
ARTICLE 167
Shade Tree Commission, Shade Trees

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167.01 Definitions

The following words or combination of words when used in this Ordinance shall have the meanings now ascribed to them:

- a.) City: The City of Franklin, a municipal corporation, or the municipal limits of said City, as the context shall indicate.
- b.) Person: A natural person, partnership, limited partnership, firm, association, or corporation.
- c.) Public Area: A public street right of way, public way, public alley, public sidewalk, or public park.
- d.) Street Tree: A street tree is any shade tree or ornamental tree, shrub, bush, or other woody vegetation located within the right of way of any public street, highway, or public alley in the City. (Note: The street right of way extends well beyond the physical street.) (Ord. 3 of 1997, Sect. 1 (1), Passed 2-3-97)
- e.) Property Owner: The owner of private property in the City, whether an individual or individuals, partnership, limited partnership, firm, association, or corporation.
- f.) Shade Tree: A tree that is grown primarily to produce shade, such as an oak or maple tree, with any flowers or fruit being of secondary importance. (Ord. 3 of 1997, Sect. 1 (2), Passed 2-3-97)

- g.) Ornamental Tree: A tree, typically smaller than a shade tree, that features showy flowers or diminutive fruit, such as decorative species of crab apple or pear tree. (Ord. 3 of 1997, Sect. 1 (2), Passed 2-3-97)

167.02 Shade Tree Commission

- a.) A Commission is hereby reestablished and known as the Shade Tree Commission of the City of Franklin, and is herein designated the Commission.
- b.) The Commission shall be composed of seven (7) individuals, who may be residents or non-residents of the City of Franklin, herein designated the Commissioners. (Ord. 4 of 2004, Sect. 1, Passed Finally 06/07/2004; Ord. 6 of 2010, Sect. 1, Passed 7-12-10)
- c.) The present Shade Tree Commissioners under the present Shade Tree Ordinance of the City shall continue to serve as Commissioners for the remainder of their unexpired terms and appointments shall be made in order to keep the Commission with two members serving with a five-year term ahead, one with a four-year term ahead, one with a three-year term ahead, two with a two-year term ahead, and one with only one year. (Ord. 6 of 2010, Sect. 2, Passed 7-12-10)
- d.) The Commissioners shall be appointed by the Mayor and ratified by City Council to serve for a term of up to five (5) years. A vacancy in the office of the Commission shall be filled by a new appointment by the Mayor to fill the unexpired term.
- e.) The Commissioners shall serve without compensation.
- f.) The Commission shall choose its own officers and keep a written record of the proceedings. A majority of members present shall be a quorum for the transaction of business.
- g.) The Commission shall make a budget recommendation annually to City Council for care of street trees in the City. The Commission will manage its budget and follow the normal approval procedures for spending City funds.
- h.) The Commission may employ arborists or other professionals as consultants for the proper management of street trees in the City. (Ord. 3 of 1997, Sect. 2, Passed 2-3-97)
- i.) The Commission may solicit and accept grants and contributions.

- j.) The Commission shall prepare an annual report to City Council summarizing its activities and expenses.
- k.) The Commission shall make, publish, and, after approval by City Council and after publication as required by law, enforce regulations for the care and protection of street trees, including the regulation of the planting, trimming, care, protection, and removal of said street trees. The City Manager or his designee shall continue to oversee the planting and maintenance of trees and other vegetation incidental to parks, playgrounds, or watershed areas owned by the City. (Ord. 3 of 1997, Sect. 2, Passed 2-3-97; Ord. 6 of 2010, Sect. 3, Passed 7-12-10)

167.03 Street Tree Planting

- a.) Any property owner who wants to plant a street tree in front of or beside his property shall first file a signed Tree Planting Application with the Commission in the form and with information required by the Commission. (Ord. 6 of 2010, Sect. 4, Passed 7-12-10)
- b.) Before a street tree is planted, the Commission or its authorized designee shall approve the Tree Planting Application. For any tree planted that does not meet all the planting specifications approved by the Commission or its authorized designee, the Commission or its authorized designee may direct the property owner to either transplant or remove the tree at the effort and/or expense of the property owner. If the property owner does not act as directed within twenty (20) days written notice from the Commission or its authorized designee, the City may arrange for the work to be done, and bill the property owner for the cost. (Ord. 6 of 2010, Sect. 5, Passed 7-12-10)
- c.) The official list of acceptable varieties and species of trees is maintained by the Commission. The planting of any variety or species of street tree requires written authorization from the Commission or its authorized designee. (Ord. 6 of 2010, Sect. 6, Passed 7-12-10)
- d.) The required minimum spacing between street trees varies with the three size classes and is as follows: Small trees, twenty (20) feet; Medium trees, thirty (30) feet; Large trees, forty (40) feet.
- e.) No street tree is to be planted which will interfere with the safe line of sight of vehicular traffic. The determination of the safe line of sight is made by the City Engineer, if there is any doubt.
- f.) No street tree shall be planted less than twenty (20) feet from an intersection nor less than ten (10) feet from a fire hydrant or utility pole.

