

ORDINANCE NO. 284

AN ORDINANCE OF THE BOROUGH OF PATTERSON HEIGHTS, BEAVER COUNTY, PENNSYLVANIA SETTING FORTH THE STANDARDS FOR MAINTENANCE OF TREES AND SHRUBBERY ALONG BOROUGH PROPERTY AND VESTING IN BOROUGH COUNCIL THE EXCLUSIVE CARE, CUSTODY AND CONTROL OF SHADE TREES WITHIN THE BOROUGH.

WHEREAS, the Borough of Patterson Heights (hereinafter "Borough"), is a borough located in the County of Beaver, Commonwealth of Pennsylvania, incorporated as a body corporate and politic pursuant to the Borough Code, 8 Pa. C.S.A. §101, et. seq., having its office located at 600 Seventh (7th) Avenue, Beaver Falls, Pennsylvania, 15010; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §3301.1(b), every legislative act of Borough Council must be by ordinance; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §3301.1(b)(4)(iii), such legislative act may include imposition of property maintenance standards within the Borough; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §3301.1(a), Borough Council shall enact ordinances in accordance with the Borough Code and the laws of the Commonwealth of Pennsylvania in which the powers of the Borough shall be exercised as deemed beneficial to the Borough and to provide for the enforcement powers of the Borough; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §1202(11), Borough Council is vested the power to regulate the streets, public squares, common grounds, sidewalks, curbs and to prohibit the obstruction to the convenient use of the same; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §2720, Borough Council shall have the exclusive care, custody and control of shade trees in the Borough and may plant, transplant, remove, maintain and protect shade trees on the streets and highways of the Borough,

as well as employ and pay persons and make and enforce regulations as may be necessary for the care and protection of the shade trees of the Borough; and

WHEREAS, the General Plan of Lots in the Borough was laid out by H.C. Patterson, as recorded in the Beaver County Recorder of Deeds Office in Plan Book Volume 1, Page 22, showing the streets and alleys within said General Plan of Lots; and

WHEREAS, certain other plans have been added to said General Plan of Lots and the Borough limits encompassing said plans have been extended to the City of Beaver Falls and the Beaver River on the east, the Township of Patterson on the west, the Township of Patterson on the south, and the Township of Patterson on the north; and

WHEREAS, in the improvements of the streets and alleys in said Plans within the Borough of Patterson Heights, in many cases pavement was made of only a portion of the width of the street as set forth in said Plans and curbs were set at the limits of said pavement so that a certain portion of the street, unimproved in many cases, lies between the curb line and the property line of the owners of lots within said Plans, which said unimproved portion of the street is commonly known as the “Borough Right-of-Way,” and which, although owned by the Borough, is generally used as a yard area by the landowners adjacent thereto; and

WHEREAS, Borough Council deems it advisable to set forth the duties of the adjoining landowners as to the trees growing on their property, upon or to be planted upon said Borough Right-of-Way, on other Borough Property used by adjoining landowners or on Borough public areas in general; and

WHEREAS, on February 19, 2020, the Borough properly codified its ordinances, and as a result thereof, repealed Ordinance No. 215, titled “An Ordinance Creating a Shade Tree Commission”; and

WHEREAS, the Borough now explicitly vests in its Council the exclusive ability for care, custody and control of shade trees within the Borough and to provide for the enforcement of the same for the benefit of the Borough and its residents.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Patterson Heights, Beaver County, Pennsylvania and it is hereby ordained and enacted by the authority of the same that:

SECTION 1 – RESPONSIBILITY OF LANDOWNERS.

Landowners within the Borough shall be responsible for the care and maintenance, and, if required as set forth in this Section 1, shall be responsible for the removal of trees growing within the Borough Right-of-Way lying between their property line and the adjacent curb line of the improved street or alley upon which their property abuts or for any tree or portion(s) thereof on their property that may constitute a hazardous condition to the public, and in limited circumstances, to other private property owners.

SECTION 2 – STANDARDS FOR MAINTENANCE OF TREES AND OTHER VEGETATION.

