

ORDINANCE

ORDINANCE OF THE BOROUGH OF BEACHWOOD, OCEAN COUNTY, NEW JERSEY DELETING SECTIONS 2-17 THROUGH 2-17.7 (ENVIRONMENTAL COMMISSION) AND SECTIONS 2-19 THROUGH 2-19.11 (SHADE TREE COMMITTEE) AND FURTHER ESTABLISHING THE “ENVIRONMENTAL AND SHADE TREE COMMITTEE”

BE IT ORDAINED by the Borough Council of the Borough of Beachwood, County of Ocean, and State of New Jersey, as follows:

Section 1. Environmental Commission Repealed. Sections 2-17 through 2-17.7 of the Code of the Borough of Beachwood are hereby deleted in their entirety.

Section 2. Shade Tree Committee Repealed. Sections 2-19 through 2-19.11 of the Code of the Borough of Beachwood are hereby deleted in their entirety.

Section 3. Environmental and Shade Tree Committee Established.

There is hereby created within the Borough of Beachwood a Committee to be known as “The Environmental and Shade Tree Committee.”

Section 4. Purpose of Committee. The Environmental and Shade Tree Committee are hereby established for the purpose of recommending the promotion of conservation and the protection and development and/or the use of natural resources including water resources within the Borough. It is further the purpose of the Committee to recommend programs and plans for the consideration of the Borough Council with respect to the purchase, plan and care, rearing; trimming, preserving and control of the shade trees and ornamental trees of the Borough. They shall further consult on a regular basis with the Council liaison to the Public Works Department. They shall encourage arboriculture.

Section 5. Powers and Duties. The Environmental and Shade Tree Committee shall review the use and possible use of open lands within the Borough and may advertise, prepare and print pamphlets, charts and maps with the pre-approval of the Borough Council.

Those pamphlets, charts and maps shall also be applicable to the purchase, planting and care, rearing, trimming, preservation and control of shade trees or ornamental trees within the Borough. The Environmental and Shade Tree Committee shall prepare, keep and index of all open areas, whether publicly or privately owned, including open marsh lands, swamps and other wetlands in order to obtain information on the proper use of these areas. As part of said index they shall also note any and all significant shade trees and ornamental trees located thereon. They shall not, however, enter upon private properties without the express permission of the property owners.

The Committee may recommend to the Borough Land Use Board their input on the inclusion of plants or programs for the Borough's Master Plan. They also may recommend to said Land Use Board and the Mayor and Council programs for the use of any areas, marsh lands and wetlands within the Borough, as well as any areas containing or conducive to the planting and maintenance of shade trees and ornamental trees, together with recommendation for their care.

Section 6. Acquisitions by Borough. In the event the Borough acquires any real property, the Environmental and Shade Tree Committee may recommend the use and care of said property in furtherance of the purposes of the Shade Tree and Environmental Committee.

Section 7. Records and Reports. The Environmental and Shade Tree Committee shall keep records of its meetings and activities and shall make an annual report thereof to the Mayor and Council.

Section 8. Appropriations for Staff Authorized. The Mayor and Council may authorize funds for the expenses of the Environmental and Shade Tree Committee. The Committee may appoint such clerks and other employees as it may require and as shall be within the limits of the funds so appropriated by the Borough Council for the operation of the

Committee. The Borough Council may also appropriate funds for the purchase of trees and shrubbery, the purchase of necessary equipment and materials and for the costs of any other related service for the preservation of trees and shrubbery.

Section 9. Members, Appointment, Term of Office, Compensation, Removal from Office, Filling of Vacancies.

The Environmental Shade Tree Committee shall consist of five (5) members who shall be appointed by the Mayor with the approval of the Borough Council, all of whom shall be residents of the Borough and one (1) of whom shall be a member or alternate member of the Land Use Board. The members of the Committee shall serve without compensation except if provided elsewhere in this Ordinance. The Committee shall designate one (1) of its members to serve as Chairman or Presiding Officer of the Committee. The terms of office of the first committee member shall be appointed for one (1), two (2) or three (3) years, to be designated by the same method as appointment so that the terms of approximately one-third (1/3) of the members will expire each year, and their successors shall be appointed for terms of three (3) years and until the appointment and qualification of their successors. The Mayor and Council may remove any member of the Committee for cause, upon written charges served upon the member and after hearing thereon, at which hearing the member shall be entitled to be heard in person or by counsel. A vacancy on the Commission shall be filled for the unexpired term in the same manner as an original appointment.

Section 10. Powers of the Borough Council. The Borough Council shall have the power to:

- a. Regulate and control the use of the grounds surrounding the shade and ornamental trees and shrubbery, so far as may be necessary for their proper growth, care and protection and to protect all environmental attributes as noted by the Committee;
- b. Move or require the removal of any tree or part thereof dangerous to public safety; and

- c. 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 this suspected condition is first confirmed by a certificate of the Department of Agriculture or by a Borough Professional holding a degree in arboriculture

Section 11. Assessment of Costs in Connection with Shade Trees or Ornamental Trees.

- a. The initial costs of all trees planted by the Borough, the cost of planting the same, the cost of the post and boxes or guards used for the protection of the trees, and the cost of the removal of any tree or part thereof dangerous to public safety shall, if so determined by the Borough Council, be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. No charge shall be made against the property or the owner thereof where a planting to replace a tree or trees previously planted by the Borough is done, or where a planting is made in connection with commemorative ceremony instigated by the Borough, or where a planting is made in connection with any educational demonstration.
- b. Any cost assessed as provided in this section shall be paid by the owner to the Borough Clerk. Upon failure of the owner to make payment to the Borough Clerk, the Borough Clerk shall certify the cost to the Tax Collector, and the cost assessed shall thereupon become a lien upon the real estate and 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.

Section 12. Authority to Borough Council Not Superseded. Nothing contained in this section shall be held to take away or diminish any of the powers or authority of the Mayor and Council in relation to environmental matters including the preservation, care and protection of shade trees and ornamental trees within the Borough of Beachwood that are within its jurisdiction or to give any other Committee or Board any power or authority with respect to said matters.

Section 13. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 14. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

Section 15. This Ordinance shall take effect immediately.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Borough Council of the Borough of Beachwood, in the County of Ocean, held on the 21st day of March , 2012 and will be considered for second reading and final passage at a regular meeting of said governing body to be held on the 4th day of April , 2012 at 7:00 p.m. at the Beachwood Municipal Complex, 1600 Pinewald Road, Beachwood, New Jersey at which time and place any person desiring to be heard upon the same will be given an opportunity to be so heard.

ELIZABETH A. MASTROPASQUA, Clerk