

**HUMMELSTOWN BOROUGH  
ORDINANCE NO. 2022- 01**

**AN ORDINANCE REPEALING AND RESTATING THE CODE OF ORDINANCES OF  
THE BOROUGH OF HUMMELSTOWN, CHAPTER 25, ENTITLED “TREES”  
REESTABLISHING A SHADE TREE COMMISSION AND ENUMERATING ALL OF  
ITS POWERS.**

**WHEREAS**, the Borough desires to repeal and restate its Code of Ordinances in order to reestablish a Shade Tree Commission and enumerate all of its powers; and

**WHEREAS**, the Borough Council has determined that the public health, welfare and safety would be enhanced by repealing and restating its Code of Ordinances in order to reestablish a Shade Tree Commission and enumerate all of its powers.

**NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED**, by the authority of the Borough Council of the Borough of Hummelstown, Dauphin County, Pennsylvania, that the Code of Ordinances of the Borough of Hummelstown shall be amended as follows:

**Section 1. Title and Repealer**

1. This Ordinance shall be known as the Shade Tree Ordinance of the Borough.
2. All Ordinances or parts of ordinances where are inconsistent herewith are hereby repealed.

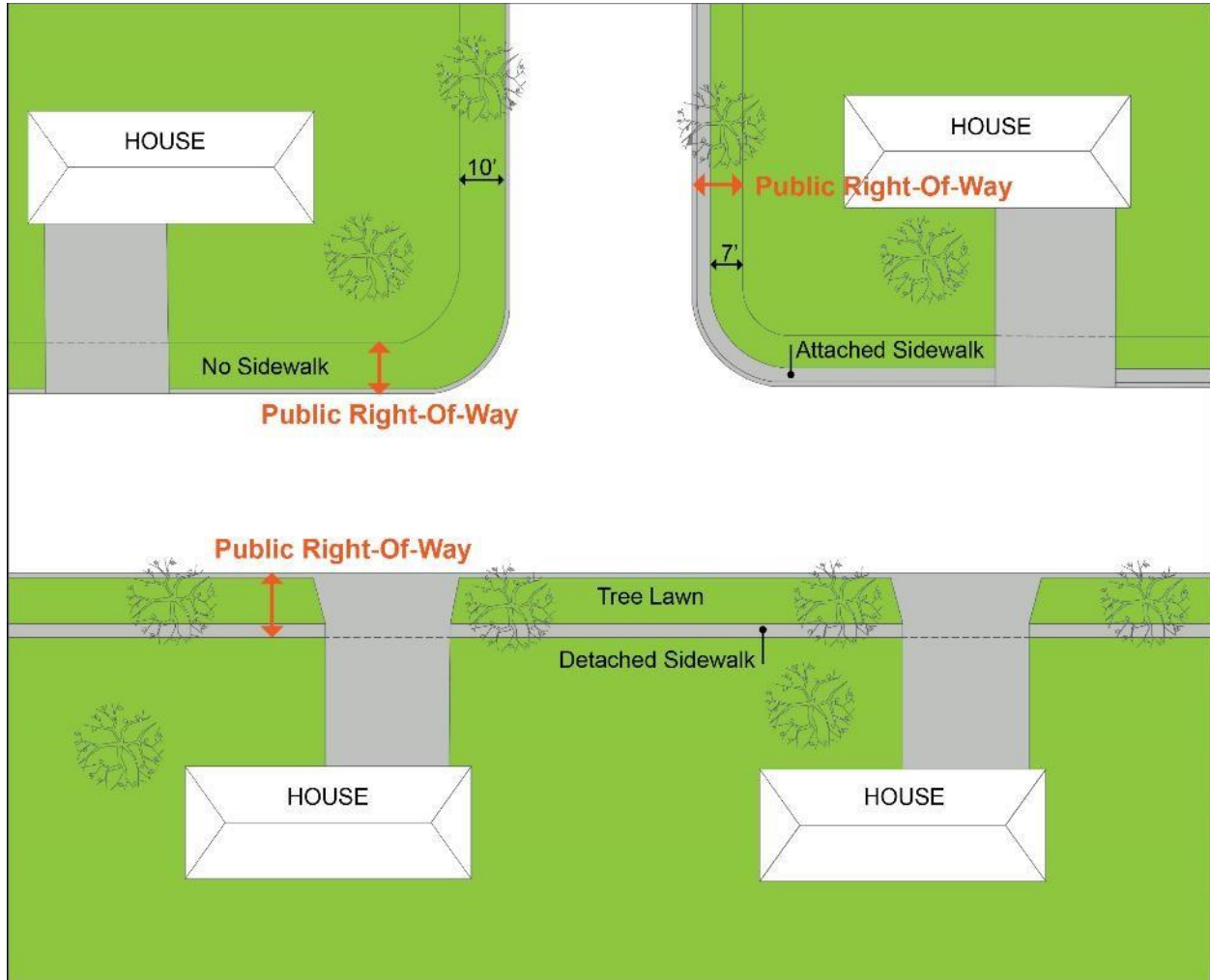
**Section 2. Definitions**

1. The following words or phrases when used in these regulations shall have the meanings ascribed to them, except in those instances where the context clearly indicates a different meaning.
  - a) **SHADE TREE**- – Any tree which is planted in any right-of-way, or has at least one half of trunk, branches or roots extending into any right-of-way in the Borough of Hummelstown.
  - b) **PERSON**- any individual, partnership, firm, association, or corporation.
  - c) **APPLICATION**- the request of a person made upon forms furnished by the Shade Tree Commission for authority to perform specific functions to existing or planned shade trees.
  - d) **PERMIT**- a written form issued by the Secretary of the Shade Tree Commission granting authority to perform specific work to the shade trees.
  - e) **PUBLIC HIGHWAY**- any street, sidewalk, or alley open to the public.
