

Chapter 273

TREES

[HISTORY: Adopted by the City Council of the City of Lancaster 11-25-2014 by Ord. No. 19-2014.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Shade Tree Commission — See Ch. 22, Art. III.

Brush, grass and weeds — See Ch. 105.

Lancaster Park Commission — See Ch. 22, Art. VIII.

Parks and recreation — See Ch. 210.

Recreation Commission — See Ch. 22, Art. IX.

Zoning — See Ch. 300.

§ 273-1. Purpose.

The City of Lancaster tree ordinance acknowledges the urban forest as a necessary part of the City's infrastructure. This green infrastructure provides numerous crucial ecosystem services to the City, including environmental (stormwater management, carbon sequestration and urban wildlife habitat), social (human health, healing, and quality of life), and economic (increased property values, increased business activity and decreased energy use). However, the increased creation of urban land over time, coupled with the challenges in adequately maintaining the urban forest and tree canopy, has created the need to further protect and conserve this valuable City resource. Thus the purposes of this chapter are to:

- A. Maximize the ecosystem services derived from trees by establishing policies for the planting, removal, maintenance and protection of trees along City streets and sidewalks, within parks and public open spaces, and protected trees on private property.
- B. Protect and strengthen neighborhoods and to make all neighborhoods more desirable, safer and attractive places to live.
- C. Maintain and strengthen the social and economic value of both private and public property.
- D. Preserve and enhance the visual character and natural beauty of the City.
- E. Restore, through an expanded tree canopy, a healthy natural environment that contributes to improved water quality, reduced stormwater runoff, reduced air pollution, and increased biodiversity and wildlife habitat.
- F. Preserve green space and promote a healthy, managed urban forest.
- G. Further the goals, objectives and strategies set forth in the City of Lancaster Green Infrastructure Plan.

1. Editor's Note: This ordinance also superseded former Ch. 273, Trees, adopted as Article 995 of the Codified Ordinances, as amended.

§ 273-2. Word usage; definitions.

A. Word usage. For the purposes of this chapter, words and terms used herein shall be interpreted as follows:

- (1) Words in the present tense include the future tense.
- (2) The singular shall include the plural, and the plural shall include the singular.
- (3) The masculine gender shall include the feminine and the neuter and vice-versa.
- (4) The words "shall" and "must" are always mandatory, and the words "may" or "should" are always permissive.
- (5) The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be occupied."
- (6) The word "person" includes "individual," "company," "unincorporated association," "corporation" or other similar entities.
- (7) The words "street," "road" and "highway" shall have the same meaning.
- (8) The word "structure" includes "building"; both terms shall be construed as if followed by the phrase "or part thereof."
- (9) The words "such as," "includes," "including" and "specifically" shall provide examples which shall not, by themselves, limit a provision to the examples specifically mentioned if other examples would otherwise comply with the provision.
- (10) Unless stated otherwise, the male gender is neutral and includes the female gender.
- (11) The word "lot" includes the word plot or parcel.
- (12) The word "abut" shall include the words "directly across from," "adjacent" and "next to."
- (13) Whenever a governmental or nongovernmental agency is cited, it shall be construed to be followed by the words "or successor agency."
- (14) If a word or term is not defined by this chapter, but is defined in the City Subdivision and Land Development Ordinance (SALDO)² or Zoning Ordinance,³ then the SALDO or Zoning definition shall apply. If a word or term is not defined in this chapter, the SALDO or the Zoning Ordinance, then the word or term shall have its plain and ordinary meaning within the context of the section. In the latter case, a standard reference dictionary should be consulted.

B. Definitions. The following words and phrases, as used herein, shall have the

2. Editor's Note: See Ch. 265, Subdivision and Land Development.

3. Editor's Note: See Ch. 300, Zoning.

meanings hereby ascribed to them, except in those instances when the context clearly indicates a different meaning:

ARBORIST, CITY ARBORIST — The Arborist/Horticulturist of the City of Lancaster, as supervised by the Director of Public Works or designee, or any urban tree professional employed or contracted by the City within the Bureau of Operations and designated with the responsibilities set forth in this chapter, including but not limited to administering the Shade Tree Program of the City of Lancaster.

BUREAU — The Bureau of Operations of the City of Lancaster.

CALIPER — The measure of the diameter of the trunk of balled or burlapped nursery trees at a point six inches above the ground, or 12 inches above the ground for trees over four inches in caliper. See also "DBH, diameter at breast height." It should be noted that "caliper" and "diameter at breast height" are both used in this chapter and carry different meanings, and should not be used interchangeably.

CARTWAY — The paved surface of a street or alley available for use by vehicular traffic.

CITY — The City of Lancaster, Pennsylvania.

COMMISSION — The Shade Tree Commission of the City.

COUNCIL — The Council of the City of Lancaster.

DBH, DIAMETER AT BREAST HEIGHT — The measure of the diameter, in inches, of a tree trunk at a point 4.5 feet above ground. See also "caliper."

DEPARTMENT — The Department of Public Works of the City.

DIRECTOR — The Director of the Department of Public Works or her/his designee.

ECOSYSTEM PROCESSES AND SERVICES — Ecosystem services are provided by natural processes that sustain human life. They include clean water, stormwater management, carbon sequestration, increased human health, increased property values, biodiversity, and wildlife habitat.

NOTICE — Either publication in one newspaper of general circulation once a week for two consecutive weeks, or written notification sent by first-class mail to property owners immediately affected, or notification posted on the affected tree.

