

BOROUGH OF MARIETTA
Lancaster County, Pennsylvania

ORDINANCE NO. 2017-05

AN ORDINANCE OF MARIETTA BOROUGH, LANCASTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 80 OF THE MARIETTA BOROUGH CODE OF ORDINANCES BY ADDING ARTICLE IV PROVIDING FOR TREE TRIMMING IN THE BOROUGH.

WHEREAS, in order to promote and protect the health, safety and welfare of the residents of Marietta Borough, the Borough Council has determined it necessary to amend the Marietta Borough Code of Ordinances to provide for certain tree trimming in the Borough .

NOW, THEREFORE, BE IT ORDAINED and enacted by the Borough Council of Marietta Borough, and it is hereby ordained and enacted by and with the authority of the same to amend Chapter 80 of the Marietta Borough Code of Ordinances by adding Article IV as follows:

ARTICLE IV

TRIMMING OF TREES

§80-26. Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance:

RIGHT-OF-WAY – The area of any public street, road, highway, 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 which is planted in any Right-of-Way or has at least ½ of its trunk, branches or roots extending into any Right-of-Way.

§80-27. Maintenance and Care of Shade Trees. The maintenance, care or removal of any Shade Tree, as defined herein, and the required compliance with the provisions of this Ordinance shall be the responsibility of the property owner on whose property the Shade Tree is located or whose property abuts the Right-of-Way in which the Shade Tree is located. All mature Shade Trees shall be trimmed so that the lowest branches are no less than fourteen (14) feet above the surface of the street or cartway and are no less than seven (7) feet above the surface of the sidewalk or walking area.

§80-28. Notice to Trim; Work by Borough; Recovery of Expense.

(a) The Mayor or his duly authorized agent shall provide notice to a property owner of noncompliance with the requirements of the prior section. The notice shall require the

property owner to undertake compliance action and trim the Shade Tree(s) within fifteen (15) days of receipt of the notice. The notice shall be delivered to the property owner either in person, by posting the notice on the property, or by United States mail, first-class.

(b) Any property owner failing to comply with the terms of any such notice within the stated time limit shall be guilty of a violation of this Ordinance. Following expiration of the stated time limit, the Mayor or his duly authorized agent shall cause the work required by such notice to be done by the Borough or an agent of the Borough.

(c) The property owner shall be billed for the actual cost of the labor involved in the work plus any other administrative costs incurred by the Borough relating to the work. Any such bill for tree trimming costs shall be recoverable by the Borough by law as are other debts due to the Borough.

§80-29. Penalties for Violations. Any person who violates this Ordinance shall, upon conviction in a summary proceeding under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than ONE THOUSAND DOLLARS (\$1,000), plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings. If the Magisterial District Judge determines that the defendant is without financial means to either pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay the fines and costs in installments and over such time periods of time as the Magisterial District Judge deems to be just. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the County correctional facility for a period not exceeding thirty (30) days. Each day that such violation exists shall constitute a separate offense. In addition to or in lieu of enforcement under this Section, the Borough may enforce this Article in the Lancaster County Court of Common Pleas.

All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Borough of Marietta that the remainder of the Ordinance shall be and shall remain in full force and effect.

This Ordinance shall become effective as provided by the laws of the Commonwealth of Pennsylvania.

ENACTED AND ORDAINED as an ordinance of the Borough of Marietta, County of Lancaster, Commonwealth of Pennsylvania by the Borough Council this 10th day of October, 2017 in a lawful session duly assembled.

BOROUGH OF MARIETTA

By: _____
Bridey Hannold, President
Marietta Borough Council

Attest: _____
Sharon Bradnick, Secretary

APPROVED as an Ordinance this _____ day of _____, 2017.

Raymond Vegso, Mayor