

Borough of Bradley Beach Community Forestry Management Plan 2020-2024



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Borough of Bradley Beach Community Forestry Management Plan 2020-2024
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d date

I. Municipal/County Information Form

Municipality: Borough of Bradley Beach

County: Monmouth

Address: 701 Main Street
Bradley Beach, NJ 07720


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Organization Name: Borough of Bradley Beach Shade Tree Commission

Mayor/County Freeholder's Signature: 

Date of Management Plan Submission: December 2020

Time Period Covered in Management Plan: 2020-2024

- Community Stewardship Incentive Program (CSIP) Practices Identified in Management Plan
- CSIP #1 Training
 - CSIP #2 Community Forestry - Ordinance Establishment
 - CSIP #3 Public Education and Awareness
 - CSIP #4 Arbor Day
 - CSIP #5 Tree Inventory
 - CSIP #6 Hazard Tree Assessment
 - CSIP #7 Storm Damage Assessment
 - CSIP #8 Tree Maintenance and Removals
 - CSIP #9 Insect and Disease Management
 - CSIP #10 Wildfire Protection
 - CSIP #11 Tree Planting
 - CSIP #12 Tree Recycling
 - CSIP #13 Sidewalk Maintenance Program
 - CSIP #14 Storm Water Management
 - CSIP #15 Other

Official Use Only Certification

The above named municipality/county has made formal application to the New Jersey Forestry Service. I am pleased to advise you that after our review, the NJ Forestry Service has concluded that this plan meets the standards set forth by the State and the NJ Community Forestry Council and is approved for the period covered.

Signed _____ Approved date _____
State Forester

2. Introduction

A. Scope

This plan describes how the Borough of Bradley Beach will manage the community forestry resources under its jurisdiction including trees in parks, rights-of-way, streets, borough-owned real property and other holdings and describes the next five years of planned activities.

B. Mission Statement

To maintain and promote a healthy, safe and sustainable shade tree resource that will physically, economically and aesthetically benefit the community and its residents in the most cost effective manner possible.

C. Goals and Objectives

Ideally, this Community Forestry Management Plan should be linked to the Borough's Master Plan and Open Space Plan because many of the goals are consistent with each other. It is the intent of this plan to establish goals and objectives that will protect and enhance the tree resource of Bradley Beach through a program of planting and preservation that will benefit present and future generations of the community while minimizing the risk of trees to public safety, and to minimize tree conflicts with sidewalks and other infrastructure. The overriding goal is to strike a balance between limiting the adverse impacts of tree removal without unduly interfering with the property owner to appropriately remove trees on private property.

The following is a list of goals and objectives of the Bradley Beach's 2020-2024 Community Forestry Management Plan. *Numbered statements below represent goals, lettered statements represent specific objectives to be taken to obtain those goals*

1. Goal: Updating and Clarifying the Shade Tree Ordinance

Refine the permit process described in the ordinance to clearly describe the responsibilities of the residents, contractors, borough employees and the Shade Tree Commission when requests for planting, maintenance or removal are made. A Tree Removal/Replacement Application procedure has been drafted and will be posted on the Borough STC website to inform residents of the Shade Tree Ordinance as it relates to removals and appropriate replacement trees via an approved and preferred tree planting list.

- a. Drafting the ROW permit application language for residents wishing to prune or remove trees in the ROW.
- b. Identify conflicting language and clarify the ST ordinance.
- c. Include stump removal in all approved ROW removal applications.
- d. Develop ROW tree removal pruning policies and procedures.
- e. Provide follow-up guidance to residents as they proceed through the ROW tree management application.

2. Goal: Education, Awareness and Outreach to the Residents about the changes to the Shade Tree Ordinance.

- a. Produce a method of communication to all residents informing them of the changes to the ST ordinance and the new ROW tree application process for the purposes of beautification.
- b. Use of the Borough's website to inform residents of the ST Ordinance and inform them of the tree removal protocol.
- c. Conduct Public meeting(s) to inform residents of the changes in the case of questions.
- d. Provide public notice in the local newspapers.
- e. Coordination of duties and responsibilities with the Construction Code Official, DPW and local builders regarding the ST Ordinance.

3. Goal: Community Forestry Accreditation

- a. Complete and receive approval for the 2020-2024 Bradley Beach CFMP.
- b. Continue to meet the requirement for training CEU's.
- c. Train 2 new STC members in CORE.
Complete the Annual Accomplishment Report (AAR) by the 2/15/2021 deadline.
- d. Successfully submit and be eligible for the 2021 CSIP grant application.

4. Goal: Increase Tree Planting/Reduce Risk on Public and Private Lands

Develop a cooperative planting program along Monmouth County and State rights-of-way in conjunction with municipal efforts. Specific planting efforts will begin on Main Street in Bradley Beach in 2021 (State Route 71) and include a scope of planting in each successive year.

- a. Conduct a Borough-wide Inventory to identify tree planting vacancies, hazard trees/risk assessment, insects and disease, and trees requiring maintenance.
- b. Build the Ordinance authorized Tree Trust to fund tree planting.
- c. Provide a resident preferred tree planting list to enhance tree planting on private lands.
- d. Complete a ROW preferred tree planting list to ensure the right tree is planted in the right place to limit sidewalk deflections and utility conflicts.

5. Goal: Receive Tree City USA Status

Future fund raising and commemorative programs will be developed to fund the STC Trust and be used for tree planting and maintenance efforts. An annual Arbor Day celebration will involve community members in celebrating the benefits of trees and encourage participation in STC activities.

- a. Successfully complete and submit the Tree City USA application prior to the deadline.
- b. Conduct an Arbor Day celebration.

2008-2012 Goals and Objectives (from the last approved CFMP)

1. Introduce species of trees and shrubbery to provide for long-term coverage of public lands, parks and recreation areas, while at the same time allowing for diversity of color in the three temperate seasons enjoyed by this community as a pedestrian-based population center.

- a.) Implement a yearly planting program along local streets (municipal) and recreation lands following the guidelines of an established list of trees developed with consideration of the local climate and environment (sandy, well-drained soil and salty air).
- b.) Increase the quantity and diversity of sources of funding, labor and tree and woody plant stocks to maximize the rate of new plantings. The STC plans to complete inventories (in-house) of specific locations that will result in targeted planting plans
- c.) Encourage voluntary participation by residents to help plant trees both in borough-managed areas and on private properties and to make voluntary donations to support forestry activities for the benefit of the whole community.

This Goal was partially met by the past STC (now disbanded) and is still relevant to the current STC. A grove of trees was planted at both Sylvan Lake and at the Firehouse. This is goal of the current STC in 5 (c) above.

2. Establish an ongoing maintenance program for trees along Borough rights-of-way to include State and County maintenance procedures on streets under their jurisdiction.

- a.) Conduct an inventory of tree resources on all municipal, county and state streets, and all municipal-owned real property and parks within the Borough.
- b.) List obvious tree defects, tree conflicts and possible remedies and establish a priority list for the implementation of corrective procedures.
- c.) Automate the inventory process to allow efficient, thorough, and more frequent assessments and better documentation and reporting of the condition of the community forest.

This goal was not met by the past STC during the 2008-2012 time period. The past STC was working on developing a cooperative program with Monmouth County and NJDOT but this was never completed. Cooperation with this entities remains a priority and is included in Goals 1 and 5 above.

3. Improve Shade Tree Commission practices that impact areas of Commission responsibility such as conservation, enforcement, funding mechanisms, maintenance, removal and replacement; and work to have these codified in borough ordinances and planning documents.

4.

- a.) Upon completion of the tree inventory listing defects and remedies the ordinance should be updated to specifically address the ongoing maintenance of community shade tree resources. The tree inventory should establish where the strongest liabilities lie and address these areas in particular in the adoption of this plan, so as not to encumber the primary objective of the ordinance, which is the care and maintenance and appreciation of shade trees.
- b.) Incorporate Heritage Tree programmatic elements in Shade Tree Commission practices and in the borough ordinance.
- c.) Revisions to ordinances will mirror Monmouth County's adopted care resolutions for shade trees and other best practices as they are identified and as advised by a Licensed Tree Expert (LTE).
- d.) Once this Community Forestry Management Plan update is accepted by the state, it will be presented to the Planning Board for incorporation into the new master plan.

- e.) Work to influence the borough's decision-making processes for planning, zoning, maintenance and construction so as to conserve and recover spaces suitable for community forestry resources.

This goal was partially met in the 2008-2012 time period and prior with volunteer “windshield surveys” but remains a priority and is expressed in Goal 5 above and is expressly addressed in Goal 1 with the new STC ordinance language and adoption. A new inventory to lay out priorities for the next five years is the number 1 goal.

