

Chapter 25

Trees

Part 1 Shade Tree Committee

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Part 1**Shade Tree Committee****§25-101. Short Title.**

This Part shall be known and may be cited as the “Municipal Shade Tree Ordinance” of the Ferndale Borough, County of Cambria, State of Pennsylvania.

(*Ord. 441, 10/11/1993, §1*)

§25-102. Definitions.

For the purpose of this Part the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is mandatory and not merely directory.

Municipality—the Borough of Ferndale, Cambria County, Pennsylvania.

Park—all public parks. (The Shade Tree Committee and the Borough Council should decide who will maintain trees on public property other than along streets such as adjacent to Borough buildings, within public parks, etc.)

Person—any person, firm, partnership, association, corporation, company, or organization of any kind.

Principal thoroughfare—any street upon which trucks are not prohibited.

Property line—the outer edge of a street or a highway.

Property owner—the person owning such property as shown by the County Assessor’s Plat of Cambria County, State of Pennsylvania.

Public places—all other grounds owned by the Borough of Ferndale, County of Cambria, State of Pennsylvania.

Public trees—all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.

Shade Tree Committee—the body under whose jurisdiction all street trees fall.

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

(*Ord. 441, 10/11/1993, §2*)

§25-103. Establishment of Shade Tree Committee.

1. There shall be created a committee to be known and designated as the “Shade Tree Committee.” The committee shall consist of seven members, all of whom shall be residents of the Borough. All will serve without compensation.

A. Two members shall serve for 3 years, two for 4 years, and three for 5 years.

B. On the expiration of the term of any member, a successor shall be appointed by the Borough Council to serve for a term of 5 years.

C. Vacancies in the office of Chairman shall be filled by the Borough Council for the unexpired term.

2. The duties of the Shade Tree Committee shall be as follows:

A. *General Powers.* The committee shall have exclusive custody and control of the public trees in the Borough, and is authorized to plant, remove, maintain, and protect public trees on the public streets and property within the Borough. The Shade Tree Committee has exclusive control over public trees, and the property owners are responsible for proper maintenance of these trees.

B. Specific duties include, but are not limited to:

(1) To study the problems and determine the needs of the Ferndale Borough, County of Cambria, State of Pennsylvania, in connection with its tree management program.

(2) To recommend to the proper authority the type and kind of trees to be planted upon such Borough streets or parts of Borough streets or in parks as is designated.

(3) To assist the properly constituted officials of the Borough, as well as the Borough Council and the citizens of the Borough, in the dissemination of news and information regarding the selection, planting, and maintenance of trees with the corporate limits, whether the same be on private or public property, and to make such recommendations from time to time to the Borough Council as to desirable legislation concerning the tree program and activities for the Borough.

(4) To provide regular and special meetings at which the subject of trees insofar as it relates to the Borough may be discussed by the members of the Committee, officers, and personnel of the Borough and its several divisions, and all others interested in the tree program.

C. That within a reasonable time after the appointment of said Committee and the approval of the members thereof, upon call of the Borough Council, said Committee shall meet and organize by the election of a Chairman. The said Committee shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Committee shall deem advisable and necessary in order to perform the duties set forth.

(Ord. 441, 10/11/1993, §3)

§25-104. Permits Required.

1. *Planting, Maintenance, or Removal.*

A. No person shall plant, spray, fertilize, preserve, prune, remove, cut, or otherwise disturb any tree on any street or Borough-owned property without first filing an application and procuring a permit from the Shade Tree Committee. The person receiving the permit shall abide by the standards of practice adopted by the Shade Tree Committee.

B. Application for permits must be made with the Chairman of the Shade Tree Committee not less than 48 hours in advance of the time the work is to be done.

C. The Shade Tree Committee shall issue the permit provided for herein if, in his or their judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. 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.

D. Permitted tree work must conform to standards contained in the Borough's "Tree Care Manual."

E. Notice of completion shall be given within 5 days to the Shade Tree Committee for their inspection.

2. *Planting.*

A. *Application Data.* The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Shade Tree Committee shall find reasonably necessary to make a fair determination of whether a permit should be issued.

B. *Improper Planting.* Whenever any tree shall be planted or set out in conflict with the provisions of this Section, it shall be lawful for the Shade Tree Committee to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

3. *Maintenance.*

A. *Application Data.* The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Shade Tree Committee shall find reasonably necessary to a fair determination of whether a permit should be issued.

4. *Removal, Replanting, and Replacement.* No person or property owner shall remove a tree from the tree lawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Shade Tree Committee, and without replacing the removed tree or trees in accordance with the adopted specifications. Such replacement shall meet the standards of size, species, and placement as provided for in a permit. The person or property owner shall bear the cost of removal and replacement of all trees removed.

(Ord. 441, 10/11/1993, §6)

§25-105. Obstruction-Trees Pruned.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which 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 vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be 10 feet over sidewalks, and 12 feet over all streets except truck thoroughfares

which shall have a clearance of 16 feet.

A. *Notice to Prune.* Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the Shade Tree Committee shall order such person or persons, within 3 days after receipt of written notice, to so prune such trees.

B. *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.

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 the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

(Ord. 441, 10/11/1993, §7)

§25-106. Abuse or Mutilization of Public Trees.

Unless specifically authorized by the Shade Tree Committee, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any 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 the heat thereof will injure any portion of any tree.

(Ord. 441, 10/11/1993, §8)

§25-107. Interference with the Shade Tree Committee.

No person shall hinder, prevent, delay, or interfere with the Shade Tree Committee or any of their assistants while engaged in carrying out the execution or enforcement of this Part, regulations, etc.; 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. 441, 10/11/1993, §9)

§25-108. Protection of the Trees.

1. All trees on any street or other publicly owned property 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 4 feet high and 8 feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.

2. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permit from the Shade Tree Committee.

(Ord. 441, 10/11/1993, §10)

§25-109. Placing Materials on Public Property.

No person shall deposit, place, store, or maintain upon any public place of 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 tree growing therein, except by written permit of the Shade Tree Commission.

(*Ord. 441*, 10/11/1993, §11)

§25-110. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$1 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 441*, 10/11/1993, §12; as amended by *Ord. 489*, 10/13/2014)

§25-111. Emergency.

This Part is hereby declared to be of immediate necessity for the preservation of public peace, health, and safety, and shall be in full force and effective from and after its passage and publication as provided by law.

(*Ord. 441*, 10/11/1993, §13)

