

**ORDINANCE**

**AN ORDINANCE ESTABLISHING CHAPTER 79 OF THE CODE ENTITLED "TREE REGULATIONS" CONTAINING: RELEVANT DEFINITIONS; PROCEDURES FOR THE PERMITTING AND LOCATION OF TREE PLANTINGS ; PROCEDURES GOVERNING THE APPROPRIATE TRIMMING, MAINTENANCE, AND CARE OF TREES RELATIVE TO THE IMPACT OF TREES UPON PUBLIC WALKS, STREETS AND HIGHWAYS; PROVISIONS IDENTIFYING THE OBLIGATIONS FOR PROPERTY OWNERS OF MAINTENANCE AND CARE AND PENALTIES FOR BREACH OF SUCH OBLIGATIONS; PROVISIONS FOR PERMITTING, PROVISIONS PERMITTING THE PROMULGATION OF RULES AND REGULATIONS; PROVISIONS FOR IMPOSING A MUNICIPAL LIEN AND PROVISIONS IDENTIFYING VIOLATIONS AND IMPOSING PENALTIES FOR VIOLATION OF THIS CHAPTER.**

WHEREAS, the City of Coatesville (hereinafter the "City") is a Third Class City operating by means of a Home Rule Charter and situate in Chester County, Pennsylvania; and

WHEREAS, it has been recognized by the Administration of the City that numerous complaints are being made by property owners, pedestrians and vehicle operators relative to overgrown trees and poor tree maintenance in the City interfering with access to streets and alleyways and creating public nuisances and interfering with property values, such that these conditions require that the City Council take action by the adoption of tree regulations created by Ordinance of City Council; and

WHEREAS, the Third Class City Code and the City Charter permit the City to regulate trees and other shrub growth to protect the health, safety and welfare of the community and to also keep open the public sidewalks, streets, alleys and right-of-ways throughout the City.

NOW THEREFORE, in consideration of the following, it is hereby enacted and ordained that the City does re-establish Section 79 of the City Code (previously reserved and used for brush, grass and weeds) to be entitled "Tree Regulations" containing the following:

**SECTION 1. PURPOSE:**

It has been determined that in the City there are significant problems regarding the maintenance of trees which have an impact on the public and public right-of-ways, streets, roads, alleys, walkways, etc. such that the trees on private property are not being properly maintained thereby creating a nuisance or danger to the public which requires remedial legislation from the City.

**SECTION 2. DEFINITIONS:**

**City:**

The City of Coatesville.

**Nuisance:**

Anything that interferes with the use or enjoyment of property, endangers personal health or safety or is offensive to the senses.

**Permit:**

A permit, in writing, as issued by the Codes Director or such other person or Department as the City Manager shall designate.

**Person:**

Includes individuals, corporations, groups of individual, firms, associates and their servants, agent or employees.

**Public Right-of-Way:**

Any tree, street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by any government entity.

**Public trees:**

Those shade or ornamental trees adjacent to the lawn or upon the side of any street within the public right-of-way, street or alley, any right-of-way intended for the general public use to provide means of approach for vehicles and pedestrians.

**Tree:**

Any tree, shrub, ornamental growth or woody plant grown in or upon any public street, highway, avenue, park, sidewalk or other public area or that part of any tree, shrub, ornamental growth or woody plant which extends within the lines of any public street, highway, avenue, park, parkway, sidewalk or other public area in the City of Coatesville.

**SECTION 3. TREE TRIMMING REQUIRED:**

All trees shall be kept trimmed by the property owner of the property on which any tree is located so that the minimum clearance of any overhang over any public walk shall be at least ten (10) feet, and the minimum clearance of any branches over any public street or highway shall be at least fifteen (15) feet. However, the City reserves the right to designate a higher clearance on certain streets or highways where heavy traffic or other conditions make it appropriate, said clearances to be established by Resolution of City Council, which such Resolution shall be attached and made an "Addendum to this Code" without the enactment of an Ordinance. All trees standing on private property and having branches projecting over a public walk, street or highway shall be kept trimmed by the owner of such property so that the lowest branches shall have the minimum clearance specified above or such clearance as may be specified by the City.

**SECTION 4. TREE TRIMMING PENALTY:**

In the event that the owner of such property shall neglect or refuse to trim such tree upon notification, in writing, by the City to do so, the City may, after the expiration of the date specified in said notification, cause such trimming to be done at the expense of the owner, and the entire cost thereof shall be a lien upon said premises and shall be filed and collected by the City in the same manner as municipal claims are filed and collected. Notice shall be sent by any of the following: certified mail, regular mail or posting of the property. In emergency circumstances, the notice identified above may require immediate action by the property owner. Except for such emergency situations, at least ten (10) days notice is required before action to trim a tree may be undertaken as noted previously.

#### SECTION 5. TREE REMOVAL REQUIRED:

All trees which are dead or decayed to such an extent that they become a public nuisance or threaten the health, safety and welfare of the public, shall be removed by the owner of the property upon which such trees exist. Notice shall be given by the City in the manner identified in Section 4 above relative to tree trimming.

