

CITY OF MONESSEN

Ordinance No. 2 - 2018

AN ORDINANCE OF THE COUNCIL FOR THE CITY OF MONESSEN, WESTMORELAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING ORDINANCE NUMBER 597 OF 1964 PROVIDING FOR THE CREATION OF A SHADE TREE COMMISSION IN AND FOR THE CITY OF MONESSEN; AUTHORIZING THE SAID COMMISSION TO ASSESS PENALTIES; AND REPEALING A RESOLUTION OF THE CITY COUNCIL ADOPTED AUGUST 14, 1929

WHEREAS, the Council for the City of Monessen is desirous of amending Ordinance Number 597 of 1964 providing the creation for a shade tree commission for the City of Monessen and authorizing the said commission to assess penalties;

WHEREAS, Part V of the Third Class City Code, Chapter 124 Section 12416 authorizes the Council of the City of Monessen to regulate the manner and method, if any, for the planting, trimming, removing, maintaining and protection of shade trees in, on and along or extending over the public streets, sidewalks and rights-of-way of the city and provide for penalties for violations.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the City of Monessen and it is hereby ordained and enacted as follows:

Section 1. Ordinance Number 597 of 1964, Section 1, is hereby amended as follows:

Shade Tree Commission Created. A Shade Tree Commission is hereby created in and for the City of Monessen. Said Commission shall be constituted as provided by law and shall perform all the duties and may exercise all the powers conferred by law upon shade tree commissions of cities of the third class.

Section 2. The language contained in Ordinance Number 597 of 1964, Section 2, is deleted therefrom and the following language is inserted:

Section 2. **Composition, Qualifications, Term, Vacancies and Operation.**

(a) Commission Members and Qualifications. A shade tree commission shall be composed of five members, of which shall be appointed by the Mayor and City Council and shall serve without compensation. Mayor and Council shall reserve three appointments for members who have experience in forestry, horticulture, botany, landscape architecture, or related fields. In an instance where there are less than three applicants with experience in forestry, horticulture, botany, landscape architecture, or related fields, Mayor and Council may fill those remaining seats with applicants who have no experience. City council has the option to further appoint a liaison from its membership to the Commission for the purpose of keeping City Council informed of Commission activities. Such liaison will be a non-voting member of the Shade Tree Commission.

(b) Term of Commissioners. Council shall appoint the initial members of the Commission for the following terms retroactive to the first Monday of January 2018: two (2) members shall be appointed to serve a term of three (3) years; and two (2) members shall be appointed to serve a term of (2) years. Each term shall remain in full force and effect until the first Monday of January upon the expiration of any term. On the expiration of any term of any of the initial members, a successor shall be appointed by Mayor and Council to serve a term of five (5) years. Successors may continue to serve beyond the expiration of their term if there is a delay in appointing their successors.

(c) Appointment of Non-Residents. At the discretion of the Mayor and City Council, not more than two members who reside outside of the City may be appointed to the Shade Tree Commission.

(d) Vacancies. In the event that a vacancy shall occur during the term of any

member, a successor shall be appointed for the unexpired portion of the term.

(e) Operation. The Commission shall choose its own officers, make its own rules and regulations, unless otherwise stated by ordinance, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The Commission shall be required to submit to City Council an annual report of its activities and official actions.

Section 3. The language contained in Ordinance Number 597 of 1964, Section 2, is deleted therefrom and the following language is inserted:

Section 3. Authority of Shade Tree Commission. The Shade Tree Commission shall have the authority and jurisdiction with approval of Mayor and Council of regulating the planting, maintenance and removal of trees on streets and other publicly owned property, to ensure safety or preserve the aesthetics of such public sites. All actions to plant new trees, prune (canopy and root) and/or remove existing trees shall be taken following a public meeting, and by approval from the Mayor and City Council. Advertisements for such meetings shall be in accordance with the Sunshine Act of the Commonwealth of Pennsylvania. The bylaws of the Shade Tree Commission shall determine the frequency of said meetings and the agenda for each.

Section 4. Master Shade Tree Plan.

(a) The Shade Tree Commission shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property, to ensure safety or preserve the aesthetics of such public sites. All actions to plant new trees, prune (canopy and root) and/or remove existing trees shall be taken following a public meeting, and must be approved by Mayor and City Council. Advertisements for such meetings shall be in accordance with the Sunshine Act of the

Commonwealth of Pennsylvania. The bylaws of the Shade Tree Commission shall determine the frequency of said meetings and the agenda for each.

(b) The Shade Tree Commission shall have the authority to formulate a master Shade Tree Plan. Public hearings will be held as necessary. The master Shade Tree Plan shall specify the species of trees to be planted on streets or other public sites of the City, a citywide tree planting strategy, and a correct standard for tree trimming and maintenance. The Commission, in making its decisions, shall use the master Shade Tree Plan. From and after the effective date of the master Shade Tree Plan, or any amendment thereof, all planting shall conform thereto.

