

**WEST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF WEST GOSHEN, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF WEST GOSHEN TOWNSHIP TO ADD PROVISIONS FOR THE PROTECTION OF SHADE TREES IN WEST GOSHEN TOWNSHIP; CREATING A SHADE TREE COMMISSION, ESTABLISHING THE DUTIES, MEMBERSHIP, AND TERMS OF THE MEMBERS OF THE SHADE TREE COMMISSION; AND PROVIDING FOR PENALTIES FOR VIOLATION OF THE SHADE TREE PROVISIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board of Supervisors of West Goshen Township has enacted the Code of Ordinances of West Goshen Township which contains, *inter alia.*, provisions establishing Township boards, commissions, and committees; and

WHEREAS, the Board of Supervisors wishes to protect shade trees in West Goshen Township due to their numerous benefits including production of oxygen, interception of airborne particulates, reduction of smog, enhancement a community's respiratory health, reduction of the overall concentration of greenhouse gases in the atmosphere, and attraction of new residents, industry, and commercial activity as well as the provision of shade and beautification of the Township; and

WHEREAS, the Board of Supervisors has determined that establishing protections for shade trees and the creation of a shade tree commission is in the best interests of the health, safety, and welfare of the residents of West Goshen Township and the general public;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of West Goshen Township, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

I. Part I of the Code of Ordinances of West Goshen Township is amended to add a new Chapter 17 as follows:

"Chapter 17. SHADE TREES

§17-01. Legislative Intent.

This chapter is established for the following purposes:

A. To regulate the planting, removal, and maintenance of shade trees within the ultimate rights-of-way of streets and highways within the Township.

B. To ensure the selection of proper and suitable plant materials.

§17-2. Definitions.

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

CLEAR SIGHT TRIANGLE:

An area within a triangle bounded by two intersecting street lines and a straight line drawn between points on each such line 50 feet from the intersection of said lines or extensions thereof.

COMMISSION or SHADE TREE COMMISSION:

The West Goshen Township Shade Tree Commission.

SHADE TREE:

A woody plant or a portion thereof that has a minimum three-inch caliper, is 14 feet or more in height, has eight feet minimum spread with clear trunk to seven feet and is a full branching structure within an ultimate right-of-way in Wst Goshen Township.

§17-3 Applicability.

Except as provided by law or in this Chapter, any shade tree shall be planted, removed, or maintained in strict compliance with the regulations contained in this Chapter.

§17-4. Enforcement.

This chapter shall be enforced by the person or agency specifically so directed in any provision hereof, or by the Township Manager, or by any person or agency designated by the Board of Supervisors or Township Manager from time to time.

§17-5. Application of General Standards.

A. The standards and requirements specified herein shall be considered minimum standards and requirements in evaluating a tree survey plan for earth disturbance, grading, demolition, building, subdivision, land development, and zoning permits.

B. Where literal compliance with the standards and requirements specified herein is shown to the satisfaction of the Shade Tree Commission to be unreasonable or clearly impractical due to the particular circumstances, the Shade Tree Commission may recommend to the Board of Supervisors to modify or adjust said standards and requirements to permit reasonable utilization of property while securing substantial conformance with the objectives of this chapter.

§17-6. Shade Tree Protection.

- A. Trimming. All shade trees shall be kept trimmed so as to provide:
 - (1) A minimum clearance of 11 feet over any public street.
 - (2) A minimum clearance of nine feet over any public sidewalk or walkway.
 - (3) A clear sight triangle at intersecting streets.

B. Should a property owner fail to properly trim shade trees in accordance with Subsection A. above, the Township may serve written notice upon the property owner setting forth the manner in which the property owner has failed to properly trim the shade trees. The notice shall include a demand that such deficiencies be corrected within 30 days thereof. If the deficiencies set forth in the notice shall not be corrected within 30 days, the Township, in order to protect the public health, safety, and welfare, may perform or contract for the performance of such trimming as deemed necessary to meet the requirements of Subsection A. above.

C. The cost of trimming, together with such penalty as may be prescribed by this Chapter, shall be assessed against the property owner and shall become a lien on the property. The Township, at the time of entering upon any property, shall file a notice of lien upon the property in the office of the Prothonotary of Chester County. If the property owner fails to satisfy the lien within 30 days of the filing date of the notice of lien, the Township may execute on the lien and/or proceed to collect the amount due by commencing an action in assumpsit.

§17-7. Removal of diseased trees.

A. All trees that are dead or have declined beyond recovery and which, due to their unhealthy condition, threaten the public health, safety, or welfare, may be required, upon written notice by the Shade Tree Commission, to be cut and removed by the responsible property owner. This provision applies to any tree located within the Township. Upon failure to comply with the notice within 30 days of receipt, the Township may cause the work to be done and levy or collect the costs thereof from the owner of the property in the same manner as described in § 17-6(B) and (C) above.

§17-8. Standards for new shade trees.

A. Shade trees shall be of symmetrical growth, free of insects, pests and disease, and suitable for street use.

B. The minimum trunk diameter measured at a height of six inches above the finished grade level shall be three inches in caliper.

C. The Shade Tree Commission shall review the applicant's proposed list of recommended shade trees to ensure that appropriate species are to be utilized.

