

CHAPTER 25

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Part 1

Maintenance, Removal, Planting

§101. Cost of Certain Work Paid by Owners of Abutting Property.

The cost of planting, transplanting or removing any shade trees in the streets of this Borough, of the necessary and suitable guards, curbing or grading for the protection thereof, and the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, shall be paid by the owners of the real estate in front of whose property the work is done. The amount each owner is to pay shall be ascertained and certified by the Commission to Council and to the Borough Treasurer. (Ord. 192, 4/18/1949, §1; as amended by Ord. 629, 5/11/1987, §1)

§102. Notice of Assessment for Work; Municipal Claims Filed for Unpaid Assessments.

Upon the filing of the certificate with the Council, the Secretary of the Borough shall cause 30 days written notice to be given to the person against whose property an assessment has been made. The notice shall state the amount of the assessment and the time and place of payment, and shall be accompanied with a copy of the certificate. The amount assessed against the real estate shall be a lien from the time of the filing of the certificate with the Council, and if not paid within the time designated in the notice, a claim shall be filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected. (Ord. 192, 4/18/1949, §2; as amended by Ord. 629, 5/11/1987, §1)

§103. Penalties for Violation of Laws, Rules and Regulations on Shade Trees.

The Shade Tree Commission is hereby authorized and empowered to assess penalties for the violation of all its rules and regulations and Article XXVII of the Act of 1966, P.L. 581, known as the Borough Code, its supplements and amendments, so far as said penalties relate to shade trees; providing, however, that said penalties first be approved by resolution of the Borough Council. (Ord. 192, 4/18/1949, §3; as amended by Ord. 629, 5/11/1987, §1)

§104. Protection of Shade Trees.

The Shade Tree Commission has exclusive custody and control of public shade trees. The Shade Tree Commission has power to plant, remove, replace, maintain, protect and care for public shade trees of the Borough. The Shade Tree Commission may make and enforce rules and regulations for the care and protection of the shade trees of the Borough. (Shade Tree Commission Rules and Regulations, March 22, 1949, §A; as amended by Ord. 352, 12/8/1960, §1; by Ord. 626, 4/13/1987; and by Ord. 629, 5/11/1987, §1)

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Part 2

Rules and Regulations; Shade Tree Commission

§201. Definitions.

For the purpose of this Part, the following terms shall have the meaning ascribed to them in this Part:

BOROUGH — Borough of Hollidaysburg.

COMMISSION — Hollidaysburg Shade Tree Commission.

COUNCIL — Council of the Borough of Hollidaysburg.

PERMIT — a permit, in writing, as issued by the Commission.

PERSON — any individual, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC AREA — any public street, alley, park, easement, right-of-way or other area under control of the Borough.

PUBLIC SHADE TREE — all trees, shrubs, or other woody plants, living or dead, occupying or designated by the Shade Tree Commission as occupying a public place on all streets, boulevards, malls, alleys, parks, or other public highways or right-of-ways of the Borough.

REPLACEMENT TREE — a tree planted at a site or location formerly occupied by a public shade tree. A public shade tree must have formerly occupied the site within the last two years in order for a tree to be considered a replacement.

(Ord. 629, 5/11/1987, §2)

§202. Protection and Maintenance of Shade Trees.

1. No person shall remove, destroy, break, cut, inject, prune, trim, scrape, paint, whitewash, or in any way, deface, injure or interfere with the roots, trunk, bark, branches, leaves, flowers or fruit of any public shade trees in the Borough of Hollidaysburg without the permission of the Commission for the work to be done.
2. No person may cut the root of any public shade tree to enable sidewalk, curb, pipe, conduit or electrical wire installation or other similar repair without the permission of the Commission for the work to be done.