PARK — Includes all public parks under the jurisdiction of the Department of Public Works.

PERMIT — Any permit, in writing, as issued by the Bureau of Parks and Public Property of the Department of Public Works.

PROPERTY OWNER — The owner of record of a parcel of land.

PROTECTED TREE ON PRIVATE PROPERTY — Any tree with a DBH of 12 inches or more located on any lot within 20 feet of a street right-of-way (including an approved private street or other access easement) and any tree with a DBH of 24 inches or more located elsewhere on the lot. For the purposes of this chapter, private property shall include all tracts, lots and parcels, with or without improvements, and not under control of the City of Lancaster.

PUBLIC AREAS — Includes any public right-of-way, including street, alley, avenue, boulevard, road, highway, freeway, lane, viaduct and any other dedicated and accepted public right-of-way, and any public park, trail, greenway, recreational facility, or open space under the jurisdiction of the City, as well as any City agency, commission, and board.

PUBLIC STREET — A street or alley which has been dedicated to and accepted by the City of Lancaster and has been placed on the Official City (Street) Plan. This definition includes any street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians.

RIGHT-OF-WAY or RIGHT-OF-WAY LINE — A line or lines delineating the extent or dimensions (usually expressed in feet) of the width of a public or private street or alley and which abuts two or more lots or property lines. The total width of any land used, reserved or dedicated as a street, alley, driveway, sidewalk or utility easement.

SHADE TREE — Any tree, shrub or other woody plant in or upon any public street, highway or avenue, or public park, trail, greenway or open space in the City, or that part of any tree, shrub or other woody plant which extends within the lines of any public street, highway or avenue, or public park, trail, greenway or open space in the City. For the purposes of this chapter, a shade tree shall also include any tree, shrub or other woody plant located within any properly executed and recorded easement on private property.

SHRUB — A multistemmed woody plant differing from a tree by its low stature and habit in branching from the base.

STREET TREE — Any shade tree planted in the right-of-way, including but not limited to between a street curb or cartway and a sidewalk. For the purpose of this chapter, a street tree shall also include any shade tree located within any properly executed and recorded easement on private property on the side of a sidewalk opposite the street.

STREET TREE CONTRACT — Contract between the City and a local nursery for the purchase of trees to be used for the planting of street trees under the Street Tree Program administered by the Bureau. The contract establishes the replacement value of a tree based on the average retail cost.

TREE — As used herein, "tree" shall mean "shade tree." The following tree size designations are based upon trees available through the City's Tree Planting Program:

- (1) Large trees are designated as those attaining a height of 45 feet or more with a mature spread of 30 feet or more.
- (2) Medium trees are designated as those attaining a height of 30 feet to 45 feet with a mature spread of 20 feet or more.
- (3) Small trees are designated as those attaining a height of less than 30 feet with a mature spread of 10 feet or more.

TREE CONDITION — A measure of both a tree's health and structural stability.

TREE DRIPLINE — A line derived by the horizontal line extending along a radius from the trunk of a tree to the outermost tips of branches.

TREE MANUAL — The City of Lancaster regulations and standards for arboriculture work for the planting, care, and maintenance of trees and shrubs.

TREE PROTECTION ZONE (TPZ) — The TPZ extends from the tree trunk a distance equal to 12 times the trunk diameter at breast height, or to the tree's dripline plus five feet, whichever distance is greater.

TREE RISK RATING — A method that ranks the relative degree of risk and consequence of tree failure by considering tree condition and defects, the size of the tree part prone to failure, and the vulnerability and value of any target that may be struck. Tree risk ratings are:

- (1) **Improbable:** The tree is not likely to fail even in severe weather.
- (2) **Possible:** Failure could occur, but is unlikely during normal weather conditions.
- (3) **Potential:** Tree failure is expected under normal weather conditions.
- (4) **Imminent:** Tree failure has started or will occur in near future.

TREE WORK — Any and all work performed to a tree requiring a permit as set forth herein.

§ 273-3. Administration and enforcement.

- A. **Permit required.** No shade tree shall be planted, transplanted, cut, pruned, treated or removed in or upon any public street, highway or avenue, park, or open space without a written permit from the Bureau of Parks and Public Property. All persons shall first obtain a written permit from the Bureau in accordance with § 273-11 of this chapter before doing or having done any work for the care, pruning of any tree in or upon the public streets, highways or avenues. All work required to be done under any permit issued hereunder shall be completed within the time period specified, but not to exceed three months from the date issued, unless the time period has been extended by the Bureau. All tree work shall be done following the City's Tree Manual.
- B. **Enforcement.** The provisions of this chapter shall be administered and enforced by the City Arborist or other so designated employees of the City. It shall be the duty of the Arborist or designated officers to cause any premises to be inspected or examined, to order, in writing, the remedying of any conditions found to exist in violation of any provisions of this chapter, and to issue permits in accordance with this chapter.
- C. **Records.**
 - (1) It shall be the duty of the Arborist to keep a record of all applications for shade tree permits and a record of all permits issued. The Arborist shall file and safely keep copies of all plans submitted and these shall form part of the records of his/her office.

- (2) The Arborist shall prepare a quarterly report for the Commission summarizing for the period all shade tree permits issued, all complaints and notice of violations issued and the action taken by him consequent thereon, and other items of interest.
- D. Policies, rules and regulations may be established, amended and revised by the Director to control tree planting, pruning, cabling, spraying, root cutting, and other work on trees by contractors, abutting property owners, and/or others. No such policies, rules and regulations shall be effective until 30 days after their promulgation by the Director and their publication on the City's website with notice thereof published once in a newspaper of general circulation.