  - f) **RIGHT-OF-WAY**- The area of any public street, road, highway or other publicly held thoroughfare (owned) within the corporate limits of the borough that has been designated by law as a public right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, road, electric

transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. Sidewalks and street trees are the responsibility of the property owner.

- g) **BOROUGH**- The Borough
- h) **BOROUGH COUNCIL**- The duly appointed members of the Borough Council of the Borough.
- i) **COMMISSION**- The duly appointed members of the Shade Tree Commission of the Borough.

### PUBLIC RIGHT-OF-WAY DIAGRAM



**\*\*\*\*\*Please note this is a general representation of right-of-ways and residents should defer to deed for accurate property line location.**

### Section 3. Legislative Intent

1. The borough recognizes that properly planted, maintained, and protected shade trees add to the esthetics and health and welfare of the citizens of the borough. Therefore, it shall be the intent of this ordinance to establish a Shade Tree Commission for the Borough, define the mission of that commission and establish rules and regulations to

encourage the planting of appropriate shade trees, provide for the proper maintenance of the trees, protect shade trees, and provide guidelines for the removal and replacement of shade trees.

#### **Section 4. Shade Tree Commission**

1. The Shade Tree Commission shall consist of 5 members who are citizens of the Borough, appointed to serve 4-year terms.
2. The Shade Tree Commission shall have the power to issue permits required by this ordinance, and to enforce the provisions of this ordinance as provided by law.
3. The Shade Tree Commission shall, when called upon, act as an advisory panel to borough council on all borough matters having an environmental impact on the borough, including, but not limited to, land development, park development or improvements, and downtown revitalization projects.
4. The Shade Tree Commission shall report to borough council through the Borough Manager, or as the President of Council may otherwise direct.