5. Educate the public about the importance of trees to the entire community.

- a.) Develop a map of community tree resources and locate important points of interest and concern as relates to the public well-being, safety and welfare.
- b.) Establish an ongoing yearly education program that reinforces the goals objectives and processes of the shade tree efforts in the community and encourage public participation in all events.
- c.) Establish an annual assembly seminar that addresses the elementary school district.
- d.) Work to once again achieve Tree City USA status and achieve the growth award in the next five years.
- e.) Continue to educate residents by providing shade tree program information at town functions, such as the Fall Festival or other appropriate venues.
- f.) Develop communications program and plan directed to meet the training and information needs of current and new homeowners, contractors (construction, landscaping and tree services), local businesses, borough employees and officials, media and new Commission Members.

The STC maintained information tables on trees at Borough events and used this venue to distribute tree seedlings. Parts of this 2008-2012 are still relevant today regarding the goal of becoming a Tree City USA, (Goal 4) and the education components of Goal 2.



D. Liability Statement -

Although Bradley Beach recognizes all of the benefits provided to the community by its tree resource, it also recognizes the potential liabilities. As trees are living entities, it is inevitable that as they mature they eventually require care, maintenance, removal and replacement. Bradley Beach must, however, work within a reasonable budget and may not be able to meet each and every demand placed on them. Therefore it is the intent of this plan to focus available resources to reduce obvious and predictable tree hazards to provide commensurate reduced risks to public safety. This plan is also being revised to provide referred to guidance by the STC and LTE on priorities for removals, pruning and tree health care for permit applicants throughout the 5-year plan period.

Since it is impossible to predict or prevent all hazardous conditions that may arise, Bradley Beach is developing this plan to become more proactive in its tree maintenance. Proactive tree management should reduce the occurrence of unexpected events.

Following this plan will demonstrate Bradley Beach's commitment to proper tree management within the Borough's rights-of-way and public holdings with the aim of reducing the potential for future tree related accidents and thereby reducing its exposure to liabilities and increasing public safety.



3. Community Overview:

The History of Bradley Beach's Shade Tree Management Program since its creation, Bradley Beach has been a seaside resort community with most of its original tree resources contained in native Oak and Pine forests. Today, the borough is over 90% developed, and the majority of the tree resources lie on private property. As for the public tree resource, it is mainly consistent of

12 different tree species along roadways between the curb and sidewalk in a traditional tree lawn.

A Bradley Beach Shade Tree Committee was formally established on February 9, 2000 and was changed, by ordinance, to a Commission in December of 2002. Two previous Community Forestry Management Plans were approved for 2001-2006 and 2008-2012. After a hiatus within the Borough, the STC was reactivated with an updated Ordinance (#2020-09) ratified by the Borough in August of 2020. With the approval of the new ordinance and reactivation of the STC, the Commission has worked to help Bradley Beach become more proactive in its approach to tree care issues. Prior to the Commission's establishment, the Department of Public Works and the Bradley Beach Environmental Commission handled tree-related issues. The Shade Tree Commission fosters a cooperative environment between these agencies for the betterment of Bradley Beach's tree resource and therefore its residents and visitors. The Commission takes an active role in reviewing permits, contracting tree services, and planting new trees, informing and advising on tree care, and implementing a replacement program when residents intend to remove otherwise healthy trees on their property. The STC looks forward to actively participate in pruning and planting Borough and planting strip trees as it builds the Shade

Tree Trust.

In 1999 the Borough received through a grant a large number of saplings and whips from the National Tree Trust. Volunteers then potted the samplings. The Shade Tree Committee developed and maintained a nursery of over 300 of the trees. The Shade Tree Commission used this nursery stock for street and park plantings. The Commission has established a tree trust fund whereby residents can donate money for tree planting. The Commission has established a "cost sharing" program with residents when the resident requests a street tree be planted. This money helps to maintain the tree trust fund. Donations from fundraising events in the borough are a supplemental source of monies for the trust fund. Donations from residents are also deposited in the trust fund. Another tree nursery was established in 2007.

A. Progress Under the Previous Five-Year Community Forestry Management Plans

The last Community Forestry Management Program was approved in 2008. Since that time Bradley Beach dissolved its Shade Tree Commission and did not keep up on Tree issues pursuant to the plan. In August of 2020 Bradley Beach reinstated its STC and committed the Borough to revising and improving its ordinance and getting back on the NJDEP Community Forestry track. Some progress was made on many of the goals stated in the previous plan as stated. New members are learning as we progress through the CFMP Planning process what the current priorities are and how to lay out a 5-year list of those priorities.

By breaking out the objectives, those for which time and financial resources are available can be addressed, while a prioritization can be accomplished for tasks where resources are lacking, and efforts can carry over to following years, but do not become lost. Creating a five-year plan is a large undertaking particularly after an 8+ year lapse in implementing an active CFMP. Consideration might be given to supporting annual reviews and adjustments so that the work of updating is not loaded into the plan's ending time frame.

On average an estimated just under 1% of mature trees per year are removed due to age or improper pruning from which the tree could not recover. A large portion of trees experienced major, overly severe root pruning during road paving projects, resulting in a fair number of leaning trees. However these generally have stabilized, since trees having grown too large for the planting strip had to be removed during sidewalk and curb re-construction. During the past management plan cycle (2001-2005) and the two years following we have largely removed the backlog of seriously defective trees. This was a goal not met formally in the previous plan but will be included in the new plan (although, see discussion about the sidewalk survey below.) Replacement by new trees has lagged somewhat, since trees can only be planted to the degree resources permit. Canopy has probably declined since new trees are much smaller than mature ones. *Platanus* remain the main species and their hardiness has proved invaluable for this area. However, some residents object to the trees that have anthracnose, since these tend to drop their leaves, resulting in increased maintenance. The larger support root systems also tend to conflict with sidewalks and curbs. We have many small-width planting strips and are attempting to place smaller mature trees in these spaces Japanese tree lilac, tree-form Serviceberry and Cornelian cherry planted bare root in these areas.

The approved Community Forestry Management Plan will be forwarded to the Borough Council and Administrator, but until the Municipal Master Plan is updated probably will not

have impact outside of the influence of the Shade Tree Commission. An ordinance was adopted related to the Planning Board that forwards for Shade Tree Commission approval any application that requires removal or planting of new trees on new or rebuilt residences.

Tree Assessment and Inventory

Community volunteers and Commission members collected basic data such as planting strip size, size (DBH), number and location of trees and a basic assessment of condition. Some workers did not collect species information due to a lack of training in species identification. The project allowed us to better understand what (1) would be needed in order to complete a more formal and computerized inventory and (2) understand what tasks are within the capabilities of the Commission and volunteer workers and to better define the scope of an inventory project that would be likely to meet our need and be capable of continuing application. To that end, the Commission has been awarded a Sustainable Communities Implementation grant to develop a computerized collection process using PDAs and using iTree. This walk-before-you-can-run approach allowed us to break the inventory project into smaller pieces from a design perspective. Only borough street trees were inventoried in this initial project. This limitation was necessary because of the priority these trees represent with regard to public safety risks in borough rights-of-way and because of their visibility to the community, and also to limit the project to a manageable size. Generally the county does an effective job of managing risks within their jurisdiction, maintaining a regular pruning schedule. The county responds well to residents' requests for tree planting service. Trees within state jurisdiction also receive similar oversight. However, one defect in administration is that the state generally does not plant replacement trees, which results in bare spots, and leaves some maintenance to property owners, which is problematic due to a rather high permit fee.

A consultant was not engaged to train volunteers, although all Commission members have been CORE-trained and received sufficient tree and hazard identification information in that session for the purposes of this project. Other objectives relating to completion of the inventory were accomplished to the extent necessary to complete the initial project as described above. Some of the work did not begin until the two years following the active period of the plan due to staffing issues and Green Communities grant funding issues. However, with the approval of the current plan and the potential for inventory funding we are hoping to complete a computerized inventory in this 5-year CFMP cycle.

1. Tree Hazard Identification and Management

Another major goal of the plan was to develop a remediation plan from the hazardous tree inventory, to help beautify the community and to reduce public safety risks. A complete survey was planned for all 15 miles of roadway, plus all parks and public buildings in the borough. A preliminary windshield survey performed in March of 2001 covering 11.5 miles of roadways determined that approximately 12% of the trees in the sampled area, which covered 77% of the road miles in the borough, posed a greater than average risk of structural failure due to defective or dead limbs, trunks or root flares. The species diversity in the surveyed area was comprised of 4 *Acer* and 2 *Platanus* species along with 6 other notable species along the Borough right-of-way. The paper survey of all 15 miles of roadway was completed in 2007.

The largest notable tree problem aside from the aforementioned structural defects above,

were the large number of trees that have been victimized by improper pruning by both homeowners and the utility companies. Since this is such a large problem in the borough, public education about proper tree care and pruning will continue to be a high priority of this plan. Tree/sidewalk conflicts, narrow planting strips, vehicle damage to low branches and trunks, salt-spray from the ocean, girdling roots (mainly on the Maple species) and drought stress were also notable problems that, to some degree were addressed since 2000 and will continue to be addressed in the future. There are most certainly other insect, disease and cultural problems present, but none of these are currently at an intolerable level or worthy of note at this time. Despite the long list of maladies listed above, 75-80% of the trees in the surveyed area are in fair to good condition. There are only a limited number of Ash trees in town and EAB does not represent a big concern.

