

ORDINANCE NO. 2000-001

AN ORDINANCE OF THE BOROUGH OF LANGHORNE MANOR ESTABLISHING A SHADE TREE COMMISSION, GRANTING TO SAID COMMISSION EXCLUSIVE CUSTODY 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 Council of the Borough of Langhorne Manor, County of Bucks and Commonwealth of Pennsylvania, and it is hereby ORDAINED and ENACTED by the authority of same as follows:

Article 1 - *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 or other employees of such individuals, corporations, groups of 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) **Tree** - Any tree, shrub or other woody plant or any part thereof which is in or upon or which extends within the lines of any public street, highway, avenue, park, parkway or other public area of the borough.

Article 2 - *Creation of Shade Tree Commission and Grant of Powers and Duties*

Section 1. There shall be created a Commission to be known and designated as "Shade Tree Commission." The Commission shall consist of three (3) members, all of whom shall serve without compensation. The initial terms of office shall be a term of five (5) years for one (1)

member, a term of four (4) years for one (1) member and a term of three (3) years for one (1) member. Upon the expiration of the initial terms of office, members shall be appointed to serve terms of 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 exclusive custody 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. In carrying out the provisions of this Section, the Commission may be guided by the standards of the National Shade Tree Conference or any other similar organization which promulgates standards which would carry out the intent of this Ordinance.

Section 3. The activities of the Commission shall include, but not be limited to:

- a) Studying the problems and determining the needs of the Borough of Langhorne Manor in connection with a tree-planting program;
- b) Recommending to the Borough Council the type and kind of 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 trees within the Borough limits, on private or public property;
- d) Recommending, from time to time, to Borough Council desirable legislation regarding the tree program activities of the Borough; and
- e) Providing regular and special meetings at which the subject of 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 tree program.

Section 4. The Commission shall have the authority to prepare and adopt a street tree plan for all 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 3 - *Permit Requirements and Exceptions*

Section 1. It shall be unlawful for any person to care for any shade tree or to perform or cause to have performed major or total pruning of any shade tree within a Public Area without first obtaining a permit from the Commission as set forth in Article 8 and conforming to the requirements of the permit, except that it shall not be unlawful to do the following without a permit or approval of the Commission:

- a) Trim shade trees to conform to the clearance requirements of this Ordinance;
- b) Trim or prune shrubs and bushes within a Public Area;
- c) Remove or cut off low hanging or broken branches of 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 which permit shall designate the type of tree and location where the tree 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.

Article 4 - *Prohibited Acts*

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

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

Section 3. No 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 trees except if in the reasonable opinion of the Commission, the location or condition of the existing tree constitutes a danger to public property and/or private property or is needed for public safety.

Article 5 - Minimum Clearance Requirements

Section 1. All trees shall be kept trimmed so that the minimum clearance where a tree overhangs a public walk is nine (9) feet, and the minimum clearance where the tree overhangs a public street or highway is twelve (12) feet provided, however, that 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 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 6 - *Diseased Trees*

Section 1. 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 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 tree provided, however, in the event of an emergency or if necessary to protect public health or safety the Borough may remove such diseased trees without notice to the property owner. The cost of removal of diseased 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 7 - *Authorization for Fund Appropriation*

Section 1. Borough Council may for the purpose of deferring the cost of planting, trimming, maintenance and removal of trees appropriate funds for such required services. The Commission may not hire employees or have work done without first obtaining the approval of the 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 8 - *Application and Review Procedure*

Section 1. An application for permit 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.

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 in an amount not more than double 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 Commission shall for the removal of a diseased tree and installation of a tree, require the property owner or contractor to obtain commercial general liability insurance in the amount of Five Hundred Thousand (\$500,000.00) Dollars for personal injury and death and the amount of Three Hundred Thousand (\$300,000.00) Dollars for property damage and property owner shall, prior to commencement of the work, furnish to the Borough certificates of insurance evidencing such coverages. Certificates of insurance shall provide that the policy of insurance set forth in the certificate cannot be canceled until after thirty (30) days prior written notice to the Borough.

Section 4. The applicant for any permit shall, at the time of submission of the application, pay to the Borough for the general use of the Borough, a fee of Twenty-Five Dollars (\$25.00) or such other amount as from time to time approved by the Borough Council.

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 or species of shade tree to be planted or removed, cut, trimmed or pruned and may set forth specifications for doing the same. It shall then be unlawful to plant, remove, cut, trim or prune any shade tree contrary to specifications set forth in the permit.

Section 7. The Commission in carrying out its duties hereunder shall adhere to the standards adopted by the National Shade Tree Conference or any other similar recognized organization or body which promulgates standards designed to carry out the intent of the regulations adopted under this Ordinance.

Section 8. 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 3 and in the event of an emergency.

Article 9 - Enforcement and Violations

Section 1. Any person who violates a provision or fails to comply with the requirements of this Ordinance shall be subject upon summary conviction for each violation a fine of not more than One Thousand Dollars (\$1,000.00), plus costs of prosecution and in default of payment of such fine and costs, shall be subject to imprisonment for a term of not more than thirty (30) days in the Bucks County Prison.

Section 2. Each violation of any provision of this Ordinance and each day that a violation shall continue shall constitute a separate offense and each such separate violation shall be punishable and subject to the fines and imprisonment set forth in Section 1 of this Article 9.

Section 3. Fines and costs imposed under the provisions of this Ordinance shall be enforceable and recoverable by the Borough in the manner provided under applicable law.

Article 10 - Declaration of Purpose

Section 1. 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 shade trees in the Borough be subject to the requirements of this Ordinance.

Article 11 - Repealer

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

Article 12 - Effective Date

This Ordinance shall be effective immediately upon adoption.

ORDAINED AND ENACTED this 2nd day of May, 2000.

ATTEST:

Leette M. Guff
Secretary

COUNCIL OF THE BOROUGH OF
LANGHORNE MANOR

By: Maryann Barnes
President

APPROVED this 2nd day of May, 2000.

Gerald Leadey
Mayor