

**COUNCIL OF THE CITY OF TITUSVILLE,  
PENNSYLVANIA**

**ORDINANCE NO. 3287**

AN ORDINANCE OF THE CITY OF TITUSVILLE, PENNSYLVANIA AMENDING ARTICLE 157 OF THE CODIFIED ORDINANCES OF THE CITY OF TITUSVILLE FOR THE PURPOSE OF REVISING THE DUTIES AND RESPONSIBILITIES OF THE SHADE TREE COMMISSION AND ALLOCATING COSTS OF MAINTENANCE, TRIMMING, AND REMOVAL OF TREES.

WHEREAS, the Pennsylvania Third-Class City Code gives Titusville City Council the power to regulate the manner and method of "planting, trimming, removing, maintaining and protection of shade trees in, on and along or extending over the public streets, sidewalks and rights-of-way of the city and provide for penalties for violations" 11 Pa.C.S. § 12416(a); and

WHEREAS, the Pennsylvania Third-Class City Code gives Titusville City Council the power to create a shade tree commission and define its "composition, powers and duties" and to "delegate Council's authority for regulating shade trees to the commission" 11 Pa.C.S. § 12416(a); and

WHEREAS, Article 157 of the Codified Ordinances of the City of Titusville governs the duties of the Shade Tree Commission, permit requirements for planting, maintenance, trimming, and removal of trees in public areas, and penalties for violating the requirements of Article 157; and

WHEREAS, City Council desires to revise the powers, duties, and authority of the Shade Tree Commission;

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED, by the authority of the Council of the City of Titusville, Pennsylvania assembled at a publicly advertised meeting, as follows:

**SECTION 1** – Article 157 of the Codified Ordinances of the City of Titusville is hereby amended to state in full as follows:

**157.01 DEFINITIONS.**

- Area.
- (a) "Adjacent Owner" shall mean the owner of the real property adjacent to a Public
  - (b) "Article" shall mean this Article 157 entitled "Shade Tree Commission."
  - (c) "Board of Appeal " shall mean a board appointed by City Council to review appeals

by property owners of notices and actions by the City.

(d) "City" shall mean the City of Titusville, Pennsylvania.

(e) "City Council " shall mean the City Council of the City of Titusville, Pennsylvania.

(f) "Paid Consultant" shall mean a non-voting, paid consultant by the City contracted by the City to carry out responsibilities set forth in this Article.

(g) "Emergency" shall mean any unexpected or sudden occurrence that poses a danger to the public health, welfare, or safety. Nonexclusive examples of emergencies include fallen trees or damaged or diseased tree limbs which pose a risk of falling into a Public Area.

(h) "Person" shall mean any individual, partnership, company, association, corporation or other group or entity.

(i) "Public Area" shall mean any real estate under the control or ownership of the City of Titusville or any of its agencies or authorities, whether owned in fee-simple, as a public right-of-way, a park, or an easement.

(j) "Shade Tree Commission" shall mean the Shade Tree Commission of the City of Titusville.

(k) "Substantial Injury" shall mean such injury and damage which endangers the continued life and structural integrity of any tree.

(l) "Top" or "Topping of a Tree" shall mean the cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to substantially remove the natural canopy.

(m) "Tree" shall mean a woody plant with one main trunk which generally reaches 20 feet or more in height, at maturity, and shall not include shrubs or bushes.

#### **157.02 PROHIBITED ACTIVITY.**

It shall be unlawful:

(a) To plant, cut down or top, or cause to be planted, cut down or topped any tree within Public Areas without a permit issued by the City in accordance with the provisions of this Article.

(b) To plant or cause to be planted any tree within a Public Area except in accordance with spacing requirements set forth in the Rules and Regulations, which establishes required distances from other trees, street intersections, fire hydrants, curbs, sidewalks, underground water, sewer or other utility and overhead utility wire, cable or facility as measured from the main tree trunk based upon classification of trees by species and size as set forth in the Rules and Regulations adopted in accordance with this Article.

