

ORDINANCE

Ordinance No. 2017- 03

BOROUGH OF EAGLES MERE Sullivan County, Pennsylvania

AN ORDINANCE OF THE BOROUGH OF EAGLES MERE, COUNTY OF SULLIVAN, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 36: SHADE TREE COMMISSION, OF THE CODE OF THE BOROUGH OF EAGLES MERE

BE IT ORDERED and RESOLVED, by the Borough Council of the Borough of Eagles Mere, County of Sullivan, and Commonwealth of Pennsylvania, as follows:

WHEREAS, the Borough Council of the Borough of Eagles Mere has decided that it is in the best interest of the Borough to amend Chapter 36: Shade Tree Commission, of the Code of the Borough of Eagles Mere as adopted on August 3, 1998 by Ordinance No. 1998-119;

WHEREAS, Chapter 36: Shade Tree Commission shall be amended to read as follows:

Chapter 36 Shade Tree Commission

[HISTORY: Adopted by the Borough Council of the Borough of Eagles Mere 8-3-1998 by Ord. No. 119. Amendments noted where applicable.]

§ 36-1 Short title.

This chapter shall be known and may be cited as the "Eagles Mere Borough Shade Tree Ordinance."

§ 36-2 Definitions.

[Amended 3-5-2007 by Ord. No. 2007-1, and renumbered former §§ 36-2, 36-3 and 36-4 as §§ 36-3, 36-4 and 36-5, respectively.]

As used in this chapter, the following terms shall have the meanings indicated:

BOROUGH

The Borough of Eagles Mere.

BOROUGH COUNCIL

The Borough Council of the Borough of Eagles Mere, Sullivan County, Pennsylvania.

PRIVATE PROPERTY

Land owned by one or more persons which is adjacent to a right-of-way, extending for a distance of up to 15 feet from the street line or public street or from the edge of any sidewalk.

PUBLIC STREET

Any street, avenue, boulevard, road, highway, alley or any other ways used or intended to be used by vehicular traffic or pedestrians from curb to curb or, where there are no curbs, from edge of the berm to the edge of the berm.

RIGHT-OF-WAY

A corridor of land set aside for use, in whole or in part, for a street.

SHADE TREE

A tree which may exceed 20 feet in height and situated within the Shade Tree Commission right-of-way. Smaller trees and associated shrubs are included in specific instances of concern involving public, health and/or safety.

SHADE TREE COMMISSION RIGHT-OF-WAY

The right-of-way plus an additional 10 feet on either side of the right-of-way.

STREET

Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alleyway, viaduct and any other ways used by vehicular traffic, including, if applicable, the area commonly referred to as "the berm" and shown on the official Borough street maps.

STREET LINE

A line separating a lot from an adjacent street.

§ 36-3 Creation of Commission; membership; powers and duties.

The Borough Council of the Borough of Eagles Mere hereby creates a Shade Tree Commission, to be composed of three residents of the Borough who shall be appointed by the Borough Council and shall serve without compensation for their terms of office and with all the rights, powers, duties and obligations set forth in this chapter.

§ 36-4 Appointments; term of office.

The members of the Commission shall be appointed by the Borough Council for terms of five years, provided that for the first members of said Commission, one member shall be appointed for a term of three years, one for a term of four years and one for a term of five years. On the expiration of the term of any Commissioner, a successor shall be appointed by the Borough Council to serve for a term of five years. Vacancies in the office of Commissioner shall be filled by the Borough Council for the unexpired term.

§ 36-5 Powers and duties.

[Amended 3-5-2007 by Ord. No. 2007-1]

The Shade Tree Commission shall be empowered to:

- A. Advise the Borough Council and recommend to individual owners of private property actions that, in its opinion, should be taken within the Shade Tree Commission's right-of-way consistent with the purposes of promoting public safety and natural beauty.
- B. Develop or obtain and make available pertinent educational materials to members of the community.
- C. Develop and actively support an annual Arbor Day tree planting/maintenance work program, education, guidance and direction upon request of Borough Council.