Several windshield surveys have been conducted between 2001 and 2007, and the Code and Construction Office conducted a sidewalk survey of defects during the course of the previous plan. Homeowners were notified of the need to repair sidewalks where a hazard existed. The windshield surveys pointed out the fact that more resources were being expended on removals than on planting new trees. A formalized tree management program has not been developed although the Commission regularly acts upon hazard reports by homeowners, borough employees and individual Commission members. We maintain an active practice of reviewing reported hazards and taking the appropriate remedial action. The goal did not proceed to a more formal stage because it depends on a more rigorous inventory process. Therefore, separate phases of rotating remediation zones were not implemented. Instead, the Commission responded to individual cases in a load-based fashion.

2. Tree Planting

We had been fortunate to win a \$25,000 Cool Cities grant in the past, had been able to supplement our plantings with purchases using our Tree Trust Fund, which is subsidized entirely by donations, and obtained 100 whips through the NJ Tree Foundation for a Municipal tree nursery. In addition, several memorial trees and resident-donated trees have been planted. Unfortunately the pressing need for maintenance of an older forest population has required us to use most of our operating funds for maintenance and removals, and kept our training budget to an absolute minimum. Significant areas of open space in need of trees still remain. We try to replace every tree that must be removed with a Zero Net Loss policy and have been largely successful in this regard. Every year in the past we have participated in an Arbor Day celebration with the Bradley Beach Elementary School but have not implemented an annual assembly seminar. Mayor issues a proclamation and the Department of Public Works prepares the planting area and plants the tree. So far all of these events have received press coverage in at least two local papers.

A Licensed Tree Expert had assisted in the preparation of a booklet of candidate trees suitable for the unique street tree environment in the borough, which we use to select tree species to increase diversity. We have not formally adopted this document either as Commission policy or in borough ordinance, but use it regularly. There are 23 tree species on the list, sorted by size of the planting trip appropriate for each tree. All are relatively tolerant of salt, wind and sandy soil. When purchasing trees, if a nursery has other trees that are appropriate we consider those also. Therefore, we have substantially met the goal of increasing diversity by planting according to this list. We carefully consider the planting location of each new tree for its size relative to the planting area, overhead wires, underground piping, and other potential infrastructure conflicts that may arise in the future

based on each species' growth expectation. Also, we require all plantings to conform to ANSI standards and so by and large trees have been planted and mulched properly. Contractors are also required to provide a 1-year warrantee. Homeowners in most cases provide watering of new trees, but the Commission has stepped in to provide extra water in cases of need.

We probably need to obtain more help from the Department of Public Works in this regard and/or to obtain the capability to provide spot watering such as through the acquisition of, or access to a vehicle equipped for this purpose. We have not developed signs and plantings for entrances welcoming residents and visitors although this effort has been mentioned with regard to a Main St. restoration/rejuvenation project. We have received Tree City USA status for six years. We have not worked for any growth awards during this plan cycle but will include this as a goal for the current plan. We have been in communication informally with the county in regards to populating one block segment where the planting strip has been completely paved with concrete during street repaving. It is our hope that if we can find resources to establish proper planting boxes, the county will furnish trees for them. Because much of our time is spent on the large amounts of pruning that is overdue we have not made much headway on populating areas other than streets, such as parks.

3.Tree Maintenance and Care.

The objectives of systematic pruning cycles were not met. Necessarily this would better wait until completion of the computerized inventory because of the administrative and reporting burden the effort will entail in trying to track pruning as it is performed and because the acquisition of field data is probably the limiting parameter in scheduling maintenance. Pruning remains on an as-requested basis, except for where the inventory noted trees in need of pruning or removal. However, the information from the completed paper inventory combined with residents' requests for service allowed identification of and servicing of all trees known to need maintenance or removals at the end of 2008. Obvious hazards such as major cavities, dead limbs and dying trees had been identified (in 2007) and in this respect the project was a major success because it allowed us to advocate successfully for necessary funding in the following year in order to service these trees. Allocation of that funding allowed awarding of a contract to perform pruning and/or removal of all street trees known to have serious defects at the end of 2008. The Shade Tree Ordinance was adopted and generally defines the responsibility for maintenance and requires permits prior to beginning work. Bradley Beach STC will attend the Pruning Workshop in Spring Lake scheduled for 1/9/2021.

A Heritage Tree ordinance was proposed but not adopted. There is a need to better communicate to the public aspects of the Commissions responsibilities particularly with regard to management of the planting strip, responsibilities with regard to tree maintenance and care and prior approval of plantings, in order to meet various standards, such as the proper tree in the proper place. We have initiated a practice of annual mailings that give priority information on tree needs, the shade tree ordinance and basic information about requirements regarding the planting strip, how to request service and how to request trees. Indications are that this effort has been successful, as more residents become aware of a need for permits, of the benefits of regulation .of the planting strip, and helping to prioritize and limit tree plantings into areas where they are most wanted. A rudimentary website was created to provide online access to information, the permit form and allow the public to read about ongoing topics of discussion. An email address was also added to the borough website to facilitate another avenue of communication for residents. Customer service by

borough employees in responding to information requests and coordinating contacts with the Shade Tree Commission remains consistently at a high level of performance.

4. Community Forestry Program Administration

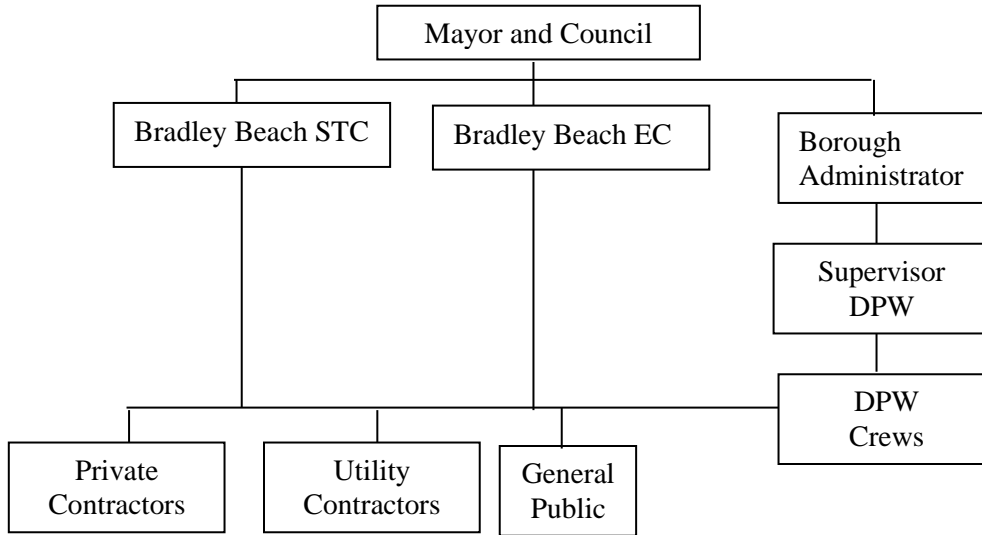
The Shade Tree Commission of Bradley Beach is the entity charged with overseeing the care of the Borough's tree resource under N.J.S.A. 40:64 et seq., and borough ordinances (primarily Article VII, Shade Tree Commission, §24-29 et seq.) The Shade Tree Commission leads the implementation of the Community Forestry Management Plan in a cooperative effort of the Mayor and Council, the Department of Public Works and other boards and agencies. Other borough ordinances also govern the protection of trees and actions affecting their placement and environment (for example, §201-2, §270-25, §339-1, §398-35, §398-39, and §450-21, among others.) The chart below depicts those involved in the forestry management process as it pertains to trees within the borough. Borough Ordinances are available online at <http://ecode360.com/?cust1d=BR2100>.

A review of existing ordinances has been completed and changes proposed because of the reinstatement of the STC and the need to increase canopy on both public and private lands. Requirements may apply to private property, to rights-of-way or both.

Encouraging use of setback spaces for trees has an important advantage of utilizing private space to the benefit both the property owner and the public. As an observation, it should be noted that in a built-up, semi-urban environment one of the more successful niches of mature trees is right on the property line. Apparently, neither owner is willing to pay to remove such trees, even if they are "weed trees." Possibly, such arrangements form, visually, a sort of virtual "fence." Perhaps this space and a portion of the adjoining setback could be better utilized with higher value trees. Certainly all would benefit from recommendations on specific tree species appropriate for a particular location. Similarly, occupancy requirements often dictate a certain number of off-site parking spaces, which in turn leads to driveways of a minimum, defined width. The Zoning board might be encouraged to consider allowing narrower aprons, thereby conserving space in the planting strip. In some cases, saving even a foot would allow room for a small tree, or make the difference between being able to plant a tree that can provide significant canopy than would otherwise be the case. Such processes would involve value judgments that must be assessed and advocated for by the Boards in the form of recommendations to elected officials, followed by promulgations as ordinances governing each respective board. Finally, the process of road repaving has not had as much review from the forestry standpoint as it might. In at least once case in the past a road-repaving project proceeded while the request of those in favor of moving curbs to allow for somewhat larger trees was denied. If street design can be more considerately reviewed from the forestry standpoint, some planting strips might be widened enough when curbs are placed, without impacting traffic and parking, to allow trees large enough to provide a canopy and its benefits.

