

OFFICIAL

**BOROUGH OF CRAFTON
ORDINANCE NO. _____**

AN ORDINANCE OF THE BOROUGH OF CRAFTON, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 131 OF THE CRAFTON BOROUGH CODE OF ORDINANCES, HEALTH HAZARADS AND NUISANCES, AS AMENDED, AND CHAPTER 208 OF THE CRAFTON BOROUGH CODE OF ORDINANCES, TREES, AS AMENDED TO: (1) AMEND THE DEFINITION OF PUBLIC NUISANCE TO INCLUDE DEAD OR DISEASED TREES, PLANTS AND SHRUBS; (2) EMPOWER THE CODE OFFICIAL/BUILDING INSPECTOR TO INVESTIGATE COMPLAINTS OF NUISANCE OR PUBLIC NUISANCE; (3) REMOVE NUISANCE TREES FROM THE JURISDICTION OF THE BOROUGH PARKS AND SHADE TREE COMMISSION; (4) ESTABLISH A SEVERABILITY CLAUSE; (5) REPEAL ALL PRIOR INCONSISTENT ORDINANCES; AND (6) ESTABLISH THE ORDINANCE EFFECTIVE DATE.

WHEREAS, Section 1202(4) of the Borough Code, 8 Pa.C.S. § 1202(4), authorizes the Borough of Crafton (the “Borough”) to regulate nuisances in the Borough; and

WHEREAS, Section 1202(37) of the Borough Code, 8 Pa.C.S. § 1202(37), authorizes the Borough to regulate shade trees within the Borough; and

WHEREAS, Chapter 131 of the Borough of Crafton Code of Ordinances, Health Hazards and Nuisances, as amended, regulates health hazards and nuisances within the Borough; and

WHEREAS, Chapter 208 of the Borough of Crafton Code of Ordinances, Trees, as amended, regulates trees within the Borough; and

WHEREAS, the Council of the Borough desires to amend Chapters 131 and 208 of the Crafton Borough Code of Ordinances, to (1) amend the definition of public nuisance in Chapter 131 to include dead or diseased trees, plants and shrubs; (2) empower the Code Official/Building Inspector to investigate complaints of nuisance or public nuisance; (3) remove nuisance trees from the jurisdiction of the Borough Parks and Shade Tree Commission; (4) establish a severability clause; (5) repeal all prior inconsistent ordinances; and (6) establish the ordinance effective date.

NOW, THEREFORE, the Council of the Borough of Crafton hereby ordains and enacts as follows, incorporating the above recitals by reference:

SECTION 1. Section 131-1 of Chapter 131 of the Borough of Crafton Code of Ordinances, Health Hazards and Nuisances, as amended, is amended as follows by inserting the underlined text:

§131-1. **Definitions and word usage.**

- A. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

PUBLIC NUISANCE

Includes the following:

- (1) The physical condition or use of any premises regarded as a public nuisance at common law.
- (2) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures.
- (3) Any premises which have unsanitary sewerage or plumbing facilities.
- (4) Any premises designated as unsafe for human habitation or use.
- (5) Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecured as to endanger life, limb or property.
- (6) Any premises from which the plumbing, heating and/or facilities required by this chapter have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided.
- (7) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have uncontrolled growth of weeds.
- (8) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.
- (9) Plants, shrubs and trees which are dead or are afflicted with the Dutch Elm or other disease and which are located on private property and threaten to destroy or injure other plants, shrubs or trees or shall become a hazard to persons or adjacent property.

- B. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

SECTION 2. Section 131-4 of Chapter 131 of the Borough of Crafton Code of Ordinances, Health Hazards and Nuisances, as amended, is amended as follows by inserting the underlined text:

§131-4. **Inspection; notice to comply.**

- A. The Code Official/Building Inspector is hereby empowered to inspect-investigate any complaints of nuisance or public nuisance and is also empowered to inspect the grounds upon which a nuisance or public nuisance is alleged to exist including the inspection of any machinery, equipment, and/or various stored materials ~~are stored~~ to determine if there is compliance with the provisions of this chapter. If noncompliance with the provisions of this chapter constitutes a nuisance, public nuisance or if any condition, structure, or improvement poses a threat to the health, safety or welfare of the public, the Code Official/Building Inspector shall issue a written notice to be served by first class mail, registered or certified mail, and upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

- B. Said notice shall specify the conditions considered to be a hazard, nuisance and/or nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth therein within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

SECTION 3. Chapter 208 of the Borough of Crafton Code of Ordinances, Trees, as amended, is amended as follows by inserting the underlined text and deleting the stricken text:

Chapter 208 Trees

§208-1 **Permit required.**

Hereafter, it shall be unlawful for any person or persons, firm or corporation to plant, trim, cut, prune or remove any tree or trees in and along the streets and highways of the Borough of Crafton without first procuring a permit from the Park and Shade Tree Commission, authorizing such person or persons, firm or corporation to plant, trim, cut, prune or remove such trees. Application for said permit shall be made to the aforesaid Park and Shade Tree Commission and, upon approval of said application by the said Park and Shade Tree Commission, a permit shall be issued to the applicant by the Park and Shade Tree Commission, free of any charge to the applicant.

§208-2 **Authority of commission.**

Said Park and Shade Tree Commission shall have the power to approve or reject such application in total or in part and shall further have the power to grant a permit, the terms of which are in modification of the terms of such application, including, without limiting the generality of the foregoing, a requirement to replant.

