

Chapter 25

Trees

Part 1 Shade Tree Ordinance

- §25-101. Short Title and Definitions
- §25-102. Establishment of Commission; Powers and Duties
- §25-103. Permits for Planting, Maintenance and Removal
- §25-104. General Regulations
- §25-105. Specifications for Selection, Planting and Maintenance
- §25-106. Penalties

Part 1**Shade Tree Ordinance****§25-101. Short Title and Definitions.**

1. *Short Title.* This Chapter shall be known and may be cited as the “Borough Shade Tree Ordinance of the Borough of Millbourne.”

2. *Definitions.* For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is mandatory and not merely directory.

Municipality—the Borough of Millbourne.

Park—includes all public parks.

Person—any person, firm, partnership, association, corporation, company or organization of any kind.

Principal thoroughfare—any street upon which trucks are not prohibited.

Property line—the outer edge of a street or highway.

Property owner—the person owning such property as shown by the County Assessor's Plat of Delaware County.

Public places—includes all other grounds, in addition parks owned by the Borough of Millbourne.

Public trees—includes all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.

Shade Tree Commission—the body under whose jurisdiction all street trees fall.

Street or highway—the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

Tree lawn—that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

Trees—

(1) *Large trees*—those attaining a height of 45 feet or more.

(2) *Medium trees*—those attaining a height of 30 to 45 feet.

(3) *Small trees*—those attaining a height of 20 to 30 feet.

(Ord. 390, 7/22/1998, Art. I)

§25-102. Establishment of Commission; Powers and Duties.

1. *Commission Created; Membership.* There shall be created a commission to be known and designated as the “Shade Tree Commission.” The Commission shall consist of three members, all of whom shall be residents of the Borough. All will serve without

compensation.

A. One member shall serve for 3 years, 1 for 2 years and 1 for 1 year.

B. On the expiration of the term of any Commissioner, a successor shall be appointed by the Borough Council to serve for a term of 3 years.

C. Vacancies in the office of Commissioner shall be filled by the Borough Council for the unexpired term.

2. *Duties.* The duties of the Shade Tree Commission shall be as follows:

A. *General Powers.* The Commission shall have exclusive custody and control of the shade trees in the Borough and is authorized to plant, remove, maintain and protect shade trees on the public streets and property within the Borough.

B. Specific duties include, but are not limited to:

(1) Studying the problems and determining the needs of the Borough of Millbourne in connection with its tree planting program.

(2) Recommending to the proper authority the type and kind of trees to be planted upon such Borough streets or parts of Borough streets or in parks as are designated.

(3) Assisting the properly constituted officials of the Borough of Millbourne as well as the Borough council and citizens of the Borough, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property, and making such recommendations from time to time to the Borough Council as to desirable legislation concerning the tree program and activities for the Borough.

(4) Providing regular and special meetings at which the subject of trees, insofar as it relates to the Borough, may be discussed by the members of the Commission, officers and personnel of the Borough and its several divisions and all others interested in the tree program.

3. *Organization.* Within a reasonable time after the appointment of said Commission and the approval of the members thereof, upon call of the Borough Council, said Commission shall meet and organize by the election of a Chairman. The said Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

(Ord. 390, 7/22/1998, Art. II)

§25-103. Permits for Planting, Maintenance and Removal.

1. *Permit Required; Application; Issuance.*

A. No person shall plant, spray, fertilize, preserve, prune, remove, cut or otherwise disturb any trees on any street or Borough-owned property without first filing an application and procuring a permit from the Shade Tree Commission. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the Shade Tree Commission.

B. Application for permits must be made at the office of the Shade Tree

Commission not less than 48 hours in advance of the time the work is to be done.

C. The Shade Tree Commission shall issue the permit provided for herein if, in its judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

D. Notice of completion shall be given within 5 days to the Shade Tree Commission for its inspection.

2. *Planting Requirements.*

A. *Application Data.* The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Shade Tree Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.

