

ARTICLE 910

Trees

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CROSS REFERENCES

Cutting, defacing trees when setting poles - See S.U. & P.S.
Art. 907

910.01 DEFINITIONS.

As used in this Article, the following meanings shall apply:

(a) "Person" includes all firms, associations, and corporations, and persons connected with such firms, associations, and corporations.

(b) "Public area" includes all parks, streets, and any planting area between streets and property lines.

(c) "Trees" includes shrubs and all woody vegetation.

(d) "Director" means the Director of Public Works.

(e) "Caliper"- a measure of trunk diameter taken at six inches above the root flare.

(f) "Licensed arborist"-an individual who holds a current license to perform arboricultural work on public property trees within the City of Bethlehem.

(g) "Replacement tree(s)"-a tree or trees required to be planted in place of a tree or parts thereof, removed from public areas.

(h) "Public Right-of-Way" -Land between private property lines dedicated and reserved for use by the general public as roads, streets, highways and other roadway purposes.

(i) "Root flare"- the outward curve at the base of a tree where the trunk transitions into roots.

(j) "Street Tree" - a tree the base of which lies wholly or partially within a public right-of-way.

(k) "Public improvement" - for purposes of this Article, the planting, maintaining, trimming, transplanting, removal and protection of trees.

(l) "Owner." The owner of record of a property, based upon the city's real estate registry or, if not in the registry, on the tax assessment records of the city or of either Lehigh or Northampton County. The term may include any person in whom is vested all or any part of the legal or equitable title to the property or who has charge, care or control of the property as agent, executor, administrator, assignee, receiver, trustee, guardian, lessee or mortgagee in possession.

(Ord. 2776. Passed 5/26/81; Ord. 2014-34. Passed 12/2/14.)

910.02 ENFORCEMENT.

The Director shall enforce the regulations as set forth in this Article. (Ord. 2776. Passed 5/26/81.)

910.03 PLANTING AND CONTROL OF TREES.

(a) The Director shall have charge and control of all trees growing now or hereafter in any public area of the City, and shall have the power to plant and maintain or order the maintenance of such trees, in accordance with this Article.

(b) All decisions of a physiological, entomological and pathological nature relating to the disposition of any tree or group of trees that may be in question in any particular instance shall originate from the City Forester.

(Ord. 2776. Passed 5/26/81; Ord. 2014-34. Passed 12/2/14.)

910.04 PERMIT REQUIRED TO PLANT, TREAT OR REMOVE IN PUBLIC AREAS.

(a) No person shall hereafter plant, move, spray, cut, remove, prune, fertilize, inject, climb with spikes or with the assistance of rope, remove or damage any guard or device placed to protect any tree, cut above or below ground, disturb or alter any tree on any public area of the City of Bethlehem, nor cause such acts to be done by others, without first obtaining permission from the Director, who shall issue the permission if, in his judgment, the work is necessary, and the proposed methods of workmanship are of a satisfactory nature. A permit shall not be required to cultivate and water. All tree work shall be carried out in conformity with the current Arboricultural Specifications and Standards or Practice prepared by the City Forester.

(b) As a condition to any permit to remove any tree on a public area, or any portion of a tree that is on a public area, the Director may require that the permittee plant one or more trees in place of the one removed. Whenever any such tree has been removed or destroyed pursuant to any such conditional permit, it shall be unlawful for the permittee to fail, refuse or neglect to plant another tree or other trees of the type, size and at the location specified in the permit, within the time specified by the Director. In instances where aesthetics, desirability of species, or general utility is concerned, all decisions should reflect the professional opinion of the City Forester. The City Forester will then issue the recommendation of approval or disapproval to the Director for his issuance or rejection of the proper permit.

(c) In those situations where the replacement tree can be planted on a public area at a location adjacent to the tree removed and adhere to the Arboricultural Specifications and Standards of Practice, then the stump and exposed roots of the tree removed must be leveled four inches below the ground surface and filled in with acceptable type soil. In those situations where the replacement tree cannot be planted on a public area at a location adjacent to the tree removed, then the stump and exposed roots must be leveled to a width and depth below the ground surface to allow the planting of a replacement tree in the same location as the tree removed, as long as the Arboricultural Specifications and Standards of Practice are adhered to. The City Forester will issue a recommendation for the location of the replacement tree to the Director, or his designee, for approval or disapproval.