(a) It shall be the duty of the owners of all real estate located in the Borough to trim and keep trimmed all trees and shrubs located upon their property or upon or along the abutting street or upon any portion of the Borough Right-of-Way so that:

- (1) There shall at all times be a clear space of at least fourteen feet (14') between the lowest portion of every such tree or shrub and the surface of the street below; and
- (2) There shall at all times be a clear space of at least eight feet (8') between the lowest portion of every such tree or shrub and the surface of the sidewalk below; and
- (3) No portion of any such tree or shrub shall extend horizontally onto the pathway of any street at any point less than fourteen feet (14') above the surface of that street, or onto any sidewalk at any point less than eight feet (8') above the surface of that sidewalk.

(b) It shall be the duty of the owners of all real estate located in the Borough or owners of such property adjacent to the Borough Right-of-Way to trim and keep trimmed, or to remove all vegetation that is growing in such a manner as to impede passage on any abutting street or alley, whether on that real estate or on the adjacent Borough Right-of-Way.

(c) It shall be the duty of the owners of all real estate located in the Borough or owners of property adjacent to the Borough Right-of-Way to remove all trees, shrubs, or other vegetation, and their roots, that are growing in such a manner as to cause the upheaval or disturbance of an abutting street or alley, and, as directed by Borough Council, then to make or pay for the necessary repairs or reconstruction work to eliminate the disturbance or upheaval, whether on that real estate or on the adjacent Borough Right-of-Way.

(d) It shall be the duty of the owners of all real estate located in the Borough or owners of property adjacent to the Borough-of-Way to keep public areas, hereinafter meaning any public right-of-way, park, easement, or other area under the control of the Borough, free from hazardous trees, shrubs, or portions(s) thereof.

(e) Any failure to perform any duty required by this Section shall constitute a violation.

SECTION 3. CARE AND MAINTENANCE OF TREES BY LANDOWNERS.

Landowners, at their own expense, shall care for and maintain such trees on their property or on adjoining Borough Right-of-Way, so as to keep them free from disease, free of damaged or dead limbs, and free from any other condition which may constitute a hazard to persons or property lawfully on the public street, alley, sidewalk, entry walk or any other public area.

SECTION 4. PERIODIC INSPECTIONS BY BOROUGH; CORRECTION OF HAZARDOUS CONDITIONS.

(1) The Borough shall select an Inspector, who shall be appointed by Borough Council, by Motion, at a properly advertised meeting.

(2) Inspector Duty Generally. It shall be the duty of an Inspector to determine at intervals of not less than every six (6) months, whether the trees growing on the Borough Right-of-Way or any other public area under the control of the Borough, are in good condition or whether they constitute a hazard to persons or property lawfully upon the public street or any other public area, or upon the entry walk across said Borough Right-of-Way. The Inspector shall, in the event an inspection discloses a hazardous condition of any tree, determine whether such hazard can be corrected by pruning or other treatment, or whether the condition requires the removal of such tree. If the appointed Inspector is not an arborist, the Inspector may contact a reputable arborist for a further opinion prior to making his/her decision.

(3) Potentially Hazardous Trees in Public Areas. Trees in public areas, which, in the opinion of the Inspector, are seriously damaged, diseased, disfigured or constitute a hazard to the public or to trees on private property, may be removed or pruned by the Borough. Prior to tree removals from Borough Right-of-Ways or public areas, notice shall be provided to the property owner(s) immediately adjacent to the tree(s) to be removed. Notice shall also be provided to Borough Council. A noticed property owner may appeal the removal to Borough Council.

(4) Immediately Hazardous Trees in Public Areas. When, in the opinion of the Inspector, a tree or portion(s) of a tree in a Borough Right-of-Way or public area constitutes an immediate hazard to persons or property, the Inspector shall order removal of the immediate hazard without notice or appeal.