#### SECTION 6. TREE REMOVAL PENALTY:

In the event that such property owner fails to remove the offending tree within 30 days after written notice from the City to do so (notice to be provided in the same manner as is provided with respect to tree trimming in Section 4 above), then the City may remove the tree and the entire cost of removal shall be assessed and collected from the property owner filed and collected by the City in the same manner as municipal claims are filed and collected.. The City's cost of removal shall be a lien upon the property until such cost is paid.

#### SECTION 7. DISTANCE FROM STREET CORNERS TO FIREPLUGS:

No tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No tree shall be planted closer than ten (10) feet of any fireplug.

#### SECTION 8. ANY TREE PLANTED IN VIOLATION OF THE DISTANCE REQUIREMENTS FROM STREET CORNERS AND FIREPLUGS:

Any tree planted in violation of Section 7 above, shall be removed by the property owner after notice from the City in the same manner as is provided in Section 4 (regarding notice with respect to tree trimming). The failure to remove such a tree as identified previously shall permit the City to have the tree removed and to charge the entire cost of tree removal assessed and collected from the property owner. The City's cost of removal shall be a lien upon the property until such cost is paid, filed and collected by the City in the same manner as municipal claims are filed and collected.

**SECTION 9. PERMIT REQUIRED; APPLICATION FEES:**

- A) Permits required. It shall be unlawful for any person to plant, prune, remove or cut above ground any public tree in the City without first securing a permit therefor as hereinafter provided. All applicants for permits to work on public trees shall perform such work in full compliance with the City's Rules and Regulations, adopted by City Council, and shall comply with all state and local liability insurance requirements, workers' compensation and safety requirements.
- B) Application. Any person who shall desire to plant, prune, remove or cut above ground any public tree shall make application in writing to the Codes Department or other department designated by the City Manager. Such application shall be made on forms to be furnished by the City and shall set forth the name of the applicant, the exact location of the tree or trees and the approximate size of the tree or trees and contain a plan for the proposed planting, pruning, removal or cutting above ground of trees.
- C) Fees. Before any permit shall be issued to any person to plant, prune, remove or cut above ground public trees, the person making such application shall pay to the City such fee as shall be required by a Schedule of Fees which shall be established and may be amended from time to time by resolution of the City Council. The Schedule of Fees shall be kept on file at the City.
- D) Right of review. The Codes Department or other department designated by the City Manager shall have the right to refer any application for a permit to City Council for its review when, in his/her judgment, the project which is the subject of the application would have a negative effect on the general health, safety and welfare.
- E) In the event of an emergency, it shall be unlawful for person(s) to perform emergency work before securing a permit; provided, however, that an application for a permit shall be made promptly and not later than the next business day thereafter.

**SECTION 10. PROMULGATION OF RULES AND REGULATIONS:**

From time to time, the City may promulgate Rules and Regulations governing the planting, maintenance, fertilization, pruning, bracing, removal and ordering of trees, after such Rules and Regulations have been approved by City Council. Copies of said Rules and Regulations shall be furnished to any person making application hereunder.

**SECTION 11. VIOLATIONS AND PENALTIES:**

Any person who violates or fails to comply with any of the provisions of this Chapter shall be liable, upon conviction thereof, for a fine or penalty of not to exceed Six Hundred Dollars (\$600.00) and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for a period of not more than thirty (30) days, for each and every offense, and whenever such person shall have been notified by the City by service or summons in prosecution or by any other means that he is committing such violation, each day which he shall continue

such violation after any such notification shall constitute a separate offense, punishable by like fine or penalty. Such fines or penalties shall be collected as prescribed by law.

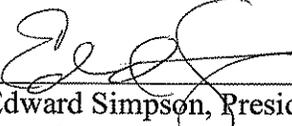
SECTION 12. CONSTITUTIONALITY/LEGALITY/ENFORCEABILITY:

If any portion of the Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then the portion and only that portion of this Ordinance, which is deemed to be unconstitutional, illegal or unenforceable shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.

SECTION 13. EFFECTIVE DATE:

This Ordinance shall be effective thirty (30) days after publication following final adoption in accordance with the City Charter and the Third-Class City Code.

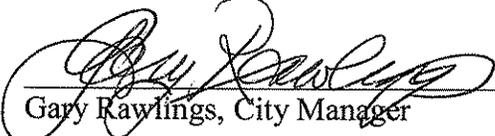
ENACTED AND ORDAINED this 26<sup>th</sup> day of March, 2012.

  
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Edward Simpson, President  
City Council

ATTEST:  
  
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Gary Rawlings, City Manager

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance was introduced on the 12th day of March, 2012, and was duly enacted by the Council of the City of Coatesville, Chester County, Pennsylvania on the 26<sup>th</sup> day of March, 2012, that the vote upon the said Ordinance has been recorded in the Minutes of the City Council and that the Ordinance has been fully recorded.

  
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Gary Rawlings, City Manager