(c) Prior to the implementation of any Shade Tree Plan or any amendment to any Shade Tree Plan, the Shade Tree Commission shall obtain approval from Mayor and Council.

(d) The Shade Tree Commission shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the City.

Section 5. Locations, Preferred Tree Species, and Specifications.

(a) Preferred Tree Species.

(i) All plant materials used shall be selected from the official list published and revised by the Shade Tree Commission in the master shade tree plan. Only plant material grown in nurseries shall be procured for shade tree planting. Trees should be true to form and typical of the species.

(ii) The use of any tree other than those mentioned above shall require the approval of the Shade Tree Commission and Mayor and City Council.

(iii) Not all trees on this list are suitable for all situations. The Shade Tree Commission shall determine suitability. Additionally, as new varieties are developed and existing ones improved, this list shall be amended.

(b) Tree Specifications

(i) Each tree shall meet the Rules of Arbor Work for the City of Monessen, adopted by reference and made part of these Codified Ordinances, as if fully set forth herein. The Shade Tree Commission may amend said rules when then-current arbor standards are revised.

(ii) As different trees require different soil conditions, it may be necessary to add amendments or replace existing soil prior to planting

(c) Planting Locations

(i) The actual location of each individual tree shall be determined upon due consideration of visibility, proximity of utility poles, overhead and guy wires, driveways, and underground utility installations. No landscaping, tree, or shrub shall be maintained in the vicinity of any corner, street intersection, or access-way intersecting a public right-of-way that is an obstruction to visibility, interferes with the clear sight triangle requirements, extends into street corner visibility areas, or is a traffic hazard.

(d) Visibility at Intersections

(i) On a corner lot in any zone, a clear sight triangle shall be provided at all street and alley intersections. Within such triangles, no vision-obstructing object, other than utility poles shall be permitted.

(e) Planting Specifications

(i) The Shade Tree Commission as part of the Master Shade Tree Plan shall develop planting specifications regarding the planting of shade trees.

Section 6. Care and Maintenance of Shade Trees

(a) Abuse or Mutilation of Shade Trees

(i) Unless specifically authorized by the Shade Tree Commission, no person shall intentionally damage, cut, carve, transplant, or remove any tree; store construction or other materials and equipment which may be hazardous; allow any gaseous, liquid, or solid substance, which is harmful to the continued vitality of trees, come in contact with them; or set fire or permit any fire to burn when such fire or the heat therefrom will injure any portion of any tree.

(ii) No person shall, without approval of the Shade Tree Commission, place any stone, cement, or other substance, which impedes the passage of water and air to the roots of any shade tree, unless such person has an open space of ground surrounding the trunk of such tree.

(iii) No person shall pour any material at any place in such a manner that injury might result to any shade tree.

(iv) It shall be unlawful as a normal practice for any person or firm to top any shade tree. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(b) Protection and Maintenance

(i) In the erection or repair of any building, structure, road, or sidewalk,

the builder, contractor, or owner thereof shall place such guards around all nearby trees on the public street or highway as will effectively prevent injury to them.

(ii) Any tree that is deemed to be a danger to public welfare and property by reason of its damaged or diseased condition, or from not being maintained in compliance with this Ordinance, shall be removed or trimmed, so that it is in compliance.

Section 7. Assessment of Cost. The costs of activities under this Ordinance may at council's discretion, be assessed against the owners of the properties abutting the street, sidewalk or right-of-way upon which any tree is located pursuant to Chapter 145A of the Third Class City Code, except that the cost and expense of caring for trees after they have been planted shall be paid by the City.

Section 8. Penalties. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be guilty of a summary offense punishable by a fine or not more than three hundred dollars (\$300.00) and costs of such proceedings. The continuation of any violation for each successive day shall constitute a spate offense, and the person or persons allowing or permitted the continuation of the violation may be punished as provided for each separate offense.

Section 9. Variance. Any property owner aggrieved by any regulation for the care and protection of shade trees in the City may apply to the Commission for a variance by filling out a shade tree variance request. Any granting of a variance must be approved by Mayor and Council upon recommendation of the Shade Tree Commission.

Section 10. Repealer. All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

Section 11. Invalidity. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses, or parts of this Ordinance; it being the intent of the City of Monessen that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 12. Effectiveness. This Ordinance shall become effective ten (10) days after enactment.

ORDAINED AND ENACTED this ____ day of _____, 2018, by the Council of the City of Monessen in lawful session duly assembled.

ATTEST:

CITY OF MONESSEN

Judith Taylor
City Administrator/ City Clerk

Matthew T. Shorraw
Mayor

First Reading_____

Final Reading_____

CERTIFICATION

I, Judith Taylor, Clerk of the City of Monessen, Westmoreland County, Pennsylvania,
hereby certify that the foregoing is a true and correct copy of Ordinance No. _____
duly adopted at a meeting of the Council of the City of Monessen held on the
day of _____, 2018.

City of Monessen

Judith Taylor