior notice shall be given to the Borough Manager or designee.
8. In the event any public utility removes or trims trees without approval of the Tree Commission, it shall be subject to a fine of not more than \$600 plus costs and legal restitution 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. If, as the result of the violation of any provision of this Part, the injury, mutilation or death of a tree is caused, the cost of replacement value of trees shall be determined in accordance with the latest revision of Valuation of Landscape Trees, Shrubs and Other Plants as published by the International Society of Arboriculture and said replacement paid by the public utility. [Ord. 1159]

(Ord. 1152, 10/16/1995, §8; as amended by Ord. 1159, 2/19/1996)

§109. Interference With the Tree Commission.

No person shall hinder, prevent, delay or interfere with the Tree Commission, or any of its agents, while engaged in carrying out the execution or enforcement of this Part on public or private property; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Borough.

(Ord. 1152, 10/16/1995, §9)

§110. Registration of Tree Experts.

To protect the public, the Borough shall require any person or firm engaged in the business of maintenance and/or removal of public and private trees whose hazard zone falls upon public land to be licensed by the Borough. Additionally, any property owner removing public or private trees whose hazard zone falls upon public land shall first obtain a permit issued by the Borough.

- A. A class “A” license is required to prune, maintain or remove trees in public property. Requirements for a class “A” license shall be as follows:
 - (1) The license fee shall be in an amount as established from time to time by resolution of Borough Council. [Ord. 1159]
 - (2) Before any license shall be issued, each applicant shall first file evidence verifying:
 - (a) Coverage by workman’s compensation, in force.
 - (b) Liability insurance coverage in the minimum amount of \$500,000 for bodily injury and damage to property to cover and save harmless the Borough and its agents from all suits, claims or actions or every Borough and its agents from all suits, claims or actions or every class and nature for or on persons or property damage caused or claimed to be caused, directly or indirectly by the conduct of the work contemplated, or by acts of strangers, or any conditions due to the elements or any defects or insufficiencies in any method, material, ways, machinery, equipment or apparatus used in connection with the work.
 - (c) Work must be performed under the supervision of a certified arborist, certified by the International Society of Arboriculture, and certification on file with Borough.
 - (d) All licensed persons and/or companies shall operate under the current ANSI guidelines.

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- (e) All licensed persons and or companies shall perform work according to the National Arborist Association standards and accepted arboricultural practices.

(Ord. 1152, 10/16/1995, §10; as amended by Ord. 1159, 2/19/1996)

§111. Establishment of Fund.

A capital reserve account within the various funds of the Borough, known as the "Tree Commission Capital Reserve Account" is hereby established which is to be utilized for the receipt of license and permit fees, bond monies generally, grant monies, damages, penalties and donations. Disbursement shall be solely for the purpose of encouraging the planting, maintenance and relocation of public trees within the Borough under the jurisdiction of the Tree Commission. Requests for disbursements shall be in conjunction with the Borough's annual budget and administered through the Borough Manager's office.

(Ord. 1152, 10/16/1995, §11)

§112. Appeal Procedure.

Any adjustment of the standards required by this Part or an appeal of a decision of the Tree Commission shall be taken to Council. Council, upon receipt of the request, on an approved Borough form, shall have the authority and duty to consider and act upon the request. This application shall clearly and in detail state what adjustments or requirements are being sought, reasons such adjustments or requirements are being sought, reasons such adjustments are warranted and shall be accompanied with such supplementary data as is deemed necessary to substantiate the adjustment. Council may approve, modify or deny the requested adjustment, based upon the protection of public interest, preservation of the intent of this Part and possible unreasonable hardships involved in the case. Council shall act on the application as expeditiously as possible and shall notify the applicant in writing within 10 days of the action taken.

(Ord. 1152, 10/16/1995, §12)

§113. Penalties.

Any person or firm violating any provision of this Part or who fails to comply with any notice issued pursuant to the provisions of this Part, upon conviction thereof, shall be subject to a fine not to exceed \$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 during which any violation of the provisions of the Part shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Part, the injury, mutilation or death of a tree is caused, the cost of replacement value of such tree shall be borne by the party

in violation. The replacement value of trees shall be determined in accordance with the latest revision of Valuation of Landscape Trees, Shrubs and Other Plants as published by the International Society of Arboriculture and said replacement value paid by the public utility.

(Ord. 1152, 10/16/1995, §13; as amended by Ord. 1159, 2/19/1996)