

## SHADE TREE COMMISSION

**WHEREAS**, by Resolution, the Town Council of the Borough has elected to assume the exercise of the rights and perform the duties and obligations imposed by law upon a Shade Tree Commission of the Borough, and

**WHEREAS**, Town Council desires to promulgate appropriate regulations to implement its powers as such Shade Tree Commission and provide for the determination of the existence of Dutch Elm or other disease on any property within the Borough, the notice required to be given to owners of property which may have plants, shrubs or trees afflicted with such disease to cut and remove the same, the powers of the Commission to inspect plants, shrubs or trees suspected of having any such disease, the power of the Commission to enter upon property to cause the cutting and removal of the same at the expense of the property owner and the collection of the cost thereof;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Town Council of the Borough, and it is hereby ordained as follows:

**Section 1.** Definitions: The terms defined in this section shall be for all purposes of this ordinance unless the context thereof shall indicate otherwise.

- a. "Borough" shall mean this Borough.
- b. "Borough Engineer" shall mean the Borough Utilities Manager.
- c. "Owner" shall mean the owner or owners or any one of several owners of property within the Borough whereon there is any diseased tree.
- d. "Diseased Tree" shall mean any plant, tree or shrub within the Borough afflicted with the Dutch Elm or other disease, which threatens to injure or destroy plants, shrubs or shade trees in the Borough.
- e. "Shade Tree Commission" shall mean Town Council sitting as a Shade Tree Commission.
- f. "Removal" shall mean transported outside the Borough and burned.

**Section 2.** The Shade Tree Commission shall meet at least once each year to determine policies with respect to the planting, removal, maintenance and protection of the shade trees of the Borough on the public highways.

**Section 3.** Upon call of the President of Town Council of the Borough, the Shade Tree Commission shall meet to determine the existence of any diseased trees or for such other purposes as may be proper.

**Section 4.** The Shade Tree Commission may hire any person or firm having special knowledge of plant, shrub or tree diseases to assist in determining the existence of diseased trees within the Borough.

**Section 5.** If it be determined by the Shade Tree Commission that there is any diseased tree on any property within the Borough, the Shade Tree Commission shall

cause written notice to be sent by certified mail to the owner at the post office address of the property where any such tree is located. Such notice shall inform the owner of the determination of the Shade Tree Commission, that the owner is required to cut and remove the diseased tree within thirty (30) days of such notice, and that upon failure of such owner to comply with the notice the Borough may cause the work to be done by the Borough and may levy and collect the cost thereof from the owner.

**Section 6.** Within ten (10) days following delivery of said notice, the owner may appeal the determination of the Shade Tree Commission by filing a protest with the Secretary of the Borough, whereupon the Secretary shall call a special meeting of the Shade Tree Commission to reconsider its determination after hearing such matters as may be presented by the owner. Notice of the time and place of such special meeting shall be given to the affected owner. The redetermination of the Shade Tree Commission shall be final and shall set forth the time within which any diseased tree shall be cut and removed by the owner.

**Section 7.** Upon failure of any owner to comply with the requirements as to cutting or removal of any diseased tree after the time given following a redetermination hearing, as aforesaid, or after the time given in the original notice provided for in Section 5 has elapsed without protest by the owner, the Borough may cause the necessary work to be done by the Borough employees or a contractor and levy and collect the cost thereof from the owner.

**Section 8.** The date of the commencement of any work done or caused to be done by the Borough shall be fixed by the Borough Engineer and filed with the Borough Secretary.

**Section 9.** The cost of any such work done or caused to be done by the Borough shall be a lien upon the premises of the owner until paid from the date of the commencement of the work and may be collected as provided by the Act of Assembly in such case made and provided.

**Section 10.** Any expenses or costs incurred by the Borough or by the Shade Tree Commission shall be paid upon proper voucher out of the general funds of the borough.

**Section 11.** The Shade Tree Commission, its agents or employees, shall have full power and authority to enter upon any property within the Borough for the purpose of inspection of or ascertaining the existence of any diseased tree and to cause the cutting and removal of any diseased tree.

**Section 12.** The provisions of this ordinance are severable and if any section, clause, sentence, part or provision thereof shall be held illegal or invalid, the decision of the Court shall not be deemed to affect or impair any of the remaining sections, clauses, sentences, parts or provisions of the ordinance, it being hereby declared by the Mayor and Town Council that this ordinance would have been enacted if such section, clause, sentence, part or provision had not been included herein.

**Section 13.** This ordinance shall become effective immediately following its advertisement for two times as provided by law.

This is a sample ordinance. We suggest that it be modified, as appropriate, to fit the needs of your borough. We also suggest that all proposed ordinances be reviewed by your solicitor. Although these are samples of ordinances which have been adopted by other municipalities, the Association cannot assume responsibility for ensuring their legality. We are pleased to provide this service free of charge to our members. If we can be of further assistance, please do not hesitate to contact us: **PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES**, 2941 North Front Street, Harrisburg, PA 17110. 717-236-9526.