

BOROUGH OF CONSHOHOCKEN
MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF CONSHOHOCKEN, MONTGOMERY COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 25 TREES OF THE CODE OF THE BOROUGH OF CONSHOHOCKEN TO CLARIFY THE PERSON(S) AUTHORIZED AND RESPONSIBLE FOR ENFORCING THE PROVISIONS OF CHAPTER 25 TREES; FURTHER CLARIFYING HOW NOTICE OF VIOLATIONS PURSUANT TO SECTION 25-105 OBSTRUCTIONS WILL BE ISSUED; REPEALING PRIOR INCONSISTENT ORDINANCES AND PARTS OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND CONTAINING AN EFFECTIVE DATE.

WHEREAS, the Borough Council of the Borough of Conshohocken is duly empowered by the Borough Code to enact certain regulations relating to the public health, safety and welfare of the community of the Borough of Conshohocken;

WHEREAS, the Borough Council of the Borough of Conshohocken has enacted regulations regarding the maintenance of trees in the Borough of Conshohocken at Chapter 25 *Trees*, and specifically with respect to shade trees;

WHEREAS, Borough administration has identified certain amendments to Chapter 25 *Trees* needed to clarify the person(s) authorized to enforce, and responsible for enforcement of, Chapter 5 *Trees*; and

WHEREAS, the Borough Council of the Borough of Conshohocken hereby makes the amendments set forth hereinbelow to Chapter 25 *Trees* and believes it to be in the best interest of the Borough to do so.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Conshohocken as follows:

SECTION 1.

Chapter 25 *Trees* of the Code of the Borough of Conshohocken, Part 1 *Shade Tree Regulations*, is hereby amended by repealing all provisions in their entirety and replacing them with the following provisions:

Part 1 SHADE TREE REGULATIONS

§ 25-101 Definitions.

- 1. The following words and phrases when used in these regulations have the meaning hereby ascribed to them, except in those instances where the context clearly indicates a different meaning:

COMMISSION

The Shade Tree Commission of the Borough of Conshohocken as appointed by Borough Council.

PERMIT

Any permit in writing issued by the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough.

PERSON

Any natural person, firm, association, partnership or corporation.

PUBLIC HIGHWAY

Any street, sidewalk or alley open to the public.

SHADE TREE

Any tree, shrub or other woody plant in and along the public streets and highways in the Borough of Conshohocken.

- 2. In these regulations, the singular shall include the plural, and the masculine shall include the feminine.

§ 25-102 Planting, Maintenance, and Removal

- 1. No person shall plant, prune, remove, cut above ground or otherwise disturb any tree on any street or municipal owned property without first filing an application and procuring a permit from the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough. The person receiving the

permit shall abide by the arboricultural specifications and standards of practice adopted by the Borough Council by resolution.

2. The application for any permit required hereunder shall be made in writing to the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough. It shall specify the particular kind of work or operation the applicant desires to perform thereunder and shall state the exact location and the species of any tree affected. The permit shall be effective for such length of time as the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough shall in each case determine and such time shall be indicated on the permit. This permit may be revoked at any time upon proof satisfactory to the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough that any of the terms or conditions upon which such permit was issued are or have been violated. The Commission, in its discretion, and as applicable, may, as a condition precedent to the issuance of the permit, require the applicant to file a bond satisfactory to the Commission or to deposit security satisfactory to it to guarantee the compliance by the applicant with the terms and conditions upon which such permit is issued.
3. Application for permits must be made at the Borough's administrative offices. Fees shall be those as established by Council resolution from time to time.
4. Standards of Issuance. The Municipal Arborist, Code Enforcement Official, or such other designee of the Borough shall issue the permit provided for herein if, in his 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.
5. No person or property owner shall remove a street tree for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Municipal Arborist, Code Enforcement Official,

or such other designee of the Borough. The person or property owner shall bear the cost of removal and replacement of all trees removed.

6. Notice of completion shall be given within five days to the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough for his inspection.
7. Any property owner receiving a notice or order from the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough to remove a diseased, decayed or damaged tree shall have the right to appeal to Borough Council within five days from the date thereof. Unless an appeal is filed with the Borough Council in writing within said five-day period, the order of the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough, as applicable, shall be final and binding. After receiving notice of appeal, Borough Council shall afford the property owner a hearing and shall make inspection of the diseased, decayed or damaged tree and shall thereafter make such order as the facts may warrant.
8. No person shall, without first obtaining a permit therefore, cut, break, climb with spurs, injure in any manner or remove any shade tree, or cut down or interfere in any way with the main roots of any shade tree, or place any rope, guide wire, cable, sign, poster or any other fixture on any shade tree or guard for any shade tree; or injure, misuse or remove any device placed to protect any shade tree, except in case of immediate necessity for the protection of life and property.
9. No person shall, without first obtaining a permit, place or hereafter maintain any stone, cement or any other substance which shall impede the passage of water and air to the roots of any shade tree unless such person shall have an open space of ground surrounding the trunk of such tree, such space to be not less than four square feet.
10. In connection with any building operation or the performance of any work whatsoever in the Borough in the vicinity of any shade tree, before any work shall be commenced, guards shall be placed at all shade trees

which might be affected by such work so as to effectively prevent injury to them.