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3. No person shall spray or otherwise treat any public shade tree infected or infested with any parasite, disease or insect pest with a view to its preservation from disease or insects, without the permission of the Commission covering the work to be done.
4. No person shall attach any wire, insulator, or any other device for holding such wire to any public shade tree. All other wires shall be securely fastened so as not to come in contact with any public shade tree or any part thereof. The use of implements with sharp, penetrating points is positively prohibited for the purpose of climbing any public shade tree.
4. It shall be unlawful for any person to cause, authorize or permit any brine water, oil, liquid dye, or any other substance deleterious to tree life to lie, leak, pour, flow or drip on or into the soil about the base of any public shade tree.
5. No person shall permit any escape of gas so as to injure any public shade tree, and should such leak occur, must immediately repair same in such manner as to prevent its recurrence.
6. No tight guards or any other device not approved by the Commission shall be attached to any public shade tree, nor will the removal or injury of any guard or device approved by said Commission and intended for the protection of such public shade tree be permitted without approval of the Commission.
7. No stones, brick, cement or any other building material shall be placed nearer than five feet from the trunk of any public shade tree in any manner which may impede the free passage of air and water to the roots of same.
8. No person, firm or corporation shall attach any rope, wire, sign, poster, handbill, or other object to any public shade tree or guard thereof.

(Ord. 629, 5/11/1987, §2)

§203. Planting and Removal of Public Shade Trees; Public Notice Required.

1. No person shall plant or remove a public shade tree without the permission of the Commission. All actions to plant new trees, which are not replacement trees, and all actions to remove trees shall be taken following a public meeting of the Commission. At such public meeting, the Commission shall determine whether or not to permit the planting of new public shade trees or the removal of public shade trees. The notice of such meeting shall be published in a newspaper or general circulation once a week for two weeks immediately preceeding the time of the meeting. The meeting notice shall specify the action proposed to be taken and shall specify the location of the tree or trees to be planted or removed. The hearing shall be held no later than 30 days following receipt of the written request for the planting or removal of trees. The Commission, following the public meeting, shall grant or deny the request to plant or remove trees by a majority vote of the Commission.

2. A public shade tree may be removed without a public hearing under an emergency. An emergency exists when a tree poses an immediate and specific threat or hazard to public safety, pedestrian or vehicular traffic, or property. An emergency removal must be agreed to by at least two members of the Commission, or if that number of the Commission is unavailable, one member of the Commission with the consent of the Borough Manager is necessary for an emergency removal. When such a removal is authorized by the Commission, the Commission shall prepare a written report documenting the circumstances of and reasons for the emergency tree removal. That report shall be filed with the office of the Borough Manager within five days of the issuance of a permit for the removal.
3. No public utility company, governmental agency, or commercial tree trimmer, or contractor or any other person shall perform any work pertaining to any of the foregoing without the permission of the Commission for the work to be done.

(Ord. 629, 5/11/1987, §2)

§204. Permits.

All permission required under the terms of these Rules and Regulations shall be in writing and the form of a permit issued by the Commission. These permits must be obtained for any work set forth in §§202 and 203. Permits shall be in writing on the form approved by the Commission and shall specify the work permitted and the time period in which the work shall be completed. The Commission shall supervise the work done under a permit, and such permit may be revoked by the Commission if the terms and conditions of the permit are violated. Permits shall be issued within seven days of the request therefore. A permit may be issued by any member of the Commission for any of the work to be performed with the exception of planting and removal of trees which may only be issued after the aforesaid public meeting. (Ord. 629, 5/11/1987, §2)

§205. Excavations.

1. All excavations in the planting strip within five feet of the center of any public shade tree shall be under the supervision of the Commission.
2. In the erection, alteration, repair or removal of any building or structure, the owner thereof shall be responsible for the placing of such guards around all nearby public shade trees as shall effectively¹ prevent injury to them.

(Ord. 629, 5/11/1987, §2)

¹ Ord. 629 read "affectually."

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§206. Location of Shade Trees.

Public shade trees will be planted only along the strip between the sidewalk and curb. In this strip each tree will be planted midway between the curb and sidewalk. The location within the strip between the sidewalk and curb at which the shade tree may be planted shall be determined² by the Commission. (Ord. 629, 5/11/1987, §2)

§207. Spacing.

