

CURRENT

Shepherdstown Tree Commission

Ordinance No. 11-505

AUTHORITY AND POWER.

There is hereby created and established a Tree Commission for the Corporation of Shepherdstown which shall consist of five members who shall be appointed by the Mayor and with the approval of Council. Members of the Board shall serve without compensation.

Terms of Office.

The term of the five persons to be appointed shall be three years, except the term of two members appointed to the first Board shall be for only one year and the term of one member shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings.

APPLICABILITY.

This article provides full power and authority to the Tree Commission over all trees, plants and shrubs planted within the right-of-ways, parks, and public places of the Corporation. The Commission shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way and other publicly owned grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such publicly owned lands.

DEFINITIONS.

- (a) "Arborist" means a person with special skills, training or certification to apply knowledge on urban trees
- (b) "Corporation" means the Corporation of Shepherdstown, a political subdivision of West Virginia
- (c) "Contractor" means any individual, corporation or firm who agrees to supply labor or materials to the Corporation of Shepherdstown
- (d) "Right-of-way" means any public street, alley, or easement owned by the Corporation of Shepherdstown
- (e) "STC" means the Shepherdstown Tree Commission
- (f) "Tree" means any perennial woody plant supported by a trunk with branches and foliage growing at the same distance above the ground and includes shrubs and various woody plants

LICENSING

It shall be unlawful for any person, firm or corporation to engage in the business of planting, cutting, trimming, pruning, removing, spraying, otherwise treating trees, shrubs or vines within the Corporation without first producing evidence of certification/license before the Corporation. Those providing any tree service to the Corporation must have a business license and show proof of certification as an arborist. The STC may impose specific tests, licensing requirements, certification or other methods of determining the professional status of those individuals working on urban trees within the Corporation.

INSURANCE

Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of three hundred thousand dollars (\$300,000) for bodily injury or death and one hundred thousand dollars (\$100,000) property damage indemnifying the Corporation or any personal injured or damaged resulting from the pursuit of such tree work determined by the STC.

LANDSCAPE

In new subdivisions or when the development of commercial property occurs, the STC will review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and /or subdivided.

All developments shall provide shade trees with the following standards:

- (a) A minimum caliper of 1-1/2 inches
- (b) Uniformly spaced not less than twenty feet or more than fifty feet apart along the entire length of each street within the development except in special plantings designed by a landscape architect and approved by the STC
- (c) Varieties (species) acceptable to the Corporation must be on the list of acceptable tree species maintained by the STC

TREE PLANTING, MAINTENANCE AND REMOVAL

- (a) Tree Species The STC develops and maintains a list of desirable trees for planting along streets and elsewhere within the Corporation
- (b) Topping It shall be unlawful as a normal practice for any person, firm or Corporation department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the STC. All exceptions must be approved by the STC.
- (c) Planting Trees shall not be planted on any publicly owned grounds within the Corporation without the specific written approval of the STC. Only those trees on the list of desirable tree species as maintained by the STC shall be considered for new or replacement planting. All tree planting shall comply with the American Association of Nurseryman Standards unless special standards are allowed by the STC.

- (d) Maintenance No person, firm or corporation shall provide maintenance of any kind to any Corporation owned tree without the express written consent of the STC.
- (e) Removal No person, firm or corporation shall remove, cut above ground, or disturb any tree on any street, park or other specific place without first filing a written request and procuring written permission from the STC. The person receiving said permission shall abide by the standards set forth in this section. The STC may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which may by reason of its nature is injurious to sewer, utility lines, gas lines, water lines or other public improvements or is affected with an infectious fungus, insect or pest.

TREE PROTECTION

- (a) Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Corporation shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified in such notice.
- (b) No person, firm or corporation, except the STC or its agent, may perform any of the planting, removal, trimming, pruning, spraying, or maintenance of any nature on publicly owned trees without first obtaining a permit from the STC which no fee shall be charged

ENFORCEMENT

The Corporation shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the Corporation.

PENALTIES

- (a) Violations Any person who violates any provision of this article or who fails to comply with any notice issued pursuant to provisions of the article, upon being found guilty of violation, shall be subject to a fine not to exceed one hundred dollars (\$100) for each separate offense. Each day during which any violation of any provision of this article shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this article, the injury, mutilation, or death of a tree, shrub or other plant located on Corporation owned property is caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens", as published by the International Society of Arboriculture.
- (b) Assignment of Claim In the event that a nuisance is not abated by the date specified in the notice, the Corporation is authorized to cause the abatement of

such nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

(c) Appeals All hearings shall be open to the public. The appellant, the STC or its agent and any person whose interests are affected shall be given an opportunity to be heard before the Shepherdstown Town Council. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received. Council shall render its decision within thirty days.

First Reading- September 12, 2000

Second Reading- October 10, 2000

Adopted-October 10, 2000

This copy of Original Ordinance
Manually entered into computer March 20, 2007
by Wendy Maddox, Shepherdstown Tree Commission