(5) Potentially Hazardous Trees on Private Property. Trees on private property, which, in the opinion of the Inspector, are sufficiently damaged, diseased or in such condition as to constitute a potential hazard to the public or to other trees on public property, may be ordered removed, partially removed, or treated. Property owners so ordered shall have ten (10) days following receipt of the Order to appeal to Borough Council. Borough Council shall hear the appeal within ten (10) days of the receipt of the appeal. Decisions of Borough Council shall be written, include findings of fact, and be appealable as provided by law. Should Borough Council determine that the tree should be removed, partially removed or treated, the property owner shall comply within thirty (30) days. If the property owner shall fail or refuse to remove or treat said tree, the property owner shall be subject to the penalties set forth in Sections 14. and 15. herein.

(6) Immediately Hazardous Trees on Private Property. When, in the opinion of the Inspector, a tree or portion(s) of a tree on private property, which is infected with Dutch Elm Disease, other disease or otherwise constitutes an immediate hazard to the public or other trees on public or private property, the property owner shall immediately be notified of the hazard and requested to eliminate it. If the immediate hazard is not eliminated, the matter shall be considered by Borough Council at a public meeting. In the absence of a quorum of Borough Council at the next public meeting, the matter shall be considered at the following public meeting of Borough Council. Upon determination that the tree is an immediate threat or hazard, the Inspector is authorized to remove or order the removal of the tree or portion of the tree after five (5) days' notice to the property owner. All costs for such work shall be assessed and, if not paid, shall be a lien against the property pursuant to Section 14., below.

SECTION 5. LANDOWNER NOTIFIED TO ABATE HAZARD OR REMOVE TREE.

(1) Upon the Inspector's determination being made, the Borough shall notify the landowner of the condition found by its Inspector and of the nature of the work required to be done to abate the hazard, or, if it is deemed necessary by the Inspector, the Borough shall notify the landowner that he or she is required to remove the tree.

(2) The Borough shall also notify the landowner, in writing, by U.S. First Class Mail and U.S. First Class Mail, Certified, Return Receipt Requested, of the time in which such removal or work shall be completed, which shall not be less than thirty (30) days from the date of the notice.

SECTION 6. DUTY OF LANDOWNER TO COMPLETE WORK AND NOTIFY BOROUGH OF COMPLETION.

Upon receipt of an Inspector's notice, the landowner shall, within the time limit set forth in Section 5 above, complete the work or removal of the tree, and shall within two (2) days after the completion of the work notify the Borough of the completion, so that inspection may be made to determine that the hazard is abated or removed.

SECTION 7. REPAIR OR REMOVAL ON INITIATIVE OF LANDOWNER.

Landowners may make such repairs as they may desire to trees in the Borough Right-of-Way, or may remove those trees, provided only that no less than five (5) days prior to making any repair or removal, a landowner notifies the Borough Secretary, in writing, of the landowner's intention, to allow the Borough Inspector to determine whether protection of persons or property on the public street or entry walk is required. If it is determined that public protection is required, the landowner shall be notified of the required protection and shall not repair or remove trees until said protection is furnished.

SECTION 8. REPLACEMENT OF A TREE AFTER REMOVAL.

Upon removal of a tree on the Borough Right-of-Way or public area, voluntarily or pursuant to Inspector notice, the landowners shall notify the Borough of their intention regarding replacement of a tree or whether no replacement of a tree is contemplated. Should the landowner intend on replacing the tree, the landowner shall specify the type or species of tree to be supplied, shall confirm with the Borough that the tree is suitable for planting, and shall notify the Borough of the time and place of planting.

SECTION 9. UNLAWFUL TO INJURE TREES.

It shall be unlawful to injure any tree now growing on any Borough property.

SECTION 10. CONDITIONS FOR ATTACHED WIRES TO TREES.

It shall be unlawful for any landowner, individual, person, corporation, company, firm, association, or the like, or the servants, agents or other employees thereof, to attach to any such tree any wire, other than as required for support of the tree, without permission of the Borough.

SECTION 11. INTERFERENCE TO VIEW BY TREES NOT PERMITTED.

No tree shall be planted or maintained in a position which impedes or cuts off the view of a street from an intersecting street.