B. *Improper Planting.* Whenever any tree shall be planted or set out in conflict with the provisions of this Section, it shall be lawful for the Shade Tree Commission to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

3. *Maintenance.* The application required herein shall state the number of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Shade Tree Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.

4. *Removal, Replanting and Replacement.*

A. Wherever it is necessary for removal of a tree or trees from a tree lawn in connection with the paving of a sidewalk or the paving or widening of the portion of a street or highway used for vehicular traffic, the Borough shall replant such trees or replace them. Where conditions prevent planting on tree lawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications are planted in an attractive manner on the adjoining property.

B. No person or property owner shall remove a tree from the tree lawn for the purpose of construction or for any other reason without first filing an application and procuring a permit from the Shade Tree Commission and without replacing the removed tree or trees in accordance with the adopted Arboricultural Specifications. Such replacement shall meet the standards of size, species and placement as provided for in a permit. The person or property owner shall bear the cost of removal and replacement of all trees removed.

C. The Borough shall have the right to cause the removal of any dead or diseased tree on private property within the Borough when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the Borough. The Shade Tree Commission will notify in writing the owners of such trees. Removal shall be done by said

owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Borough shall have the authority to remove such trees and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

D. All stumps of street and park 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.

(Ord. 390, 7/22/1998, Art. III)

§25-104. General Regulations.

1. *Trees Obstructing Streets.* It shall be the duty of any persons owning or occupying real property bordering on any street, upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be 10 feet over sidewalks and 12 feet over all streets except truck thoroughfares, which shall have a clearance of 16 feet. This Section does not pertain to owners of real property upon whose property street trees are planted by the Borough after the effective date of this Chapter.

A. *Notice to Prune.* Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the Borough Shade Tree Commission shall order such person or persons, within 5 days after receipt of written notice, to so prune such trees.

B. *Order Required.* The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

C. *Failure to Comply.* When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Borough to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

2. *Mutilation of Public Trees.* Unless specifically authorized by the Shade Tree Commission, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree; allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

3. *Interference with Shade Tree Commission.* No person shall hinder, prevent, delay or interfere with the Shade Tree Commission or its assistants while engaged in carrying out the execution or enforcement of this Part, regulations, etc.; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Borough.

4. *Protection of Trees.*

A. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work shall be guarded with a good, substantial fence, frame or box not less than 4 feet high and

8 feet square or at a distance in feet from the tree equal to the diameter of the trunk in inches (diameter at breast height), whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier.

B. No person shall excavate any ditches, tunnels, trenches or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permit from the Borough Shade Tree Commission.

5. *Placing Materials on Public Property.* No person shall deposit, place, store or maintain upon any public place of the Borough any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit of the Shade Tree Commission.

(Ord. 390, 7/22/1998, Art. IV)

§25-105. Specifications for Selection, Planting and Maintenance.

1. *Requirement for Trees.* Street trees shall be required wherever a proposed subdivision is adjacent to any existing or recorded development having street trees.

2. *Commission Review.* The Shade Tree Commission shall review all developments and redevelopment plans meeting the above criteria to assure the planting of the proper trees.

3. *Species of Trees; Specifications.*

A. *Preferred Tree Species.*

(1) All plant material used shall be selected from the following plant list. If the developer is confronted with an unforeseen problem pertaining to tree species, the Shade Tree Commission shall be consulted for advice and recommendations.

(2) Street trees within the same block shall be of the same species except to achieve a special effect, as approved by the Shade Tree Commission.

