

## Chapter 89

### SHADE TREES

- |  |  |
|--|--|
| <p>§ 89-1. Definitions.</p> <p>§ 89-2. Location and maintenance subject to approval.</p> <p>§ 89-3. Permit required to plant, transplant or remove; costs.</p> <p>§ 89-4. Replacements for removed trees.</p> <p>§ 89-5. Disturbing or interfering with trees.</p> | <p>§ 89-6. Protection of service wires while pruning or removal.</p> <p>§ 89-7. Protection during building construction.</p> <p>§ 89-8. Removal of diseased trees; enforcement.</p> <p>§ 89-9. Authority to regulate trees.</p> <p>§ 89-10. Power to revoke permits; violations and penalties.</p> |
|--|--|

[HISTORY: Adopted by the Borough Council of the Borough of Pennsburg at time of adoption of Code 4-4-1977 by Ord. No. 2-77 (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

#### GENERAL REFERENCES

Shade Tree Commission — See Ch. 26.	Grass, weeds and other vegetation — See Ch. 54.
Building construction — See Ch. 34.	Junkyards, property maintenance and littering — See Ch. 60.
Drainage and watercourses — See Ch. 39.	Streets and sidewalks — See Ch. 95.
Property maintenance — See Ch. 42.	

---

#### § 89-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**APPLICATION** — The request of a person, made upon forms furnished by the Street and Walk Committee, for authority to perform specific functions to existing or planned shade trees.

**PERMIT** — A written form issued by the Street and Walk Committee granting authority to perform specific work on shade trees.

**PERSON** — Any individual, partnership, firm, association or corporation.

**PUBLIC HIGHWAY** — Any street, sidewalk or alley open to the public.

**SHADE TREE** — Any tree, shrub or other woody plant growing within or extending within the right-of-way lines of any public thoroughfare in the Borough of Pennsburg.

#### § 89-2. Location and maintenance subject to approval.

In order to secure uniformity and continuity in the maintenance and development of the beauty of the Borough of Pennsburg, the species and location of any shade tree or trees to be

hereinafter planted in or along any of the public streets, highways or alleys in the Borough of Pennsburg shall be subject to the approval of the Street and Walk Committee. The aforementioned notwithstanding, no elm, weeping birch or willow trees may be planted in or along any of the aforesaid streets, highways or alleys.

**§ 89-3. Permit required to plant, transplant or remove; costs.**

No person shall plant, transplant or remove any shade tree or trees on or overhanging the right-of-way of public highways, streets or alleys in the Borough of Pennsburg without first making an application for a permit to do so upon forms furnished by the Street and Walk Committee and receiving an approved permit. Any such planting, transplanting or removal by any person pursuant to the approval of the Street and Walk Committee shall be done in such fashion and manner as the Street and Walk Committee shall indicate and shall be subject to inspection by the Street and Walk Committee and/or its designee. The cost of planting, transplanting or removing any shade trees in or along the streets and highways in the borough, or the necessary and suitable guards, curbing or grading for the protection thereof, and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work shall be paid by the owner or owners of the real estate which abuts the area where the work is done. The amount each owner is to pay and the basis for that determination shall be ascertained and certified by the Street and Walk Committee to Council and to the Borough Treasurer. The filing of the certificate with the Council and the approval of the certificate by the Borough Council shall constitute an assessment against the property owners in the amount set forth in the certificate. The Borough Secretary shall cause 30 days' written notice to be given to every person against whose property an assessment has been made in this fashion, and the notice shall state the amount of the assessment and the time and place of payment and shall be accompanied by a copy of the certificate. Upon failure of payment, the borough may institute an action in assumpsit to secure payment thereof or, in the alternative, a lien shall be placed on said premises, to be filed and collected as a municipal claim.

**§ 89-4. Replacements for removed trees.**

As a condition to the granting of a permit as required by § 89-3 above to remove any shade tree, the Street and Walk Committee may require that the permittee plant, at his expense, another tree in the place of the one removed. The Street and Walk Committee in such case may direct the type, size and location of the tree to be planted and the time within which the work shall be done.

