

## **CHAPTER 25**

### **TREES**

#### **PART 1**

#### **SHADE TREES**

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**PART 1**  
**SHADE TREES**

**§101. Title.**

This Part shall be known as the “Shade Tree Ordinance of the Borough of Elizabethtown.”

(Ord. 782, 9/18/1997, §1)

**§102. Definitions and Interpretation.**

In interpreting this Part, the present tense includes the future; the singular number includes the plural and the plural the singular and the word person includes natural person, partnership, firm, association and corporation.

BOROUGH — the duly incorporated Borough of Elizabethtown.

BOROUGH COUNCIL — the duly appointed members of the Borough Council of the Borough of Elizabethtown.

COMMISSION — the duly appointed members of the Shade Tree Commission of the Borough.

RIGHT-OF-WAY — the area of any public street, road, highway or other publicly held thoroughfare within the corporate limits of the Borough that has been designated by law as a public right-of-way.

SHADE TREE — any tree, shrub or other woody plant which is planted in any right-of-way or has at least 1/2 of trunk, branches or roots extending into any right-of-way.

(Ord. 782, 9/18/1997, §2)

**§103. Legislative Intent.**

The Borough recognizes that properly planted, maintained and protected shade trees add to the aesthetics and health and welfare of the citizens of the Borough. Therefore, it shall be the intent of this Part to establish a Shade Tree Commission for the Borough, define the mission of that Commission and establish rules and regulations to encourage the planting of appropriate shade trees, provide for the proper maintenance of trees, protect shade trees and provide guidelines for the removal and replacement of shade trees.

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(Ord. 782, 9/18/1997, §3)

### **§104. Shade Tree Commission.**

1. A Shade Tree Commission is hereby established consisting of three members who are citizens of the Borough. Each member shall serve a term of five years.
2. The Shade Tree Commission shall have the power to enforce the provisions of this Part as provided by law.
3. The Shade Tree Commission shall, when called upon, act as an advisory panel to Borough Council on all Borough matters having an environmental impact on the Borough including, but not limited to, land development, park development or improvements and downtown revitalization projects. The Shade Tree Commission shall report to Borough Council through the Borough Manager.

(Ord. 782, 9/18/1997, §4)

### **§105. General Regulations.**

1. The maintenance, care or removal of any shade tree, as defined herein, and required compliance with any provision of this Part shall be the responsibility of the property owner on whose property the tree is located or whose property abuts the right-of-way in which the shade tree is located.
2. No person shall plant a shade tree within any public right-of-way within the Borough except as detailed herein under Central Business District provisions. Shade trees existing at the date of adoption of this Part may continue to be maintained. In the event of the removal of a shade tree existing in the right-of-way, a replacement tree shall not be planted in the same location.
3. All mature shade trees shall be kept trimmed to a minimum branching height of 10 feet into right-of-way, except that the Commission may require greater height clearances to eliminate traffic or other hazards.
4. Whenever, in the opinion of the Commission, a health or safety hazard exists 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 10 days of the date of the order. If after written notification, the responsible property owner fails to take 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.
5. If, in the opinion of the Commission, there is any diseased tree on any property within the Borough, the Commission may issue a written order to the responsible

property owner to cut and remove the diseased tree within 30 days. If after written notification, the responsible property owner fails to remove the tree, the Borough shall have the tree removed 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.

6. The Shade Tree Commission may hire any person or firm having special knowledge of plant, shrub or tree diseases to assist in determining the existence of diseased trees within the Borough.
7. Any expenses or costs incurred by the Borough or by the Shade Tree Commission shall be paid out of the general funds of the Borough.
8. The Shade Tree Commission, its agents or employees, shall have full power and authority to enter upon any property within the Borough for the purpose of inspection of or ascertaining the existence of any diseased tree and to cause the cutting and removal of any diseased tree.

(Ord. 782, 9/18/1997, §5)

#### **§106. Special Provisions for Shade Tree in the Central Business District.**

In addition to the foregoing general regulations, the following special provisions shall apply to shade trees located in the Central Business District:

- A. The Commission shall annually inspect all shade trees within the Central Business District and shall file a report with the Borough Council on the condition of the trees needed maintenance.
- B. Only the following types of trees may be planted in the right-of-way:
  - (1) Hybrid Red Maples.
  - (2) Lindens.
  - (3) Thornless Honey.
  - (4) Locusts.
  - (5) Pears.
  - (6) Elms.
- C. Whenever a shade tree is removed in the Central Business District, the shade tree shall be replaced in accordance with this Part. All removed shade trees shall be replaced except when a change in street construction or land development makes it impossible or would cause the replacement to be a

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safety or health hazard. A decision not to replace a removed shade tree must be approved by the Commission.

(Ord. 782, 9/18/1997, §6)

### **§107. Special Provisions for Shade Trees in Borough Parks, Open Space and Recreation Areas.**

1. The Commission shall annually inspect all trees in the parks of the Borough and on all open space and recreational areas owned by the Borough, and shall file a report with Borough Council on the condition of the trees and needed maintenance.
2. Any new planting proposals shall be reviewed by the Commission and the Commission shall make recommendations on the type of tree that should be planted.

(Ord. 782, 9/18/1997, §7)

### **§108. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 782, 9/18/1997, §9; as amended by Ord. 829, 11/15/2001)