

ORDINANCE NO. 2021-02

AN ORDINANCE OF THE BOROUGH OF LANGHORNE MANOR REDEFINING THE SHADE TREE COMMISSION, GRANTING TO SAID COMMISSION RESPONSIBILITY AND CONTROL OF SHADE TREES IN THE BOROUGH, AUTHORIZING THE COMMISSION TO PLANT, REMOVE, MAINTAIN AND PROTECT SHADE TREES ON THE STREETS AND HIGHWAYS IN THE BOROUGH, AUTHORIZING SAID COMMISSION TO ISSUE PERMITS FOR AND TO MAKE AND ENFORCE REGULATIONS FOR THE CARE AND PROTECTION OF SHADE TREES IN THE BOROUGH AND PRESCRIBING OF PENALTIES FOR VIOLATION OF THIS ORDINANCE.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Langhorne Manor, County of Bucks and Commonwealth of Pennsylvania, and is hereby ORDAINED and ENACTED by the authority of same as follows:

Article I – Declaration of Purpose

It is necessary in order to promote the public health, safety and general welfare of the residents of the Borough that shade trees within the Borough be protected and regulated and that persons performing work upon trees in the Borough be subject to the requirements of this Ordinance.

Article II – Definitions

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

- a) **Permit** – A permit, in writing, issued by the Secretary of the Borough of Langhorne Manor or the appropriate designated agent or representative of the Borough of Langhorne Manor.
- b) **Person** – Individuals, corporations, groups of individuals, firms, associations, and the servants, agents of other employees of such individuals, corporations, groups or individuals, firms and associations.
- c) **Public Area** – Area, including cartways and sidewalks, within public right-of-way lines for streets, highways, alleys and public ways within the Borough of Langhorne Manor and all property owned by the Borough of Langhorne Manor.
- d) **Shade Tree** – Any tree or any part thereof which is in or upon or which extends within the lines of any public street, highway, avenue, park, parkways or other public areas of the Borough of Langhorne Manor.

Article III – Shade Tree Commission Power and Duties

Section 1. The Commission shall consist of three (3) members, all of whom shall serve without compensation. The terms of office shall be five (5) years. If a vacancy occurs during the term of a Commissioner, a successor shall be appointed by Borough Council to serve the balance of the unexpired term.

Section 2. The Commission shall have responsibility and control of all shade trees as defined in this Ordinance. The Borough of Langhorne Manor shall have the authority to adopt such rules and regulations as may be necessary to carry out the intent of this Ordinance. Regulations for the planting, care, trimming and removal of shade trees shall have a goal of not only the elimination of economic waste by reason of damage to public property and/or the property of others and risk to the public health, safety and welfare, but also the beautification of the streets, highways, avenues, parks, parkways and other public areas of the Borough.

Section 3. The activities of the Commission shall include:

- a) Studying the problems and determining the needs of the Borough of Langhorne Manor in connection with a shade tree-planting program;
- b) Recommending to Borough Council the type and kind of shade trees to be planted within the Borough;
- c) Assisting Borough Council as well as the citizens of the Borough in disseminating news and information regarding the selection, planting and maintenance of shade trees within the borough limits on private or public property;
- d) Recommending, from time to time, to Borough Council desirable legislation regarding the shade tree program activities of the Borough;
- e) Providing regular and special meetings at which the subject of shade trees insofar as it relates to the Borough of Langhorne Manor may be discussed by members of the Commission, officers and personnel of the Borough and all others interested in the shade tree program;
- f) The Commission shall meet biannually and follow the Standard Operating Procedures as set forth by Council.

Section 4. The Commission shall have the authority to prepare and adopt a street plan for all shade trees in or upon the public streets, highways, avenues, parks, parkways and other public areas, which street plan shall effectuate, in the Commission's opinion, the provisions of this Ordinance. Such plan shall not become effective until approved by the Borough Council.

