

ORDINANCE NO. 69

AN ORDINANCE OF BENNER TOWNSHIP, CENTRE COUNTY, PENNSYLVANIA, REQUIRING THE OBTAINING OF PERMITS FOR THE PLANTING, PRUNING, REMOVING OR OTHERWISE DISTURBING ANY TREE LOCATED IN ANY OF THE VARIOUS PUBLIC AREAS WITHIN THE TOWNSHIP; PROVIDING REGULATIONS FOR THE COMPLETION OF SUCH WORK; LISTING PROHIBITIVE ACTS AND VIOLATIONS; AND ESTABLISHING PENALTIES FOR VIOLATIONS OF THE ORDINANCE PROVISIONS.

WHEREAS, it has come to the attention of Benner Township that tree pruning, removal or disturbance is occurring in relationship to trees location within the public rights-of-way and other public areas of Benner Township. In order to more adequately control and preserve Benner Township's shade tree stand, Tree Permits for work on trees located on public areas or public rights-of-way will be required and it will constitute a violation to intentionally harm trees located within road and street rights-of-way as well as other public areas of the Township.

SECTION 1. PERMITS REQUIRED

Benner Township is authorized to issue Tree Permits for certain work on Township trees by persons not Township employees. Tree Permits shall be required for the following acts:

- A. Planting, treating, pruning, removing or otherwise disturbing any tree located in public areas;
- B. Trimming, pruning or removing any tree or portions thereof, if such tree or portions thereof may reasonably be expected to fall in public areas and cause damage to persons or property, or interfere with pedestrian or vehicle traffic using the public right-of-way or public easements;
- C. Placing in public areas, either above or below ground level, a container for trees, shrubs or other plants;
- D. Transplanting any tree located in public areas;
- E. Attaching any rope, wire, nail, sign, poster or similar manmade object to any tree located in public areas; and
- F. Damaging or cutting roots by tunneling, trenching or digging in public areas for the purpose of sidewalk, curb, pipe, conduit, electric wire, etc., installation and repair.

An "Application for a Tree Permit" shall be made in writing to the Code Enforcement Officer on forms supplied by the Township office. The applicant shall specify the work requested on such application. If the proposed work conforms with the requirements of this Ordinance, the Code Enforcement Officer shall issue a Tree Permit for a time period not to exceed one (1) year. All work shall be performed in accordance with good arborist practice. Such Tree Permits may be revoked by the Township if the terms and conditions of the Tree Permit are violated. Revocations may be appealed, in writing, to the Board of Supervisors within 5 working days of that notice of revocation.

Nothing in this section shall be construed to exempt abutting property owners or public utility companies or other agents from any of the requirements of this Ordinance.

SECTION 2. VIOLATIONS

It shall be unlawful for any person to:

- A. Cut, break, climb with spikes, disturb the roots of, or otherwise injure or destroy trees in any public areas or to authorize such actions. It shall not be considered a violation to trim trees or perform other activities with a valid permit from Benner Township specific to the tree(s) involved in accordance with Section 1. of this Ordinance.
- B. Cause or authorize a wire or other conductor charged with electricity to come into contact with any tree in any public area in a manner that may injure or kill it without a written permit from Benner Township specific to the tree(s) involved;
- C. Cause or authorize in any public area any oil, gasoline, herbicide, paint, brine, hot water, steam or other gas, liquid or solid substances deleterious to the tree to contact any tree or to enter the soil about the base or root system of a tree in any manner that may injure or kill it;
- D. Interfere, cause or authorize any interference with the Township or any of its agents or employees while they are engaged in planting, inspecting, maintaining, or removing trees;
- E. Supervise or authorize construction, alterations, repairs or demolition activities in the vicinity of any tree in any public area without first placing sufficient guards or protectors as shall prevent injury or destruction of said tree arising out of such activities. The placement of guards or protectors shall be in accordance with Benner Township rules and regulations or with written authorization of the Arborist or Benner Township;
- F. Place or maintain upon the ground any asphalt, cement, stone or other materials or substances in such manner as may obstruct or further obstruct free access of air and water to the roots of any tree in any public area;

- G. Fasten any rope, wire, electric attachment, sign or other devices to any tree in any public area or to any guard about such tree without an approved Tree Permit from Benner Township specific to the tree(s) involved;
- H. Plant, prune, fertilize or apply fungicides, insecticides or other chemical substances to any tree in any public area without an approved Tree Permit from Benner Township specific to the tree(s) involved;
- I. Remove or tamper with any object or device set for the protection or treatment of any tree in any public area without an approved Tree Permit from Benner Township specific to the tree(s) involved; and
- J. Pile any discarded building material or new construction material within 6 ft. of any tree in any public area.

SECTION 3. PENALTIES

Any person violating the provisions of this Ordinance shall, upon conviction before a court of appropriate jurisdiction, be liable to pay costs of prosecution and a fine as follows:

- 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 court that such damage or destruction was intentionally inflicted, a fine of not less than One Hundred (\$100.00) Dollars nor more than Six Hundred (\$600.00) Dollars plus the cost of repairing or replacing each damaged tree shall be levied. If the person found guilty of violating this Section is an abutting property owner, the cost of repair or replacing the damaged tree shall be assessed against the property;
- B. For failure of a property owner to remove, partially remove or treat a tree on private property, as ordered in accordance with this Ordinance, the guilty person shall be fined not more than One Hundred (\$100.00) Dollars per day. Each day the property owner remains in violation shall constitute a separate offense; and
- C. For all other violations where it is determined by the Court that such damage or destruction was not intentionally or willfully inflicted, a fine of not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars plus the cost of repairing or replacing the damaged tree shall be levied. If the person found guilty of violating this Section is an abutting property owner, the cost of repair or replacing the damaged tree shall be assessed against the property.

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In default of the payment of such fine and costs, such person shall be committed to the County Jail for a period not to exceed 10 days for each violation or a maximum of 30 days.

SECTION 4. EFFECTIVE DATE

This Ordinance shall become effective within 5 days upon adoption and approval by the Board of Supervisors.

ADOPTED AND ORDAINED THIS 2nd DAY OF JUNE, 1997 AD

BENNER TOWNSHIP BOARD OF
SUPERVISORS

By: _____
Michael R. Kelleher, Chairman

Richard C. Lahr, Vice-Chairman

Helen M. Alters, Supervisor

ATTEST:

Sharon Royer, Secretary/Treasurer

(SEAL)