§ 273-4. Shade Tree Commission.

Purpose. The Shade Tree Commission, working in conjunction with the City Arborist, works to maximize the ecosystem services derived from shade trees by establishing policies for the planting, removal, maintenance and protections of trees along City streets, sidewalks, municipal parks and public open space. The policies and procedures within which the Shade Tree Commission functions are set forth in the Code of the City of Lancaster, Chapter 22, Boards, Commissions, Etc., Article III, Shade Tree Commission.

§ 273-5. Notice to prune or remove tree.

- A. Shade trees. Any person responsible for a shade tree which is deemed by the Bureau to be a potential or imminent risk to public welfare and property by reason of its damaged or diseased condition or is not being maintained in compliance with the care provisions of § 273-6 will be notified, in writing, to remove or prune the tree, as appropriate, within such time as is therein specified.
- (1) If the notice to remove or prune the tree is not complied with within the time period specified in the notice, the Bureau may cause the removal or pruning, as appropriate, to be done at the expense of the property owner. The entire cost thereof plus the administrative fee prescribed by Chapter 36 shall be charged to the property owner. Any bill for such pruning or removal undertaken pursuant to this chapter shall be paid by the owner in accordance with Chapter 36, Municipal Claims. Upon failure of the property owner to pay the amounts due the City in accordance with Chapter 36, the City shall be entitled to collect all amounts and pursue any or all of the remedies identified in Chapter 36, Municipal Claims.
- B. Trees of potential risk on private property. Trees on private property which, in the opinion of the Arborist or Director, are sufficiently damaged, disfigured or constitute a potential risk to the public or to other trees on public property may be ordered removed, partially removed or treated. Property owners so ordered shall have 10 business days following receipt of the order to appeal the order in accordance with the procedure set forth in § 273-16 of this chapter. Following a determination by the Director that said tree should be removed, partially removed or treated, the property owner shall comply within 10 business days. If the property owner shall fail or refuse to remove or treat said tree, the property owner shall be subject to the penalty specified in § 273-14. In addition, the Director is authorized

to remove said hazardous tree or portions thereof. All costs for such work shall be assessed and, if not paid, shall be a lien against the property in accordance with § 273-12.

- C. Trees of imminent risk on private property. When in the opinion of the Arborist or the Director, a tree or portion(s) of a tree on private property constitutes an imminent risk to persons or property, including other trees on public or private property, the property owner shall immediately be notified of the danger and requested to eliminate it. If the danger is not eliminated, the Director is authorized to remove or order the removal of the tree or portion of the tree after five business 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 in accord with § 273-12 of this chapter.
- D. Trees of potential risk in public areas. Trees in public areas which, in the opinion of the Arborist or the Director, are seriously damaged, diseased, disfigured or constitute a potential risk to the public or to trees on public or private property, may be removed, pruned or treated by the City. Prior to tree removals, notice shall be provided to the property owner(s) immediately adjacent to the tree(s) to be removed.
- E. Trees of imminent risk in public areas. When, in the opinion of the Arborist or the Director, a tree or portion(s) of a tree in public areas constitutes an imminent risk to persons or property, the Arborist or Director shall remove the danger without notice or appeal. All costs for such work shall be assessed and, if not paid, shall be a lien against the property in accord with § 273-12 of this chapter.
- F. Appeals. The property owner may appeal a notice to remove, partially remove, repair or treat a damaged, diseased, or potentially dangerous tree in accordance with § 273-16 of this chapter.
- G. Permit required. Prior to performing any tree work as stipulated in a notice from the City, a tree work permit shall be obtained in the manner set forth in § 273-11, herein.

§ 273-6. Planting provisions.

- A. New trees in public areas.
 - (1) When tree planting in the public right-of-way is part of a capital improvements project, the Department will notify all abutting property owners that trees will be planted.
 - (2) Public notification is not required if trees are to be planted in the public right-of-way by the abutting private property owner(s).
 - (3) Appropriate street trees shall be considered whenever any street is proposed to be constructed, reconstructed or widened, and any sidewalk is proposed to be installed or replaced by the City or a private property owner.
- B. Planting guidelines. All trees shall be planted in accordance with the policies and guidelines set forth herein and all applicable standards, specifications and regulations in the Tree Manual as well as other City codes and ordinances including

but not limited to the Parking Lots Ordinance,⁴ SALDO,⁵ Specifications Manual and Zoning Ordinance,⁶ and all amendments thereto.

- C. Trees in land development. All trees, including but not limited to street trees, and approved by the Arborist, shall be planted according to the Tree Manual, City SALDO and all applicable specifications when a land development plan involves one or more of the following improvements:
- (1) Construction, reconstruction or widening of a street;
 - (2) Installation or replacement of sidewalk in conjunction with the project; or
 - (3) Removal of existing trees, regardless of location, as a result of project activities.
- D. Tree specifications.
- (1) No shade tree shall be planted in or upon any public street or public area except in accordance with location, species, clearance, distance and other requirements as set forth in the Tree Manual unless written approval from the Director is given.
 - (2) The City shall plant, or permit to be planted, only those tree species on the approved list provided in the Tree Manual.
- E. Tree Planting Program. A tree planting program will be made available to property owners of the City. The Program shall clearly outline the responsibilities of the property owner and the City, and shall include a tree planting release form, step-by-step instructions on tree planting and care, and a list of suitable trees.
- F. Amendments. The tree planting standards herein referenced may be amended and revised by the Director in accordance with § 273-15.