§ 36-6 Authority and enforcement.

The Shade Tree Commission's functions are strictly advisory and educational and may include monitoring and inventory activities from time to time.

§ 36-7 Liability.

Neither the Shade Tree Commission collectively nor any of its members individually shall be held liable for any action taken by the Borough Council under this chapter.

§ 36-8 Selection, planting, maintenance and removal or replacement of trees.

A. Selection.

- (1) The Shade Tree Commission shall maintain and distribute, upon request, a listing and other pertinent information regarding tree varieties appropriate to the Borough's climate zone. **[Amended 3-5-2007 by Ord. No. 2007-1]**
- (2) Any tree to be planted under electric or other utility lines must be a variety whose mature height will not interfere with the line(s).

B. Planting.

- (1) No plant pit shall be dug until the location of all local underground lines and pipes are checked by the private owner or the borough through the Pennsylvania One Call System. Excavated plant pits that will be left open when work is not in progress or pose hazards to pedestrians or vehicles shall be adequately barricaded with qualified warning devices. **[Amended 1-3-2000 by Ord. No. 2000-1]**
- (2) Through direct advice and dissemination of educational materials, the Shade Tree Commission shall guide private owners on proper planting techniques. Under most circumstances, private owners shall be responsible for both site preparation and planting, except when organized volunteer programs are involved.

C. Maintenance.

- (1) Private owners shall be ultimately responsible for proper maintenance of shade trees situated on their property. In this regard, the Shade Tree Commission shall provide guidance materials and/or recommend appropriate techniques upon request.
- (2) All shade trees shall be pruned so as to maintain at all times a clear space of at least eight feet between the lower portion of every such tree and the surface of the sidewalk or walkway below. Topping of live trees shall be unlawful and is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.
- (3) The Borough Council, with or without advice from the Shade Tree Commission, may require removal, pruning or treatment of shade trees, shrubs or any combination thereof on private property or within the Shade Tree Commission right-of-way where public health or safety is determined to be at risk. In making such determination, the Borough Council may seek the advice of the Shade Tree Commission, professional foresters, licensed arborists or other persons experienced in this subject.

D. Removal and replacement.

- (1) A private owner must inform the Borough prior to removing any Shade Tree located in the Shade Tree Right of Way. The private owner shall replace the removed tree within two years of its removal with another tree species appropriate to the climate zone and the specific planting site. The private owner shall bear the cost of removal and replacement, except in unusual circumstances when any free nursery stock suitable for the planting site is available from or through the Commission.
- (2) Pursuant to § 36-4 of this chapter, the Shade Tree Commission has the authority to enter onto private property for the purpose of inventory and/or inspection wherever there is located a tree, shrub or other plant or plant part suspected by being diseased or infested with insects such that such disease or infestation may cause a hazard to other trees or property in the Borough and to advise the private owner of its recommendation to remove, prune and/or treat accordingly. However, any steps or actions to require a private owner to conduct such activity, or to pay for such work, shall be the exclusive responsibility of the Borough Council.


§ 36-9 Notice of violations.

[Amended 3-5-2007 by Ord. No. 2007-1]


In addition to any other remedies available to the Borough, a person who shall violate the provisions of this chapter may be contacted by a representative of the Borough to discuss the violation relative to the intent of the ordinance regarding tree removal, replacement or treatment/maintenance. A written notice shall be sent following the initial contact outlining the work to be done and a time limit for completion. Noncompliance with the notice may result in Borough Council authorizing the removal, trimming or treatment at the owner's expense.

DULY ENACTED AND ADOPTED by the Borough Council of the Borough of Eagles Mere, County of Sullivan, Commonwealth of Pennsylvania on the 4th day of AUGUST, 2017.

ATTEST:


Kay L. Wilson, Secretary

BOROUGH OF EAGLES MERE


William Feese, Council President

APPROVED, this 4 day of Aug, 2017 by the Mayor of the Borough of Eagles Mere.


Joan Werner, Mayor