§208-3 **Conditions of approval.**

Said Park and Shade Tree Commission shall have the power to approve such application subject to such conditions as said Park and Shade Tree Commission shall deem necessary to the health and safety of other plants, shrubs, trees, persons, or the passing or traveling public, or property within the Borough of Crafton.

§208-4 **Work performed by commission; notice.**

The Park and Shade Tree Commission shall be authorized to plant, remove, maintain and protect shade trees along the streets and highways in the Borough; provided, however, that whenever the Park and Shade Tree Commission proposes to plant, transplant, or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given as required under the provisions of Section 2726 of the Borough Code.

§208-5 **Costs to be borne by property owner.**

The cost of planting, transplanting, trimming or removing any shade tree or planting in and along the streets and highways in the Borough or the cost of replacing any pavement or sidewalk necessarily disturbed in the execution of said work, whether done pursuant to a permit granted to the owner or proposed and determined by the Park and Shade Tree Commission, shall be paid by the owner of the abutting real estate. The amount to be paid by each owner shall be ascertained and certified by the Park and Shade Tree Commission to Council and shall thereafter be collected as municipal claim as provided by law.

~~§208-6 **Diseased or hazardous trees declared nuisance.**~~

~~Plants, shrubs and trees which are dead or are afflicted with the Dutch Elm or other disease which threatens to destroy or injure other plants, shrubs or trees or shall become a hazard to persons or adjacent property in the Borough of Crafton are hereby declared to be nuisance.~~

~~§208-7 **Investigation of nuisance.**~~

~~The Park and Shade Tree Commission or its duly designated or authorized representative is hereby authorized and directed to enter upon public or private property to investigate and to take such steps as are necessary to determine if a nuisance, as defined in § 208-6 above, exists, either upon complaint by a citizen that such nuisance exists or upon its own motion if it has reasonable cause to believe that such a nuisance exists.~~

~~§208-8 **Notice to abate nuisance.**~~

~~If, upon such investigation, the Park and Shade Tree Commission finds that such a nuisance exists, it shall forthwith give notice, in writing, served by registered mail to the owner of the property wherein the same is located or at the last known address of said owner or, where the whereabouts of said owner cannot be determined, by posting in a conspicuous place on the~~

~~land wherein the plants, shrubs or trees are located, to cut and remove, within 30 days from the date of such notice, the diseased or defective plant, shrub or tree.~~

§208-96 **Appeal; hearing before the Commission.**

~~Such owner, after receipt or posting of such notice, as the case may be, Any applicant for a permit in accordance with Section 208-1 of this Chapter to plant, trim, cut, prune or remove any tree or trees in and along the streets and highways of the Borough of Crafton whose permit application was denied in whole or in part by the Park and Shade Tree Commission may, within 15 days of the applicant's receipt of the written notice denying the permit ,thereafter, request a hearing by said Park and Shade Tree Commission by delivery of a written request for a hearing within such 15 fifteen-day period to the Chairman of the Park and Shade Tree Commission or to the office of the Secretary of the Borough of Crafton. After such request, the Park and Shade Tree Commission may designate a date for a hearing to be held no less than 48 hours, nor more than 15 30 days, following the receipt of such request and said Park and Shade Tree Commission shall notify the person making such request of the date of the hearing by regular mail or messenger. Said hearing shall be a public hearing and shall be for the purpose of determining whether such plants, shrubs or trees are diseased within the meaning of this chapter the denial of such permit was reasonable under the circumstances. The Park and Shade Tree Commission shall have the power of determining whether to change or remand such order grant or deny such permit in whole or in part.~~

~~§208-10~~ **Abatement of nuisance.**

~~In the event of such hearing and adverse decision of the Commission, such owner shall remove the plants, shrubs or trees designated in such order within 15 days after notice to the owner of the decision of the Commission or, in the event of no hearing, within 30 days after the notice to remove, as provided in § 208-96 above. Upon the failure of any such owner to comply with such notice, order or decision as provided herein, the Commission shall request the work to be done by the Borough of Crafton, which work shall thereupon be done by the Borough of Crafton and the actual cost thereof shall be a lien upon the premises from the time of commencement of the work and shall be collected from the owner of the property.~~

§208-117 **Violation and penalties.**

- A. Any person, firm or corporation who violates a provision of this chapter or duly adopted rules and regulations thereunder of the Park and Shade Tree Commission, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus costs, and, in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
- B. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this chapter found to have been violated. All fines and penalties for the violation of this chapter shall be paid to the Borough Treasurer.

C. The Borough may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin, or abate violations of this chapter.

SECTION 4. Should any sentence, section, clause, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, other than the part declared to be invalid.

SECTION 5. All prior ordinances are hereby repealed in whole or in part to the extent inconsistent herewith.

SECTION 6. This Ordinance shall take effect in accordance with applicable law.

ORDAINED and **ENACTED** this ____ day of _____, 2018, by the Council of the Borough of Crafton in lawful session duly assembled.

ATTEST:

BOROUGH OF CRAFTON

Rachel J. Susko
Borough Manager/Secretary

By: _____
Phillip G. Levasseur
President, Borough Council

EXAMINED and **APPROVED** this ____ day of _____, 2018

James G. Bloom
Mayor