

Cheltenham Township, Montgomery County, PA

## Chapter 280. TREES

[HISTORY: Adopted by the Board of Commissioners of the Township of Cheltenham 5-22-1991 as Ord. No. 1736-91. Amendments noted where applicable.]

### GENERAL REFERENCES

Subdivision and land development — See Ch. 260.

§ 280-1. Word usage; definitions.

A. Word usage. The singular number includes the plural, and the plural includes the singular. The masculine gender includes the feminine.

B. Terms defined. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this section:

#### ANSI

American National Standards Institute.

[Added 12-15-1998 by Ord. No. 1930-98]

#### BOARD

The Board of Commissioners of the Township of Cheltenham.

#### BUFFER

A designated area between two uses deemed incompatible with each other or along the perimeter of a natural feature to be protected from an incompatible use, or along the perimeter of that use, which will absorb or otherwise preclude such incompatibility and shall be permanently maintained.

#### COMMISSION

The Tree Advisory Commission of the Township of Cheltenham.

#### CONSTRUCTION DEBRIS

The leftover materials, or remnants thereof, from a building project.

#### DBH

Diameter at breast height.

#### DIRECTOR

The Director of Engineering, Zoning and Inspections.

#### HEDGEROW

A line of plants that may occur naturally where seeds collect and are left undisturbed, such as along fence lines, property lines or between fields, or that is specially planted, e.g., to act as a windbreak.

#### ISA

International Society of Arboriculture.

[Added 12-15-1998 by Ord. No. 1930-98]

#### LANDSCAPE IMPROVEMENT

The addition of features to the land which enhance a particular site from the standpoint of, e.g., noise abatement, recreational enjoyment, wildlife preservation, visual amenity, etc. Such improvements might include plants, pathways, patios and fences.

#### MINIMIZE

To reduce to the smallest amount possible using best management practices. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action required to be minimized. With respect to activities, the conduct of which is adverse to the conservation of the natural features of land, the requirement to "minimize" shall include but not be limited to the requirement that the placement of dwellings and other structures and the location of roads, sedimentation and erosion control devices and earthmoving activities shall be planned and designed so as to permit the adverse effect of the activity in question to be reduced to the smallest amount possible under the circumstances consistent with the otherwise permitted development.

#### NAA

National Arborist Association.

[Added 12-15-1998 by Ord. No. 1930-98]

#### NATURAL FEATURE

A component of a landscape existing or maintained as a part of the natural environment and having ecological value in contributing beneficially to air quality, erosion control, groundwater recharge, noise abatement, visual amenities, growth of wildlife, human recreation, reduction of climatic stress and energy costs. Such features include those which, if disturbed, may cause hazards or stress to life, property and the natural environment.

#### PERMIT

A permit in writing as issued by the Director.

PERSON

Any individual, firm, association, partnership or corporation.

PUBLIC NUISANCE

Any violation of the provisions of this chapter.

PUBLIC RIGHT-OF-WAY

The width of the street encompassing the cartway, curb and area reserved for or already having sidewalks.

[Added 12-15-1998 by Ord. No. 1930-98]

PUBLIC STREET OR HIGHWAY

Any public right-of-way, a portion of which is used for vehicular travel, in the township.

SHADE TREE

Any tree within the right-of-way of any public street or highway.

SITE DISTURBANCE

Any activity which causes land on a given site to be exposed to the danger of erosion, including removal of vegetation, clearing, grading, filling, plowing and other types of earthmoving.

SPECIMEN PLANT

A specifically selected plant considered worthy of conservation by the township because of species, size, shape, form, historical importance or any other significant characteristic; particularly as applied to trees over 20 inches dbh.

TOWNSHIP

The Township of Cheltenham.

WOODED LOT

Any lot having more than one viable tree of a caliper of six inches or greater per 1,500 square feet of lot area.

WOODLAND

An area characterized by a more or less dense and extensive tree cover; more particularly, a plant community predominantly of healthy trees and other woody vegetation, well-stocked and growing more or less closely together.

§ 280-2. Establishment of Tree Advisory Commission.

[Amended 12-15-1998 by Ord. No. 1930-98]

A commission to be known as the "Shade Tree Advisory Commission" is hereby established.

§ 280-3. Composition; appointments; terms; vacancies.

A. The Commission shall be composed of seven residents of the township, who shall be appointed by the Board in accordance with Article XIII of the Home Rule Charter, and shall serve without compensation. Five members shall be from the public at large; one member who is a professional arborist/horticulturist or who has the equivalent of two years of education or experience in a related field; and one member who is a landscape architect or who has the equivalent of two years of education or experience in a related field.