A. Roles and Responsibilities

A flow chart of the Chain of Command for tree decisions at the Borough of Bradley Beach.



1. Mayor.

The Mayor is responsible for appointing the 5 to 7 members Shade Tree Commission.

2. Mayor and Council

The Mayor and Council reviews the policies and plans of the Shade Tree Commission, adopts ordinances and approves annual budgets for the Shade Tree Commission and the Department of Public Works.

3. Borough Administrator

The Borough Administrator helps review the plans and policies of the Shade Tree Commission and recommends the annual budget submitted to the Mayor and Council.

4. Shade Tree Commission

Members of the Commission are volunteer residents who serve in both a regulatory and advisory capacity for the management of all community trees and woody plants on municipal streets, rights-of-way, parks, or other properties. Their duties (see the attached ordinance, Appendix A) are to:

- a.) Advise regarding the planting, removal and general maintenance of borough trees.
- b.) Develop and recommend the policies and goals that will preserve and develop the borough's tree resources.
- c.) Perform public outreach to foster better understanding and care for trees on both public and private properties.
- d.) Assist in the handling of complaints or requests received for work on Borough trees.
- e.) Develop and review annual budgets with the Borough Administrator and submit them to the Mayor and Council.

5. Supervisor of Public Works

- a.) Supervises and inspects all work done by the Public Works Crew on Borough properties.
- b.) Oversees emergency tree removals
- c.) Supervises routine work as authorized by the Shade Tree Commission

6. Public Works Crew

- a.) Responsible for some tree removal, pruning and brush clean up along municipal roadways and on Borough properties.
- b.) Responsible for some planting and upkeep of young trees along municipal roadways and on borough properties.
- c.) Reports tree hazards or other problems to the supervisor of public works

7. Private Tree Contractors

Generally, most tree care and maintenance activities are performed by Public Works, the Shade Tree Commission and its volunteers or by private contractors as may be deemed necessary on a case-by-case basis. County tree crews (on the 2 county roads in Bradley Beach) or the NJDOT for on Main St. (a state road) are responsible for their respective right-of-ways. Private contractors are utilized for difficult or large jobs, or work requiring forestry expertise, specialized equipment or training (such as climbing, elevated work or work near electrical hazards). Private contractors are responsible and are required to:

- a.) Provide proof of appropriate insurance, certifications and licenses as necessary to the appropriate department heads.
- b.) Report prior to and following all work performed to the appropriate department supervisor.
- c.) Perform all work in a sufficient, complete, safe and timely manner according to all applicable standards set by OSHA or ANSI, as they pertain to safety and tree care operations.
- d.) Follow all current arboricultural practices and recommendations.
- e.) Report all hazards or problems directly and immediately to the cognizant project manager, e.g. appropriate department head or Shade Tree Commission member.

8. Utility Contractors

- a.) Must notify the Bradley Beach Supervisor of Public Works and obtain permits from either the NJDOT Central Regional Office (for Main St.), the Monmouth County Shade Tree Commission (for county roads), or the Bradley Beach Shade Tree Commission (for municipal streets and properties) prior to beginning any non-emergency work.
- b.) Must follow all current arboricultural practices and recommendations.
- c.) May assist Public Works Department Tree Crews in clearing trees to a safe distance from their facilities when necessary.

9. General Public

- a.) Make all requests for routine planting, removal or maintenance to the Bradley Beach Shade Tree Commission
- b.) Make all requests for emergency removal or maintenance to the Supervisor of Public Works

- c.) Voluntarily assist in follow-up care, especially for newly planted trees in the rights-of-way adjacent to their property.
- d.) Avoid damage to trees during maintenance of the planting strip or areas within the right-of-way adjacent to their property

10. The Monmouth County Board of Chosen Freeholders

- a.) Responsible for appointment of the Monmouth County Shade Tree Commission.
- b.) Authorizes new policies and plans and approves annual budgets.

11. Monmouth County Administrator

- a.) Helps review new plans and policies of the Monmouth County Shade Tree Commission.
- b.) Recommends the annual budget submitted to the Board of Chosen Freeholders.

12. Monmouth County Shade Tree Commission

- a.) Reviews any requests for tree planting, removal or maintenance and makes the necessary inspections.
- b.) Supervises and inspects all work done by the Monmouth County Shade Tree crews, and private contractors on County properties.
- c.) Develops annual plans and budget requests for tree maintenance costs.

13. Monmouth County Shade Tree Crews

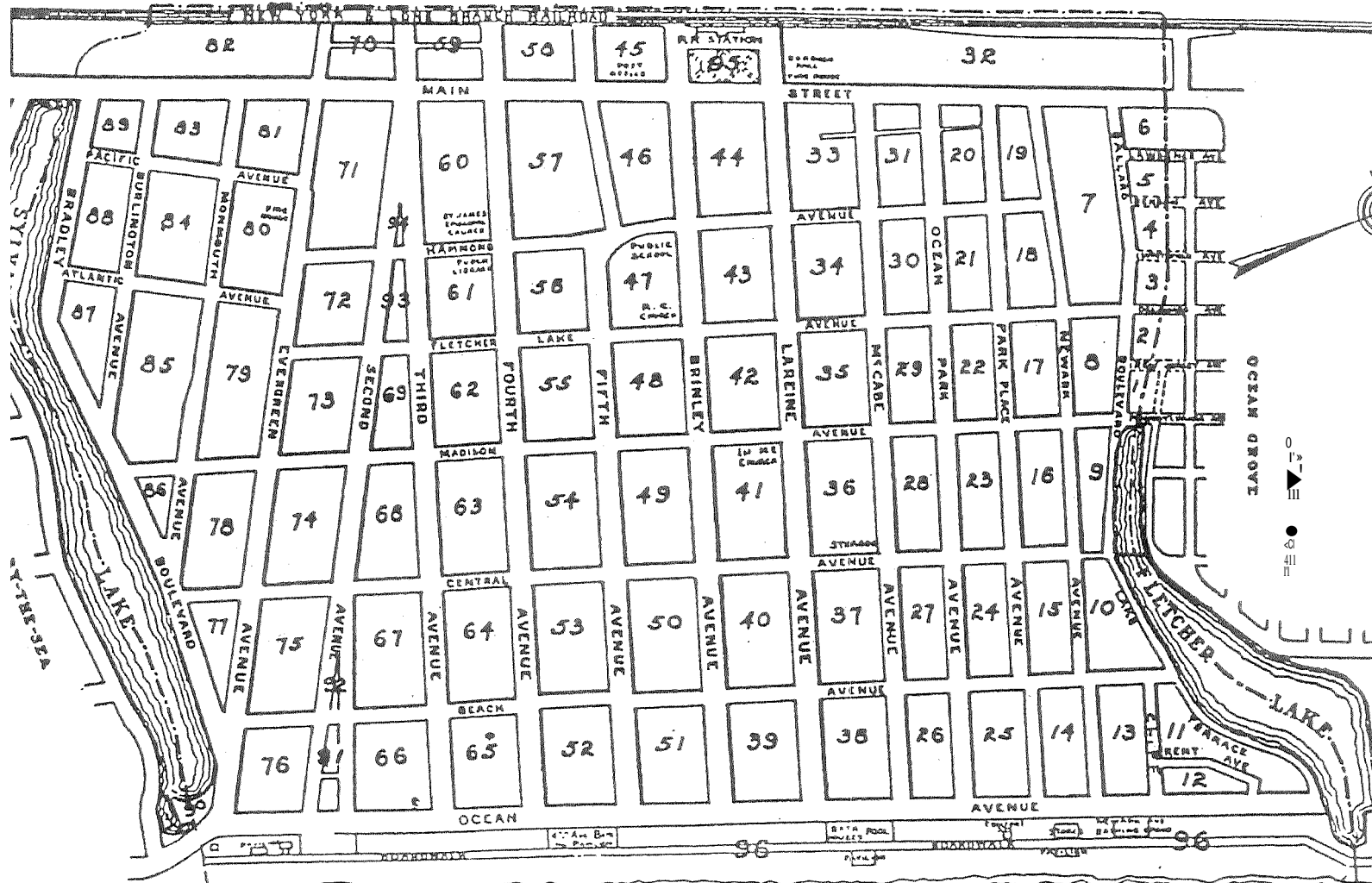
- a.) Responsible for tree removal and pruning in County rights-of-way and other County facilities.
- b.) Reports any tree hazard or other problems to the appropriate department supervisor immediately.