(a) *Small Trees (Under 30 Feet).*

- 1) *Acer campestre* - hedge maple.
- 2) *Acer ginnala* - Amur maple.
- 3) *Acer tataricum* - Tatarian maple.
- 4) *Amelanchier canadensis* (tree form) - shadblow serviceberry.
- 5) *Amelanchier laevis* (tree form) - Allegheny serviceberry.
- 6) *Cornus florida* - flowering dogwood.
- 7) *Cornus kousa* - Chinese kousa dogwood.
- 8) *Crataegus monogyna*, selected varieties - hawthorn.
- 9) *Crataegus phaenopyrum* - Washington hawthorn.
- 10) *Halesia carolina* - Carolina silverbell.
- 11) *Malus*, selected varieties - crab apple.
- 12) *Prunus sargentii* cv. *columnara* - columnar Sargent cherry.
- 13) *Prunus serrulata* cv. *Amanogawa* - Amanogawa cherry.
- 14) *Prunus serrulata* cv. *Kwanzan* - Kwanzan cherry.

- 15 Pyrus calleryana cv. Chanticleer - Chanticleer pear.
- 16) Syringa amurensis japonica - Japanese tree lilac.
- (b) *Medium Trees (30–45 Feet)*.
 - 1) Carpinus betulus - European hornbeam.
 - 2) Carpinus betulus cv. Fastigiata - upright European hornbeam.
 - 3) Cercidiphyllum japonicum - katsura tree.
 - 4) Chionanthus virginica - white fringe tree.
 - 5) Crataegus lavalleyi - Lavalley hawthorn.
 - 6) Koelreuteria paniculata - goldenrain tree.
 - 7) Malus cultivars - crab apple.
 - a) Adams.
 - b) Snowdrift.
 - c) White Angel.
 - d) Hupenhensis.
 - e) Zumi calocarpa.
 - f) Becerly.
 - 8) Nyssa sylvatica - sour gum.
 - 9) Phellodendron amurense - Amur cork tree.
 - 10) Prunus yedoensis - Yoshino cherry.
 - 11) Pyrus calleryana cultivars - Callery pear.
 - a) Aristocrat.
 - b) Bradford.
 - c) Dwarf Korean.
 - 12) Quercus acutissima - sawtooth oak.
 - 13) Sorbus alnifolia - Korean mountain ash.
 - 14) Sorbus aucuparia - European mountain ash.
 - 15) Ulmus parvifolia - Chinese elm.
- (c) *Large Trees (Over 45 Feet)*.
 - 1) Acer rubrum (selected cultivars) - red maple.
 - 2) Acer saccharum (selected cultivars) - sugar maple.
 - 3) Corylus colurna - Turkish filbert.
 - 4) Ginkgo biloba (male selections only) - ginkgo.
 - 5) Metasequoia glyptostroboides - dawn redwood.
 - 6) Quercus alba - white oak.
 - 7) Quercus borealis - red oak.
 - 8) Quercus cerris - Turkey oak.
 - 9) Quercus imbricaria - shingle oak.

- 10) *Quercus phellos* - willow oak.
- 11) *Quercus shumardi* - Shumard oak.
- 12) *Sophora japonica* - Japanese pagoda tree.
- 13) *Taxodium distichum* - common bald cypress.
- 14) *Tilia cordata* - littleleaf linden.
- 15) *Tilia euchlora* (selected cultivars) - Crimean linden.
- 16) *Tilia tomentosa* - silver linden.
- 17) *Zelkova serrata* (selected cultivars) - Japanese zelkova.

(3) The use of any tree other than those listed above require the approval of the Shade Tree Commission.

(4) Not all trees on this list are suitable for all situations. Suitability shall be determined by the Shade Tree Commission.

B. *Acquisition of Trees.* Only plant material grown in nurseries shall be procured for shade tree planting. Trees should be true to form and typical of the species.

C. *Tree Specifications.*

(1) Each tree shall be at least 8 feet in height and have a diameter of at least 1½ inches as measured at a height of 6 inches above the finished ground level.

(2) Plant material shall be balled and burlapped with native soil in which the material had been growing (no manufactured balls).

(3) The relationship between tree caliper, tree height and diameter of the root ball shall be as follows:

Caliper (inches)	Height Range (feet)	Minimum Ball Diameter (inches)
1½ to 1¾	8 to 10	20
1¾ to 2	10 to 12	22
2 to 2½	12 to 14	24

Note: Trees with larger caliper trunks shall have ball diameters in proportion to their size and in accordance with accepted nursery practices.