§ 273-7. Care and protection provisions.

- A. Trees as obstructions. Trees shall not be permitted to obstruct light from any street light or traffic light, signal or sign, and shall not obstruct the free passage of pedestrian or vehicular traffic over the cartway. All trees shall be kept pruned so that the minimum clearance where they overhang any public sidewalks and (travel lanes) public streets shall be in accordance with the Tree Manual. However, the Bureau reserves the right to designate a higher clearance on certain highways where heavy traffic or other conditions make it necessary. Notice to prune trees shall be in accordance with § 273-5.A.
- B. A permit secured in accordance with the provisions in § 273-11 shall be required before any of the following activities are commenced:
- (1) Cut, break, climb with spurs, injure in any manner.

4. Editor's Note: See Ch. 202, Parking Lots.

5. Editor's Note: See Ch. 265, Subdivision and Land Development.

6. Editor's Note: See Ch. 300, Zoning.

- (2) Remove any shade tree.
 - (3) Interfere in any way with the main roots of any shade tree.
 - (4) Treat any shade tree or the soil within the TPZ with any chemical or pesticide.
 - (5) Place any rope, guy wire, cable, sign, poster or any other fixture on any shade tree or guard for any shade tree. Tree guards, regardless of height or material, and metal tree grates are strictly prohibited.
 - (6) Injure, misuse or remove any device placed to protect any shade tree, except in case of immediate necessity for the protection of life and property.
 - (7) Place any stone, cement or any other substance which shall impede the passage of water and air to the roots of any shade tree unless an open space of ground surrounding the trunk of such tree is maintained in accordance with the standards set forth in the City Tree Manual.
 - (8) Pour salt water, oil or any other material at any place in such manner that injury might result to any shade tree.
 - (9) Drive any construction equipment or vehicles, or any vehicle, for any purpose within a TPZ, except over any existing street, alley, driveway, access drives and other rights-of-way.
- C. Shade trees in public areas not street trees. The Department may develop an annual work plan and budget for City planting, removal, pruning, spraying and other maintenance of any shade tree within any public park, trail, greenway or open space each year and forward same to the Director by August 31 of the year prior to the year of the work plan. The Department may accept and expend contributions to achieve the purposes of this subsection.
- D. Amendments. The tree care standards herein referenced may be amended and revised by the Director in accordance with § 273-15.

§ 273-8. Liability for damages.

- A. Any person damaging or destroying any shade tree shall be liable for repairs to the tree, the cost of its removal and replacement, if needed, and/or the appraised value of the tree.
- B. Any person using or traveling upon any public street who damages any shade tree meeting the minimum clearance requirement of § 273-7A shall be liable to the tree owner for any damage to the tree resulting from such persons use or traveling upon the street. This section shall not relieve any tree owner from such owner's responsibility to comply with any notice issued under § 273-5.
- C. Any shade tree that should be damaged or felled by a storm or other natural occurrence shall be repaired or removed, including the stump, by the owner of the property on which the tree stands or stood, or, if located on a public right-of-way, by the owner of the property nearest the point at which the tree stands or stood. Replacement of such tree shall be made at the discretion of the Arborist and at the expense of the owner of the property on which the tree is located, or, if located on

a public right of way, at the expense of the owner of the property nearest such tree. In the event the tree is located within a public right-of-way or in an authorized easement, the property owner may apply for a replacement through the City's Shade Tree Program.

§ 273-9. Electric wires.

Any person or corporation having any wire charged with electricity running through a public street shall temporarily remove or disconnect any such wire or shut off the electricity when it shall be necessary in order to take down or prune any trees growing in a public street. When a written notice to remove the wire or the shut off the electricity is issued, all work shall be coordinated with the City Arborist.

§ 273-10. Protecting trees during construction.

The protections provided herein shall apply to all trees within the public right-of-way, parks and other open space, as well as on private property, including but not limited to trees impacted by a land development, construction or reconstruction of parking lots, and the construction and/or demolition of buildings and structures.

- A. In the erection or repair of any buildings or structure, the builder, contractor or owner thereof shall place protective barriers around all trees as shall effectually prevent injury to them.
- B. Appraisal. Prior to receipt of any demolition, grading, land development, or building permit or approvals, the applicant shall obtain a tree appraisal in accordance with the latest edition of the Council of Tree and Landscape Appraisers' Guide for Plant Appraisal, for all trees within the construction limits of the development site.
- C. Tree protection guidelines.
 - (1) To the maximum extent possible, all trees shall be preserved and the loss or damage to trees existing on-site which are to remain shall be minimized. A tree shall be considered preserved if there is no disturbance within the tree protection zone (TPZ). Disturbance includes earth disturbance, earth compaction, vehicular and foot traffic, material stockpiling, and/or the construction of all proposed improvements and utilities.
 - (2) A permanent TPZ surrounding both preserved and planted trees shall be established to protect the critical root zone and tree canopy. This tree protection zone shall apply during the construction phase, as well. The TPZ shall be protected by appropriate barriers as determined by the Arborist and in accordance with the standards set forth in A Guide to Preserving Trees in Development Projects, published by the Penn State College of Agricultural Sciences and Cooperative Extension.
 - (a) Tree protection zones will vary according to the species, size, location, and health of a tree and shall be designed for maximum flexibility of shape and minimum effectiveness of size. However, where compelling information to the contrary regarding a particular tree in its particular setting is not available the minimum tree protection zones shall be

established as follows:

