

§ 105 – 25 - SHADE TREE COMMISSION

AN ORDINANCE TO ESTABLISH THE SHADE TREE COMMISSION OF THE BOROUGH OF LITITZ IN ACCORDANCE WITH SECTION 2721 OF THE PENNSYLVANIA BOROUGH CODE AND TO PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY PROVIDING FOR THE REGULATION OF THE PLANTING, MAINTENANCE, AND REMOVAL OF SHADE TREES WITHIN THE BOROUGH

BE IT ORDAINED AND ENACTED BY BOROUGH COUNCIL OF THE BOROUGH OF LITITZ, LANCASTER COUNTY, PENNSYLVANIA, as follows:

Definitions

COMMISSION – The duly appointed members Shade Tree Commission of the Borough of Lititz

REDEVELOPMENT - The re-use, alteration, enlargement or extension of a building by 20% or more of the gross floor area of the building, or the alteration, enlargement or extension by 20% or more of any other site characteristics, i.e. parking, pavements or other structures.

SHADE TREE - Any tree which is planted in or upon any public street, sidewalk, highway, park, right-of-way, or other public area or extends within the lines of any public street, sidewalk, highway, park, right-of-way, or other public area.

Establishment

There shall be created a Commission known and designated as the “Shade Tree Commission” as authorized by Section 2721 of the Pennsylvania Borough Code. The Commission shall assume the duties and authorities granted under Chapter 27, Subchapter B of the Pennsylvania Borough Code.

Membership

The Commission shall consist of three (3) members, all of whom shall be residents of the Borough and serve without compensation. For the initial term, Council shall appoint each member staggered so that only one term expires each year. Upon the expiration of the initial terms of office, members shall be appointed to serve terms of five (5) years. Upon a vacancy occurring, a successor shall be appointed by the Borough Council to serve the balance of the said unexpired term. The Borough Council may, from time to time, appoint ad hoc, nonvoting members.

Authority of Shade Tree Commission

The Shade Tree Commission shall have control of the Borough's Shade Trees, and shall oversee the health of said trees. The Commission may remove, maintain and protect shade trees within the Borough. The Commission shall require the planting or replanting of shade trees at locations it deems appropriate, and the Commission shall determine the appropriate species for planting. The alignment and location of the trees shall be determined by the Commission but shall not prevent necessary and reasonable use of the streets, sidewalks, abutting property.

The Commission shall have the authority to prepare and adopt a shade tree plan for all trees in or upon the public streets, sidewalks, highways, avenues, parks, parkways and other public areas. Such plan shall not become effective until approved by Borough Council.

Responsibility for Shade Tree Maintenance

The planting, transplanting, maintenance, care, or removal of any Shade Tree shall be the responsibility of the property owner whose property the tree is located or whose property abuts the right-of-way in which the Shade Tree is located. Additionally, all necessary guards, curbing, grading for Shade Tree protection, as well as the costs of replacing curb, sidewalk, or pavement necessarily disturbed in execution of the planting shall also be the responsibility of the property owner.

All Shade Trees planted or hereafter to be planting in the Borough of Lititz shall be so trimmed that the lowest branches are not less than 10 feet above the cartway and are not less than eight feet above the sidewalk or walking area. Under no circumstance shall a person prune a Shade Tree so as to cause long-term harm. This includes the procedures commonly known as topping, lion's tailing, flush cutting, stub cutting, lopping, or any pruning that would result in more than 25% of the crown to be removed. While a permit is not required for pruning, improper pruning techniques will result in the landowner being liable for the costs to repair or replace affected Shade Trees.

Permits

No person shall cut, break, injure, or remove any shade tree without first obtaining a permit from the Shade Tree Commission. Utility providers shall also receive a permit prior to starting work in the Borough. Each application shall be submitted in writing to the Borough Manager who will forward the application to the Commission for their consideration.

The Commission shall review and act upon all permit applications relating to the maintenance, planting, or removal of shade trees within sixty (60) days of receipt by the Borough. Any application not acted upon within 60 days of receipt by the Borough shall be deemed to have been granted and allowed.

Conditions for removal of shade trees

As a condition to any permit to remove any shade tree, the Shade Tree Commission may require that the applicant plant, at his or her expense, another tree in the place of the one removed. The Shade Tree Commission in such case shall direct the type, size, and location of the tree to be planted and the time within which the work shall be done. Under no circumstance shall the replacement be less than the standards set forth in §609.D of the Borough's Subdivision and Land Development Ordinance. Additionally, all necessary curbing, grading, pavement or sidewalk repairs resulting from removing or planting a shade tree shall be the responsibility of the property owner.

Redevelopment

Any property undergoing Redevelopment shall submit a sketch plan detailing the current and proposed Shade Trees on site to the Commission for review. At its discretion, the Commission can require the applicant to plant an appropriate number of trees in conjunction with their redevelopment.

Hazardous Trees

Whenever, in the opinion of the Commission, a health or safety hazard is caused by a shade tree, the commission may issue a written order to the responsible property owner to take action to correct the condition within ten (10) days of the date of the order. If after written notification, the responsible property owner fails to take or arrange corrective action, the Borough shall have the required work accomplished to correct the health or safety condition and shall bill the responsible property owner. Failure to remit by the responsible property owner may result in a lien placed against the property by the Borough.

If a landowner feels that a street tree is presenting an imminent hazard to health, safety, or property they shall bring it to the attention of the Borough and Shade Tree Commission as soon as possible. A member of the Shade Tree Commission will evaluate the tree, and if needed an issue an emergency permit for its removal. Once removed, the landowner will be responsible to plant a suitable replacement.

Storms or other Natural Disasters

In the event any shade tree is felled by a storm or other natural disaster, the tree, branches, and stump shall be removed from the right-of-way and sidewalk by the Borough without charge. Any debris outside the sidewalk and right-of-way shall be the responsibility of the property owner. Replacement of such trees shall be at the expense of the property owner or Borough, as determined by the Commission.

Liability

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.

Any person using or traveling upon any public street who damages any Shade Tree meeting the minimum clearance requirement cited in Responsibility for Shade Tree Maintenance above shall be liable for the costs of such damages.

Violations and penalties

Any person who shall violate any provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 nor more than \$500 plus the costs of prosecution. Every day that a violation of this chapter continues shall constitute a separate offense.