B. Tree Service Request Process

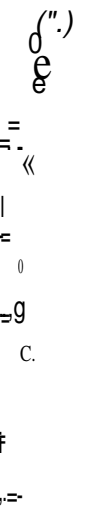
Any action to be taken involving the planting strip (area between the side walk and the curb) including but not limited to planting, removal, or pruning of trees must be first reviewed by the Shade Tree Commission via the permit process. The permit application is available to the residents at the Code & Construction office and online for a fee of \$50. If the STC or LTE determine the tree to be a hazard the STC may consider waiving or refunding the fee.

- a) Permit applications must be submitted to the Bradley Beach Shade Tree Commission for a review and a decision prior to action, except in the case of emergencies - which will be sent directly to the Supervisor of Public Works to be handled in an expeditious manner.
- b) All non-emergency work will be inspected by the Shade Tree Commission and then prioritized and referred to the appropriate department, State, County or Borough.
- c) Work requests will be completed in the order in which they were received (excluding emergency or priority work) and a decision made within 20 business days of the receipt of that request. Failure to respond within the 20 business day time period can be interpreted as approval to move ahead with the residents request.

5. Community Map



V. Community Map of Bradeley Area



6. Training Plan

Since arboriculture is constantly changing with fast-paced technological and scientific innovations, Bradley Beach recognizes the need for a broad based and ongoing training program for individuals at all levels of the Shade Tree Management Program. From Public Works Employees to Commission Members and Administrators, all need continued technical and managerial information to benefit Bradley Beach's tree resource.

A. Current Training

1. The Shade Tree Commission has a portion of its budget dedicated to ongoing training of its Commission Members and Public Works employees.
2. The Shade Tree Commission encourages and provides for its members to participate in continuing education classes and CORE training as included in the New Jersey Shade Tree & Community Forestry Assistance Act. At the end of 2024 plan cycle all five Commission Members and 1 Municipal Employee are CORE trained.
3. One member of the Shade Tree Commission has attended continuing education courses at the Shade Tree Federation's 2020 annual meeting.
4. The above mentioned courses and others are available to all individuals in the Shade Tree Management Program upon request, if funds are available.

B. Goals and Objectives

1. Ensure new Shade Tree Commission members receive CORE training by the end of their first year on the Commission.
2. Ensure the Shade Tree Commission members accumulate enough annual CEU credits to ensure eligibility for grants and to maintain CFMP status.
3. Improve community forestry awareness, maintain CFMP status and ensure grant eligibility by having two additional borough employees receive CORE training within the next five years.
4. Improve the quality of tree care by providing Public Works crews with current arboricultural information and training on technical topics such as Tree Pruning, Large Tree Rigging and Climbing, and other appropriate training.
5. Ensure the safety of Public Works Crews and residents by providing current and advanced training in arboricultural equipment safety, and electrical hazard awareness.
6. Enable completion of CFMP goals and objectives by having at least two Commission members per year receive specialized training on topics such as Hazardous Tree Identification, CFMP Training, Tree Planting and Installation, and Municipal shade tree management.
7. Implement an awareness program to ensure borough employees are informed of important aspects and obligations the NJ Shade Tree & Community Forestry Assistance Act, the CFMP and applicable borough ordinances.
8. Satisfy the requirements of the Community Forestry Assistance Act, making Bradley Beach eligible for immunity from liability under the Tort Claims Act by gaining acceptance of this Management Plan and working toward the goals outlined herein.

7. Public Education, Awareness and Outreach

The Shade Tree Commission constantly looks for ways to build public awareness of its existence and its role in the community. We have used mailings to homeowners, articles in the local newspapers and in a town newsletter. These activities have provided a valuable service to the community while encouraging public support for the Commission and its efforts on the community's behalf. The Commission will continue to implement these and the following public outreach measures:

- a. Conform to the sunshine law with open public meeting notices.
- b. Establish an assembly program with environmental topics to reach elementary school children.
- c. Upgrade the website and publicize it more. Add content and links to borough website.
- d. Hold an annual Arbor Day Program to include having the mayor proclaim the last Friday in April as Arbor Day, sponsoring tree planting programs in cooperation with the local school, seeking the involvement of local civic organizations to participate in Arbor Day programs, developing a school bumper sticker or poster contest to be recognized on Arbor Day and continue to achieve Tree City USA status and to strive for growth award achievements.

8. Statement of Tree Budget

The estimated 2021 budget for the Bradley Beach Shade Tree Commission is listed below, along with funds allocated for the Tree Management Program by the Department of Public Works Tree Crew.

WORKITEM	EXPENDITURE 2020	EXPENDITURE 2021 (Projected)	COMMENT
Tree planting	\$1,500	\$1,650	
Equipment rental	\$ 500	\$550	
Leaf and Branch Collection (Staff & Equip. Costs)	\$21,000	\$23,100	
Leaf and Branch Disposal Fees	\$25,000	\$27,500	
Tree care	\$4,000	\$4,400	
Tree Pruning & Removal	\$ 6,500	\$7,150	
Education and Training	\$550	\$600	
Volunteer hours (578 hrs 2020) X 26.41/hr (1734 hrs 2021) X \$26.41 hr	\$15,265	\$45,795	2020 based on 2 meetings/month from Sept-Dec. 2021 based on 2 meetings per month Jan-Dec.
Total	\$74,315	\$112,745	

9. Statement of Plan Implementation

Year 1: 2020

- Complete ordinance revisions to clarify STC protocol by adding requirements for, stump removal, tree removal process, create tree removal permit application to reflect Ordinance tenets and establish application process and enforcement protocol.
- Complete CFMP and gain NJDEP-Community Forestry approval.
- Complete preferred shade tree species list for ROW and residences.
- Continue to build funds in Tree Trust

Year 2: 2021

- Conduct and complete Borough wide tree inventory, Set 5 year priorities based on the inventory. Inventory Goals are to ID: tree planting vacancies, Hazard tree/risk assessment and tree maintenance needs
- Send out mailer to residents on the ST ordinance and arrange public meetings.
- Apply for Tree City USA.
- Have 2 STC members CORE-trained
- Conduct Arbor Day Celebration
- Apply for CSIP grant for inventory and tree planting
- Continue to build funds in Shade Tree Trust

Year 3: 2022

- Review ordinance implementation in coordination with Code Officials office
- Continue to review ordinance implementation with DPW
- Apply for Tree City USA
- Arbor Day Celebration
- Apply for a CSIP planting grant to address vacancies identified in inventory
- Review the current Master Plan to see how the Community Forestry Management Plan is incorporated.
- Set up and implement systematic pruning cycles for training newly planted trees
- Continue to build funds in Shade Tree Trust
- Address as budget allows - tree planting vacancies, hazard tree and maintenance needs as Identified in inventory.

Year 4: 2023

- Apply for Tree City USA.
- Review ordinance implementation in coordination with Code Officials office
- Continue to review ordinance implementation with DPW
- Continue to build funds in Shade Tree Trust
- Address as budget allows - tree planting vacancies, hazard tree and maintenance needs as Identified in inventory.

Year 5: 2024

- Apply for Tree City USA.
- Conduct annual hazard tree assessment windshield study
- Arbor Day Celebration
- Review ordinance
- Continue to build funds in Shade Tree Trust
- Address as budget allows - tree planting vacancies, hazard tree and maintenance needs as Identified in inventory.

10. Community Stewardship Incentive Program (CSIP)

The thirteen items listed below as a part of the Community Stewardship Incentive Program (CSIP) have been identified throughout this plan with current procedures or a recommended course of action. The following is a brief synopsis of the suggested practices.

CSIP #1 Training (pages- 5, 11, 12, 20)

Assistance with preparation of this Community Forestry Management Plan for Bradley Beach has been funded by the Borough of Bradley Beach and completed with the contributions of the Bradley Beach Shade Tree Commission. Upon approval by the Community Forestry Council, implementation of the plan will begin and this plan will be reviewed annually, revised as necessary and a new 5-year plan submitted in the year 2024. Several volunteers and one borough employee are CORE trained. It is expected that at least two STC members will be CORE trained during the next year of this plan. Further training in tree care practices for Public Works Crews and STC members will be expanded; especially with regard to hazard tree identification, pruning and tree planting.

CSIP #2 Community Forestry – Ordinance Establishment (pages - 5, 23-42)

This STC and Borough Council have completed creating and approving a new Borough Tree Ordinance located in the Appendix of this document.

CSIP #3 Public Education and Awareness (pages - 5, 7, 19)

The Bradley Beach Shade Tree Commission recognizes that public education and support is vital to a successful program. The STC plans to send out an informational mailer to inform the residents to the new changes to the ordinance and if necessary conduct a public meeting. They will institute an annual Arbor Day celebration and continue to apply for Tree City USA status.

CSIP #4 Arbor Day (pages - 5, 11, 19, 20)

Arbor Day will be celebrated annually throughout the 5-years of this plan under a joint effort between the Bradley Beach Elementary School and the Shade Tree Commission. Information on this program can be found in section VII of this plan. The Shade Tree Commission is interested in starting a cooperative program with the school system where they could reach out to the youth of Bradley Beach.