(c) For any person engaged in multiple tree trimming or tree removal activities for or on behalf of any utility company or other person to trim any trees within a Public Area without a permit issued by the City pursuant to and in accordance with the provisions of this Article, and for any such person to conduct such activities in any manner which is not in conformity with regulations adopted by City Council in accordance with the provisions of this Article. All of the above applies except in a state of emergency as determined by any of the following: City Manager, Director

of Public Works, Police Chief, Fire Chief, Mayor. As soon as reasonably convenient following an emergency, the person directing the removal or trimming of a tree shall notify or cause notification of said activity to be given to the City.

- (d) To apply chemicals in the nature of fungicides or pesticides to trees within a Public Area without a permit issued by the City pursuant to the provisions of this Article and except in accordance with applicable local, federal and state laws, rules and regulations relating thereto.
- (e) To fasten ropes, wires, cables, electric attachments, signs, or other devices to a tree within a Public Area without a permit issued by the City pursuant to the provisions of this Article, and in conformity with regulations adopted by City Council in accordance with the provisions of this Article.
- (f) To cut or disturb roots, to obstruct free access of air and water to roots, to maintain fires in close proximity to trees, or to undertake demolition or construction work without protecting or guarding nearby trees, where such activity is likely to cause substantial injury or destruction of a tree within a Public Area without a permit from the City.

#### **157.03 PERMIT APPLICATION.**

To obtain a permit to conduct any activities governed by the provisions of Section 157.02 of this Article, an application together with such fee as may be established from time to time by resolution of the City Council, shall be submitted to the City Manager or his designee. The permit application shall contain the following information:

- (a) Name, address, and telephone number of the applicant.
- (b) Location and description of the property on which the activity requiring a permit is to occur.
- (c) Owner(s) of the specified property if different from applicant.
- (d) A description of activity to be undertaken which requires a permit. All relevant information must be detailed, including a description of trees affected; their location with respect to streets, property lines, sidewalks, and structures; types of chemicals or other matter to be applied; the person doing the work; and any other information requested by the City and reasonably necessary to determine if a permit should be issued.

#### **157.04 PERMIT ISSUANCE.**

A permit shall only be issued after any applicable fee has been paid and after a representative of the City determines that the planting, trimming or cutting down of a tree, or application of chemicals, or other matter or activity involving a tree or trees within a Public Area, will be performed in accordance with the regulations promulgated and adopted pursuant to the provisions of this Article, will be in the City of Titusville's best interest and will not be detrimental to traffic or to utility services in or about the Public Area, and will not otherwise be detrimental to the public health, safety and welfare. Except in cases of a Public Nuisance under Section 157.07, the City shall seek comment from the Shade Tree Commission prior to issuing a permit.

#### **157.05 GENERAL PERMIT.**

By the passage of this Article a general permit for the trimming of trees is issued to the Titusville Department of Public Works enabling said department to undertake all activities related to the trimming of trees either above ground or below ground where and whenever said trimming is deemed necessary by the said Public Works to protect and/or maintain the storm water system, sanitary sewer system, water system or the public safety.

#### **157.06 FEES.**

Fees shall be paid to the City for issuance of permits required under this Article in accordance with the resolution of City Council as reflected in the Fee Schedule in effect at the time of issuing the permit(s).

#### **157.07 DECLARATION OF PUBLIC NUISANCE.**

A tree within a Public Area which causes a hazard to sidewalk pedestrians, street traffic or to the public generally by reason of its dead or diseased condition, or dead, diseased, broken or decayed limbs or branches, or limbs, branches or foliage which hang into the path of street traffic or persons using sidewalks, shall constitute a public nuisance and be subject to correction or abatement as is generally provided for the abatement of public nuisances at the sole cost and expense of the Adjacent Owner of the property in accordance with Section 157.09.

#### **157.08 CITY TREE CARE.**

(a) The Shade Tree Commission shall have the duty to plant trees within Public Areas to preserve and to enhance the symmetry and beauty of Public Areas upon written approval from the Adjacent Property Owner.

(b) The City shall have the right to trim, maintain and remove trees within Public Areas which may be dead, diseased or in an unsafe condition or which may interfere with or cause harm to sewers, water lines, and other public utilities, or to public improvements; which may pose a hazard to traffic or pedestrians; which may interfere with traffic control devices or street lights; which have been damaged by storm or other occurrence; or which in any other manner may pose a threat to the public health or safety.