(d) Permits shall be posted at the jobsite for the duration of the project until final inspection is performed. The permit shall be posted near the front entrance and visible from the

public right-of-way.

(e) Replacement trees shall be planted within six months of the issue date on the approved permit or as directed by the City Forester. All replacement trees planted shall be single-stemmed and a minimum of two inches (2") in caliper, with the trunk free of branches to a minimum of six feet (6') above the ground. All replacement trees and newly planted trees shall have a straight trunk and well spaced branches so that subsequent pruning shall achieve eight feet (8') of clearance over sidewalks and fourteen feet (14') of clearance over roadways as the tree matures. Any exceptions shall require authorization from the City Forester or the Director.

(f) Required replacements which have not been planted by the property owner within the six month period may be planted by the City or the City's authorized agent at the expense of the property owner. An administration fee of three hundred dollars (\$300.00) plus all other costs such as Auditor's fees, the cost of the replacement tree(s), overhead costs, planting costs, County Recorder's fees, maintenance fees, etc. shall be the responsibility of the owner of record.

(g) Any replacements or newly planted trees that do not, in the opinion of the City Forester, meet the requirements as found in this article or that do not conform to the City's current Arboricultural Specifications and Standards of Practice, may, without additional notice to the property owner, be removed and be replaced by the City or the City's agent and all costs associated with such work shall be assessed to the property owner.

(Ord. 2776. Passed 5/26/81; Ord. 3481. Passed 5/19/92; Ord. 2014-34. Passed 12/2/14.)

910.05 PERMIT CONTENTS; FEE; INSPECTION.

(a) Every written permit issued by the Director shall describe the work to be done, specify the species or variety, size, nursery grade, location, briefly specify the method of planting, method of support and trimming of all trees concerned, and contain a definite expiration date. Any permit may be declared void if its terms are violated.

(b) A non-refundable fee of twenty-five dollars (\$25.00), payable to the City of Bethlehem, shall be charged for each permit application. A separate permit application shall be required for each property.

(c) Upon completion of the work described in the permit, the permittee shall notify the Bureau of Urban Forestry within 10 days so that an inspection may be scheduled.

(Ord. 3010. Passed 9/3/85; Ord. 3927. Passed 1/5/99; Ord. 2010-34. Passed 12/21/10; Ord. 2014-34. Passed 12/2/14.)

910.06 FASTENING MATERIALS TO TREES.

No person shall fasten any sign, wire, rope or other material to or around or drive any nail or spike through any tree or shrub in a public area in the City, except by permission of the Director and except in emergencies such as storms or accidents. (Ord. 1853 §1. Passed 2/18/64.)

910.07 OBSTRUCTING PASSAGE OF AIR, WATER TO ROOTS.

(a) No person shall deposit, place, store or maintain upon any public area of the City any stone, earth fill, 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.

(b) No person shall fail to provide and maintain sufficient open, weed-free space, with appropriate soil and mulch, around the base of a street tree, or to remove an amount of concrete, brick, asphalt or other covering to allow for such open, mulched, weed-free area after being given notice to do so. Failure to comply may result in the City or the City's agent performing the work and the charges shall be assessed to the owner.

(Ord. 1853 §1. Passed 2/18/64; Ord. 2014-34. Passed 12/2/14.)

910.08 PROTECTION OF TREES.

(a) No person shall break, injure, mutilate, kill or destroy any tree, or permit any fire to burn where such fire will injure any portion of any tree in any public area of the City.

(b) No person shall knowingly permit any leak to exist in any gas pipe within the root zone of any tree in a public area.

(c) No person shall permit any toxic chemical to seep, drain or be emptied on or about any tree in a public area.

(d) No person shall knowingly permit electric wires to come in contact with trees in any public areas unless protected by approved methods.

(e) No person shall attach any electrical insulation to any tree in a public area or shall excavate any ditches, tunnels or trenches, or lay any drive within a radius of ten feet from any tree in a public area without first obtaining permission from the

Director.