- [1] For existing trees: a circle with a radius extending from the tree trunk a distance equal to 12 times the trunk diameter at breast height, or to the tree's dripline plus five feet, whichever distance is greater.
 - [2] For newly planted trees: a circle with a radius of no less than 2 1/2 feet.
- (b) Prior to the start of any clearing, grading, or other earth disturbance, all shade trees and other vegetation to be preserved shall be protected by a conspicuous four-foot-high tree protection barrier to prevent encroachment into the tree protection zone by people, material, and vehicles. The tree protection barrier installation must be approved by the Arborist and monitored periodically.
 - (c) Barriers may be erected around individual trees or groupings of trees, where feasible.
 - (d) Use of orange polyethylene safety fencing or a similar highly visible material is recommended. Snow fencing or other effective barriers may be used upon approval by the Arborist.
 - (e) Fencing or barriers around trees shall be placed outside the TPZ, unless otherwise approved by the Arborist.
 - (f) The tree protection barrier shall be maintained by the applicant while in place. It shall be removed only after all earthmoving and construction activities that may impact tree roots or canopy are completed and approved by the Arborist.
 - (g) A sign shall be placed on the tree protection barrier to explain the purpose of the TPZ.
- (3) There shall be no disturbance within the TPZ, including but not limited to intrusion into the soil such as digging, trenching and grading, no activities that will compact the soil, and no stockpiling of construction materials, without prior approval by the City Arborist.
 - (a) No grading shall be permitted within the TPZ that would impact roots. No grade change shall be permitted in excess of a two-inch cut or two-inch fill of topsoil, sod or mulch.
 - (b) The routing of underground utility lines shall be around and away from all TPZs. In the event underground utilities cannot be rerouted, installation shall be through tunneling rather than cutting open trenches.
 - (c) No building materials, dirt, debris, oils, paints, or any other materials, equipment, or vehicles shall be placed or deposited within the protection area nor shall any trenching or paving be done within the protection area. A separate off-site staging and parking area for the stockpiling of materials, equipment and vehicles shall be provided for construction sites constrained by limited size.

- (d) In order to protect tree roots from excessive compaction during construction where vehicles and/or equipment must pass within a TPZ, special cushioning measures shall be provided in accordance with Section 4.00 of the Tree Manual.
 - (4) The entire tree canopy shall be protected from all construction related activities. The Arborist may approve the removal of a small part of the crown to facilitate construction activities. Such work shall be done under the direct supervision of the Arborist, using methods approved by the Arborist.
 - (5) The specifications in A Guide to Preserving Trees in Development Projects, published by the Penn State College of Agricultural Sciences and Cooperative Extension, shall be regarded as best practices and contractors/owners shall demonstrate their understanding of and adherence to these criteria, including but not limited to the protection zone required for particular species.
 - (6) In order to avoid damage to newly planted trees, trees shall be planted only after all major construction activities have been completed. Planting may occur only when approved by the Arborist, and only in planting seasons otherwise permitted and as appropriate to the species.
 - (7) All proposed tree protection practices, including delineated tree protection zones, shall be provided on all development plans, as applicable, including but limited to land development plans, erosion and sedimentation control plans, stormwater management plans, parking lot construction or reconstruction plans, as applicable, and in accordance with the all City codes and ordinances.
 - (8) Should any mature viable trees on the site not scheduled to be removed be irreparably damaged during site preparation activities and, as a consequence thereof, die or decline as determined by the Arborist, within 18 months from the date of the conclusion of construction activities, such trees shall be replaced in accordance with § 273-8 of this chapter. All replacement trees shall be acceptable specimens, in accordance with the tree replanting schedule in the Tree Manual.
- D. During the reconstruction of sidewalks, all openings for new or existing trees shall be in accordance with § 273-6B.
- (1) Prior to the issuance of permit for construction, reconstruction or repair of sidewalks or curbs, the Arborist shall be consulted for the application of best management practices in order to protect existing street trees.
- E. Amendments. The tree protection standards herein referenced may be amended and revised by the Director in accordance with § 273-15.

§ 273-11. Application for permit.

- A. Permit required. A tree work permit shall be required for:
- (1) Planting, transplanting, cutting, pruning, treating or removing any shade tree, or portion thereof, in the right-of-way and other public areas.
 - (2) Fastening or causing to be fastened any sign, wire, rope or other materials to,

around or through any shade tree.