- g.) No street tree other than a Small tree may be planted within ten (10) vertical feet of any overhead utility wire or within five (5) lateral feet of any underground waterline, sewer line, transmission line, or other utility.
- h.) The minimum planting distance of street trees from a curb, sidewalk, and driveway varies with the three size classes and is as follows: Small trees, eighteen (18) inches; Medium trees, two (2) feet; Large trees, three (3) feet.

167.04 Street Tree Trimming

- a.) The property owner may arrange to trim or prune any or all street trees on the street right-of-way adjoining his property at any time without notifying the Commission. If the trimming or pruning is done for hire, rather than by the property owner, then the person or firm hired must be an arborist licensed by the City. (Ord. 3 of 1997, Sect. 3, Passed 2-3-97)
- b.) The property owner is hereby required to trim and remove, from time to time, any and all branches hanging over any public walk or street that may obstruct or interfere with the proper and convenient use of the public walk or street by the public, to the height of ten (10) feet from the surface of the public walk or street. If the property owner does not remove the branches extending over the public walk or street in a timely manner, then the Commission or its authorized designee may give written notice to the property owner to remove the branch or branches within twenty (20) days, and thereafter the City may arrange for the removal, and bill the property owner for the cost. (Ord. 6 of 2010, Sect. 7, Passed 7-12-10)
- c.) All telephone, electric, gas, cable, fiber optic, and any other utility company, and its agent or agents, are hereby prohibited from cutting the branches of any street tree, or from removing any street tree, for any purpose whatsoever, without the consent of the Shade Tree Commission or its authorized designee. (Ord. 6 of 2010, Sect. 8, Passed 7-12-10)
- d.) It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

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 Ordinance at the determination of the Commission or its authorized designee. (Ord. 6 of 2010, Sect. 9, Passed 7-12-10)

167.05 Street Tree Removal

- a.) No street tree is to be removed without a written permit approved by the Commission or its authorized designee. The only exception to this is emergency removal of storm damaged or other hazardous trees by the City as provided by Section 123.04 of Article 123 of the Codified Ordinances of the City of Franklin or as directed by the Commission or its authorized designee as provided by in this Ordinance in the subsection titled "Section Six. Dead, Dying, and Diseased Trees." (Ord. 6 of 2010, Sect. 10, Passed 7-12-10)
- b.) As a condition to any permit to remove any street tree, the Commission or its authorized designee may require that the property owner plant a suitable replacement tree, at the expense of the property owner. (Ord. 6 of 2010, Sect. 10, Passed 7-12-10)
- c.) The stumps of all street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- d.) If the property owner does not arrange to remove the stump below the level of the ground or does not place a replacement tree, if the permit requires one, then the Commission or its authorized designee may give written notice to the property owner of twenty (20) days, and following that the City may arrange for the removal of the stump and/or the planting of the replacement tree and bill the property owner for the cost. (Ord. 6 of 2010, Sect. 11, Passed 7-12-10)
- e.) The property owner is also responsible for the cost of any necessary repair work to the sidewalk and curb following the removal of any street tree.

