

**BOROUGH OF PENNINGTON
ORDINANCE 2017-16**

**AN ORDINANCE CLARIFYING THE BOROUGH CODE WITH RESPECT TO CERTAIN
PROVISIONS AFFECTING TREES**

WHEREAS, Borough Council seeks to clarify certain provisions of the Borough Code with respect to trees in or near the public right-of-way and obligations of the Borough and property owners with respect to them;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington:

1. Section 13-6 of Chapter 13, Article I, pertaining to shade trees, is hereby amended (by the additions of underlined language) as follows:

Section 13-6. Procedure and payment for planting or removal of trees.

- A. Except as otherwise provided herein, the planting, care and removal of trees or parts of trees on public property and on private property but within or encroaching upon the public right of way shall be paid for by the Borough to the extent provided for in the annual budget for the Shade Tree Committee approved by the Borough Council. However, the planting, care and removal of any such tree or part of a tree, whether or not provided for in the approved budget, shall be subject to the sole discretion of Borough Council.
- B. The planting, care and removal of trees or parts of trees shall be subject to oversight by the Shade Tree Committee, including but not limited to the cutting of the roots of trees which encroach upon the public right-of-way. The actual work shall be conducted in consultation with and subject to the direction of the Department of Public Works or its designee. It shall be a violation of this ordinance for any property owner to remove a tree or part of a tree in the public right of way.
- C. Where a private property owner has requested that a tree or trees be planted within the public right-of-way along any portion of his or her property, the Shade Tree Committee shall review this request and visit the premises if necessary. The Shade Tree Committee shall consult the list of recommended shade trees for the Borough when considering the type or types of trees that should be planted and their location and size. These considerations shall be made in conjunction with the affected property owner. Upon completion of these considerations, the Shade Tree Committee shall forward to Borough Council and the Borough's Superintendent of Public Works its recommendations. If trees are to be planted, the cost to purchase and plant the trees shall come from the Shade Tree Committee Annual Budget.
- D. Where a tree or part of a tree located upon private property but not within the public right of way is dangerous to public safety or requires removal by reason of disease as provided herein, unless public safety or the disease requires immediate removal, the Shade Tree Committee shall give the property owner 10 days' notice that it intends to recommend removal of such tree to Borough Council. Within that ten-day period, the property owner may request a hearing before the Shade Tree Committee, and the Shade Tree Committee shall report the property owner's objections to the Borough Council. If the Borough Council decides to have the tree or part thereof removed, the costs incurred shall be a lien against the property, unless paid by the property owner.
- E. When a property owner requests the removal of a Borough-owned shade or ornamental tree or shrubbery on private property but within the public right of way and a member of the Shade Tree Committee or its qualified agent have visited the property and the Shade Tree Committee and Borough Council have determined that based on inspection the shade or ornamental tree or shrubbery may be removed without detriment to the interests of the Borough and its residents,, taking into account the health, size, location and variety of the tree or shrubbery, Borough Council may arrange for that shade or ornamental tree or shrubbery to be removed. The cost incurred for the removal of the tree(s) and for the replacement of the tree(s) in the same or an alternate location within the Borough shall be a lien against the property, unless paid by the property owner.
- F. The planting of trees under the Pennington Memorial Tree Planting Program shall be at the expense of the applicant.

2. Section 177-21 of Chapter 177, Article III, pertaining to removal of debris, tree growth, grass and weeds in the vicinity of sidewalks, is hereby amended (by the addition of underlined language) as follows:

177-21. Refuse, waste, debris plants and trees on sidewalks.

The owner of every lot of land abutting upon any public street in the Borough shall keep and maintain the abutting sidewalk(s) clear of all refuse, waste, debris and plant and shrub overgrowth and any other obstruction within the airspace over the sidewalk for its entire width and length to a height of seven feet. Trees, bushes and plants on the land abutting any sidewalk shall be trimmed

by the owner to allow seven feet of clearance above the sidewalk. Borough shade trees in the public right-of way shall be trimmed by the Borough to allow seven feet of clearance. Trees required to be trimmed by the property owner under this section shall be limited to trees whose trunks at ground level are not within the public right-of-way in whole or in part but whose trunks, limbs or branches hang over the sidewalk at a height of less than seven feet.

9. This ordinance shall be effective upon passage and final publication as provided by law.

Introduced: _____

Advertised: _____

Public Hearing: _____

Adopted: _____

Published: _____

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor