

BOROUGH OF ALLENTOWN
COUNTY OF MONMOUTH
STATE OF NEW JERSEY

JUN 27 2017

RECEIVED

ORDINANCE NO. 07-2017

AN ORDINANCE OF THE BOROUGH OF ALLENTOWN,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
AMENDING THE REVISED GENERAL ORDINANCE
CHAPTER 2: "ADMINISTRATION" OF THE BOROUGH
CODE TO REPLACE SECTION 2-56: "SHADE TREE
ADVISORY COMMITTEE" WITH NEW SECTION 2-56:
"SHADE TREE COMMISSION"

BE IT ORDAINED by the Mayor and Council of the Borough of Allentown, County of Monmouth, State of New Jersey, that Section 2-56: "Shade Tree Advisory Committee" of the Revised General Ordinances of the Borough of Allentown, is hereby deleted and replaced with the following new Section 2-56: "Shade Tree Commission" as follows:

2-56 SHADE TREE COMMISSION.

2-56.1 Established.

A Shade Tree Commission is established for the purpose of regulating, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of the Borough, except State highways unless the State Department of Transportation assents thereto, and except County highways, parks and parkways unless a County Shade Tree Commission is operative and gives assent thereto. The Commission members shall be residents of the Borough and serve without compensation except as hereinafter provided.

2-56.2 Appointment of Members; Terms; Vacancies

The Shade Tree Commission shall consist of five (5) members and two (2) alternates appointed by the Mayor. The alternate members shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member(s). The terms of all members shall be five (5) years, except that those first appointed shall be on a staggered basis. The initial terms of regular members shall commence upon the day of their appointment and be for the respective periods of one, two, three, four and five years, beginning on January 1 next succeeding such appointment. The initial term of "Alternate No. 2" shall be four years and the initial term of "Alternate No. 1" shall be five years. All appointments, except those to fill vacancies, shall be effective January 1 next succeeding the appointment. Any vacancy occurring by reason of the death, resignation or removal of any Commissioner shall be filled for the unexpired term by the Mayor.

2-56.3 Organization.

The Commission shall organize within thirty (30) days after the appointment of its total membership for the remainder of the then calendar year, and thereafter, annually by the election of one (1) of its members as Chairperson, one (1) of its members as Vice-Chairperson, and the appointment of a Secretary, who need not be a member.

2-56.4 Powers and Duties.

The Shade Tree Commission shall have the power to:

- a. Recommend that the Mayor and Council adopt such ordinances and written rules and regulations as may be necessary, pursuant to statute, and for the proper interpretation of this section, administration and enforcement, provided that the ordinances and regulations do not conflict with this section and conform to the general standards.
- b. Exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located, or which may hereafter be planted, in any public highway, park or parkway, except such as are excluded pursuant to subsection 2-56.1, including the planting, trimming, spraying, care and protection thereof in accordance with the provisions of Chapter XXIV for the Protection of Trees.
- c. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper planting, growth, care and protection in accordance with the provisions of Chapter XXIV for the Protection of Trees.
- d. Move or require the removal of any tree, or part thereof, dangerous to public safety.
- e. Administer treatment to or remove any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Borough and enter upon private property for that purpose, with the consent of the owner, provided the suspected condition is first confirmed by certificate issued by or on behalf of the New Jersey Department of Agriculture.
- f. Prepare programs and plans for consideration by the Mayor and Council with respect to the purchase, planting, spraying, care, rearing, trimming, preserving and control of the shade and ornamental trees of the Borough.
- g. Meet with the Mayor and Council upon its request for discussion of programs and recommendations.
- h. Consult regularly with the Councilman in charge of Public Works concerning the Shade Tree Program of the Borough.
- i. Encourage arboriculture.
- j. Work in cooperation with the Environmental Commission and other such Borough agencies in regards to the encouragement of planting and preservation of shade trees.
- k. Make inspections, reviews, and reports to the Planning Board when any application for a major subdivision of land is received in accordance with the following procedure:

- (1) When application for a major subdivision of land is first submitted to the Planning Board, the Planning Board shall, within two (2) weeks, advise the Shade Tree Commission of the desired subdivision, whereupon the Commission shall inspect the property involved, noting the number, type, location, approximate age and density of growth of the various trees and shrubbery situated on the land proposed to be subdivided, and taking into account the necessity for cutting or trimming to meet subdivision requirements.
- (2) Within thirty (30) days after receipt of such information regarding the proposed subdivision, the Shade Tree Commission shall make a written report of its findings to the Planning Board, together with any recommendation it might desire to make regarding the safeguarding of desirable trees and shrubbery during the course of the subdivision and the erection of buildings in such development.