Article IV – *Permit Requirements and Exceptions*

Section 1. It shall be unlawful for any person to perform or cause to have performed major or total pruning of any shade tree within a public area without first obtaining a permit (see attached form) from the Commission as set forth in Article VIII and conforming to the requirements of the permit. If a shade tree is removed by a property owner, it must be replaced by the property owner with a shade tree as approved by the Shade Tree Commission. The following do not need a permit:

- a) Trim shade trees to conform to the clearance requirements of this Ordinance;

- b) Trim, prune or remove shrubs, bushes or plantings within a public area;
- c) Remove or cut off low hanging or broken branches of shade trees which create or may create a public nuisance or danger;
- d) Carry out normal repair, upkeep, minor pruning and trimming;
- e) Prune, trim or cut for the maintenance of public utility facilities;
- f) Removal, trimming or pruning of any tree not situate in a public area;

Section 2. No shade tree shall be planted in or upon or removed from any public street, avenue, highway, park, parkway or other public area without a permit from the Commission. The permit shall designate the type of shade tree and location where it is to be planted or removed. The Commission shall have the authority for good cause to refuse a permit to plant any type of tree which, in the reasonable opinion of the Commission, is not suitable to the location.

Section 3. All work performed on shade trees notwithstanding whether or not a permit from the Commission is required, shall be performed to the satisfaction of the Commission's written guidelines.

Article V – *Emergencies*

In the event a tree or branch encroaches on a borough roadway, the borough will be responsible for clearing the blockage at the borough expense. The contractor will cut the tree or branch to a size that will allow it to be moved to the right-of-way of the property from which it fell. It will be the responsibility of the homeowner to have what remains removed from the right-of-way.

Article VI – *Prohibited Acts*

Section 1. No shade tree in or upon the public areas bordering streets, highways, avenues, parks parkways and other public areas of the Borough shall be planted within five (5) feet of any road, street, avenue, highway or driveway, and no tree on private property shall be planted within three (3) feet of a sidewalk.

Section 2. No shade tree shall be planted nearer to the intersection of any two (2) or more streets than twenty-five (25) feet from the point of an intersection of any two (2) public rights-of-way lines.

Section 3. No shade tree shall be planted so as to obscure or otherwise obstruct vision at the intersection of any two (2) or more streets.

Section 4. No person shall, without first obtaining a permit, except in the event of an emergency or immediate need for the protection of public safety, cut, break, climb with spurs, injure in any manner, remove or interfere with the main root system of any shade tree, place any rope, wire, cable, sign, poster or any other fixture on any shade tree, or injure, misuse or remove any protective device placed on any shade tree.

Section 5. Nothing contained in this Article 4 shall cause or require the removal of existing shade trees except if in the reasonable opinion of the Commission, the location or condition of the existing shade tree constitutes a danger to public property and/or private property or is needed for public safety.

Section 6. In the event that an individual removes a shade tree, located in the right-of-way, and fails to replace it with a shade tree, approved by the Shade Tree Commission, Council can require the planting of an approved tree and the property owner will be responsible for all costs of same.

Article VII – *Minimum Clearance Requirements*

Section 1. All shade trees shall be kept trimmed so that the minimum clearance where a shade tree overhangs a public walk, is nine (9) feet, and the minimum clearance where the shade tree overhangs a public street or highway is twelve (12) feet. However, the Commission shall have the right to designate a higher clearance on certain highways if heavy traffic or other conditions require such higher clearance for public safety.

Section 2. All shade trees on private property which have branches projecting over a public highway shall be kept trimmed by the owner of such private property so that the lowest branches shall have the minimum clearance specified above or such other clearance as may be specified by the Commission on certain highways if heavy traffic or other conditions require such higher clearance for public safety.

Section 3. If a property owner shall neglect or refuse to trim trees required under this Ordinance upon being notified to do so in writing by the Commission or the designated Borough agent, the Borough Council may, after thirty (30) days prior written notification to the property owner, cause such trimming to be done at the expense of the owner, and the entire cost thereof shall be a lien upon said property and shall be filed and collected by the Borough in the same manner as municipal claims are filed and collected by law.

Article VIII – *Diseased Shade Tree*

The Commission, or the designated Borough agent, shall have the right to require the removal of diseased trees and if a property owner shall neglect or refuse to remove a diseased shade tree within thirty (30) days after being notified to do so in writing by the Commission or designated Borough agent, the Borough Council may, after fifteen (15) days written notice to the property owner, cause the removal of the diseased shade tree provided, however, in the event of an emergency or if necessary to protect public health or safety the borough may remove such diseased shade trees (within the right-of-way or private property) without notice to the property owner. The cost of removal of diseased shade trees shall be at the expense of the owner and the entire cost thereof shall be collectable from the property owner. Such cost shall be a lien upon said property and shall be filed and collected by the Borough in the same manner as municipal claims are filed and collected provided by law.

