

Borough of Matawan
Code Book
Chapter 2 – Administration
Section 2-32 – Shade Tree Commission

2-32 SHADE TREE COMMISSION.

2-32.1 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 Highway Department 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. (1971 Code § 2-19.1)

2-32.2 Appointment of Members; Terms; Vacancies.

The Shade Tree Commission shall consist of five (5) members appointed by the Mayor for a term of five (5) years, except that those first appointed shall be on a staggered basis. 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. (1971 Code § 2-19.2)

2-32.3 Organization.

The Commission shall organize annually by the election of one (1) of its members as Chairman, and the appointment of a Secretary, who need not be a member. (1971 Code § 2-19.3)

2-32.4 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 2-32.1, including the planting, trimming, spraying, care and protection thereof.

c. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.

- d. Move or require the removal of any tree, or part thereof, dangerous to public safety.
- e. Care for and control such parks and parkways; encourage arboriculture; make, alter, amend, and repeal, in the manner prescribed for the passage, alteration, amendment and repeal of ordinances by the Borough Council, any and all ordinances necessary or proper for carrying out the provisions hereof.
- f. 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.
- g. Undertake a review and approval of all applications submitted under the provisions of Chapter XXIV for the Protection of Trees.
- h. The Commission may adopt a written protocol whereby one of its members may be delegated to review and approve the application for tree removal for application of a minor event involving no more than five (5) trees.
(1971 Code § 2-19.4; New; Ord. No. 13-02)

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. (1971 Code § 2-19.5)

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. (1971 Code § 2-19.6)

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 highway 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. (1971 Code § 2-19.7)

2-32.8 Annual Appropriations.

During the month of December in each year, the Shade Tree Commission shall certify to the 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. (1971 Code § 2-19.8)