

Chapter 77

SHADE TREE COMMISSION

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[HISTORY: Adopted by the Board of Supervisors of the Township of Fairview 5-5-1997 by Ord. No. 3-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Parks — See Ch. 168.

Zoning — See Ch. 246.

Subdivision and land development — See Ch. 225.

§ 77-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PERMIT — The written approval from the Shade Tree Commission that is required before any person shall plant, prune, sever roots, or remove any street tree.

PERSON — Any individual, firm, partnership, association, corporation, company or organization of any kind.

PERSONAL TREES — Trees on private property.

REGULATIONS AND STANDARDS OF TREE WORK (planting, maintenance and removal of street trees) — The work standards developed by the Shade Tree Commission that are required before any person shall plant, prune, sever roots or remove any street tree.

SHADE TREE COMMISSION — The body that has jurisdiction over all street trees.

STREET TREES — Trees on public land or on any public right-of-way.

SUBSTANTIAL INJURY — The injury/damage that endangers the continued life of any tree.

TREE TOPPING — The cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to substantially remove the natural canopy.

TREES — Shade or ornamental woody plants with one main trunk.

§ 77-2. Creation and establishment of Commission.

There is hereby created and established a Shade Tree Commission ("Commission") for the Township of Fairview, State of Pennsylvania, which shall consist of three members who shall be residents of this Township and who shall be appointed by the Township Supervisors. Members of the Commission shall serve without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of their duties. Other volunteers may serve on various committees.

§ 77-3. Term of office.

The terms of the three persons to be appointed by the Township Supervisors shall be for initial periods of three years, four years and five years, respectively, and for all subsequent terms, five years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Township Supervisors for the unexpired portion of the term. At the end of each term, new Commission members may be appointed or existing Commission members may be reappointed, at the discretion of the Township Supervisors.

§ 77-4. Duties and responsibilities.

The Commission shall have exclusive control of street trees in Fairview Township and is authorized to plant, remove, maintain and protect street trees. It shall be the responsibility of the Commission to study, investigate, counsel, and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees. The Commission shall review all permit applications for tree work and will develop and revise when needed the regulations and standards of tree work that must be adhered to when working on street trees. The Commission shall develop and update a list of approved tree species recommended for personal planting adjacent to Township roadways and streets. The Commission shall conduct regular and special meetings to review permit applications and discuss matters relating to street trees. The Commission, when requested by the Township Supervisors, shall consider, investigate, make findings, report and recommend any special matter or question coming within the scope of its work.

§ 77-5. Hiring of employees.

The Commission may, with the approval of the Township Supervisors, employ persons to perform the duties and directions of the Commission and make, publish and enforce regulations for the care and protection of the street trees of the Township.

§ 77-6. Report of Commission.

The Commission shall annually report to the Township Supervisors its transactions and expenses for the preceding fiscal year of the Township and shall certify the costs incurred, which costs shall be paid from the general Township fund.

§ 77-7. Operation.

The Commission shall choose its own officers, adopt its own rules and regulations and keep a journal of its proceedings. A majority of the members shall constitute a quorum for the transaction of business.

§ 77-8. Obstructions.

No tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines, or roadway or berm or sidewalk. No tree shall be planted closer than 10 feet of any fireplug. Every owner of any tree overhanging any street or right-of-way within Fairview Township shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of seven feet above the surface of the street or sidewalk and 12 feet overhanging a street. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Township shall have the right to prune any tree when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign. In the event the property owner neglects or refuses to maintain trees at the prescribed level within the time specified as notified in writing, the Township may perform such work at the owner's expense, in accordance with good arboricultural standards outlined in the regulations and standards of tree work.

§ 77-9. Utilities.

All trees planted under overhead primary electric utility lines shall be of a species that does not obstruct the wires. They shall be trees that mature at a height of 20 to 30 feet and shall be specified by the Commission.

§ 77-10. Public tree care.