#### **Section 5. General Regulations**

1. The maintenance, care, or removal of any shade tree as defined herein, and required compliance with any provision of this ordinance shall be the responsibility of the property owner on whose property the tree is located or whose property within the right-of-way in which the shade tree is located. If any property owner shall neglect or refuse to trim any shade tree as required by this section, upon such notice, the Commission may cause such trimming to be done by Borough employees and the entire cost thereof shall be chargeable and collectible from the aforesaid owner of the Property
2. No person shall be required to obtain a permit to maintain and prune a tree within any public right-of-way.
3. No person, without first obtaining a permit (at no cost), shall plant a shade tree within any public right-of-way.
4. A permit is required to remove a shade tree within any public right-of-way. Exhibit A includes the information for the required permit.
5. All mature shade trees shall be kept trimmed to a minimum branching height of fourteen (14) feet over the public street and a minimum height of eight (8) feet overhanging a public sidewalk except that the commission may require greater height clearances to eliminate traffic and other hazards.
6. Whenever, in the opinion of the Commission, a health or safety hazard caused by a shade tree, the commission may issue a written order to the responsible property owner to take action to correct the condition within sixty (60) days of the date of the order. If after written notification, the responsible property owner fails to take corrective action, the borough shall have the required work accomplished within thirty (30) days to correct the health or safety condition and shall bill the responsible property owner. Failure to remit by the responsible property owner may result in a lien placed against the property by the borough.

7. Needed right-of-way for sidewalk is four feet (4') in order to install a tree. Shade Tree Commission reserves the right to review set back requirements and right-of-way for sidewalks and trees.

### **Section 6. Authority to Revoke Permit; Violations and Penalties**

1. The Commission shall have authority to revoke any permit issued to any person violation any of the provision or the regulations or orders of the Commission and require any damage to be repaired or replaced by property owner or person responsible therefore and to use the same to be done at the expense of the property owner or person responsible, therefore. The Commission may assess a fine for the violation of its regulation up to a maximum of \$1000.00. If such violation persists, each violation will be considered a separate offence and the Commission may assess a penalty per separate violation up to a minimum of \$1000.00

### **Section 7. Special Provisions for Shade Trees Located in Retail-Commercial District**

1. In addition to the foregoing general provisions, the following special provisions shall apply to shade trees located in the retail commercial districts of the borough.
  - a) We encourage a minimum sidewalk opening of four (4) feet square for each shade tree. The opening shall be flush with a hard surface, such as but not limited to, brick, concrete, or pavers.
  - b) Only specific types of trees may be planted in the right-of-way. Refer to Exhibit B for the approved list of trees. The planting of any other type of tree shall require permission from the commission.
  - c) Whenever a shade tree is removed in a Retail Commercial District, the shade tree shall be replaced in accordance with this ordinance. All removed shade trees shall be replaced except when a change in street construction or land development makes it impossible or would cause the replacement to be a safety or health hazard. A decision not to replace a removed shade tree must be approved by the commission.
  - d) The commission shall annually inspect all shade trees within the Retail Commercial District and shall file a report with Borough Council on the condition of the trees and needed maintenance. The inspection shall be done in early summer and the report filed by the first day of August.

### **Section 8. Permit Fees**

1. Fees for permits shall be set from time to time by Resolution of Borough Council.

### **Section 9. Application for Permits to Plant, Transplant or Remove**

1. No person shall plant, transplant, or remove any shade tree or trees on or overhanging the right-of-way in the Borough of Hummelstown without first making an application for a permit to do so upon forms furnished by the Commission and after receiving an

approved permit. Any such planting, transplanting or removal by any person, and in a manner as the Commission shall indicate, shall be subject for inspection by the Commission and /or its designee. The cost of the planting, transplanting, or removing any shade trees in or along the streets and grading for the protection thereof, and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, shall be paid by the owner or owners of the real estate which abut the area where the work is done. The amount each owner is to pay shall be set by resolution.

#### **Section 10. Violations and Penalties**

1. Any person, firm or corporation who shall violate any provision of this ordinance shall upon conviction thereof, be guilty of a summary offense, and may be sentenced to pay a fine of not more than one thousand dollars (\$1000.00) and legal and administrative costs. Every day that a violation of this ordinance continues shall constitute a separate offense of a maximum of \$1,000.00.

#### **Section 11. Severability**

1. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, section or parts of this ordinance. It is hereby declared as the intent of the Borough that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

#### **Section 12. Effective Date**

1. This ordinance shall become effective 30 days after the date of approval by Borough Council.