

BOROUGH OF CONSHOHOCKEN

MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE PARTICIPATION OF THE BOROUGH OF CONSHOHOCKEN IN THE DELAWARE VALLEY WORKERS' COMPENSATION TRUST IN ACCORDANCE WITH THE PENNSYLVANIA WORKERS' COMPENSATION ACT AND THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION LAW.

The Borough Council of the Borough of Conshohocken, Montgomery County, Pennsylvania does hereby **ENACT and ORDAIN**:

Section 1. That the Borough Council President of the Borough of Conshohocken is hereby authorized to execute the Delaware Valley Workers' Compensation Trust Agreement for the participation of the Borough of Conshohocken in the Delaware Valley Workers' Compensation Trust, which Agreement is attached hereto as **Exhibit "A"** and is on file for inspection and review at the offices of the Borough of Conshohocken, 400 Fayette Street, Suite 200, Conshohocken, PA 19428. This Agreement may be amended after the enactment of this Ordinance to conform to any requirements imposed by the Commonwealth of Pennsylvania and any of its agencies, including the Department of Labor and Industry, Bureau of Workers' Compensation.

Section 2. That the participation of the Borough in the Delaware Valley Workers' Compensation Trust is authorized for the purposes of enabling the Borough to reduce the cost or workers' compensation claims through its participation in a group self-insurance fund.

Section 3. That the Borough delegates to the Delaware Valley Workers' Compensation Trust the authority to pay workers' compensation benefits on its behalf in accordance with the Pennsylvania Workers' Compensation Act and the Pennsylvania Occupational Disease Act.

Section 4. That Commonwealth of Pennsylvania Department of Labor and Industry Bureau of Workers' Compensation has approved the issuance of a permit to the Delaware Valley Workers' Compensation Trust to operate as a group self-insurance fund subject to certain conditions.

Section 5. As an approved self-insurance fund, the Delaware Valley Workers' Compensation Trust will be responsible for the payment of workers' compensation claims on behalf of all Trust participants.

Section 6. As set forth in the Delaware Valley Workers' Compensation Trust Agreement, the following conditions, among others, apply to the participation of the Borough in the Delaware Valley Workers' Compensation Trust:

1. That the Trust shall consist of at least five homogeneous municipal participants organized as local government agencies under Pennsylvania law;
2. That each participant satisfies all eligibility and admission requirements for membership in the Trust.
3. That each participant pledges and agrees to appropriate funds to pay all its annual contributions and assessments which are required for the creation of a Fund maintained at a level sufficient to pay all workers' compensation claims and related expense incurred by the Trust participants;
4. That each participant agrees to jointly and severally assume and discharge the workers' compensation liabilities of each and every other participant in accordance with the Delaware Valley Workers' Compensation Trust Agreement when required to do so by the Department of Labor and Industry Bureau of Workers' Compensation;
5. That each participant will institute any and all safety regulations, loss prevention measures or risk management procedures as may be required for the purpose of minimizing or eliminating workplace risks to its employees;
6. That each participant cooperate fully with the Trust's service and fiscal agents, attorneys, claims adjusters and any agents or employees of the Trust with respect to the investigation, defense and settlement of claims;
7. That each participant designate a person to be responsible for all contacts with the Trust;
8. That each participant provide any information to the Administrator or Board of Trustees as may be required to effect the purposes and objectives of the Trust; and
9. That each participant comply with all applicable statutes and regulations governing the payment of workers' compensation claims, including, but not limited to, the Pennsylvania Workers' Compensation Act and any regulations promulgated thereunder.