2-32.5 Planting and Removal of Trees to Be a Lien.

Except as hereinafter provided, the initial cost of all trees planted by the Commission, the cost of planting the same, the cost of the posts and boxes or guards used for their protection, and the cost of the removal of any tree or part thereof dangerous to public safety shall, if the Commission so determines, in accordance with rules and regulations for that purpose, be a charge upon the real estate in front of which the tree shall be planted or removed as an improvement. The cost, if it is so determined that it is to be paid by the owner shall, unless paid directly to the Commission, be certified to the Collector of Taxes and shall thereupon be a lien upon the real estate, and shall be included in the next tax bill rendered to the owner and collected in the same manner as other taxes against the property. The provisions of this section shall not apply to a planting to replace a tree planted by the Commission or a planting in connection with Arbor Day exercises or other educational demonstration.

2-32.6 Notice and Hearing.

In every case where the owner will be charged with the cost of planting any shade tree, the Commission shall give notice of the meeting at which it is proposed to consider the planting by publishing the notice at least once, not less than twenty (20) days before the meeting, in a newspaper circulating in the Borough, or by personal service of a copy of the notice upon the abutting owner at least ten (10) days before the meeting. The notice shall specify the street or portions thereof, on which the planting is proposed and require all persons who may object to present their objections in writing at the office of the Commission at or before the meeting. Before final action is taken, all objections so filed shall be considered. The Commission shall give reasonable notice of its intention to remove, or cause the removal of a tree or part of a tree dangerous to public safety, unless public safety requires immediate removal, in which case no notice shall be necessary.

2-32.7 Consent Required for Certain Improvements.

No Statute giving any person, State, County or municipal board, body or official, power or authority to lay sidewalk along or to open, construct, curb or pave any street, or to do any similar act, shall be construed to permit or authorize any interference with or injury to a street shade tree without the consent of the Shade Tree Commission within whose jurisdiction the tree is located. In all cases, the Commission shall reasonably cooperate with the person, board, body or official for the general public good. Nothing in this section shall be held to take away or diminish any of the powers or authority of any County Park Commission over the trees or shrubbery in any County park or parkway within its jurisdiction, or to give any other commission or board any power or authority with respect to such trees or shrubbery.

2-32.8 Annual Appropriations.

During the month of December in each year, the Shade Tree Commission shall certify to the Mayor and Council the estimated sum necessary for the proper conduct of its work during the ensuing fiscal year, which shall include the sums estimated to be expended for such of the following items as it is anticipated expenditure will be made:

- a. Payment of wages and salaries of employees;
- b. Expenses of Commission members in discharging official duties, including expenses incident to attendance at professional meetings;
- c. Purchase of trees and shrubbery; and
- d. Purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work;

The Council shall annually appropriate such sum as it may deem necessary for the purposes.

BE IT FURTHER ORDAINED by Mayor and Council that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED by Mayor and Council that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED by Mayor and Council that this ordinance shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.



GREGORY WESTFALL, Mayor

DATED: 6/27/2017

ATTEST:



LAURIE A. GAVIN, Municipal Clerk

DATED: 6/27/17

PUBLIC NOTICE

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced and passed on first reading on the 13th day of June, 2017, at a meeting of the Mayor and Council of the Borough of Allentown and will be taken up for final consideration and passage at a regularly scheduled meeting of the Mayor and Council of the Borough of Allentown to be held on the 27th day of June, 2017 at the Municipal Building, 8 N. Main Street, Allentown, New Jersey.



LAURIE A. GAVIN, RMC
Municipal Clerk