(f) During building operations, the builder shall erect suitable protective barriers around trees in public areas apt to be injured.

(g) Whenever the Director determines it is necessary to move, protect or cut off the electricity from service wires so he can safely and properly do his work, he shall serve written notice on the owners of such wires and such owners shall comply with such orders within twenty-four hours after the service of such notice.

(h) No person shall place salt, brine, oil or other substances injurious to plant growth in any place in such a manner as to injure any tree in a public area.

(i) No person shall build any fire or station any tar kettle, road roller or other engine in such a manner that the heat vapors or fumes therefrom may injure any tree growing in any public area.

(j) No person is permitted to lay any sidewalk along or to open, construct, curb or pave any street or do any like act so as to interfere with or do injury to any tree in a public area without the consent of the Director.

(k) Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree or plant in any public area.

(l) Where in authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots under advice from the Director.

(m) Any unauthorized removal or damage that necessitates removal of a tree on public property shall be subject to a minimum fine of one thousand dollars (\$1,000.00) per tree. Both the abutting property owner and the person responsible for the actions shall be held jointly and severally liable for the fine and restitution to include replacement tree(s).

(Ord. 1853 §1. Passed 2/18/64. Ord. 2014-34. Passed 12/2/14.)

910.09 SPRAYING TREES.

All spraying of trees shall be done with approved materials as regulated under current Pennsylvania Pesticide Control Act.

(Ord. 2014-34. Passed 12/2/14.)

910.10 LICENSED ARBORIST TO DO WORK; LICENSE, FEE.

(a) All pruning, cutting, removal, spraying, fertilizing, moving, and injecting shall be performed only by a person holding an arborist's license issued by the City of Bethlehem. A separate license is required for each individual performing tree work on public property trees.

(b) A City of Bethlehem Arborist License shall be issued to those persons who have passed an examination prepared by and administered by the City Forester, or to those persons who have submitted documentation of current certification as an arborist with the International Society of Arboriculture. Applications for the arborist exam may be made upon payment of a non-refundable fifty dollar (\$50.00) application fee payable to the City of Bethlehem. This fee shall cover the first year's license fee if the applicant receives a passing grade on the exam and is issued a license. Applicants with ISA certification shall submit a copy of their current ISA certification along with the application and non-refundable fifty dollar (\$50.00) application fee. Thereafter, a yearly license fee of twenty-five dollars (\$25.00), payable to the City of Bethlehem, shall be levied for each license issued to a commercial arborist and a fee of five dollars (\$5.00) shall be levied for each license issued to a property owner. The license issued to the property owner shall entitle the licensee to perform work on trees only on property which the licensee owns. Licenses issued to a commercial arborist shall be renewed yearly without examination; however, the City Forester may revoke, suspend or refuse to renew any license or require re-examination of any licensee if, in the opinion of the City Forester, the licensee has not performed in a satisfactory manner. License renewals which have lapsed for a period of one (1) year or longer shall require re-examination.

(c) Applicants for a City of Bethlehem Arborist License shall meet the following minimum insurance requirements as set forth below:

All commercial arborists are required to obtain General Liability Insurance in the amount no less than of \$1,000,000, Products and Completed Operations Insurance in an amount not less than \$1,000,000, and Workers' Compensation Insurance with statutory limits of liability. Other than Workers' Compensation, the City of Bethlehem shall be named as an additional insured in all such insurance policies. Those commercial arborists who do not have employees, and property owners need not maintain Workmen's Compensation Insurance. (Ord. 3927. Passed 1/5/99.)

Property owners must show evidence of their homeowner's or liability policy which must be in effect at the time that they apply for the City of Bethlehem's Arborist License.

Each applicant shall submit to the City Solicitor proof that the applicant maintains insurance coverage as required by this section. No license may be issued without such proof.

(d) Safety Equipment - Licensed arborists are required to use safety equipment including but not limited to protective helmets, safety boots, goggles, safety harnesses and climbing rope. Failure to use safety equipment will result in the revocation of the arborist's license.

(e) Concerning the spraying of pesticides and herbicides of trees, growing on the public planting areas, a permit for this work shall be issued only to those City of Bethlehem licensed arborists who are certified under the Pennsylvania Pesticide Control Act.