CSIP #5 Tree Inventory (pages – 5, 6, 7, 10, 11, 12, 20)

The BBSTC has an old version of a tree inventory completed prior to 2012. This inventory is insufficient to move forward in 2020 and will be replaced with a current inventory beginning in 2021. The BBSTC would like to take the next tree inventory to the next level of detail, i.e., species and condition and will therefore seek CSIP funding to complete this process. Data to be collected would be tree size, species, condition (hazard/risk maintenance) as well as utility and sidewalk conflicts and planting vacancies.

CSIP #6 Hazard Tree Assessment (pages – 5, 8, 10, 11, 12, 20)

This is a major area of concern for Bradley Beach and will be addressed with the completion of the tree inventory. This CSIP practice is a priority to Bradley Beach and will be completed as part of the “condition” data included in the inventory. Remediation of potential hazards to the public will be based on evaluated tree conditions and allocation of existing Borough resources.

CSIP #7 Storm Damage Assessment (5, 6, 10, 20)

The new inventory will include tree condition and made based on Level 1 visual estimations for pruning or removals. This inventory may be applicable as the basis for FEMA's pre-disaster planning requirement for post storm damage reimbursement.

CSIP #8 Tree Maintenance and Removals (pages – 8, 12, 20)

Bradley Beach is currently evaluating the Borough's future needs for general tree care and future equipment purchases. Bradley Beach would like to establish a cost effective plan to care for its tree resource whether through conventional or innovative means to keep newly planted trees healthy, and preserve established trees. The Department of Public Works is also looking into the purchase of a bucket truck, stump grinder and upgrading and replacing existing chippers.

CSIP #9 Insect and Disease Management (pages - 5, 28)

No formal management plan exists for trees along roads or on other properties. Any insect or disease outbreaks are handled on a case-by-case basis. Diagnosis and consultation would be sought from NJ State Department of Agriculture, Rutgers Cooperative Extension Service, or a Licensed Tree Expert and treatment would follow their recommendations. In the event of outbreak, State or Federal assistance would be requested.

CSIP #10 Wildfire Protection (page – 22)

The Shade Tree Commission and the Borough of Bradley Beach have no plans to address wildfire protection in this management plan, as it is not determined to be a priority.

CSIP #11 Tree Planting (pages - 4, 5, 9, 10, 11, 20)

Bradley Beach does not currently have a prioritized 5-year planting plan but will have one at the conclusion of the tree inventory. Tree vacancies will be identified with recommendations for tree size and species selection to minimize utility and sidewalk conflicts.

CSIP #12 Tree Recycling (page – 22)

Bradley Beach does not generate enough green waste to warrant a local recycling plant. The recycling program as it exists now consists of leaf clean ups in the fall and spring and Christmas trees are hauled to the Monmouth County to be chipped up also and have been used for sand dune creation.

CSIP #13 Sidewalk Maintenance Program (pages – 4, 5, 8, 9, 10)

Bradley Beach currently does not have a Borough wide sidewalk replacement program. The sidewalks are owned and the responsibility of the resident for upkeep and replacement when needed.

CSIP #14 Stormwater Management (page – 22)

Bradley Beach has a Municipal created and NJDEP approved Stormwater Management Plan and recognizes the importance of trees in stormwater reduction.

CSIP #15 Other

APPENDIX 1 Shade Tree Ordinance Borough of Bradley Beach

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE NO. 2020-09

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 24: “COMMISSIONS AND COMMITTEES” AND CHAPTER 270: “LAND DEVELOPMENT” AND CHAPTER 398: “STREETS AND SIDEWALKS” AND CHAPTER 450: “ZONING” AND NEW CHAPTER 425: “TREES” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO REDEFINE AND DETAIL THE ROLE OF THE BOROUGH’S SHADE TREE COMMISSION AND TO PROTECT AND PROMOTE THE PLANTING OF TREES WITHIN THE BOROUGH OF BRADLEY BEACH

SECTION 1. Article VI entitled “Shade Tree Commission” of Chapter 24 entitled “Commissions and Committees” of the Revised General Ordinances of the Borough of Bradley Beach hereby reads as follows:

ARTICLE VI SHADE TREE COMMISSION

§ 24-29 Intent and purpose.

- A. The intent of this article, together with Chapter 425, is to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Borough of Bradley Beach.
- B. The purpose of this article is to provide for the creation of a Shade Tree Commission in the Borough of Bradley Beach and define the powers and duties thereof, including the control and prevention of the indiscriminate or excessive removal and destruction of trees and their canopies, and to establish and define the role of a “Certified Tree Expert” in the planning, management and enforcement of these critical resources.
- C. The goal of this article is to strike a balance between limiting the adverse impacts of tree removal without unduly interfering with the ability of a property owner to appropriately remove trees on private property.

§ 24-30 Establishment of Shade Tree Commission; Membership; Terms.

- A. Under the authority of N.J.S.A. 40:64-1, *et seq.*, there is hereby established a Commission which shall be known as the Shade Tree Commission of Bradley Beach. The Commission shall be comprised of five (5) members and two (2) alternates, all of whom shall be residents

of the Borough and shall serve without compensation. The Mayor, after consultation with the Council, shall appoint all of the members and alternates of the Commission.

- B. The terms of office of the Commission members shall be five (5) years; with the terms of those members first appointed beginning the day of appointment and expiring on the last day of December following respective initial terms of one, two, three, four and five years; the terms of said initial appointments to be designated in their respective appointments.
- C. The terms of office of the Commission alternates shall be five (5) years, and each position shall be respectively designated “Alternate No. 1” and “Alternate No. 2”; with the terms of those alternates first appointed beginning the day of appointment and expiring on the last day of December following respective initial terms of four and five years; the terms of said initial appointments to be designated in their respective appointments.
- D. All other appointments, except to fill vacancies, shall be made to take effect the first day of January of each year for a full term of five years.
- E. Any vacancy occurring in the membership of the Commission by reason of death, resignation or removal shall be filled for the unexpired term by an appointment by the Mayor after consultation with the Council. With the consent of the remaining member(s) of the Commission, all new appointees should be designated as “Alternate No. 2”, with the remaining members moving into open position(s) on a “seniority” basis.
- F. In addition to the members and alternates, there shall be one non-voting liaison to the Commission annually selected from and appointed by the governing body to serve from January 1 to December 31 of each year.
- G. The alternates shall serve during the absence or disqualification of any member(s). An alternate may participate in all proceedings, but may vote only in the event of the absence or disqualification of a member. A vote shall not be delayed so that a member may vote instead of an alternate, or vice versa.

§ 24-31 Organization; Officers; Employees.

- A. Within thirty (30) days after the initial appointment of its total membership for the remainder of the then calendar year, and thereafter annually within the first thirty (30) days of each year, the Commission shall organize and reorganize by:
 - 1. Electing one of its members as Chairperson;
 - 2. Appointing a Secretary, who shall also be a member of the Commission and shall be responsible to make, keep, and preserve video or audio recordings of the Commission’s meetings, and to timely file all recordings of the Commission’s meetings with the Borough Clerk for public availability and record-keeping purposes.
 - 3. Recommending to the governing body regarding the retention of a Certified Tree Expert, who shall not be a member of the Commission and who, in addition to advising the Commission, shall serve as the “enforcement officer” under Chapter 425 of this Code. The Certified Tree Expert shall be appointed annually by the governing body by

resolution. Notwithstanding the expiration of any term, the Certified Tree Expert shall continue to serve under the terms and conditions of his or her immediately preceding appointment until either re-appointed or his or her successor is appointed and qualified.

- B. The salaries of employee(s), if any, shall be fixed by the Commission in accordance with the Borough's prevailing Salary Ordinance, provided that the Commission shall not exceed the funds available and/or the appropriations authorized by the governing body for its purposes pursuant to Section 24-33 of this Code.