(c) The City shall provide any Adjacent Owner who might incur a liability under Section 157.09 with respect to such tree or trees with at least seven (7) days' notice of its planned action with respect to trees within a Public Area.

(d) Any Adjacent Owner who disagrees with the planned action may appeal to the Board of Appeal by filing a notice of appeal with the Board of Appeal within five (5) days of receipt of the notice.

#### **157.09 COST OF TRIMMING AND REMOVAL.**

The trimming or removal of a tree within a Public Area pursuant to a permit issued under Sections 157.03 and 157.04 shall be at the sole cost and expense of the owner of the subject property. The trimming or removal of a tree within a Public Area by the City shall be at the sole cost and expense of the owner of the subject property. Costs and expenses for removal or trimming of a tree by the City shall be paid within sixty (60) days of the date of the invoice from the City to the property owner.

#### **157.10 ORGANIZATION AND RESPONSIBILITIES OF SHADE TREE COMMISSION.**

(a) Organization. The Shade Tree Commission shall have five members, all of whom shall be residents of the City, who shall be appointed by the City Council. In addition, non-voting associate members who may or may not be residents of the City, may be approved by the City Council. The members of the Shade Tree Commission shall serve without compensation.

(b) Term of Office. The members of the Shade Tree Commission shall be appointed for a term of five years, and these terms shall be staggered so that one member's term expires each year. A vacancy on the Shade Tree Commission which occurs for reason other than the expiration of a term, shall be filled for the unexpired portion of the term. A member may remain on the Shade Tree Commission after expiration of his or her term until a replacement is duly appointed or qualified.

(c) Officers and Actions. The members of the Shade Tree Commission shall elect a Chairman, and such other officers as appropriate. The terms of the officers so elected shall be for one year. Officers may serve consecutive terms. All officers shall be eligible for re-election. A

majority of the voting members shall be a quorum for the purpose of taking action. A majority of votes cast at any meeting at which a quorum exists shall determine all issues.

(d) Responsibilities and Duties.

- (1) The Shade Tree Commission shall make recommendations to City Council regarding Rules and Regulations for the various classifications of trees and the planting, maintenance, protection, and removal of trees within Public Areas. These Rules and Regulations shall be effective upon approval by resolution of City Council. These Rules and Regulations may be amended from time to time in accordance with this procedure.
- (2) The Shade Tree Commission shall study and make recommendations to City Council on all matters affecting trees within Public Areas, including ordinances and regulations for the placement, removal, care and protection of trees.
- (3) The Shade Tree Commission may solicit and accept grants and contributions. Funds obtained by the Shade Tree Commission in the form of grants and contributions shall be placed in the Memorial Tree Fund or other special funds established by the City and may be used by the Shade Tree Commission in a manner approved by the City Council.

**157.11 VIOLATIONS, REMEDIES AND PENALTIES.**

(a) Any Person who shall violate or fail to comply with the requirements or obligations set forth in this Article shall be served with a written notice of violation issued by the City requiring such action as appropriate to correct a hazardous condition or a condition in violation of this Article or Rules and Regulations promulgated pursuant to this Article. Any Person aggrieved by a notice of violation may file an appeal with the Board of Appeals within five (5) days of receipt of the notice of violation.

(b) In the event a Person fails or refuses to comply with any notice of violation by the City as provided by this Article or by general law or otherwise fails to correct any prohibited condition or to cease any continuing violation, then the City may take one or more of the following actions:

- (1) Revoke any permit issued pursuant to the provisions of this Article.
- (2) Correct or remedy the subject condition or violation at the cost of the property owner or possessor, or other Person responsible for the violation or subject condition. This cost, together with a reasonable administrative fee, shall be paid by the property owner or other Person responsible for the violation or for failing to take any action required by this Article. Property owners and other Persons responsible for the violation or subject conditions shall be jointly and severally liable for compliance with the provisions of this Article and for the payment of any and all sums which may be due to the City hereunder.
- (3) Should any property owner or other Person responsible for the subject condition or violation fail to pay the cost of any corrective action, together with the administrative fee authorized herein, such costs may be assessed against the subject premises and the owners thereof and collected as a municipal lien or collected otherwise as permitted by law.
- (4) Institute a summary proceeding before the Magisterial District Judge for imposition of a penalty as provided for under Section 157.99 hereafter.
- (5) Proceed with an action as permitted by law for any other appropriate relief at law or in equity.