- (3) Depositing, placing, storing or maintaining any stone, brick, sand, concrete or other material which may impede the free passage of water, air or fertilizer to the roots of any shade tree.
 - (4) Move any building or other object on or over any public street or public right-of-way in such a manner as to damage or injure any shade tree.
 - (5) Hanging lights and other seasonal or holiday displays. When permitted, all such displays shall be removed within 30 days following the holiday or end of season.
 - (6) No person shall break, injure, mutilate, kill or in any other way harm any shade tree.
 - (7) The care and protection provisions listed in § 273-7B of this chapter.
- B. Application. The application for any permit shall be made in writing to the Bureau on the form provided. Such permit application shall describe the work to be done, specify species or variety, size, nursery grade and location and briefly specify the method of planting, method of support and pruning of all trees or shrubs concerned and contain a definite expiration date.
- (1) All applications for a tree work permit shall be reviewed and approved by the City Arborist.
 - (2) The application for a shade tree permit may be waived by the Director when the work is done at the direction of, and carried out by, a City agency.
- C. Conditions attached to permits.
- (1) All shade trees removed by permit shall be replaced within a period of one year from the date of removal.
 - (a) The property owner may, in lieu of replacing a tree, pay a fee, equal to the replacement value of a tree as set by the Bureau from the average retail cost of trees of the current-year street tree contract, to be used by the Bureau for the planting of trees as deemed necessary.
 - (b) The option of paying a fee in lieu of replacing a tree may only be exercised when unmitigated circumstances prohibit planting a tree in the location from which it was removed. Such a determination will be made by the City Arborist.
 - (2) In the event of a tree removal where the tree will not be replaced, the property owner is required to contract for the removal of the stump immediately following the removal of the tree and to make the necessary repairs to the sidewalk at the homeowner's own expense.
 - (3) The Bureau shall have the authority to designate a suitable type of tree and may refuse a permit to plant any type of tree which, in its opinion, is not suitable to the location. The permit may be revoked at any time upon proof satisfactory to the Bureau that any of the terms or conditions upon which such

permit was issued are or have been violated.

- (4) The Bureau, in its discretion, may, as a condition precedent to issuance of a permit, require a contractor, authorized by the property owner to plant a tree, to guarantee such tree for a period of 18 months against defects in materials or workmanship. If death of the tree results within this time period and for the aforementioned reasons, the contractor shall incur the cost of removal, including cost of sidewalk repairs, new tree cost and replanting for each tree planted. However, if the tree should die after the period of warranty has expired, the property owner shall replace said tree in accordance with all provisions herein.
 - (5) A contractor hired to perform any tree work shall file with the Bureau proof of sufficient liability insurance.
 - (6) As a condition to any permit to move any building or any oversized object on or over any public street or other public right of way, the City may require the applicant to furnish bond in an amount sufficient to cover any damage or injury to any shade tree caused by the applicant or his agent(s) and it may direct the route of any such moving so as to minimize damage or injury to shade trees.
- D. Review of land development plans. The Planning Bureau shall forward one copy of any preliminary, final and minor land development or subdivision plan submitted for review to the Arborist, or his or her designee, for a review of the proposed land development's effect on any shade (street) tree(s). Within 15 business days of the receipt of a concept plan from the Planning Bureau, the Arborist, or his or her designee, shall provide the Planning Bureau with written comments on the effect of said land development on any tree(s).
- (1) All land development plans or landscape plans shall show all existing trees, clearly labeling all trees proposed to be protected and those slated for removal. All shade trees abutting said projects shall also be shown on the plans along with the required tree protection zone.
- E. Review of other permit applications. All applications for driveway permits, zoning permits, or other permits for work that may impact trees, including but not limited to demolition, construction or expansion, and not a land development, shall be referred to the Arborist, or his or her designee, for review as provided for hereunder. Within five business days of the receipt of the applicable permit application from the City Engineer, Zoning Officer, Codes Official or other entity, the Arborist shall determine the need for and location of the TPZ fencing around all shade trees located on or adjacent to the site. Where determined necessary by the Arborist, or his/her designee, the property owner shall install a staked construction fence at least four feet high, or alternative as approved by the Arborist, around all portions of the TPZ, excluding any portions occupied by sidewalks, street cartway, curbs/gutters or a driveway. No activity is permitted within the TPZ without a permit issued in accordance with this section. Any activity occurring within the TPZ in violation of this chapter shall be addressed as provided for in § 273-14 of this chapter.
- F. Denial and revocation of permits.

- (1) Denial. A request for a tree permit shall be denied if the information submitted therewith is incomplete, erroneous or otherwise unsatisfactory, or if the application fee is not remitted in full.
 - (2) Revocation. The Arborist or Director may revoke a permit issued under the provisions of this chapter if it is determined that any false statement or misrepresentation of fact exists on the application or on the plans on which the permit was based in addition to:
 - (a) Violation of any condition of the permit.
 - (b) Violation of any provision of this chapter or any other applicable ordinance or law relating to the work.
 - (c) The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.
 - (3) Written notice of such violation shall be served upon the person to whom the permit was granted or his agent or employee engaged in the work. Such notice shall also contain a brief statement of the reasons for revoking such permit. Notice may be given either by personal delivery thereof to the person to be notified or by United States mail, addressed to such person to be notified.
- G. Nullification of permit. Any permit issued in conflict with the provisions of this chapter shall be null and void and may not be construed as waiving any provision of this chapter.
- H. City departments, agencies, and authorities; public utilities
- (1) The obtaining of a tree work permit by City departments, agencies and authorities shall be waived when the work to be performed is completed by their own personnel. All contractors performing work under contract for the City or City agencies and authorities shall obtain all necessary permits including but not limited to the tree work permit.
 - (2) Public utilities shall obtain a tree work permit for any shade tree work, including but not limited to pruning and removal, performed by their own forces or by contractors.
 - (3) In the event that shade tree work is necessitated by emergencies, tree work permits shall be obtained on the first regular business day on which the office of the City is open for business and such permit shall be retroactive to the date when the work was begun. A person performing tree work for an emergency must verify the nature of the emergency, in writing, to the Director within five days after such emergency.
 - (4) Irrespective of the provisions herein, no tree work shall be performed without the review of the Arborist.
- I. Fees. The fee for the shade tree permit, if any is deemed necessary, shall be set by resolution of Council.

