

Chapter 280

SHADE TREE COMMISSION

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§ 280-1. Definitions.

For this chapter, these words shall mean:

BOROUGH - The Borough of Marietta.

COMMISSION - The Shade Tree Commission of the Borough of Marietta.

IN - In, on, upon, under or overhanging the right-of-way area of any street, avenue or highway; includes any portion of a tree within the right-of-way area.

OWNER - The legal and beneficial owner of the land. Where the legal and beneficial ownership of land is severed, the term shall include all persons holding legal and beneficial interests.

PERSON - An individual, partnership, corporation, unincorporated association or other similar entity.

STREET - The public streets, highways, roads, avenues, alleys and similar areas, including public walkways appurtenant thereto, to the extent of the public right-of-way in such areas. A shade tree shall be deemed to be “in” when a portion of its trunk at its base such an area.

TREE - A woody perennial plant with one main stem or trunk which develops many branches, usually at some height above the ground. The term includes roots, trunk, limbs, branches, leaves, and fruits or seed pods.

§ 280-2. Shade Tree Commission established.

The Borough establishes a Shade Tree Commission. The Commission shall have no less than three and no more than five members. At least one member of the Commission must be a member of Borough Council and at least one other member must be a member of the Borough's Planning Commission. All members shall be appointed at the discretion of Borough Council for terms of two years. Members may be removed by Borough Council at any time upon a showing of good cause related to their service on the Commission.

§ 280-3. Powers of the Commission.

The Commission shall have these duties and powers:

- A. Advising Borough Council and the Borough Planning Commission on recommendations for maintenance of trees, long-term tree planting plans, and related policies.
- B. Advising the Borough's zoning and code enforcement officials regarding tree removal applications and orders.
- C. Advising residents of the Borough on recommended street trees and reviewing requests for non-approved trees.
- D. Conduct a census of all street trees in the Borough not less than once every two years.
- E. Conduct tree-related public outreach, including the maintenance of a list of residents interested in street trees.
- F. Aiding Borough Council and residents of the Borough in applying for tree planting grants.

§ 280-4. Planting trees; permits required.

- A. No person shall plant any shade tree in or overhanging the public streets or highways in the Borough until a permit therefor is granted by or under the authority of the Commission.
- B. The application for such permit, which shall be provided by the Borough and which shall be signed by the owner of the abutting premises containing such tree or wherein such tree is proposed to be

planted, shall include the details of such planting whether by sketch or otherwise, and the same shall be brought to the attention of the Commission, or under proper circumstance to its administrative designee, for approval. There shall be no fee for submitting such a permit request or obtaining such a permit.

- C. The Commission or, under the proper circumstance, its administrative designee, may refuse a permit for the planting of any species of tree which in its opinion is not suited to the location. The approved shade tree list prepared by the Commission and incorporated by reference is attached as **Appendix A**. The approved shade tree list may be modified from time to time through a resolution of Borough Council.

§ 280-5. Removal of shade trees; permits required.

- A. No person shall remove any shade tree in or overhanging the public streets or highways in the Borough without first obtaining a permit from the Borough's code enforcement officials.
- B. The application for such permit, which shall be provided by the Borough and which shall be signed by the owner of the abutting premises containing such tree shall include the details of such removal, whether by sketch or otherwise. The fee for such permits will be set by Borough Council under its procedures for setting other such fees.
- C. Applications for the removal of any shade tree in or overhanging the public streets or highways shall include a plan to replace such a tree within one year of its removal.

§ 280-6. Trimming of shade trees.

- A. Trees must be trimmed according to best practices, with severe heading off, topping, or dehorning prohibited.
- B. All mature shade trees shall be trimmed so the lowest branches are no less than 14 feet above the surface of the street or cartway and are no less than seven feet above the surface of the sidewalk or walking area, except that trimming shall not exceed 66% of the live crown ration of the tree. Younger trees or trees that do not attain sufficient height to meet the foregoing restriction will be trimmed to achieve a reasonable balance of safety and aesthetics.

C. No person may willfully or negligently damage shade trees in or overhanging the public streets or highways by:

- (1) Pouring salt water, oil, or any other material at any place in such a manner that injury might result to the tree.
- (2) Maintaining 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 a tree of not less than three by three feet square.

§ 280-7. Recommendations.

In addition to the mandatory restrictions in this Chapter (Shade Tree Commission), the following non-enforceable recommendations are approved and are incorporated by reference:

- A. Planting recommendations: see **Appendix B**.
- B. Pruning recommendations: see **Appendix C**.

§ 280-8. Violations.

Violations of any provisions of this Chapter (Shade Tree Commission) shall be enforceable by the Borough's zoning and code enforcement officials, except that no provision of Section 280-7 shall be enforceable.