It is the duty and responsibility of the property owner or occupier of property abutting streets and highways in the Township to properly maintain any personal tree lawns adjoining the property. This includes maintenance of trees and other vegetation in a manner so as not to create a safety or liability problem for motorists, pedestrian traffic or other activities within the right-of-way. The Township also has the right to plant, prune, maintain and remove personal trees within the right-of-way of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Commission may remove or cause or order to be removed any personal tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, waterlines or other property

and improvements. In such case, the cost of tree planting, transplanting, trimming and removal of personal trees shall be paid for by the owner of the real estate abutting the street where the work is to be done.

§ 77-11. Prohibited activities.

- A. To plant, cut down, top or cause to be planted, cut down or topped any street tree within the Township without a permit issued by the Commission (utility pruning or storm damaged trees are not exempt from pruning in accordance with ANSI-A300 National Pruning Standards outlining proper crown reduction).
- B. To plant, cut down, prune or cause to be planted, cut down or pruned any street tree in the Township without performing all work in accordance with the regulations and standards of work that are established by the Commission. Failure to abide by the regulations and standards of work shall cause the revocation of permits, and penalties will be levied.
- C. To plant or cause to be planted any tree within the right-of-way of Township streets except in accordance with spacing requirements set forth by the Commission. These spacing requirements establish required distances from other trees, street intersections, fire hydrants, curbs, sidewalks, underground water, sewer or other injury.
- D. Cause or authorize in any public area any oil, gasoline, herbicide, paint, brine, hot water, steam or other gas, liquid or solid substance deleterious to the tree to contact any street tree or to enter the soil about the base or root system of a street tree in any manner that may injure or kill it.
- E. To cut or disturb roots, to obstruct free access of air and water to the roots or to maintain fires in close proximity to street trees, or to undertake demolition or construction work without protecting or guarding nearby street trees, where such activity is likely to cause substantial injury or destruction of a street tree within the Township right-of-way.
- F. To fasten ropes, wires, cables, electric attachments, signs or other devices to a street tree within the Township right-of-way.

§ 77-12. Dead or diseased tree removal on private property.

The Commission shall have the right to cause the cutting and removal of any dead or diseased street tree or personal tree on private property if the condition of the tree, through disease or otherwise, unreasonably affects or interferes with the health, safety or welfare of the public or the right of the public to the unobstructed use of public roads or property. The Commission will notify in writing the owners of such personal trees. Removal shall be done by said owners at their own expense within 30 days after the date of service of notice by certified mail. In the event of failure of owners to comply with such provisions, the Township shall have the authority to remove such personal trees and charge the cost of cutting and removal to the property owner, which charge shall be a lien against the property.

§ 77-13. Removal of stumps.

All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground at the time of tree removal, at the expense of the property owner.

§ 77-14. Interference with Commission.

It shall be unlawful for any person to prevent, delay or interfere with the Commission, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees as authorized in this chapter.

§ 77-15. Work permits and bonds. ¹

Any person or firm engaging in the business or occupation of pruning, treating or removing street trees within the Township must first apply for a permit from the Commission. Upon approval of a request by the Commission, the owner of the property shall receive a permit and information which outlines the rules and specifications for tree work within the Township. This permit shall not be issued unless the applicant shows proof of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$300,000 for property damage, indemnifying the Township or any person injured or damaged resulting from work done for the Township. Permits will be valid for six months at a cost as set from time to time by resolution of the Board of Supervisors. If at any time tree work takes place on street trees without a permit or the required insurance bond, the individual or business shall be liable for any damage and will be cited for doing the work without a valid permit, subject to a fine to be established by the Township Supervisors.

§ 77-16. Review by Township Supervisors.

The Township Supervisors shall have the right to review the conduct, acts and decisions of the Commission. Any person may appeal from any ruling or order of the Commission to the Township Supervisors, who may hear the matter and make the final decision.

§ 77-17. Violations and penalties. ²

Any person who violates or permits a violation of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents

1. Editor's Note: Amended at time of adoption of Cide (see Ch. 1, General Provisions, Art. I).

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of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.