§ 24-32 Powers; Duties; Responsibilities

The Shade Tree Commission shall have the following general powers and duties:

1. Advisory role in developing and effecting policy-making in the regulation, planting, care and control of trees and shrubs upon and in the streets, highways, public places, and parks of the Borough, with specific emphasis on the care and protection of trees located on public rights-of-way, including Main Street, provided that the Commission shall have responsibility for the regulation, planting, care and control of trees and shrubs upon and in State and County highways and county parks only to the extent authorized or permissions obtained according to law;
2. Responsibility to identify, retain with governing body approval, consult and advise with the Certified Tree Expert in all matters within its purview and jurisdiction;
3. Responsibility to develop a long-term plan to plant and maintain trees on Borough properties and rights-of-way.
4. All authority conferred to New Jersey municipal shade tree commissions pursuant to N.J.S.A. 40:64-1 *et seq.*, to the extent applicable;
5. Authority to review tree surveys, removal plans and planting plans submitted with land development applications referred to the Commission by the Planning Board or Zoning Board, pursuant to Section 450-21 of this Code or otherwise according to law. Within twenty (20) business days of any such referral, the Commission shall transmit a report of its findings and recommendations to the board of jurisdiction, or the Commission's assent may be presumed by said board;
6. Authority to prepare criteria, standards, guidelines, and recommendations, including recommendations as to specific appropriations, for the use of funds collected in the Bradley Beach Shade Tree Trust Reserve, provided however, that the expenditure of said funds shall be subject to final approval by the governing body;
7. Authority to develop a list of sites throughout the Borough that require the replacement of trees or the addition of new trees, and regularly update the list to reflect the replacement or removal of trees;
8. Authority to develop and maintain a recommended tree species list;

9. Authority to develop and maintain an inventory of trees and shrubs upon and in the streets, highways, public places, public rights-of-way and parks of the Borough;
10. Responsibility to develop and recommend tree removal standards for trees located on private property, with the approval of the governing body;
11. In the event of absence or incapacity of the “enforcement officer” under Chapter 425, authority to review permit applications for tree removal from private property, and grant approval according to defined tree removal guidelines, with any appeals therefrom being heard directly by the governing body pursuant to Subsection 425-12(B)(2);
12. Responsibility to annually establish a meeting schedule, with scheduled meetings of a quorum of the Commission at least twice monthly, provided that regular meetings may be adjourned from time-to-time depending upon the Commission’s agenda;
13. Responsibility to make, keep, and preserve minutes and records of its meetings and activities, and to make annual reports to the governing body. Copies of all minutes and records of its meetings and activities shall be filed with the Borough Clerk;
14. Responsibility to decide appeals and recommend informal resolution of complaints, as set forth in Sections 425-12 and 425-13 of this Code; and
15. Such additional functions as required by this chapter or within the law as may be delegated to it.

§ 24-33 Appropriations; Trust Reserve.

- A. There shall be established and maintained by the Chief Financial Officer of the Borough a segregated fund referred to as the Bradley Beach Shade Tree Trust Reserve, which shall be the depository for all tree replacement fees, service fees, and other funds collected under this article and Chapter 425 of this Code, except as may be otherwise provided by law.
- B. The governing body may authorize funds for use by the Commission from the General Fund and/or the Bradley Beach Shade Tree Trust Reserve, in its sole discretion in consultation with the Commission.
- C. The governing body shall take appropriate measures and appropriate funds for the retention of a Certified Tree Expert, who shall advise the Commission in all matters under its purview and shall serve as the “enforcement officer” under Chapter 425 of this Code.
- D. The governing body may further appropriate funds for the clerks and other employees of the Commission, as well as the purchase of trees and shrubbery, the purchase of necessary equipment and materials, and other expenses of the Commission.
- E. The Commission may appoint such clerks and other employees as it may require and as shall be in accordance with the prevailing Borough Salary Ordinance and within the limits of the funds so appropriated by the governing body for its use.

F. In its annual report, the Commission shall make any and all requests for appropriations from the General Fund and/or expenditures from the Bradley Beach Shade Tree Trust Reserve by February 1 of each year.

§ 24-34 Interference Prohibited; Penalty.

- A. No person shall prevent, delay or interfere with the Commission, or its authorized official(s) and/or agent(s), in carrying out their lawful work or lawfully administering the duties of the Commission under this article.
- B. A violation of this article is a separate and distinct offense from a violation of Chapter 425 of this Code only when the violator commits any overt act of concealment from or interference with lawful inquiries.
- C. Any person who violates this article shall, upon conviction therefor, be subject to a fine of not less than \$1,000 to be determined at the discretion of the Municipal Court Judge, in addition to any restitution that may be ordered by the Municipal Court Judge for accrued or additional damages resulting from the violator's concealment or interference calculated in the same manner provided in Section 425-13(A)(1).

§ 24-35 Construction.

This article shall be construed and interpreted consistently with the definitions and meanings set forth in Chapter 425 of this Code.

SECTION 2. Section 25 entitled "Shade trees and grass planting strips" of Chapter 270 entitled "Land Development" of the Revised General Ordinances of the Borough of Bradley Beach hereby reads as follows:

§ 270-25 Shade trees and grass planting strips.

- A. A grass planting strip shall be provided between the curb and sidewalk along all streets in residential zones. The grass planting strip shall be from the back of curb to the edge of sidewalk and shall be used for the planting of required street trees. Artificial grass is not permitted. The Borough will not be liable for any damage accrued to the artificial grass while any work, snow/ice removal or Act of God transpires. No prior notification is required by the Borough or contractor for any work being performed. No other equipment or material, including, but not limited to, sprinkler systems, brick or concrete pavers, concrete, asphalt or stones, shall be placed in the planting strip, except that, for properties without driveways, a walkway not more than three feet wide may be placed within the grass planting strip as an extension of the walkway to the dwelling. For properties with driveways, walkways within the grass planting strip are grandfathered and permitted, but may not be enlarged, if said walkway was in place and aligned with a curb cut as of July 15, 2020.

- B. Current properties without natural grass between the curb and sidewalk in residential zones as of date of this adoption shall be grandfathered as the sole responsibility of the property owner, provided however, that no property with an artificial grass planting strip shall be issued:
 - 1. A zoning permit, unless the application therefor includes provisions for the conversion of the non-conforming planting strip to natural grass, except that the Zoning Officer may grant such an application in his or her discretion upon the property owner’s submission of proofs that the costs associated with the subject of the application are less than \$7,500, or the conversion of the planting strip is otherwise unreasonable, unfeasible, or impossible for reasons beyond the control of the property owner; or
 - 2. A certificate of occupancy for transfer of the property, unless the application therefor includes provisions for the conversion of the non-conforming planting strip to natural grass, except that the Construction Official may grant such an application in his or her discretion upon the property owner’s submission of proofs that the conversion of the planting strip is otherwise unreasonable, unfeasible, or impossible for reasons beyond the control of the property owner.

- B. Shade trees shall be provided in all major residential subdivisions. Trees shall be planted within the subdivision along each side of the street at proper intervals and in types, sizes and locations conducive to healthy growth with graded and seeded or sodded planting strips and according to any standards adopted by the governing body or the Shade Tree Commission so as not to interfere with street paving, sidewalks, or utilities.

- C. All trees should be of nursery stock of an approved species, a minimum of two-and-one-half-inch caliper, grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use, durable under the maintenance contemplated, and approved by the Shade Tree Commission.

SECTION 3. Section 35 entitled “Shade trees” of Chapter 398 entitled “Streets and Sidewalks” of the Revised General Ordinances of the Borough of Bradley Beach hereby reads as follows:

§ 398-35 Shade trees.

Whenever a property owner seeks to plant along the ground on Main Street, the planting must be in accordance with the tree specifications and planting requirements developed by the Shade Tree Commission and approved by resolution of the Mayor and Council, the most recent and updated version of which is available upon request from the Borough Clerk.

SECTION 4. Section 21 entitled “Removal of trees” of Chapter 450 entitled “Zoning”

of the Revised General Ordinances of the Borough of Bradley Beach hereby reads as follows:

§ 450-21 Removal of trees.

- A. It shall be unlawful for any person, firm or corporation to remove or injure or otherwise destroy any live tree, in any zone, or to cause or permit the same to be done by any third-party contractor or subcontractor, without first complying with Chapter 425 of this Code.
- B. Prior to taking any action on a request for any approval that requires removal of any tree(s) regulated by Chapter 425 of this Code, the Planning Board and Zoning Board shall require the applicant to comply with Chapter 425 of this Code as a condition of approval.
- C. No zoning permit or building permit shall be issued by the Zoning Official or Construction Official until the applicant has demonstrated compliance with Chapter 425 of this Code for any proposed tree removal(s).
- D. Any tree removal from private property must comply with Chapter 425 of this Code.

SECTION 5. The Revised General Ordinances of the Borough of Bradley Beach are hereby supplemented to include *new* Chapter 425 entitled “Trees” as follows:

**CHAPTER
425 TREES**

ARTICLE I

§ 425-1 INTENT AND PURPOSE; DEFINITIONS.

Intent and Purpose.

The intent and purpose of this chapter is to establish rules and regulations for the stewardship of trees and shrubs within the Borough of Bradley Beach, on both public and private property, and more specifically, for the care and protection of trees and shrubs, preservation of the maximum number of trees and shrubs, safeguarding of heritage, specimen and significant trees and replacement of removed or destroyed trees.

§ 425-2 Definitions.

As used in this chapter, the following terms shall have the following definitions:

BRADLEY BEACH SHADE TREE TRUST RESERVE

The fund established and maintained by the Borough pursuant to Section 24-33 of this Code.

CALIPER

The diameter of the trunk of a tree measured at a point six inches above ground level.

CANOPY

The upper and outermost part of a tree created by the tree's crown and shall mean, in the case of contiguous trees, the upper and outermost parts of the trees' crowns.

COMMISSION

The Shade Tree Commission of the Borough of Bradley Beach, including any of its duly appointed members and any of its duly authorized agents or employees.

CROWN

The upper mass or head of a tree created by its branches and leaves.