[Amended 12-15-1998 by Ord. No. 1930-98]

B. As first established, appointments to the Commission shall consist of two members to serve for terms of one year, three members to serve for terms of two years and two members to serve for terms of three years.

C. On the expiration of the term of any Tree Advisory Commission member, a successor shall be appointed to serve for a term of three years.

D. Vacancies on the Tree Advisory Commission shall be filled for the unexpired term.

§ 280-4. Powers of Commission.

The Commission shall have the following powers:

A. To advise the Board's Public Works Committee with respect to planting, removal, maintenance and protection of shade trees.

B. To review subdivision and land development plans as they pertain to site planning in accordance with § 280-9, site disturbance in accordance with § 280-10, trees that represent a significant natural feature, including trees in groves, woodlands, hedgerows, wooded lots and specimen trees, and advise the Board's Public Works Committee with respect to planting plans, landscape improvement, buffer areas and site disturbance.

§ 280-5. Removal of trees.

[Amended 12-15-1998 by Ord. No. 1930-98]

A. Notwithstanding any other provision of this chapter, the Director can, upon four weeks' prior written notice to the owners of property, require owners of property to cut and remove shade trees, or parts thereof, along their street frontage that are diseased or that create hazardous conditions to life and/or property. Upon failure of any such owner to comply with such notice, the township can cause the work to be done by the township and levy and collect the cost thereof from the owner of the property. The cost of such work shall be a lien upon the premises from the time of the commencement of the work, which date shall be fixed by the Director, and still be filed with the Township Manager. Any such lien may be collected by action in assumpsit or by lien filed in the manner provided by law for the filing and collection of municipal claims.

B. The Director shall give said four-week notice by mailing it, by certified mail, to the last known address of the owner of the property and by posting the notice at the main entrance to the main habitable or occupied structure on the property.

C. Tree removal also includes removal of the tree stump. The stump may be either removed completely or ground down six inches below the level of the ground. The void created by the tree stump removal shall be backfilled with soil and the disturbed area seeded and mulched.

#### § 280-6. Emergency situations.

Notwithstanding any other provisions of this chapter, the township shall have the right, without prior notice to any property owner, to perform any acts necessary to abate clear, present and immediate threats to the public health, safety or welfare caused by the condition of shade trees or parts thereof. The township shall have the right to assess the cost of such summary abatement against the person whose action or inaction caused such threat to the public health, safety or welfare.

#### § 280-7. Shade trees.

A. Landholder's liability for costs; assessments; liens. The cost of planting, transplanting, caring for any shade tree or removing any shade tree or parts thereof in the public streets or highways of the township, of the necessary and suitable guards, curbing or grading for the protection thereof and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, whether such work is performed by township personnel or by a contractor hired by the township to do such work, or by the owner of the real estate or by the contractor hired by the owner of the real estate, shall be the responsibility of the owner of the real estate upon whose property such work is done.

B. Acts injurious to shade trees prohibited. Except in case of immediate necessity for protection of life or property, it shall be a violation of this chapter for any person to do any of the following acts:

(1) Break or injure in any manner any shade tree.

(2) Climb with spurs any shade tree other than a tree designated for removal.

[Amended 12-15-1998 by Ord. No. 1930-98]

(3) Interfere with the main roots of any shade tree in any manner that would be detrimental to the tree.

(4) Permanently attach from the effective date hereof, without prior approval of the Director, any rope, signs, guy wire, cable or other fixture, such as house numbers, lighting devices or ornamental decorations, on a shade tree or on a shade tree guard.

(5) Injure, misuse or remove any device placed to protect shade trees.

(6) Attach any electric wire, insulator or any device for the holding of an electric wire to any shade tree.

C. Permit required to plant or remove a shade tree. No person shall plant or cut down a shade tree on any public street or highway until a permit is granted therefor, such permit to designate the place where such shade tree is to be planted. The Director can refuse a permit to plant a shade tree at any proposed location or to plant any species of tree which, in his opinion, is not suited to the proposed location.

D. Interference with roots prohibited. No person shall, without first obtaining a permit, 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 leave an open space of ground surrounding the trunk of the shade tree, such space to be not less than four feet square.

E. Protection from building operations or other work required. In connection with any building operation or the performance of any work whatsoever in the township in the vicinity of any shade tree, before any such work shall be commenced, guards shall be placed at all shade trees which may be affected by such work so as to effectually prevent injury to them. The type and method of guard shall be approved by the Director.

