

CHAPTER 25

TREES

PART 1

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PART 1

SHADE TREES

§25-101. Short Title.

The short title of this Part shall be the "Shade Tree Ordinance."

(Ord. 346, 11/9/1982, §1)

§25-102. Borough Council to Act in Lieu of Shade Tree Commission.

Borough Council shall, in lieu of a Shade Tree Commission, exercise all the rights and perform all the duties and obligations concerning shade trees specified in this Part and in the Borough Code.

(Ord. 346, 11/9/1982, §2)

§25-103. Shade Tree Defined.

The term "shade tree" shall mean any tree, shrub or any other wood type plant or vegetation on any public highway or public right-of-way in the Borough of Wormleysburg, or that part of any tree, shrub or other plant which extends within the line of any public right-of-way of the Borough of Wormleysburg.

(Ord. 346, 11/9/1982, §3; as amended by Ord. 413, 5/12/1998, §2; and by Ord. 428, 6/11/2002, §1)

§25-104. Powers of Borough Council.

The Borough Council shall have the exclusive custody and control of the shade trees in the Borough and Borough Council shall be authorized to plant, remove, maintain, authorize the removal and protect shade trees situate within the legal rights-of-way of the streets and highways of the Borough and on public property.

(Ord. 346, 11/9/1982, §4; as amended by Ord. 428, 6/11/2002, §1)

§25-105. Regulations.

Borough Council reserves the right to adopt and enforce regulations for the care and protection of the shade trees of the Borough, and to designate such shade trees which can only be planted within the legal rights-of-way of the streets and highways of the Borough and on public property.

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(Ord. 346, 11/9/1982, §5; as amended by Ord. 361, 4/8/1986; and by Ord. 428, 6/11/2002, §1)

§25-106. Notices by Borough Council.

Whenever Borough Council shall propose to plant, transplant or remove shade trees or tree stumps on any street, notice of the time and place of the meeting at which such work is to be considered shall be given in one newspaper of general circulation in the Borough at least 2 weeks preceding the time of the meeting at which such shall be considered. The notice shall specify the street address or the streets or portions upon which the shade trees are proposed to be planted, replanted or removed.

(Ord. 346, 11/9/1982, §6; as amended by Ord. 428, 6/11/2002, §1)

§25-107. Payment by Owners.

The cost of planting, transplanting or removing any shade tree in or along the streets and highways and within the legal rights-of-way of the streets and highways within the Borough, and the cost of necessary and suitable guards, curbing or grading for the protection thereof, and the cost of the replacing of the pavement or sidewalks necessarily disturbed in the execution of such work, shall be paid by the owner of the real property abutting or owning where the work is done.

(Ord. 346, 11/9/1982, §7; as amended by Ord. 428, 6/11/2002, §1)

§25-108. Removal of Diseased Plants, Shrubs and Trees.

1. The Borough Council may, upon 30 days prior written notice, either on its own volition or upon petition of a resident, require the owner(s) of property to cut and remove plants, shrubs and trees, afflicted with a disease or for any other reason, which threatens to injure or destroy plants, shrubs, shade trees or public or private property in the Borough. The removal of any shade tree shall include removal of the stump to at least 12 inches below ground level. Borough Council or its designee shall notify the property owner of any plant, shrub or shade tree which is deemed to be diseased or to be removed as herein described. The owner shall have the right to contest the determination that said plant, shrub or shade tree need to be removed as herein described. If the owner elects to contest the removal, the owner shall notify the Borough Manager within 10 days from receipt of the written notice that the owner's plant, shrub or shade tree is to be removed and Borough Council shall schedule a hearing thereon within 30 days of receipt of said notice of contest by owner.
2. If the owner does not comply with the written notice, the Borough may contract or cause the work to be done by the Borough, and levy and collect the costs thereof

from the owner(s) of the property. The cost of such work shall be a lien upon the premises from the time of the commencement of the work, and said lien be filed by any authorized Borough official including its Solicitor. Any such lien may be collected by a civil action or by lien filed in the manner provided by law for the filing and collection of municipal claims.

3. For any plant, shrub or tree removed by either the Borough or the owner of the property, the owner shall plant a replacement plant, shrub or tree within six months of the plant, shrub or tree being removed. The plant, shrub or tree chosen by the owner of the property to be replanted shall be listed on the Borough's Recommended Street Tree Planting List. If the owner elects to contest the required replanting, the owner shall follow the procedure set forth for contesting the removal of a plant, shrub or tree.

(Ord. 346, 11/9/1982, §8; as amended by Ord. 428, 6/11/2002, §1; and by Ord. 476, 10/14/2008, §9)

§25-109. Height Above Streets and Sidewalks.

It shall be unlawful for any person, firm or corporation owning or having a present interest in any real property in said Borough to permit branches or limbs of any shade tree growing in or adjacent to any street or highway in said Borough to remain at a distance of less than 12 feet from the surface of the cartway or gutter of any street or highway or at the distance of less than 8 feet from the surface of a sidewalk or grass plot in said Borough.

(Ord. 346, 11/9/1982, §9; as amended by Ord. 428, 6/11/2002, §1)

§25-110. Assessments and Liens.

Upon the filing of the certification pursuant to §25-108 or §25-109 hereof by the Borough Council, the Borough Manager shall cause 30 days written notice to be given to every person against whose property an assessment has been made. The notice shall state the amount of the assessment, the time and place of payment, and shall be accompanied by a copy of the certification. The amount assessed against the real property shall be a lien from the time of filing of the certification by Borough Council and if not paid within the time designated in the notice, a municipal claim may be filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected by law.

(Ord. 346, 11/9/1982, §10; as amended by Ord. 428, 6/11/2002, §1)

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§25-111. Penalties.

All persons violating the provisions of this Part shall, upon summary conviction, be fined not less than \$25 nor more than \$600 and/or imprisonment for a term not to exceed 90 days. Each day that a violation continues or occurs shall be deemed a separate offense. All penalties or assessments imposed under this Part shall be paid to the Borough Treasurer.

(Ord. 346, 11/9/1982, §12; as amended by Ord. 413, 5/12/1998, §2; and by Ord. 428, 6/11/2002, §1)