

ORDINANCE NO. 896

AN ORDINANCE AMENDING ORDINANCE 517,  
ENACTED BY NORTH EAST BOROUGH COUNCIL  
TO ESTABLISH A SHADE TREE COMMISSION

PREAMBLE

**WHEREAS**, on October 4, 1965, the Borough of North East enacted Ordinance No. 517 entitled "AN ORDINANCE PROVIDING FOR THE SHADE TREE COMMISSION OF THE BOROUGH OF NORTH EAST";

**WHEREAS**, the Borough of North East desires to amend and restate Ordinance No. 517 in its entirety.

**THEREFORE, BE IT ORDAINED AND ENACTED BY** the corporate authorities of the Borough of North East, County of Erie, and Commonwealth of the State of Pennsylvania and it is hereby enacted by the authority of the same as follows:

**Section 1 -Establishment:** The Shade Tree Commission of the Borough of North East is hereby established in accordance with and pursuant to the terms and provisions of Part 1 of Title 8 of the Pennsylvania Consolidated Statutes (8 Pa. C.S.A. § 101 et seq.) Chapter 27, B. § 2721.

**Section 2 -Definitions:** In the interpretation of this Section, the present tense includes the future; the singular number includes the plural and the plural includes the singular; and the word person includes natural person, property owner, company, trust, individual, partnership, firm, association, corporation, or entity of any kind. The following terms shall have the definitions assigned:

- A. **Borough** – Shall mean the Borough of North East
- B. **Borough Council** – Shall mean the Borough Council of the Borough of North East
- C. **Commission** – Shall mean the Shade Tree Commission of the Borough of North East
- D. **Owner** – Shall mean the legal and beneficial owner of land. Where the legal and beneficial owner of land is served; the term shall include all persons holding legal and beneficial interests.
- E. **Right of Way** – Shall mean the area of any public street, alley, road, highway, way, or other publicly held thoroughfare within the corporate limits of the Borough of North East.

- F. Shade Tree** – Shall mean any tree, shrub or other woody plant, which is planted in any right-of-way, public area, or has a portion of its trunk, branches or roots extending into any right-of-way.

**Section 3 – Membership; Compensation:** The Commission shall be composed of three (3) residents of the Borough; duly appointed by Borough Council to serve without compensation for a fixed term.

**Section 4 – Term; Vacancies:** The Commission members shall serve five-year terms as appointed by Borough Council. Upon establishment of the Commission, Borough Council appoints one member to serve a three-year term, one member to serve a four-year term and one member to a five-year term. Vacancies to the Commission shall be filled by Borough Council appointment and selected candidate shall serve the remainder of the vacated term of previous appointee.

**Section 5 - Legislative Intent:** The Borough recognizes that properly planted, maintained and protected shade trees add to the aesthetics of the community and improves the health and welfare of the Borough and its residents. Additionally, the Borough recognizes that certain trees throughout the Borough are damaged, diseased or in such state of distress that modification and removal are the only viable option. The Borough Council relies on the Commission to serve in an advisory capacity in order to evaluate, and assess existing Shade Trees within the Borough but also provide guidelines for the removal and replanting of appropriate Shade Trees. The Borough Council shall have exclusive care, custody and control of Shade Trees in the Borough under Pennsylvania Borough Code § 2720.

**Section 6 – Duties of Commission:**

- A. Annual Reporting** – The Commission shall annually report in full to Borough Council the scope of the Commissions’ transactions and expenses for the last fiscal year.
- B. Notice** – If the Commission recommends the planting, transplant or removal of any Shade Tree within the boundaries of the Borough; notice of the time, place and scope of work for such actions shall be provided to the public in accordance with Pennsylvania Borough Code § 2720.3.
- C. Certification of Amounts Required-** The Commission shall yearly certify to Borough Council for purposes of General Fund Budgeting, the annual, estimated cost associated with the planting, transplanting or removal of Shade Trees within the Borough in addition to the public notification costs associated with the Commission’s duties. The Commission shall utilize funds appropriated, raised through outside means, or raised by taxation in accordance with Pennsylvania Borough Code §2720.1. The Commission may also act as an advisory panel to Borough Council on matters having an environmental impact on the Borough, including but not limited to, subdivision and land development plans, park development or improvements, and Borough revitalization and beautification projects.
- D. Certification of Assessments** – The Commission shall ascertain and certify to Borough Council and the Borough Treasurer the amount of any proposed

assessment associated with the planting, transplanting or removal of plants, trees, and shrubs within the Borough.

**Section 7 – Authority of the Commission:** The Commission may create and enforce regulations pertaining to the planting, transplanting and removal of Shade Trees within the Borough upon approval by Borough Council and enacted through Ordinance.

**Section 8 - Administration and Enforcement:** The Commission shall advise the Borough Council as to its recommended actions pertaining to Shade Trees within the Borough. The Borough Council shall be responsible for the administration, execution and enforcement associated with the planting, transplanting and removal of Shade Trees through the office of the Borough Manager in cooperation with the Streets, Water, Wastewater, and Police Departments.

**Section 9 – Penalty:** To the extent provided by Ordinance, Borough Council may assess penalties; in the form of fines, civil judgements or liens, for the violation of regulations relating to the planting, transplanting or removal of Shade Trees within the Borough.

**Section 10 – Severability:** The provisions of this Ordinance are severable; and if any of its provisions shall be held invalid, the same shall not affect not impair the remaining provisions, which would have been enacted had such invalid provisions not been included herein.

**Section 11 - Effective Date:** The within Ordinance shall take effect immediately upon passage.

ENACTED INTO ORDINANCE THIS 4<sup>TH</sup> DAY OF DECEMBER 2017.

THE BOROUGH OF NORTH EAST

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James Schmidt, President of Borough Council

ATTEST:

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Patrick J. Gehrlein, Borough Manager

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Steven L. Gregory, Mayor