1. Public shade trees will be spaced at an average distance of 40 feet apart. The first tree along any block will be planted at a distance of 25 feet from the street intersection, i.e., 25 feet from the curb line of the intersecting street. Other trees in the block will be spaced 40 feet between each two trees. Certain factors which will not always permit of this spacing, because of the distance between intersecting streets and public and private alleyways, and garage entrances, a tolerance of five feet allowed either way is permitted. The spacing between trees may be reduced in increments of one foot from 40 feet to not less than 30 feet. The spacing may be increased in increments of one foot from 40 feet to not more than 45 feet. Trees should be kept away at least eight feet from lamp posts and 10 feet from fire hydrants. Whenever in any block it is found necessary to deviate from the standard 40 feet spacing, the spacing which is adopted will be used through the block and on both sides of the street, or at the discretion of the Commission.
2. An effort to establish a uniform spacing throughout the entire length of a street will be made. Spacing will be not less than 30 feet or more than 40 feet.
3. The exact spots where new trees are to be placed will be decided by the Commission on the field and not from maps.

(Ord. 629, 5/11/1987, §2)

§208. Species.

1. An official list of approved trees shall be established by the Commission and shall be maintained in the Office of the Borough Manager. Amendments to this list shall be made by the Commission as required, from time to time, at a duly advertised public meeting of the Commission.
2. The Commission, from time to time, will determine the species to be planted on each new street as opened and upon any streets already opened but not yet planted.

(Ord. 629, 5/11/1987, §2)

² Ord. 629 read "made."

§209. Planting.

All trees, when planted, shall be not less than one and 1 1/2 inches in diameter, shall have a straight stem, and shall be properly staked or supported. (Ord. 629, 5/11/1987, §2)

§210. Care of Trees.

1. A public shade tree should be symmetrical. The branches should begin at a height from the ground that will allow the free public use of the street and sidewalk. The tree should have a well developed head which retains, as nearly as possible, the normal characteristics of that species.
2. The fixing of the branching at a certain height above the ground will be done gradually, year by year, after planting. Trees must grow in diameter as well as height in order to support the top without bending. Low branches will be removed only at intervals of a year or more until the proper height of clear stem (10 feet) is reached. 10 feet in the clear, above the street level, will be the height all trees will gradually be headed.
3. No limbs or foliage will be left to obstruct the street lights, stop signs or traffic signals. All dead and imperfect limbs will be removed.

(Ord. 629, 5/11/1987, §2)

§211. Penalties.

Any person violating any of the Rules and Regulations of the Commission shall, upon conviction thereof before a district magistrate, be sentenced to pay a fine not exceeding \$600 for each tree concerned, and the cost of prosecution, and in default of payment thereof, be imprisoned in the Blair County Prison for a period not exceeding 30 days. (Ord. 629, 5/11/1987, §2; as amended by Ord. 640, 4/10/1989, §35)³

§212. Appeal Procedure.

1. If any person believes himself to be aggrieved by any action or decision of the Commission, such person shall have the right to file a written [appeal] to Council. Such appeal shall state specifically the action of the Commission which such person objects to and shall be personally delivered to the office of the Borough Manager.

³ Ord. 640, §35, designated Chapter 25, §212.

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2. On filing of such appeal, any contemplated action not yet performed shall be stayed until a decision is made by Council.
3. Council shall, within 45 days after receiving such appeal, conduct a public hearing on the matter, either at a regularly scheduled meeting of Council, or at a special meeting duly called. Written notices of the time and place of such Council hearing shall be mailed, by ordinary first class mail, to the appellant at the address given by the appellant in the appeal and to each member of the Commission. Public notice of such hearing shall also be given in accordance with the procedures established by the Borough Code.
4. Following the public hearing, Council shall render a decision on the appeal within 30 days of the public hearing.

(Ord. 629, 5/11/1987, §2)