(f) All licensed arborists operating within the City of Bethlehem shall display the company name and phone number on both sides of all vehicles. Letters and numbers shall have a minimum height of three inches (3") and be easily read from a distance of fifty feet (50'). Non-compliance with this requirement shall result in license revocation.

(Ord. 2776. Passed 5/26/81; Ord. 2014-34. Passed 12/2/14.)

910.11 PROPERTY OWNER'S RESPONSIBILITIES, DUTIES, and PRIVILEGES

(a) Property owners shall be responsible to maintain trees and other vegetation within and along the public right-of-way abutting their property. Property owners minimum obligations shall include but not be limited to:

(1) The maintenance, safety, health, and appearance of trees within the public right-of-way, including:

(A) Maintaining mature trees to provide clearance of eight feet (8') over sidewalks and fourteen feet (14') over roadways.

(B) Pruning to allow illumination of the street by a street light

(C) Pruning to ensure that street lights, traffic signals, street signs, poles, standards, street light wire, and all directional and regulatory signs are not obstructed or impacted by trees or other vegetation.

(D) Removing dead, diseased, damaged, or decayed

limbs endangering the public right-of-way.

(E) Structural pruning to establish good form and achieve required clearances as found in 910.11(a)(1)(A)

(2) Pruning or removal of trees and other vegetation encroaching onto the public right-of-way.

(3) Removal of fallen limbs and other debris.

(4) Replacing any removed or missing tree as determined by the City Forester.

(b) Minor tree work may be done by the individual homeowners to trees planted in public areas on the homeowner's property, provided the homeowner had obtained prior approval from the Director. The Director, or his designee, the City Forester, shall advise the property owner whether or not the proposed work is minor. All minor tree work shall be carried out in conformity with the current Arboricultural Specifications and Standards or Practice prepared by the City Forester. Additionally, property owners must obtain the necessary licenses under Articles 910.04 and 910.10, and present proof of homeowners insurance each time any license is applied for.

(c) It shall be unlawful for any person to fail, refuse, or neglect to comply with an order of the Director or the City Forester issued under this article within the time specified in the order.

(Ord. 2014-34. Passed 12/2/14.)

910.12 PUBLIC NUISANCES.

(a) Any tree or shrub or parts thereof growing upon private property or in the public right-of-way but overhanging or interfering with the use of any street, park or public area of the City, endangering the life, health, safety or property of the public is a public nuisance. Such nuisance shall not be permitted to exist and the property owner shall be responsible to eliminate the nuisance by removing the tree or shrub in total or by removing the interfering limbs and branches, all at his expense. Should the property owner allow such public nuisance to continue to exist, the Director shall notify the owner as noted in (b) below.

(b) The owner shall be notified in writing of the existence of the nuisance, and given thirty days for its correction or removal. If not corrected or removed within the time allotted, the Director shall cause the nuisance to be corrected or removed, and the cost shall be assessed to the owner. The written notice

of the Director in no way removes the property owner's responsibility to correct the public nuisance.
(Ord. 3063. Passed 3/4/86.)

910.13 PERMITS TO PUBLIC UTILITIES.

(a) All permits issued for the installation and/or maintenance of public utilities that affect trees in public areas shall be approved by the Director.
(Ord. 2776. Passed 5/26/81.)

(b) When a permit is issued to a public utility to trim public trees, or to do other operations affecting trees in public areas, the work shall be done in a neat and workmanlike manner and in conformity with the rules, regulations and orders of the Public Utility Commission, i.e the natural method, drop crotch/lateral trimming, top trimming or side trimming. (Ord. 2776. Passed 5/26/81; Ord. 3210. Passed 9/6/88; Ord. 3947. Passed 4/6/99.)

(c) The City Forester shall have the authority and it shall be his/her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this article. (Ord. 1853 §1. Passed 2/18/64; Ord. 3947. Passed 4/6/99. Ord. 2014-34. Passed 12/2/14.)

910.14 COOPERATION WITH OTHER CITY DEPARTMENTS.

(a) There shall be close cooperation with the Director and other City departments when their common work affects trees and shrubs in public areas. When, in the course of performing their normal routine duties, it becomes necessary for City personnel to perform minor arboricultural work, permit and licensing requirements may be waived. The Director shall determine whether the proposed work is minor.