SECTION 12. ACCESS BY BOROUGH PERSONNEL.

The Borough shall have the right to enter upon said Borough Rights-of-Way or upon adjacent property, to prune, remove or otherwise shape trees on it for the purpose of removing hazardous conditions to the Borough's streets, alleys, sidewalks, pathways or public areas.

SECTION 13. UNAUTHORIZED PERSONS NOT TO TRIM OR SHAPE TREES.

No person, other than approved agents of the Borough or a landowner, or public entities, described herein, upon direction of the Borough or providing notice as set forth in Section 5. above, shall have the right to trim or shape trees within the Borough Right-of-Way or public areas. Further, public entities, may, in order to access its lines, services, etc., trim or shape trees within the Borough Right-of-Way or public areas. The public entities referred to in this Section include, but are not limited to, electric companies, gas companies, phone companies, cable companies, municipal authorities and the like.

SECTION 14. AUTHORITY FOR BOROUGH TO DO WORK AT EXPENSE OF DEFAULTING LANDOWNER.

In the event that a landowner, who has been notified pursuant to Section 5. above to abate a hazard, perform other repair work, or remove a tree, has failed or neglected to do so for a period of thirty (30) days following the notice given to the landowner, the Borough may complete the repairs or removal of the tree and charge the cost thereof to the landowner, said cost of repair or removal to be collected by a suit or lien against the landowner and/or the landowner's property, pursuant to applicable law, for the recovery of the repairs or removal of the tree, plus any additional Borough costs.

SECTION 15. PENALTIES FOR VIOLATIONS.

(1) Any person, firm or corporation who violates any provision of this Ordinance as set forth in its entirety shall be subject to prosecution before a Magisterial District Judge and, upon conviction, shall be fined not more than six hundred (\$600.00) dollars, plus court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings, and in default of payment of such fines, costs and fees, imprisoned in the Beaver County Jail for a period not exceeding thirty (30) days.

(2) Each and every day that a violation of this Ordinance occurs shall constitute a separate offense.

(3) The Borough and its Council expressly reserve all the enforcement rights afforded it in the Borough Code, 8 Pa. C.S.A. §3321 through and including 8 Pa. C.S.A. §3324.

SECTION 16. REPEAL OF BOROUGH ORDINANCE NO. 215.

Borough Ordinance No. 215, titled “An Ordinance Creating a Shade Tree Commission”, although properly repealed by the codification of the Borough’s ordinances on February 19, 2020, is hereby further expressly repealed, shall be void and have no effect.

SECTION 17. CONFLICTS.

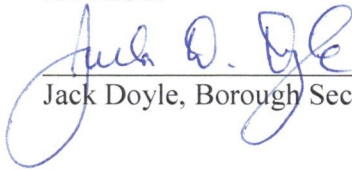
Any Ordinance or part thereof conflicting with this Ordinance is hereby repealed insofar as the same is inconsistent herewith.

SECTION 18. EFFECTIVE DATE.

This Ordinance shall become effective immediately.


ORDAINED AND ENACTED this 17th day of March, 2021.

ATTEST:




Jack Doyle, Borough Secretary

BOROUGH OF PATTERSON HEIGHTS



William A. Starn, Borough Council President

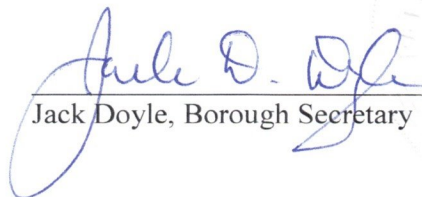
READ AND APPROVED by me, this 17th day of March, 2021.



Ronald Tyger, Borough Mayor

CERTIFICATION OF THE BOROUGH

I hereby certify that the foregoing Ordinance was advertised in the *Beaver County Times* on Friday, March 5, 2021, a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth a regular meeting of the Borough of Patterson Heights on Wednesday, March, 17, 2021.



Jack Doyle, Borough Secretary

(SEAL)