F. Discharge of injurious materials prohibited. No person shall place any materials at any place in an excessive amount that injury may result to any shade tree.

G. Electric wires to be secured. Every person having any wire or wires charged with electricity running through a public street or highway shall securely fasten such wire or wires so that they shall not come in contact with any shade tree so as to injure the same.

§ 280-8. Trimming of trees.

[Amended 12-15-1998 by Ord. No. 1930-98]

A. All shade trees shall be kept trimmed so that the minimum height where they overhang any public sidewalk shall be nine feet or where they overhang any public road shall be 14 feet. However, the township reserves the right to designate a higher clearance on certain highways, where heavy traffic or other conditions make it expedient. All trees standing on private property and having branches projecting over a public highway shall be kept trimmed by the owner of such private property so that the lowest branches shall have a minimum height of 14 feet or to such other height as may be specified by the township. In case the owner of such property shall neglect or refuse to trim such trees upon being notified in writing by the township to do so and within the time specified by such notice, the

township may, after the expiration of the date specified in said notice, cause such trimming to be done at the expense of the owner, and the entire cost thereof shall be a lien upon said premises and shall be filed and collected by the township in the same manner as municipal claims are filed and collected.

B. Contractors shall perform tree trimming work in compliance with current ISA/NAA and ANSI A300 specifications.

#### § 280-9. Site planning.

A. Conservation of woodlands and other vegetation.

(1) Except in conjunction with routine property maintenance, the following regulations shall apply:

(a) Healthy, well-stock woodlands or wooded lots. No wooded lot, whether created by subdivision or currently existing, shall be disturbed in such a manner that the number of viable trees having a dbh of six inches or greater on the lot prior to any disturbance shall be reduced by more than 15% by such disturbance. In instances where disturbance of tree-cutting of more than 15% of those existing viable trees having a dbh of six inches or greater is unavoidable or considered desirable in accordance with sound forest management practices, the individual removing such trees shall replace those removed in excess of 15% with new plantings of trees having a caliper of at least two to two and one-half (2 1/2) inches. The Director shall have discretion to require renovation of unhealthy or unsafe trees having a dbh of six inches or greater and shall have discretion to substitute vegetation other than trees for required tree plantings. Every effort shall be made to retain as much woodland as possible of a size and configuration which will promote its growth and natural regeneration.

(b) Disturbance to vegetation other than woodlands which provides wildlife food and cover or visual amenity shall be minimized. This may include, but not necessarily be limited to, single or groups of specimen trees, hedgerows, formal gardens and other vegetation not considered as woodland.

(c) In no event may grading be performed on a site which shall result in the removal of more than 50% of the vegetation on the site at any time.

(2) Disturbance or removal of vegetation occupying environmentally sensitive areas shall be undertaken only as permitted herein to minimize the adverse impacts of such actions. This shall include but not necessarily be limited to vegetation performing important soil stabilizing functions on floodplains, stream and pond banks and sloping lands.

#### § 280-10. Site disturbance regulations.

The conservation measures listed below shall be taken during site preparation activities. At the discretion of the township, and in addition to the measures listed below, the township may require a prior-to-construction meeting with the applicant or site contractor to further determine methods to minimize environmental damage.

A. Protection of vegetation from mechanical injury and grading change.

(1) All woody vegetation to be retained within 25 feet of a building site, parking area or other proposed improvement shall be protected from equipment damage by snow fencing or other effective barriers; fencing or barriers around trees shall be placed at the dripline, unless determined to be appropriate at another location by the Director.

(2) Equipment operators shall not damage existing tree trunks and root systems by driving equipment within or otherwise disturbing the area circumscribed by the dripline of any tree. In addition, roots shall not be cut or disturbed within the area circumscribed by the dripline of a utility line within the tree dripline, it is strongly encouraged that tunneling, rather than trenching, be used to minimize potential damage to tree root systems. In such cases, the Director shall determine the most desirable location for the survival of the tree(s). Where trenching is unavoidable, trenched holes shall be filled as soon as possible and tamped lightly to avoid the creation of air spaces.

(3) Tree trunks and exposed roots damaged during construction shall be protected from further damage by fencing or other structural barrier. Treatment of damaged areas shall be dictated by the nature of the injury, e.g., damaged bark shall be cut back to a point where the bark is intact and tight to the tree; exposed roots shall be cleaned up and covered with topsoil; and tree limbs shall be cut back in proportion to root area loss. In such cases, the Director shall have the authority to determine the treatment technique(s) most suitable to the damaged area. In addition, where stipulated by the Director, liquid or dry fertilizer shall be applied to trees with disturbed root zones to compensate for loss of roots.