11. No person shall pour salt, water, oil or any other material at any place or in such manner that injury might result to any shade tree.
12. No person shall, without having first obtained a permit therefore, attach any electric wire, insulator or any device for the holding of any electric wire to any shade tree.
13. Every person having any wire charged with electricity running along or through a public highway shall securely fasten such wire or place an adequate shield thereon so that such wire shall not come into contact with any shade tree so as to injure the same.
14. Whenever, in order to take down or prune any shade tree on any public highway or having branches extending over any public highway, it shall be deemed necessary to remove any wire running through or along such public highway, the owner of such wire shall temporarily remove the same or cut off the flow of current therefrom within 24 hours after service of written notice from the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough to do so.
15. These regulations shall be enforced by the Commission, the Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough, in conjunction with the Mayor and the Borough Police, if appropriate.
16. Any person violating or failing to comply with any of the provisions of this Part, shall, after notice and upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Such person shall also be subject to other penalties and sanctions as per the statutes of this Commonwealth.

§ 25-103 **Planting.**

1. 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 Municipal Arborist, Code Enforcement Official, or such other designee of the Borough shall find reasonably necessary to a fair determination of whether a permit should be issued.
2. Improper Planting. A citation shall be issued with appropriate fines whenever any tree shall be planted or set out in conflict with the provisions of this Section. It shall be lawful for the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough 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 assessments.

§ 25-104 **Pruning removal.**

1. Application Data. The application required herein shall state all trees by species to be pruned or removed and the manner in which work will be done.
2. It shall be unlawful as a normal practice for any person, firm or Borough department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Part at the determination of the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough.

3. 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. The stump must be removed within 60 days after the removal of the tree.

§ 25-105 **Obstructions.**

1. Every owner of any tree overhanging any street or right-of-way within the Borough shall prune the branches so that such branches shall not (severely) obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 13 feet above the street surface or nine feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Borough shall have the right to prune any tree or shrub on private property when it interferes with proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Trees that grow near high voltage electrical conductors by the electric utility company in compliance with an applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and Borough Shade Tree Commission with approval from Borough Council prior to any trimming by the utility company.
2. Notice to Prune. Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the Municipal Arborist, Code Enforcement Official, or such other designee of the Borough, shall order such person or persons, within 30 days after receipt of written notice, to prune such trees.
3. 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.
4. 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 plus 10% thereof shall be assessed to the owner as provided by law in the case of special assessments, with citations issued and with appropriate fines levied as provided by the Borough Code.

§ 25-106 Public Utility Companies.

Public utility companies shall notify the Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough prior to pruning any tree located on Borough owned property for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted arboricultural standards. If accepted arboricultural standards are not followed, the Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough will immediately file a formal complaint with the State utility regulatory agency.

§ 25-107 Rules and Regulations.

1. The Commission, subject to prior approval by Council resolution, shall have the authority to promulgate the rules and regulations of the arboricultural specifications and standards and practices governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the Borough and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Borough of Conshohocken, County of Montgomery, State of Pennsylvania.
2. The Commission shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.

3. The Borough Council shall appoint the Municipal Arborist or such other proper Borough designee, who shall serve at Council's pleasure.
4. The Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough, shall have the authority and it shall be his/her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this Part and subsequent resolutions and amendments. He shall cause the provisions of this Part to be enforced. In his absence, these duties shall be the responsibility of a qualified alternate designated by the Borough Council.
5. It shall be lawful for the Mayor to suspend the need for a permit to prune or remove trees for a period of two weeks in the time of emergency, such as natural disaster.
6. The Borough shall have the right to cause the removal of any dead or diseased trees on private property within the Borough, when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees within the Borough. The Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough will notify in writing the owners or such trees. Removal shall be done by said owners at their own expense within 30 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 charge the cost plus 10% removal to the owner and/or shall cause the appropriate citations to be issued relative to fines and penalties as outlined previously herein and as provided by the Borough Code.

§ 25-108 Arboricultural Specifications and Standards of Practice.

1. A list of recommended trees shall be made available and updated as deemed necessary by the Shade Tree Commission.
2. Pruning standards shall be those as provided by the National Arborist Association. No pruning of street, park or municipal trees shall fall below the minimal standards of Class IV.

§ 25-109 Specific Requirements Pertaining to Pruning of Trees

1. No tree shall be cut back in such a manner that its health will be impaired. An exception to this may occur in tree removal or emergency relief of an immediate danger to persons or property. Any such emergency procedures must be reported promptly to the Municipal Arborist, Code Enforcement Officials, or such other designee of the Borough (or other designated authority) with plans for completion or follow-up work submitted for approval.
2. Authority to prune street trees does not include the cutting back of sound, healthy tree branches in excess of six inches in diameter (outside bark) unless specifically described and written into the permit from by the Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough or if required by accepted arboricultural standards in the course of utility line clearance work and approved by the Municipal Arborist, Code Enforcement Official, and/or such other designee of the Borough.

SECTION 2.

Any and all other ordinances or parts of ordinances in violation or in conflict with the terms, conditions and provisions of this ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 3.

The terms, conditions and provisions of this ordinance are hereby declared to be severable, and, should any portion, part or provision of this ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, the Council hereby declares its intent that the ordinance shall have been enacted without regard to the invalid, non-enforceable, or unconstitutional portion, part or provision of this ordinance.

SECTION 4.

This ordinance shall become effective at the earliest time permitted by Pennsylvania law.

ORDAINED and **ENACTED** an ordinance of the Borough of Conshohocken this _____ day of _____, 2024.

BOROUGH OF CONSHOHOCKEN:

COUNCIL PRESIDENT

ATTEST:

STEPHANIE CECCO,
BOROUGH SECRETARY

Approved this _____ day of _____,
2024

YANIV ARONSON, MAYOR