**§ 89-5. Disturbing or interfering with trees.**

No person shall, without first obtaining a permit therefor, cut, break or injure in any manner any shade tree; or cut or interfere in any way with the main roots of any shade tree; or place or secure any rope, guy wire, cable, sign, poster or any other fixture on any shade tree; or cause or permit any salt water, oil, dye or other substance deleterious to tree life to lie, leak or flow on or into the soil about the base of any shade tree planted or growing in or upon the public streets, highways or alleys in the Borough of Pennsburg. No person shall fasten a dog or other animal to any shade tree or stand so that such dog or other animal can injure or may injure any shade

tree. Nothing in this section shall be construed to prohibit the proper watering of shade trees to foster normal tree growth or the proper spraying of fungicides and insecticides to control disease and insect pests. The Street and Walk Committee reserves the right to review any fungicides or insecticides and to forbid the use of such substance if, in the opinion of the Committee, the use of such substance is adverse to the health of the borough inhabitants and/or adverse to existing plant and animal life in the borough.

**§ 89-6. Protection of service wires while pruning or removal.**

Whenever the Street and Walk Committee determines it to be necessary to temporarily protect, move or cut off any electricity from any service wire in order to prune or remove any tree, it shall serve written notice on the owner of such wire and said owner shall comply with such notice within 24 hours of service thereof.

**§ 89-7. Protection during building construction.**

Before and during the erection or repair of any building or structure or during other construction, the builder, contractor or owner shall erect or cause to be erected suitable guards to protect the trunk and roots of any shade tree, and construction material shall not be placed or stored so as to impede the passage of air and water to the roots of any shade tree within the construction zone on the public highways, streets and alleys of the Borough of Pennsburg.

**§ 89-8. Removal of diseased trees; enforcement.**

The Street and Walk Committee may, upon 10 days' notice in writing, order the owner or owners of property situated within the Borough of Pennsburg to cut down or remove any diseased shade tree in, upon or within the lines of any public highway, street or alley which, in the judgment of the Committee, threatens to infect and destroy adjacent healthy shade trees or which is a danger to public safety or property within the Borough of Pennsburg. Upon failure of the property owner to comply with the orders of the Committee within the specified time, the Committee shall have the work done, for which work the property owner shall be billed and assessed. Upon the failure of the property owner to pay said assessment and bill, an action in assumpsit may be instituted for collection of the bill or, in the alternative, a lien may be placed on said premises, to be filed and collected as a municipal claim.

**§ 89-9. Authority to regulate trees.**

The Street and Walk Committee shall have the authority for maintaining shade trees in the Borough of Pennsburg which are located within the right-of-way of any public highway of the borough and shall see that such trees are trimmed to a minimum height over streets and highways so as to provide a clearance of 14 feet and overhanging a public sidewalk so as to provide a clearance of eight feet. The Committee may designate higher clearances where conditions make such higher clearances desirable and necessary. The primary responsibility for trimming such shade trees shall be with the owner of the property on which or in front of which the trees are located. If any property owner shall neglect or refuse to trim any shade tree as required by this section, upon notice in writing by the Committee, within the time limit

specified in such notice, the Committee may cause such trimming to be done by borough employees of the Borough of Pennsburg, and the entire cost thereof shall be chargeable and collectible from the aforesaid owners of the property. Any claim may be collected as a municipal claim is now by law collected.

**§ 89-10. Power to revoke permits; violations and penalties.**

- A. The Street and Walk Committee shall have authority to revoke any permit issued to any person upon a violation by such person of any of the provisions or regulations or orders of the Committee and to require any damage to be repaired or any replacement made by the property owner or person responsible therefor and to cause the same to be done at the expense of the property owner or person responsible therefor.
- B. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$300 and costs of such proceedings or, upon default in payment of such fine and costs, by imprisonment in the county jail for a term of not more than 30 days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.