

SHADE TREE COMMISSION

Chapter 23

SHADE TREE COMMISSION

- § 23-1. Creation; composition.
- § 23-2. Duty.
- § 23-3. Appointments; terms of office.
- § 23-4. Election of officers.
- § 23-5. Powers.
- § 23-6. Reserved.
- § 23-7. Interference with or injuring shade trees; authority of other commissions.
- § 23-8. Submission of costs and estimate of expenses; annual appropriations.
- § 23-9. Violations and penalties; enforcement.
- § 23-10. Disposition of moneys collected.
- § 23-11. Responsibility for death or injury to property.
- § 23-12. Requirements for planting shade trees.

[HISTORY: Adopted by the Township Committee of the Township of Barnegat 6-17-71. Amendments noted where applicable.]

Be it ordained by the Township Committee of the Township of Barnegat, in the County of Ocean and State of New Jersey:

§ 23-1. Creation; composition. [Amended 12-18-06 by Ord. No. 2006-25; 2-4-08 by Ord. No. 2008-05]

There is hereby created a Shade Tree Commission which will be known as the "Shade Tree Commission of Barnegat Township." Said Commission shall consist of five (5) members and one (1) alternate member, appointed by the Mayor of the township, who shall be residents of the municipality or employees of the municipality and shall serve without compensation except as hereinafter provided.

§ 23-2. Duty.

The regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways (if any) of this municipality (except state highways unless the State Highway Department shall assent thereto and except county highways, parks and parkways unless the County Shade Tree Commission shall assent thereto) shall be exercised by and under the authority of the said Commission.

§ 23-3. Appointments; terms of office.

The first Commissioners shall be appointed within sixty (60) days after this ordinance providing for the Commission shall become effective, and their terms of office shall commence upon the date of their appointment and be for a respective period of three (3), four (4) and five (5) years, if the Commission consists of three (3) members, or the respective period of two (2), three (3), four (4) and five (5) years if the Commission consists of four (4) members and of one (1), two (2), three (3), four (4) and five (5) years if the Commission consists of five (5) members, beginning on January 1 next succeeding such appointment. In the event that the membership of any Commission is increased, the new members shall be appointed in such a manner that the terms shall expire in accordance with the foregoing. The term of each appointee shall be designated in his appointment. All

calendar year, and thereafter annually by the election of one (1) of its members as Chairman and the appointment of a Secretary who need not be a member. The salary of the Secretary, who may be compensated even if a member of the Commission, shall be fixed by the governing body of the municipality. The salary of all other employees shall be fixed by the Commission. All salaries shall be fixed as nearly as practicable in accordance with the salary schedule, if any, of the municipality for corresponding positions.

§ 23-5. Powers.

A Shade Tree Commission organized under this chapter shall have power to:

- A. 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 N.J.S.A. 40:64-1, in the municipality for which it was created, including the planting, trimming, spraying, care and protection thereof.
- B. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.
- C. Move or require the removal of any tree or part thereof dangerous to public safety.
- D. 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 governing body of the municipality, any and all ordinances necessary or proper for carrying out the provisions hereof.
- E. Administer treatment to or remove any tree situate upon private property which is believed to harbor a disease or insects readily communicable to neighboring

healthy trees in the care of the municipality, and enter upon private property for that purpose, with the consent of the owner thereof, provided the suspected condition is first confirmed by a certificate issued by or on behalf of the Department of Agriculture.

§ 23-6. Reserved.¹

¹Editor's Note: Former Section 23-6, Inspection and Maintenance, previously codified herein and containing portions of Ordinance No. 1974-6, was repealed in its entirety by Ordinance No. 2006-25.

§ 23-7. Interference with or injuring shade trees; authority of other commissions.

- A. No statute giving any person or state, county or municipal board, body or official, power or authority to lay any 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 such tree shall be located. In all cases such Commission shall reasonably cooperate with such person, board, body or official for the general public good.
- B. Nothing in this chapter contained 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.