Section 7. That the Borough of Conshohocken agrees to participate in the Delaware Valley Workers' Compensation Trust for a minimum period of two (2) years, subject to the terms and conditions of the Delaware Valley Workers' Compensation Trust Agreement. After the expiration of that minimum two-year period, each participant may withdraw under the following conditions as provided in the Delaware Valley Workers' Compensation Trust Agreement:

1. An opinion is rendered by the Trust certified actuary that withdrawal will not result in the number of participants falling below the minimum required to assure the fiscal and actuarial soundness of the Trust itself;
2. That the withdrawing participant is not then in default of its obligation to pay premiums, contributions or assessments;

3. That the withdrawing participant shall pay any additional assessments as determined by the Board of Trustees in accordance with the Trust Agreement and By-Laws;
4. That the Board of Trustees shall have received a certification from the Trust actuary that the withdrawal of the participant will not impair the actuarial soundness of the Trust and, if any municipal debt has been incurred by the participants to finance any portion of the Trust reserves, an opinion is obtained from bond counsel that such withdrawal will not adversely affect the tax-exempt status of any interest paid and any debt incurred by the participants, or any legal entity created for the purpose of incurring such debt. As used herein, the term "debt" includes any municipal bonds, certificate, letters of credit or other instruments of municipal indebtedness.

Section 8. The organizational structure of the Trust shall consist of a Board of Trustees, an Administrator, a claims administrator/loss control consultant and various service agents appointed by the Board of Trustees in accordance with the Delaware Valley Workers' Compensation Trust Agreement and any By-Laws adopted pursuant thereto.

Section 9. As set forth in the Delaware Valley Workers' Compensation Trust Agreement, the funds required for the creation and operation of the Trust shall be provided by the participating municipalities through annual appropriations.

Section 10. The Delaware Valley Workers' Compensation Trust is empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for any of its employees.

Section 11. That the participation of the Borough in the Delaware Valley Workers' Compensation Trust will be effective by April 1, 2018, as approved by the Board of Trustees.

Section 12. All contributions and assessments paid by the Borough shall be made with funds appropriated by the Borough for that purpose.

Section 13. As a condition of participating in the Delaware Valley Workers' Compensation Trust, the Borough agrees to:

1. Pay all annual contributions and assessments as may be required by the Board of Trustees;
2. Appoint a representative to sit on the Board of Trustees and designate a contact person for the purpose of communicating with the Trust or its representatives;
3. Not withdraw from the Trust for a period of two (2) years following its admission to the Trust, subject to the terms and conditions of the Delaware Valley Workers' Compensation Trust Agreement;
4. Withdraw from the Trust only upon satisfaction of the conditions set forth in the Delaware Valley Workers' Compensation Trust Agreement;

5. Perform all covenants contained in the Delaware Valley Workers' Compensation Trust Agreement and delegate to the Board of Trustees the powers and authorities enumerated in that Agreement;
6. Comply with all the conditions set forth in the Delaware Valley Workers' Compensation Trust Agreement governing the handling and payment of claims, including the defense and settlement thereof;
7. Appropriate the funds needed to pay all contributions and assessments as may be required by the Board of Trustees in accordance with the Delaware Valley Workers' Compensation Trust Agreement;
8. Cooperate with the Trust, its agents or employees and provide the Trust with all information it needs for the operation of the Trust, including any underwriting or claims data which it may be requested by the Board of Trustees or their designee.

Section 14. Repeal and Ratification.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. This Ordinance shall in no other way alter or modify the Borough of Conshohocken Code except as specifically stated herein. Any other terms and provisions of the Code that are unaffected by this Ordinance are hereby reaffirmed and ratified.

Section 15. Severability.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision herein shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of the Court shall not effect or impair the remaining sections, sentences, clauses, parts or provisions of the Ordinance. It is hereby declared to be the intent of the Borough of Conshohocken Council that this Ordinance would have been adopted as if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 16. Disclaimer.

Nothing in this Ordinance shall be construed to effect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued, or any cause or causes of action existing under the ordinances of the Borough of Conshohocken prior to enactment of this Ordinance.

Section 17. Effective Date.

This Ordinance shall become effective immediately as authorized by law.

ORDAINED and ENACTED this _____ day of _____, 2018.

By: _____
Colleen Leonard
President
Conshohocken Borough Council

Attest: _____
Jane Flanagan
Vice President
Conshohocken Borough Council