

BOROUGH OF PORTLAND
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023 - 3

AN ORDINANCE OF THE BOROUGH OF PORTLAND, NORTHAMPTON COUNTY,
PENNSYLVANIA, REQUIRING THE MAINTENANCE AND REMOVAL OF CERTAIN
TREES AND SHRUBS, PROVIDING FOR ENFORCEMENT AND PENALTIES, AND
OTHER MISCELLANEOUS ITEMS.

WHEREAS, Sec. 1202 of the Pennsylvania Borough Code, 8 Pa.C.S.A. Sec. 1202, provides that the powers of the Borough shall be vested in the Borough Council;

WHEREAS, Sec. 1202(4) of the Pennsylvania Borough Code, 8 Pa.C.S.A. Sec. 1202(4), provides that the Borough shall have the power to prohibit and remove any nuisance on public or private grounds, including, but not limited to, nuisances in the streets of the Borough, and the Borough may require the removal of any nuisance by the owner or occupier of the grounds or remove the nuisance itself and collect the cost of removal, together with a penalty of 10% of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or the Borough may seek relief by bill in equity;

WHEREAS, Sec. 1202(5) of the Pennsylvania Borough Code, 8 Pa.C.S.A. Sec. 1202(5), provides that the Borough shall have the power to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough;

WHEREAS, Sec. 1202(12) of the Pennsylvania Borough Code, 8 Pa.C.S.A. Sec. 1202(12), provides that the Borough shall have the power to regulate the streets, sewers, public squares, common grounds, sidewalks, curbs, gutters, culverts and drains, and the heights, grades, widths, slopes and their construction, and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same;

WHEREAS, Sec. 1203 of the Pennsylvania Borough Code, 8 Pa.C.S.A. Sec. 1203, provides that the Borough Council may make and adopt all ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth as may be expedient or necessary for the proper management, care and control of the Borough and its finances and the maintenance of peace, good government, safety and welfare of the Borough and its trade, commerce and manufactures;

WHEREAS, the Borough Council believes it is in the best interest of the Borough residents, property owners and businesses to require the maintenance or removal of trees and shrubs as provided herein, particularly to allow for the free, unobstructed passage of fire, police, and emergency service personnel and vehicles; and

WHEREAS, the Borough Council finds that the maintenance of trees and shrubs in violation of the requirements of this Ordinance constitutes a nuisance;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Portland, Northampton County, Pennsylvania, as follows:

1. **Tree And Shrub Trimming Required.** All trees and shrubs shall be kept trimmed by the property owner of the property on which any tree or shrub is located so that the minimum clearance of any overhang over any public walkway/sidewalk shall be at least 9 feet, and the minimum clearance of any branches over any public street or highway shall be at least 15 feet. No branch, limb, or bough of any such tree or shrub shall obstruct travel upon any street, alley, or sidewalk; nor shall any street lighting be obscured. All trees and shrubs standing on private property and having branches projecting over or into a public walkway, sidewalk, 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.

2. **Tree and Shrub Trimming by Borough.** In the event that the owner of such property shall neglect or refuse to trim such tree or shrub upon notification, in writing, by the Borough to do so, the Borough 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, together with a penalty of 10% of the cost, shall be a lien upon said premises and shall be filed and collected by the Borough 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, as determined by the Borough, the notice identified above may require immediate action by the property owner. Except for such emergency situations, at least 10 days' notice is required before action to trim a tree or shrub may be undertaken as noted previously.

3. **Tree Removal Required.** All trees, or portions of 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. The Borough Mayor, Code Enforcement Officer, or his/her designee shall determine when a dead or decaying tree becomes a public nuisance or threatens the health, safety, and welfare of the public. Notice shall be given by the Borough in the manner identified in Section 2 above related to tree and shrub trimming.

4. **Tree Removal by Borough.** In the event that such property owner fails to remove the offending tree within 30 days after written notice from the Borough to do so (notice to be provided in the same manner as is provided with respect to tree and trimming in Section 2 above), then the Borough may remove the tree, and the entire cost of removal, together with a penalty of 10% of the cost, shall be assessed and collected from the property owner, filed and collected by the Borough in the same manner as municipal claims are filed and collected. The Borough's cost of removal shall be a lien upon the property until such cost is paid.

5. **Violation and Penalties.** Any person violating any of the provisions of this Ordinance shall, upon conviction in a summary proceeding before a District Magistrate, be sentenced to pay a fine of not less than \$100.00 and not more than \$1,000.00 for every offence

and costs of prosecution, and, in default of payment of such fine and costs, to incarceration in the County prison for not more than 30 days. A separate violation shall arise for each day of violation.

6. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar as the same are inconsistent herewith.

7. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, illegal or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

8. This Ordinance shall be immediately effective.

DULY ENACTED AND ORDAINED, this 5th day of June, 2023, by Portland Borough Council in public session duly assembled.

ATTEST:

BOROUGH OF PORTLAND
NORTHAMPTON COUNTY

Carol A. Hummel
Borough Secretary

Stephanie D. Stech
Council (Vice) President

APPROVED this 5th day of June, 2023,

Mayor of Portland Borough:

Mayor