4. *Tree Locations and Planting Specifications.*

A. *Planting Locations.*

(1) The actual location of each individual tree shall be determined considering views, proximity of utility poles, overhead and guy wires, driveways and subsurface utility installations.

(2) Trees shall be planted at least 30 feet from street intersections, at least 15 feet from driveways and alleys and at least 10 feet from utility poles.

(3) Spacing of trees should be determined by the Shade Tree Commission according to local conditions, the species, cultivars or varieties used, their

mature height, spread and form. Generally, all large trees shall be planted 40 to 60 feet on center; all medium-sized trees shall be planted a minimum of 35 feet on center; and all small trees shall be planted a minimum of 25 feet on center. Whenever possible, shade trees shall be planted alternately along each side of all streets of the development. Trees shall be spaced without regard to property lines.

(4) The cross-sectional location of street trees shall be as follows (as a guide):

(a) *No overhead utility wires.* Trees shall be located within right-of-way, on-center between the curb and sidewalk.

(b) *Utility wires overhead.* Trees shall be located preferably between the sidewalk and building setback line and at least 3 feet from the sidewalk. Small trees may be planted under utility wires with Shade Tree Commission approval.

B. *Planting Specifications.*

(1) Tree pits shall be at least 10 inches wider in diameter than the diameter of the root ball. Unless building debris is encountered, the hole shall be excavated to a depth no greater than to permit the top of the ball to be level with the rim of the hold. All encountered debris should be removed to a minimum depth of 30 inches.

(2) *Planting Time.* Except where waived by the Shade Tree Commission, trees within the same block shall be planted at the same time. Balled and burlapped material may be planted during any period of the year when the soil is frost-free and friable.

(3) The burlap and twine covering the upper half of the ball shall be rolled back or cut away after the plant has been set.

(4) Trees shall be staked with no less than 2 x 2 inch stakes driven 2½ to 3 feet into the ground. Two stakes shall be required for trees less than 2 inches in caliper, and 3 for trees greater than 2 inches in caliper. The trunk shall be protected by placing a short piece of ¾-inch diameter, two-ply reinforced hose around the guy wire where it comes in contact with the tree. All stakes shall be of the same height for uniform appearance and support.

(5) The planting hole shall be backfilled to ¾ full with soil, followed by 10 gallons of water. When the water has been absorbed, the hole shall be filled with topsoil and tamped lightly to finished grade.

(6) Upon completion of the transplanting operation, a wood chip or bark mulch, 2 inches deep, shall be placed over the planting area.

(7) All unused soil or other debris resulting from the planting or plant material shall be removed from the project area.

5. *Establishment of Trees; Maintenance.*

A. *Maintenance.*

(1) Plant maintenance shall begin immediately after each plant is satisfactorily installed and shall continue until final inspection by the Shade Tree Commission.

(2) Plant maintenance shall include, but need not be limited to, replacing mulch that has been displaced by erosion or other means, maintaining stakes and guys as originally installed, watering when needed or directed and performing any other work required to keep the plants in a healthy condition. An adequate moisture supply is estimated to be equivalent to 1 inch of water per week, delivered at weekly intervals in the form of rain or augmented as required by periodic watering.

(3) The developer shall remove and replace all dead, defective and rejected plants as occur during this period.

B. *Guaranty*. In addition to other standard provisions, the developers' improvement bond shall also provide for the following:

(1) Maintenance necessary during establishment period.

(2) Replacement in kind, or with a substitute acceptable to the Shade Tree Commission, of all plant material which is not in healthy growing condition, which has died back or is beyond normal pruning limits.

(*Ord. 390, 7/22/1998, Art. V*)

§25-106. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 390, 7/22/1998, Art. VI; as amended by Ord. 447, 5/20/2015*)