§ 273-12. Payments; assessments; liens.

- A. Payments. The cost of planting, transplanting, maintaining and removal of trees in the public right-of-way, together with the cost of necessary curbing, sidewalks or grading, shall be paid by the owner of the abutting property.
- B. Assessments. In the event the City undertakes a streetscape project or a contractor hired by the City performs necessary tree work for which payment is required as set forth in § 273-12A above, and the cost of said work is not paid, and the City chooses to assess the owner of the property abutting the tree pit, the full cost of such work shall be assessed said owner. Owners shall have an opportunity to make written objections to proposed assessments, which objections shall be considered by the Director prior to approval. All costs incurred in planting, transplanting, pruning and removing trees, as provided in this chapter, shall be assessed. The amount each property owner is to pay shall be determined and certified by the Director. Thereafter, the City shall cause 30 days' written notice to be given to each person against whose property an assessment has been made. The notice shall state the nature and amount of the assessment and the time and place for payment thereof.
- C. Liens. Within three months after the completion of any tree work for which an assessment was levied, the City Treasurer shall certify to the City Solicitor the names of the owners, if known, together with a full description of the properties against which assessments have been made under this chapter and which remain unpaid, either in whole or in part. The City Solicitor shall enter liens for the unpaid assessments and all other amounts due pursuant to the terms of Chapter 36 and shall from time to time proceed to collect the assessments or the part thereof remaining unpaid according to law and all other amounts due the City, including but not limited to accrued interest and penalties imposed by law.

§ 273-13. Easements.

The City is authorized to accept easements from property owners to plant and maintain trees on private property where there is insufficient space for mature trees within the public right-of-way. All easements shall be within 12 feet of the boundary of a public right-of-way and visible from said right-of-way, or as determined by the City. Such easements shall be in writing, in a form acceptable to the City, properly executed, and acknowledged by such property owners, and shall be recorded in the office of the Lancaster County Recorder of Deeds. The City shall have the right to authorize the planting and maintaining of shade trees within said easement which shall be deemed a public area insofar as the trees situated thereon are concerned. The owner shall have the right to use and occupy the area within the easement in any manner not inconsistent with the grant stipulated in the easement agreement, except that the owner shall have no right to plant shade trees or other plantings except groundcovers, or to erect any structures within said area, without prior approval of the Bureau. The owner shall be required to maintain any lawn or ground cover within said area, and to notify the Arborist in the event of damage or a dangerous condition caused to or by the shade trees.

§ 273-14. Violations and penalties.

This chapter is immediately enforceable by citation by designated employees of the City.

- A. Violations.

- (1) It shall be unlawful for any person to carry out any of the activities requiring a permit as set forth in § 273-11A without first obtaining said permit.
- (2) In addition to the provisions in Subsection A(1) above, the following activities shall constitute a violation of this chapter:
 - (a) To remove or tamper with any object or device set for the protection or treatment of any shade tree in any public area or within any TPZ.
 - (b) To pile any building material or make any mortar or cement within six feet of any shade tree in any public area or within any TPZ.
 - (c) To hitch or fasten any animal, bicycle or vehicle to any shade tree in any public area.
 - (d) To attach any sign, poster, bill or other object to any shade tree.
 - (e) To construct site access, such as curb cut for a driveway, whether permanent or temporary, within any TPZ, inconsistent with this chapter or other City of Lancaster regulations. This provision does not apply to the City installing federally mandated Americans with Disability Act curb ramps.
 - (f) To climb with spikes, disturb or prune the roots of, compact soil, or otherwise injure or destroy any shade tree in any public area or to authorize such actions.
 - (g) To cause or authorize a wire or other conductor charged with electricity to come into contact with any shade tree in any public area or within any TPZ in a manner that may injure or kill it without a written permit from the Bureau, specific to the tree(s) involved.
 - (h) To cause or authorize in any public area or within any TPZ, any oil, gasoline, herbicide, paint, brine, hot water, steam or other gas, liquid or solid substances harmful to the tree to contact any shade tree or to enter the soil about the base or root system of a shade tree in any manner that may injure or kill it.
 - (i) To interfere, cause or authorize an interference with the Arborist, Bureau, Commission, City or any of its agents or employees while they are engaged in planting, inspecting, maintaining or removing trees.
 - (j) To supervise or authorize construction, alterations, repairs or demolition activities in the vicinity of any shade tree in any public area or within any TPZ without first placing sufficient guards or protectors as shall prevent injury or destruction of said tree arising out of such activities, in accordance with Department rules and regulations or with written authorization of the Arborist or the Director.
- (3) Unpermitted damage, destruction, removal, or replacement of trees.
 - (a) Any property owner, contractor, or other person who, without the written permission of the Department, cuts, breaks, destroys, or removes, or

replaces any shade tree, or permits or allows any other person, without the written permission of the Department of Public Works, to cut, break, destroy, remove, or replace any shade tree shall, under the advisement of the Shade Tree Commission and at the direction of the Director be subject to either Subsection A(3)(a)[1] or [2] below.

[1] Plant or cause to be planted, or if there is a written agreement signed by such person and accepted by the Department, by which such person agrees to reimburse the City for costs incurred by it, permit the Department to plant trees in approved locations according to the tree replanting schedule in the Tree Manual.