§ 23-8. Submission of costs and estimate of expenses; annual appropriations. [Amended 12-18-08 by Ord. No. 2006-25]

- A. At a time specified by the Administration of Barnegat Township each year, the Shade Tree Commission shall

certify to the governing body of the municipality 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:

- (1) Payment of wages and salaries of employees.
 - (2) Expenses of commission members in discharging official duties, including expenses incident to attendance at professional meetings.
 - (3) Purchase of trees and shrubbery.
 - (4) Purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work.
- B. The governing body of the municipality shall annually appropriate such sum as it may deem necessary for said purposes.

§ 23-9. Violations and penalties; enforcement.

- A. The Commission may prescribe a fine for the violation, of each of its ordinances in an amount not exceeding two hundred dollars (\$200.) for each violation, and the courts which now or hereafter shall have jurisdiction over actions for the violation of ordinances of the municipality in which the Commission has been or shall be appointed shall have jurisdiction in actions for the violation of such ordinances as the Commission shall enact.
- B. The ordinances shall be enforced by like proceedings and process and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the municipality in which the Commission exists.
- C. The officers authorized by law to serve and execute process in the aforementioned courts shall be the

officers to serve and execute any process issued out of any court under this chapter.

- D. A copy of any ordinance of the Commission, certified to under the hand of its Secretary or Chairman shall be received in any court of this state as full and legal proof of the existence of the ordinance, and that all requirements of law in relation to the ordaining, publishing and making of the same, so as to make it legal and binding, have been complied with, unless the contrary be shown.

§ 23-10. Disposition of moneys collected.

All moneys collected in the Township of Barnegat, either as fines or penalties, for any violation of a rule or regulation of the Shade Tree Commission, or as a charge against real estate, under any provision of this chapter, shall be forthwith paid over to the municipal officer empowered to be custodian of the funds of the municipality.

§ 23-11. Responsibility for death or injury to property.

Nothing in this chapter contained shall be construed to make any Shade Tree Commission or any member thereof responsible for the death or injury of any person, or for an injury to any property or highway tree or shrub.

**§ 23-12. Requirements for planting shade trees.
[Added 2-4-74 by Ord. No. 1974.6]²**

- A. Shade trees shall be planted in accordance with Section 55-191 and any other applicable standards and specifications of the township.
- B. Shade trees.
- (1) Shade trees should meet the following specifications:

²Reserved.

- (a) Trees shall be of nursery stock quality of approved species grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insects, pests and disease, suitable for street use and durable under the maintenance contemplated.
- (b) The average trunk diameter measure at a height of three (3) feet above the finished grade level shall be a minimum of one and one-half (1 1/2) inches, depending on good practice with reference to the particular species to be planted.
- (c) Trees shall be planted at maximum intervals sixty (60) feet along both sides of the street and not nearer than five (5) feet from any sidewalk, curb, gutter or other right-of-way improvement as provided for in this ordinance.³
- (d) All planting shall be done in conformance with good nursery and landscape practice.
- (e) The species and location of trees shall be such that they will not interfere with utility facilities.
- (f) The development shall be responsible for watering and maintaining the trees for two (2) years.
- (g) **[Added 12-8-06 by Ord. No. 2006-25]** Trees to be planted by developers shall be selected from a list maintained by the Barnegat Shade Tree Commission or in accordance with the Pinelands Commission tree list in areas governed by the Pinelands Commission regulations.

³Editor's Note: See Separate Land Use Volume, Ch. 55, Article V.

- (2) Each developer shall present with his map, when approval of a map is requested, a written and signed statement of the number and kinds of trees to be planted, which statement shall be dated, addressed to the Township of Barnegat with a copy to Barnegat Township Shade Tree Commission and signed by the developer or developer's duly authorized agent. All township officials shall require that all guaranties given the municipality by developers include an item for the fair cost of such trees and their planting in each particular development.
- (3) The applicant shall provide the Barnegat Township Shade Tree Commission with a map showing the proposed location of all shade trees within the proposed subdivision.
- (4) The developer shall meet with the Barnegat Township Shade Tree Commission prior to starting construction and jointly they shall inspect the development site with the intent of saving as many of the native trees as possible during the construction phase. The Barnegat Township Shade Tree Commission shall notify the Barnegat Township Planning Board of the results of any such meetings.