D. The applicant shall replace, in accordance with landscaping plans, any shade trees that die or, in the opinion of the Shade Tree Commission, are in an unhealthy or unsightly condition and/or have lost their natural shape due to dead branches, excessive pruning, inadequate or improper maintenance, or any other causes due to the applicant's negligence. The applicant shall not be held responsible for acts of vandalism occurring after the commencement of the maintenance period.

E. Replacements shall be made during the first spring or fall planting season following the death of trees. The cost of such replacements shall be borne by the applicant.

§17-9. Shade Tree Commission established.

A. Creation and membership.

(1) The West Goshen Township Shade Tree Commission is hereby created which shall consist of five (5) members, the majority of whom shall be residents of the Township. Members of the Commission shall be appointed by the Board of Supervisors for staggered terms of three years. The first member shall be appointed to serve one year. The second and third members appointed shall serve two years, and the fourth and fifth members appointed shall serve three years. Thereafter, each member appointed shall serve three years and may, at Council's sole discretion, be reappointed.

(2) The members of the Commission shall serve without pay but they may be reimbursed for actual authorized expenses within the funds budgeted for such activities by the Board of Supervisors.

(3) The Board of Supervisors may, in its sole discretion, appoint one alternate member to the Commission who shall serve as a member of the Commission if a regular member is unable to attend a meeting, and who may vote on any matters for which the alternate member sits as a regular member. An alternate member, if appointed, shall serve a term of one year and may, at the Board of Supervisors' sole discretion, be reappointed.

(4) A vacancy on the Commission which occurs for reasons other than the expiration of a term shall be filled by the Board of Supervisors for the unexpired portion of the term.

B. Organization and records.

At its first meeting of each calendar year, the members of the Shade Tree Commission shall elect a Chairman, Vice Chairman, and such other officers as they may determine necessary. All officers shall serve as such for one year. All officers shall be eligible for re-election. The Commission shall keep a written record of its meetings in accordance with law. For the purpose of taking action, a quorum of the Commission must be present.

C. Meetings.

The Shade Tree Commission shall hold an advertised public meeting once each month to perform its responsibilities as set forth below. The Chairman or, in the Chairman's absence, the Vice Chairman, may cancel any monthly meeting, but only for lack of business for the Commission to conduct.

D. Responsibilities.

The Commission shall have exclusive custody and control of shade trees in the Township and is authorized to plant, maintain and protect shade trees and to enforce the provisions of this Chapter. To that end, the Commission shall have the following responsibilities:

(1) The Commission shall review and approve permit applications for planting, removing, heavy pruning, transplanting, or otherwise disturbing shade trees. The Commission shall hear appeals by property owners of notifications by the Township regarding the regulation of shade trees, including denied and revoked permits and notifications to remove dead or diseased trees.

(2) The Commission shall prepare, for the Board of Supervisors' approval, a plan for street trees in the Township. The plan should include an inventory of existing trees (including species and location). The plan should also include suggested policies for the planting of trees (including suitable species for various environments and spacing of trees). The plan may also identify locations for new plantings, desirable specie changes, etc. In developing the plan, the Commission should consult with the Township Manager and may consult with other municipal authorities, boards, and commissions. The plan should recognize the benefits of a public tree program and the need to control expenses (both in the short and long term) of planting, maintenance, removals, cleanup and all other costs associated with a tree program. The Commission shall review the plan annually and/or at other times as necessary in furtherance of this intent and purpose of this Chapter.

(3) The Commission may, with the approval of the Board of Supervisors, solicit and accept grants and contributions on behalf of the Township. All funds obtained by the Commission shall be expended for the specific purpose(s) or under the stipulations set by the contributor or the Commission and shall be approved by the Board of Supervisors prior to being expended.

(4) The Commission shall review all land development plans to determine the impact of such plans on shade trees and to make recommendations to the West Goshen Township Planning Commission and Board of Supervisors on steps needed to mitigate said impacts.

(5) The Commission may adopt policies, rules and regulations as required to control tree trimming, cabling, spraying, root cutting, and other work on shade trees by contractors, property owners, and/or others; regulate the species of shade trees; and provide recommendations to the Board of Supervisors regarding diseases and pest damage, tree maintenance, and public education.

(6) The Commission may, with the approval of the Board of Supervisors, provide advocacy and education on best management practices that promote tree health and a sustainable urban forest.

§17-10. Violations and penalties.

Any person, partnership or corporation who or which, being the owner or agent of any lot or parcel of land, shall violate or fail to comply with the provisions of this Chapter or any order issued pursuant to any section thereof, shall be guilty of a summary offense and upon conviction thereof shall be punishable by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 30 days for each and every offense whenever such person, partnership or corporation shall have been notified, by service of summons in prosecution or in any other way, that he or she is committing such violation after any such notification. Each day that a violation shall continue shall constitute a separate offense punishable by like fine or penalty. Such fines or penalties shall be collect as prescribed by law.

II. All ordinances or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency.

III. The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the Code of Ordinances of West Goshen Township.

IV. This Ordinance shall be effective five (5) days following its legal enactment.

ENACTED and **ORDAINED** this _____ day of _____, 2018.

ATTEST:

**BOARD OF SUPERVISORS OF
WEST GOSHEN TOWNSHIP**

Casey LaLonde, Township Secretary

Christopher Pielli, Esquire, Chair

Robin Stuntebeck, Vice-Chair

Mary R. LaSota, Esquire, Member

Hugh Purnell, Jr., Member

Edward G. Meakim, Jr., Member