[2] For any violation, where it is determined by advisement of the Shade Tree Commission, and at the direction of the Director, that such damage or destruction was not intentionally willfully inflicted the cost of repairing or replacing the damaged tree shall be levied. The value of the tree(s) to be replaced shall be determined by the International Society of Arboriculture certified arborist using a valuation method approved by the Council of Tree and Landscape Appraisers.

(b) Willfully damaging or destroying a shade tree. For willfully damaging or destroying a shade tree in any public area by cutting, debarking, breaking, pruning of roots over two inches, excessive pruning for cameras or lights, the unauthorized or improper use of herbicides, use of a vehicle, or in any other manner wherein it is determined by the City Arborist that such damage or destruction was intentionally inflicted, the penalty shall be as set forth in § 273-14D, herein. In addition, the cost of repairing or replacing each damaged or destroyed tree shall be levied. The value of tree(s) to be replaced shall be determined by an International Society of Arboriculture certified arborist using a valuation method approved by the latest edition of the Council of Tree and Landscape Appraisers' Guide for Plant Appraisal.

B. Notice of violation. The Arborist, Director, or designated employees of the Department shall serve a notice of violation to the person in violation of this chapter or of a plan approved thereunder or in violation of a permit issued under the provisions of this chapter. Such notice shall direct the abatement of such violation.

C. Prosecution of violation. If the violation is not abated within the time specified in the notice of violation, the Director may request the City Solicitor to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation.

D. Penalties.

(1) Penalties. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be fined not less than \$100 nor more than \$500 for each and every offense, together with costs, plus restitution in an amount no less than the appraised value of the tree involved, plus cost of cure as obtained by the Arborist, and in default of payment thereof, be imprisoned for not more than 90 days. Each failure to obtain a permit or, having obtained a permit, to

comply with any of the requirements of this chapter and each day during which such violation continues shall constitute a separate offense.

- (2) Disposition of penalties or assessments. All penalties or assessments imposed under this chapter shall be paid to the City Treasurer, to be placed to the credit of the Hartman Tree Fund, subject to be drawn upon by the Commission for the purposes authorized in this chapter.

§ 273-15. Amendments.

The shade tree planting, care and protection standards in the Tree Manual may be amended and revised by the Director. No such amendments or revisions shall be effective, however, until 30 days after their promulgation by the Director, their publication on the City's website and notice thereof has been published in one newspaper of general circulation.

§ 273-16. Appeals.

Any person or property owner receiving a notice to plant, prune, repair, treat or remove a shade tree, a notice of violation of this chapter, or has been denied a permit to plant, prune, repair, treat or remove a shade tree shall have 10 working days following receipt of said notice or denial to appeal to the Director of the Department of Public Works or her/his designee. The Director shall hear the appeal and make a determination within 10 working days of the receipt of the appeal. Decisions of the Director shall be appealable as provided by law. Appeals to the Director shall be recorded and decisions shall be written and shall include findings of fact. At any time prior to a decision by the Director, the property owner or the Director may request an advisory opinion by the Commission.

§ 273-17. Protected trees on private property.

In an effort to protect the safety and welfare of all residents and property owners of the City, the provisions herein provide necessary oversight that the removal of large trees on private property is performed in a proper and safe manner and that healthy large trees contributing to the City's urban tree canopy are protected. The provisions of this subsection do not preclude a property owner from removing an unhealthy or unwanted tree from their property.

- A. For the purpose of this chapter, a protected tree on private property shall include any tree with a DBH of 12 inches or more located on any lot within 20 feet of a street right-of-way (including an approved private street or other access easement) or any tree with a DBH of 24 inches or more located elsewhere on the lot.
 - (1) Private property shall include all tracts, lots and parcels, with or without improvements and not under control of the City of Lancaster.
- B. For any protected trees on private property, a tree work permit shall be required for:
 - (1) Transplanting, cutting, pruning, treating or removing any protected tree.
 - (2) Cutting, pruning or otherwise disturbing any protected tree roots with a diameter of two inches or more.

- (3) Depositing, placing, storing or maintaining any stone, brick, sand, concrete or other material which may impede the free passage of water, air or fertilizer to the roots of any protected tree.
- C. The following conditions shall be attached to permits for protected trees on private property:
- (1) All trees removed by permit shall be replaced within a period of one year from the date of removal. The property owner may, in lieu of replacing a tree on site, purchase a suitable tree for planting at a location designated by the City.
 - (2) The Bureau shall have the authority to designate a suitable type of tree and may refuse a permit to plant any type of tree which, in its opinion, is not suitable to the location.
 - (3) The Bureau, in its discretion, may, as a condition precedent to issuance of a permit, require a contractor, authorized by the property owner to plant a tree, to guarantee such tree for a period of 18 months against defects in materials or workmanship. If death of the tree results within this time period and for the aforementioned reasons, the contractor shall incur the cost of removal, including cost of sidewalk repairs, new tree cost and replanting for each tree planted. However, if the tree should die after the period of warranty has expired, the property owner shall replace said tree in accordance with all the provisions herein.
 - (4) A contractor hired to perform any tree work shall file with the Bureau proof of liability insurance.
- D. All protected trees on private property shall be protected during construction in accordance with the provisions in § 273-10.
- E. All protected trees on private property shall be afforded the same care and protections as other shade trees within public rights-of-way and municipal park and open space areas as set forth in § 273-7.
- F. Appeals from the provisions herein shall be made, in writing, to the Director of the Department of Public Works of the City of Lancaster.
- G. Property owners may purchase replacement trees through the City of Lancaster Shade Tree Program.