

Chapter 16

SHADE TREE COMMISSION

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[HISTORY: Adopted by the Mayor and Council of the Borough of Helmetta 1-12-72. Amendments noted where applicable.]

Be it ordained by the Mayor and Council of the Borough of Helmetta, in the County of Middlesex and State of New Jersey:

§ 16-1. Creation; composition.

There is hereby created a Shade Tree Commission which will be known as "The Shade Tree Commission of the Borough of Helmetta." Said Commission shall consist of not less than three (3) nor more than five (5) members appointed by the Mayor of the borough, who shall be residents of this municipality and shall serve without compensation, except as hereinafter provided.

§ 16-2. 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 be under the authority of the said Commission.

§ 16-3. Appointments; terms of office.

The first Commissioners shall be appointed within sixty (60) days after this chapter 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 periods of two (2), three (3), four (4) and five (5) years if the Commission consists of four (4) members, or 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 subsequent appointments, except to fill vacancies, shall be for the full term of five (5) years, to take effect on January 1.

(Cont'd on page 1603)

§ 16-4. Election of officers.

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 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,¹ if any, of the municipality for corresponding positions.

§ 16-5. 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 Section 40:64-1 of Title 40 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 the proper growth, care and protection.
- C. Move or require the removal of any tree or part thereof dangerous to public safety.

¹ Editor's Note: As to salaries and compensation see Ch. 15.

D. Care for and control such parks and parkways; encourage arboriculture; recommend the alteration, amendment or repeal of shade tree ordinances by the governing body of the municipality.

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 Borough of Helmetta, and enter upon private property for that purpose, with the consent of the owner thereof, provided the suspected condition is first confirmed by certificate issued by or on behalf of the Department of Agriculture.

§ 16-6. Costs.

A. Except as hereinafter provided, the cost of the removal of any tree or part thereof dangerous to public safety shall, if the Commission shall so determine, in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be removed. Such cost, if it is so determined that it is to be paid by the owner, shall, unless paid directly to the Commission, be certified by it to the Collector of Taxes of the municipality, shall thereupon become and be a lien upon said real estate, shall be included in the next tax bill rendered to the owner or owners thereof, and be collected in the same manner as other taxes against that property.

B. The provisions of this section shall not apply to:

- (1) A planting to replace a tree or trees theretofore planted by the Commission.
- (2) A planting in connection with Arbor Day exercises or other educational demonstration.

§ 16-7. 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.

§ 16-8. Submission of costs and estimates of expenses; annual appropriations.

- A. During the month of December in 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 for, namely:
 - (1) Payment of wages and salaries of employees.
 - (2) Expenses of Commission members in discharging official duties, including expenses incident to attendance at professional meeting.

- (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.

§ 16-9. Disposition of moneys collected.

All moneys collected by the Borough of Helmetta either as costs for the removal of trees 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.

§ 16-10. Responsibility for death or injury to property.

Nothing in this chapter contained shall be construed to make the 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.