(b) The Bureaus of Electricity, Fire and Police should work closely with the Director in the interest of trees and shrubs in public areas and public safety.

(c) EMERGENCY WORK- When emergency measures become necessary to provide public safety, restore utility service, or otherwise mitigate the potential for damage to persons or property from trees or other vegetation within, encroaching, or endangering the public right-of-way, such work may be done by permission of any member of the Departments of Police, Fire, Public Works, or Parks and Public Property. City personnel may take action to allow immediate response to dangerous or hazardous situations and the costs associated with such action shall be assessed to the property owner. Such emergencies shall not require the City to give notice to the property owner of such action, but if notice is given, it may be verbal, or written when possible. The

Director shall be notified within 24 hours of such action.

(Ord. 1853 §1. Passed 2/18/64. Ord. 2014-34. Passed 12/2/14.)

910.15 INTERFERENCE WITH DIRECTOR.

No person shall prevent, delay or interfere with the Director or any of his assistants in the execution or enforcement of this Article. (Ord. 1853 §1. Passed 2/18/64.)

910.16 PLANTING OF TREES BY THE CITY.

(a) The City may decide to plant trees in the planting area of the public right-of-way. When such a decision is made in a proposed development, the expense of purchasing and planting trees shall be the developer's. The developer shall also be responsible for the trees during the guarantee period. When the decision to plant trees involves an existing established street not part of a proposed development, the expense of purchasing and planting the trees shall be the City's. The responsibility during the guarantee period shall be the City's or the vendor's when the trees are planted under a contract.

(b) The Director or his designee, the City Forester, shall select the location and the tree type.

(c) Where applicable, tree wells and/or tree grates shall be installed flush with the adjoining surface so as to not create a safety hazard.

(d) When a tree is to be planted by the City in the planting area of the public right-of-way, the property owner shall be notified by certified mail. The property owner shall have 30 days to comment or respond. The property owner shall have the right of refusal for just cause, to have a tree planted at the designated location.

(e) The property owner shall be responsible to maintain the planted tree after the guarantee period and also the tree well and/or grate, if installed, in accordance with the other provisions of this ordinance. In addition, the tree grate must be maintained flush with the adjoining surface.

(f) A property owner may plant a tree(s) in the planting area of the public right-of-way subject to approval by the Director or his designee, the City Forester, and in accordance with all provisions of this ordinance.
(Ord. 3320 §1. Passed 2/20/90.)

910.17 ASSESSMENTS FOR PUBLIC IMPROVEMENTS

(a) Public improvement costs, including administrative fees,

may be assessed against the owner(s) of the lot(s) abutting the street, sidewalk or right-of-way upon which tree is located. If there are multiple lots, the assessment amount will be equally split between the lots improved.

(b) The City shall give personal notice of the assessment to the owner of each property being assessed, in accord with Section 4503-A of the Third Class City Code. The notice will indicate that the owner has 30 days from receipt of the notice to appeal the assessment, as set forth in Section 4504-A of the Third Class City Code.

(c) In accord with Section 4507-A of the Third Class City Code, the City may enter into installment agreements for assessments that are greater than \$1,000. Any such agreement shall be in writing. Such agreements will have an interest rate of 10% per year, unless a bond was issued for the improvement, in which case the interest rate will be determined by section 9 of the Municipal Claim and Tax Lien Law.

(d) The City Treasurer, Department Head, or the Mayor, may use all available means, including those listed in Section 4508-A of the Third Class City Code, to collect unpaid assessments.

(Ord. 2014-34. Passed 12/2/14.)

910.99 PENALTY

Any person who violates any provision of this Article shall be subject to the following penalties:

(a) First violation - A fine of \$200.00, or thirty days imprisonment, or both;

(b) Second violation - A fine of \$500.00, or sixty days imprisonment, or both;

(c) Third and each subsequent violation - A fine of \$1,000.00, or ninety days imprisonment, or both.

(Ord. 3038. Passed 10/22/85; Ord. 3242-Passed 2/7/89.)