(4) Trees shall not be used for roping, cables, signs, fencing or lighting. Nails and spikes shall not be driven into trees.

(5) The area around the base of existing woody vegetation shall be left open. No impervious cover, storage of equipment, materials, debris or fill shall be allowed within the dripline of any existing tree.

(6) Grade changes to occur at any location on the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.

(7) The Director may, with the advise of the Commission, require that specimen plants with significant historic, visual or environmental qualities which would otherwise be removed during site preparation be transplanted elsewhere on the site.

(8) Should any existing vegetation on the site not scheduled or permitted to be removed be irreparably damaged during site preparation and die within 18 months of the conclusion of site disturbance activities, such vegetation shall be replaced with similar vegetation.

(9) When backfilling and grading around trees, the soil level within the area extending from the trunk to the drip line of the tree shall not be altered by more than two inches plus or minus.

[Added 12-15-1998 by Ord. No. 1930-98]



B. Protection of vegetation from excavations.

(1) When digging trenches for utility lines or similar uses, disturbance to the root zones of all woody vegetation shall be minimized.

(2) If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible, avoiding soil compaction. Tree limbs shall be cut back in proportion to root area loss.

(3) If trenches are to remain open for a period greater than eight hours, any exposed tree roots shall be covered with burlap and thoroughly wet down each day for the duration of the work.

[Added 12-15-1998 by Ord. No. 1930-98]

C. Protection of topsoil.

(1) No topsoil shall be removed from a site unless a sufficient amount is retained to provide at least six inches of topsoil cover over all of the site's exposed earth surfaces.

(2) Topsoil removed by grading operations shall be redistributed and stabilized as quickly as possible following the completion of a project or project phase. All exposed earth surfaces shall be stabilized by the following methods or approved equal:

(a) Seeding, sodding, hydroseeding, geotextiles or planting on slopes of 10% or less.

(b) Sodding, hydroseeding, riprap or geotextiles on slopes exceeding 10%.

(3) Grading and earthmoving operations shall be minimized during the period of November 15 to April 1, when revegetation of exposed ground surfaces is difficult.

D. Protection during cleanup.

(1) All construction debris shall be hauled away from the property.

(2) The Director shall require that fences and barriers placed around woody vegetation during construction be removed if they impede the growth and maintenance of such vegetation.

E. Protection of vegetation from hazardous and toxic materials. No hazardous or toxic materials shall be stored within or around groupings of woody vegetation or within 100 feet of the dripline of any existing tree or within or around any other natural feature addressed herein. Hazardous or toxic contaminants, including but not limited to petroleum hydrocarbons, oils, pesticides, herbicides, thinners, solvents, cleaners, abrasives, acids and bases are strictly prohibited within or around woody vegetation or within 100 feet of the dripline of any existing tree.

§ 280-11. Violations and penalties; public nuisances.

A. Any person who shall violate any of the provisions of this chapter or who shall violate the terms or conditions of any permit issued under this chapter shall be liable, on conviction thereof, to a fine or penalty not exceeding \$600 for each and every offense, and each day that any such violation shall continue shall constitute a separate offense punishable by a like fine or penalty. Such fine or penalties may be collected as like fines or penalties are now by law collected.

B. The maintenance of any tree or condition in violation of this chapter shall be a public nuisance, and the cost to the Township of Cheltenham to remedy said nuisance shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

§ 280-12. (Reserved)

§ 280-13. Shade tree list.

[Amended 12-15-1998 by Ord. No. 1930-98]

Trees for new and/or replacement shade trees shall be selected from Table A and shall be balled and burlapped with a minimum dbh of 3 to 31/2.

Table A

Common Name

Scientific Name

Bloodgood London Planetree

*Platanus acerfolia* "bloodgood"

Dawn redwood

*Metasequoia glyptostroboides*

Littleleaf lindens

*Tilia cordata*

Pin oak

*Quercus palustris*

Red oak

*Quercus rubra*

River birch

*Betula nigra*

Scarlet oak

*Quercus coccinea*

Sugar maple

*Acer saccharum*

Swamp red maple

*Acer rubrum*

Thornless honey locust

*Gleditsia triacanthos "inermis"*

White oak

*Quercus alba*

Willow oak

*Quercus phellos*

Zelkova

*Zelkova serrata*