Article IX – *Authorization for Fund Appropriation*

Section 1. Borough Council may for the purpose of deferring the cost of planting, trimming, maintenance and removal of shade trees appropriate funds for such required services. The Commission may not hire employees or have work done without first obtaining the approval of Borough Council.

Section 2. The Borough Secretary shall cause thirty (30) days written notice to be given the property owner against whose property an assessment has been made, which notice shall contain the amount of the assessment, the required time and place of payment and certificate from the Commission of the work performed. If payment is not made within thirty (30) days after notice of assessment, collection may be made as provided in Section 3 of this Article.

Section 3. The cost of work performed by the Borough under this Ordinance shall be a lien upon the premises from the date of commencement of the work performed by the Borough. Any such lien may be collected by an action in assumpsit or by lien filed in the manner provided by law for filing and collection of municipal lien claims.

Article X – *Application and Review Procedure*

Section 1. An application for permit for work performed in public areas under this Ordinance shall be made in writing to the Commission on a form approved by Borough Council and the application shall specify:

- a) The particular kind of work or operation the applicant desires to perform;
- b) The exact location and description including the species of any shade tree affected;
- c) The owner of the property;
- d) The person or contractor who will perform the work;
- e) Insurance requirements of the person or contractor to perform the work;

Section 2. It shall be the duty of the Borough Secretary to submit each such application promptly to the Commission for approval or disapproval. The Commission, in its discretion, may, as a condition precedent to the issuance of the permit, require the applicant to file a bond or deposit security escrow in an amount of the estimated cost of the work, satisfactory to the Commission to guarantee the compliance by the applicant with the terms and conditions upon which such permit is issued.

Section 3. The Contractor must submit to the Borough Secretary a Certificate of Insurance meeting or exceeding the borough's insurance requirements as outlined in a separate document titled "Insurance Requirements" available at the borough office or borough website.

Section 4. All fees required by this ordinance are listed on a separate document titled "Fee Schedule" available at the borough office or borough website.

Section 5. The permit shall be valid for a term of sixty (60) days but shall be subject to revocation by the Borough in the event that any of the terms or conditions placed upon the permit have been violated or if the property owner or contractor is not performing the work as required by the provisions of this Ordinance.

Section 6. The Commission shall review each application for a permit and shall grant or deny said application and notify the Borough Secretary of the decision of the Commission. If the application is granted, the Commission shall specify in the permit the type of species of shade tree to be planted or removed, cut, trimmed or pruned and may set forth specifications set forth in the permit.

Section 7. It shall not be necessary for the Borough of Langhorne Manor to obtain a permit to do any work on public areas owned by the Borough in fee simple or rented by it, but no such work shall be done without consultation with the Commission, except as is provided by exceptions set forth in Article III and in the event of an emergency.

Article XI – Enforcement

In any event that the homeowner fails to comply with this ordinance, the Borough will take any and all necessary actions against the property owner to secure the Borough's rights under the law, including the collection of attorney fees, amount of fines and liens. The collection of assessments, the filing of liens, the levying of taxes and the collection of penalties, whether by the Commission or on behalf of the Borough, are hereby expressly authorized as provided for in said Article XXVII(b) of the Borough of Code of 1966, P.L. (1965) 1656, as amended.

Article XII – Repealer

All Ordinances or parts of Ordinances inconsistent with this Ordinance shall be and the same are hereby repealed.

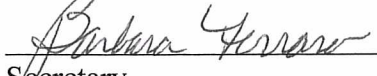
Article XIII – Effective Date

This Ordinance shall be effective immediately upon adoption.

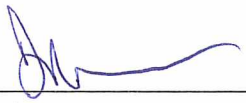
ORDAINED AND ENACTED this 9th day of November, 2021.

**COUNCIL OF THE BOROUGH OF
LANGHORNE MANOR**

ATTEST:


Secretary

By:


President

APPROVED this 9th day of November, 2021


Mayor