**157.12 MEMORIAL TREE FUND.**

(a) There is hereby created among the accounts of the Shade Tree Commission, a special trust fund account to be known and denominated as the Memorial Tree Fund.

(b) It shall be the purpose of the Memorial Tree Fund to accept contributions from the public at large and to employ the sums so accumulated therein, together with any income earned thereupon, for the placement and maintenance of trees, and may include tree removal in and along Public Areas in the City, as a memorial to those in whose names the contributions are made.

(c) The Memorial Tree Fund shall be administered by the Shade Tree Commission.

(d) If, at any time, continued maintenance of the Memorial Tree Fund becomes impractical, in the opinion of City Council, Council by resolution may dissolve the Fund and direct that the proceeds therefrom be used for trimming, maintenance, and removal of trees in Public Areas.

### **157.13 BOARD OF APPEALS.**

(a) Where specifically provided in this article, aggrieved property owners may appeal actions of the City to the Board of Appeals.

(b) The Board of Appeals shall be comprised of three members of City Council designated by resolution of City Council, each to serve for a two-year term.

(c) All appeals shall be filed with the City Manager.

(d) All appeals shall be heard at a meeting of the Board of Appeals, open to the public, at which at least a majority of members are present, held within seven days of filing of the appeal.

(e) All decisions of the Board of Appeals shall be by majority vote of the members present.

(f) If the property owner's appeal is upheld, the City shall be directed to refrain from taking the proposed action. If the appeal is rejected, the City shall be authorized to proceed with the proposed action.

(g) A member of the Shade Tree Commission or a Paid Consultant shall be present at all Board of Appeals hearings.

### **157.99 PENALTY.**

(a) For willfully injuring or killing a living tree in any Public Area by cutting, debarking, breaking, by the use of herbicides, use of a vehicle or in any other manner wherein it is determined by the Magisterial District Judge that such damage or destruction was wantonly or intentionally inflicted, a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) per day up to nine hundred dollars (\$900.00), plus the cost of repairing or replacing each damaged tree shall be levied. If the Person found guilty of violating this Article is an abutting property owner, the cost of repair or replacing the damaged tree shall be assessed against the property in accord with Section 157.09 of this Article.

(b) For all other violations, where it is determined by the Magisterial District Judge that such damage or destruction was not intentionally or willfully inflicted, a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) plus the cost of repairing or replacing the damaged tree shall be levied. If the Person found guilty of violating this Article is an abutting property owner, the cost of repair or replacing the damaged tree shall be assessed against the property in accord with Section 157.09 of this Article.

(c) All penalties or assessments imposed under such Sections shall be paid to the City Treasurer to be placed to the credit of the Memorial Tree Fund, subject to be drawn upon by the

City for the purposes authorized in this article.

**SECTION 2** – The Rules and Regulations adopted as Appendix A to Article 157 shall remain in full force and effect and are not revised by this Ordinance. Such Rules and Regulations may be revised by appropriate resolution of City Council.

**SECTION 3** – Any fees adopted by resolution of City Council related to Article 157 and made part of the Fee Schedule shall remain in full force and effect and are not revised by this Ordinance. Such fees may be revised by appropriate resolution of City Council.

**SECTION 4** – This Ordinance shall be effective in 10 days.

**SECTION 5** – The Solicitor is directed to amend the Codified Ordinances of the City of Titusville to incorporate the amendments contained herein.

Enacted this 19<sup>th</sup> day of April, 2022.

ATTEST:

Neil Fratus  
Neil Fratus, City Clerk

CITY OF TITUSVILLE  
By: Jon W. Crouch  
Jon W. Crouch, Mayor