167.06 Dead, Dying, and Diseased Trees

- a.) The Commission or its authorized designee shall have the right to cause the removal of any dead or diseased street trees or limbs of street trees. (Ord. 6 of 2010, Sect. 12, Passed 7-12-10)
- b.) In a non-emergency situation the Commission or its authorized designee will notify, in writing, the property owner of the necessity of removing the tree or limb within twenty (20) days. If the property owner does not arrange to remove the tree or limb within twenty (20) days, the City may arrange to remove the tree or limb and bill the property owner for the cost. (Ord. 6 of 2010, Sect. 13, Passed 7-12-10)

- c.) In an emergency situation where there is immediate hazard to life and/or property, such as a street tree with a contagious disease or severe insect infestation or a dead tree with heavy weakened limbs, the Commission or its authorized designee may arrange for the immediate removal and proper disposal of the tree without any prior notice to the property owner and at the expense of the property owner. (Ord. 6 of 2010, Sect. 14, Passed 7-12-10)

167.07 Signs and Cables Prohibited

- a.) It is unlawful for any person to affix in any manner a sign, cable, wire, or conduit to a standing tree or a part or branch of a standing tree within a public area within the City, except a cable or wire may be used to connect and support limbs of the tree.

167.08 Shade Tree Damage

- a.) In the event of a shade tree within a public area of the City being damaged or destroyed by any person, whether intentionally or inadvertently, the Commission or its authorized designee may make a charge to that person for repairs to the tree or for loss of the tree. Also, in the event of the loss of a tree, the Commission or its authorized designee may require that the person who damaged the tree be required to arrange for and pay for the cost of a replacement tree. (Ord. 6 of 2010, Sect. 15, Passed 7-12-10)

167.09 Arborist License and Bond

- a.) It shall be unlawful for any person or firm to engage in the business of trimming, pruning, treating, or removing street trees without first applying for and receiving an Arborist license; provided however, that no license is required of any public service company or City employee doing such work in pursuit of their public service endeavors. The fee for an Arborist License shall be established by resolution of the Council of the City of Franklin. (Ord. 3 of 1997, Sect. 4, Passed 2-3-97; Ord. 6 of 2010, Sect. 16, Passed 7-12-10)
- b.) As a condition of receiving the Arborist License, each applicant must file evidence of the possession of liability insurance in the minimum amounts of Three Hundred Thousand (\$300,000) Dollars for bodily injury or death and Twenty Five Thousand (\$25,000) Dollars for property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

- c.) No evidence of skill will be required of the applicant in the granting of the Arborist License, but it may be revoked by the Commission or its authorized designee if it deems there is just cause. (Ord. 6 of 2010, Sect. 17, Passed 7-12-10)

167.10 Appeals (Ord. 1 of 2013, Sect. 1, Passed 1-7-13)

- a.) Any person directly affected by a decision of the Commission or its authorized designee, or a notice or order issued under this Ordinance, shall have the right to appeal to the City Council, provided that a written application for appeal is filed within twenty (20) days after the day of the decision, notice or order was served. An application for appeal shall be in writing, and shall be filed with the City Manager. An application for appeal shall be based on a claim that the true intent of this Ordinance or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this Ordinance do not fully apply, or the requirements of this Ordinance are adequately satisfied by other means.
- b.) The City Council shall meet to hear the appeal within forty-five (45) days of the date of the filing of an appeal, and shall render its decision within thirty (30) days of the date of the hearing.
- c.) The decision of the City Council shall be in writing. Copies of the decision shall be forwarded to the appellant and the Commission or its authorized designee by United States first class mail or e-mail.
- d.) Any person, whether or not a previous party of the appeal, shall have the right to apply to the Court of Common Pleas of Venango County, Pennsylvania, for further review of the decision rendered on appeal within twenty (20) days of the date of mailing of the decision made by the City Council.
- e.) Appeals of notices or orders, other than in emergency situations, shall stay enforcement of the notice and order until the appeal is heard by the City Council.

167.99 Enforcement (Ord. 1 of 2013, Sect. 1, Passed 1-7-13)

- a.) Any person or persons who violate(s) or permit(s) the violation of any provision of this Ordinance, including nonpayment of bills from the City for tree work done as herein described, shall, upon conviction in a summary proceeding, be subject to the following penalties:

- i.) All fees for tree work or tree damage previously assessed by the Commission or its authorized designee, including, but not being limited to, all costs to remove a tree or stump or limb, or to plant a replacement tree; and
- ii.) All costs incurred by the City resulting from the failure of the person or persons to act as previously directed in writing by the Commission or its authorized designee; and
- iii.) A fine not to exceed Five Hundred (\$500.00) Dollars, and the costs of the prosecution for each offense.

(Ord. 6 of 2010, Sect. 18, Passed 7-12-10)

- b.) All fines and costs assessed for violation of this Ordinance and/or tree, stump, or limb removal shall become liens upon the real estate of the offender and shall be collectible by the City as a municipal lien upon the property.