

Chapter 44

SHADE TREE COMMISSION

§ 44-1. Commission created.

§ 44-3. Violations and penalties.

§ 44-2. Powers and duties.

§ 44-4. Regulations.

[HISTORY: Adopted by the Borough Council of the Borough of Mansfield 6-13-1990 by Ord. No. 348. Amendments noted where applicable.]

§ 44-1. Commission created.

The Shade Tree Commission is hereby created in and for the Borough of Mansfield.

§ 44-2. Powers and duties.

Said Commission shall be constituted as provided by law and shall perform all the duties and may exercise all the powers conferred by law upon borough shade tree commissions.

§ 44-3. Violations and penalties.

The Shade Tree Commission may assess penalties of not more than \$100 for each and every violation of any regulation of such Commission or of any of the provisions of Article XXVII of the Borough Code¹ so far as it relates to shade trees.

§ 44-4. Regulations. [Amended 6-9-2004 by Ord. No. 420]

A. Definitions; word usage.

- (1) The following words and phrases, when used in this section, shall have the meanings hereby ascribed to them, except in those instances where the context clearly indicates a different meaning:

BOROUGH — The duly incorporated Borough of Mansfield, County of Tioga, Commonwealth of Pennsylvania.

BOROUGH COUNCIL — The duly appointed/elected members of the Borough Council of the Borough of Mansfield.

CODE ENFORCEMENT OFFICER — That person or persons designated by the Borough Council to enforce rules, regulations and/or ordinances of the Borough.

COMMISSION — The Shade Tree Commission of the Borough of Mansfield.

1. Editor's Note: See 53 P.S. § 47701 et seq.

PERMIT — Any permit in writing as issued by the Code Enforcement Officer of the Borough.

PERSON — Any natural person, firm, association, partnership, or corporation.

PUBLIC RIGHT-OF-WAY — The area of any public street, road, highway, sidewalk, alley, 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 on any public highway or public right-of-way in the Borough of Mansfield, or that part of any tree, shrub or other woody plant which overhangs or extends within the lines of any public highway or public right-of-way.

- (2) For purposes of this section, the singular shall include the plural and the masculine shall include the feminine.
- B. Duties of the Commission. The Commission shall study all aspects of shade trees within the Borough and make recommendations to the Borough Code Enforcement Officer and/or the Borough Council. It shall be available at any time for consultation on any matter relating to its function, including approval or disapproval of applications for permits. In addition, the Commission shall have all rights, powers and duties as specifically given to it by the Pennsylvania Borough Code or other laws, regulations, ordinances of the Commonwealth of Pennsylvania, County of Tioga, and the Borough.
- C. Permit application. The application for any permit required hereunder shall be made in writing to the Borough Code Enforcement Officer. It shall specify the particular kind of work the applicant desires to perform and shall state the exact location and the species of any tree affected. It shall be the duty of the Borough Code Enforcement Officer and the Shade Tree Commission to approve or disapprove every such application in the light of the Shade Tree Regulations. The permit shall be effective for such length of time as the Borough Code Enforcement Officer shall in each case determine, and such time shall be indicated on the permit. Any such permit may be revoked at any time upon proof satisfactory to the Office of the Borough Code Enforcement Officer that any of the terms or conditions upon which such permit was issued are or have been violated. The Borough Code Enforcement Officer, in his/her discretion, may, as a condition precedent to the issuance of the permit, require the applicant to file a bond satisfactory to the Borough Code Enforcement Officer or to deposit security satisfactory to it, to guarantee the compliance by the applicant with the terms and conditions upon which such permit is issued.
- D. Permits required for planting. No person shall plant any shade tree in the public right-of-way in the Borough of Mansfield until a permit is granted. The permit shall designate where such tree is to be planted and the species of the tree. A permit may be refused by the Borough Code Enforcement Officer to plant any species of tree which, in his/her opinion or in the opinion of the Shade Tree Commission, is not suited to the location.
- E. Trimming of shade trees.

- (1) All shade trees shall be kept trimmed by the owner of the property on or in front of which they are located:
 - (a) So as not to interfere with the proper lighting of public highways and rights-of-way by the streetlights.
 - (b) So that the minimum clearance of any public highway of any overhanging portion thereof shall be nine feet, provided that the Borough Code Enforcement Officer shall have the authority to designate a higher clearance on any public highway or right-of-way where traffic or other conditions make it expedient.
 - (c) So as not to interfere with the line of sight of vehicular and pedestrian traffic.
 - (2) If any property owner shall neglect or refuse to trim any shade tree as required by this section, upon notice in writing by the Borough Code Enforcement Officer or Shade Tree Commission within the time limit specified in such notice, the Borough Code Enforcement Officer or Shade Tree Commission may cause such trimming to be done at the expense of such owner, and the entire cost thereof shall be a lien upon said premises, and a claim therefor shall be filed and collected by the Borough Solicitor in the same manner as municipal claims are filed and collected.
- F. Permits required for cutting or removal. No person shall, without first obtaining a permit therefor, cut, break, climb with spurs, injure in any manner, or remove any shade tree; or cut down or interfere in any way with the main roots of any shade tree; or spray any shade tree with any chemical or insecticide; or place any rope, guy wire, cable, sign, poster, or any other fixture on any shade tree or guard for any shade tree; or injure, misuse, or remove any device place to protect any shade tree, except in case of immediate necessity for the protection of life and property.
- G. Structures and substances that impede water and air to roots. No person shall, without first obtaining a permit from the Borough Code Enforcement Officer, place or hereafter maintain any stone, cement, or other substance which shall impede the passage of water and air to the roots of any shade tree unless such person shall have an open space of ground surrounding the trunk of such tree, such space to be not less than four feet square.
- H. Guards required for building operations and work. In connection with any building operation or the performance of any work whatsoever in the Borough of Mansfield in the vicinity of any shade tree, before any work shall be commenced, guards shall be placed at all shade trees which may be affected by such work to prevent injury to them.
- I. Certain materials prohibited. No person shall pour salt water, oil, or any other material at any place in such a manner that may result in injury to any shade tree.
- J. Attachments to trees prohibited. No person shall attach any electric wire, insulator, or any device for the holding of an electric wire to any shade tree.
- K. Shielding of electric wires required. Every person having any wire charged with electricity running along or through a public highway shall securely fasten such wire or

place an adequate shield thereon so that such wire shall not come into contact with any shade tree.

- L. Discontinuance of utility service required. Whenever, in order to take down or prune any shade tree in any public highway or right-of-way or one having branches extending over any public highway or right-of-way, it shall be deemed necessary to remove any wire running through or along such public highway or right-of-way, the owner of such wire shall temporarily remove the same or cut off the flow of current within 24 hours after service of written notice from the Borough Code Enforcement Officer.
- M. Removal of diseased trees.
 - (1) The Borough Code Enforcement Officer may, after investigation and upon finding by him/her, and after corroboration by the Shade Tree Commission, that certain plants, shrubs, or trees are afflicted with Dutch elm disease or other disease which threatens to injure or destroy other plants, shrubs, or shade trees, or that certain plants, shrubs, or trees which may be dead or diseased present the danger of physical injury to human life or property, require an owner to cut and remove such dead or diseased plants, shrubs, or trees, whether they are located upon a public highway or right-of-way or elsewhere upon the property of such owner, within two weeks of such written notice.
 - (2) Upon failure of such owner to comply with such notice, the Borough Council or the Borough Code Enforcement Officer may cause the work to be done by the Borough and levy and collect the cost thereof from the owner of the property in accordance with the laws of the Commonwealth of Pennsylvania and ordinances of the Borough.
- N. Enforcement. These regulations shall be enforced by the Borough Code Enforcement Officer in conjunction with the Shade Tree Commission, the Mayor, and the Borough Police.
- O. Penalties for violation. Any person who shall violate or fail to comply with any of the provisions of these regulations shall be liable to a fine of \$100 for every such violation.
- P. Effective date. These amendments shall take effect and be in force from the date of their adoption.