DECIDUOUS TREE

Any woody plant with a main stem or multiple stems with branches protruding above the root flare and that seasonally loses its leaves.

DESTROY

To kill or damage irreparably, which shall include, but not be limited to: damage inflicted to the root system by machinery, storage of materials, soil compaction or change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; excessive pruning or thinning not in conformance with American National Standards Institute (ANSI) standards, leading to a failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the tree; or application of any substance toxic to the tree or causing the tree to be exposed to any such substance level.

DIAMETER BREAST HEIGHT or DBH

The diameter of the trunk of a tree measured at a point four and one-half feet about ground level on the downhill side of the tree.

DRIP LINE

An imaginary line on the surface and subsurface of the ground delineated by the outer limits of the branches of a tree and measured plumb from the branches to the ground. When the outer limits of the branches are indistinct or otherwise unclear, the drip line shall be presumed to be located one and one-half feet from the center of the trunk of a tree for each inch of the trunk DBH. For trees with multiple trunks, the drip line of each trunk shall be measured separately.

ENFORCEMENT OFFICER

A Certified Tree Expert appointed by the governing body pursuant to Section 24-31 of this Code for the purposes of advising the Shade Tree Commission and enforcing this chapter.

EVERGREEN TREE

A tree with foliage that remains green and functional throughout the year.

HERITAGE TREE

A tree native to, or adapted to, climatic conditions of this area (e.g., oak, maple, sycamore), having a trunk diameter of 25 inches or more measured at four feet above the ground. For this area, such a tree would be at least 100 years old.

ORNAMENTAL TREE

A tree whether single or multi-stemmed and growing to a maximum height of twenty-five feet.

PERMIT

Written permission of the Certified Tree Expert or the Commission. Whenever, pursuant to any provision of this chapter, the Certified Tree Expert or Commission shall have occasion to pass upon an application for a permit, they shall, in determining whether or not to issue such permit, take into consideration the nature, species, size, age and condition of any tree involved; the location thereof in the street or park; the planting, care, protection, maintenance, or removal procedures involved; the public safety and welfare; and the improvement and advancement of the shade tree plan or program of the Commission.

PERSON

Any individual, firm, partnership, or corporation, or any combination thereof, which shall be construed to designate the plural as well as the singular.

PLANTING STRIP

The land between the curb and the sidewalk. The planting strip is part of the Borough right-of-way.

REPLACEMENT TREE

In the case of a deciduous tree, a tree which measures at least two and one-half inches in caliper, and in the case of an evergreen tree, a tree which measures at least six feet in height measured from grade. In all cases, the replacement tree shall be of a species and size appropriate for the premises on which it will be planted. Replacement nursery stock shall adhere to the American Standard for Nursery Stock (ANSI Z60.1).

SHRUB

Any woody plant with persistent stems protruding from grade level.

SIGNIFICANT TREE

A tree or grove of trees recognized as significant by the shade tree commission or enforcement officer on the basis of specimen, quality, historical significance, location, size or other unique characteristics.

SPECIMEN TREE

Any tree equal to at least eighty percent of the size of those listed on the “Champion Big Tree Register” of the New Jersey Community Forestry Program in the Department of Environmental Protection’s Division of Parks and Forestry, or any tree actually listed on the “Champion Big Tree Register.”

STREET

Any road, avenue, street, or highway dedicated to the public use for street purpose. A “street” shall be deemed to include all portions lying between the dedicated or established right-of-way and/or planting easement thereof, said lines being identical with the front property lines of lands abutting the street.

TREE

Any woody plant with a main stem or multiple stems with branches protruding above the root flare, which includes all deciduous, ornamental and evergreen trees.

TREE PROTECTION ZONE

The area within the “drip line” of a tree, as that term is defined hereinabove.

ARTICLE II PROTECTION OF TREES AND SHRUBS ON PUBLIC STREETS, HIGHWAYS, RIGHTS-OF-WAY, AND BOROUGH PROPERTIES.

§ 425-3 Approval Required.

- A. No person shall do, or cause to be done, any of the following acts upon public streets, highways, rights-of-way or parks or other lands under the Borough’s jurisdiction, or cause or permit the same to be done by any third-party contractor or subcontractor, without obtaining the written approval of the enforcement officer, in accordance with subsection (B) below:
1. Cut, trim, break, climb with spikes, disturb the roots of or otherwise injure, remove or destroy any tree or shrub or injure, misuse or remove any structure or device placed to support or protect such tree or shrub.
 2. Plant any tree or shrub.
 3. Fasten, staple, nail, screw, or otherwise affix any rope, wire, electric attachment, sign or other device to a tree or shrub.
 4. Place or maintain, or cause to be placed or maintained, in or upon the ground, any stone, cement, sidewalk, mortar, building material, impervious material or other substance that shall impede or prevent the free access of water, air or fertilizer to the roots of any tree or shrub or within the drip line of a tree or shrub.
 5. Place or cause to be placed any chemical or substance harmful to tree life, including but not limited to gasoline or oil, on any tree or shrub or within the drip line of any tree or shrub.
 6. Hitch or fasten an animal to any tree or shrub, or to any guard or support provided for the same, or permit any animal to bite or otherwise injure any tree or shrub.
 7. Hitch or fasten a bicycle or other personal property to any tree or shrub, or to any

guard or support provided for the same.

- B. A person may request in writing the approval of the enforcement officer to undertake an activity otherwise prohibited in subsection (A) above. In the absence or incapacity of the enforcement officer, such applications shall be heard directly by the Shade Tree Commission, with any appeals therefrom heard by the governing body pursuant to Subsection 425-12(B)(2). Within twenty (20) business days of said written request, the enforcement officer or the Commission shall, in their discretion, approve or deny the request. The failure of the enforcement officer or the Commission to approve or deny the request within twenty (20) business days shall constitute an approval of the request.
- C. Excepted from the requirements of this section are the following:
 - 1. The treatment of trees and shrubs by the appropriate public agency with the consent of the enforcement officer; and
 - 2. The management, including integrated pest management, of Ash (*Fraxinus* spp.) trees to protect against damage and/or loss of the trees due to infestation by the Emerald Ash Borer (*Agrilus planipennis*), with the consent of the enforcement officer.

§ 425-4 Removal or Trimming by Borough when Interfering with Public Thoroughfare.

- A. If the limbs or branches of any trees or shrubs grown on any land in the Borough extend over or into any of the public streets, highways or rights-of-way of the Borough and interfere with the free and uninterrupted use of such public thoroughfares for any lawful purpose, the enforcement officer shall notify and direct the owner or occupant of the property on which such trees or shrubs may stand, or the agent of such owner, to trim or detach, on or before a time to be fixed in such notice, any limbs, branches or parts of trees or shrubs so extending in the street, highway or right-of-way of the Borough.
- B. If the owner of any such trees or shrubs shall fail or neglect to comply with the terms of such notice, the enforcement officer is authorized and empowered to trim or detach, or cause to be trimmed or detached, any limbs, branches or parts of trees or shrubs so extending into such street, highway or right-of-way. Upon completion of such work, there shall be rendered, by the enforcement officer, to the owner or occupant of the property on which such trees or shrubs stood and for whom such work was done, a bill for such work, showing the money expended by the Borough therefor, and upon failure of the party for whom such work was done and such money expended to reimburse the Borough within sixty (60) days from the time of completion of such work, suit may be authorized by the governing body in the name of the Borough for the amount due in any court of competent jurisdiction.

§ 425-5 Removal of Substance, Material or Covering at Base of Trees and Shrubs.

- A. Where any tree or shrub in any public street, highway or right-of-way in the Borough may be surrounded at the base of its trunk by ground which is not open as required in

Section 425-3(a)(4), or by open ground of less quantity or measurement than that herein required in Section 425-3(a)(4) above, it shall be the duty of the enforcement officer to notify the owner or occupant of the property in front of which any such tree or shrub may be to remove, within a time fixed in such notice, so much of the substance, material or other covering as may be necessary to give the space of open ground herein required.

- B. If the person so notified shall not remove the substance, material or covering by the time so fixed, the enforcement officer may do so, or cause the same to be done and, upon completion thereof, render a bill to the person so notified for the work done and the money expended therefor. If payment shall not be made within sixty (60) days from the time of completion of such work, suit may be authorized by the governing body in the name of the Borough for the amount due in any court of competent jurisdiction.

§ 425-6 Protection of Trees and Shrubs from Utility Wires.

Any person having control over any wire for the transmission of electric current or telephone, cable or any other utility service along a public street, highway or right-of-way shall at all times guard all trees and shrubs through which such wires pass against any injury from the wires or from the current carried by them. Prior to undertaking any work on the utility affecting any such tree or shrub, the utility company shall provide at least five (5) days prior written notice to the enforcement officer of same. The device or means used shall be subject to the approval of the enforcement officer.

ARTICLE III REMOVAL OF TREES ON PRIVATE PROPERTY; PERMIT REQUIREMENTS.

§ 425-7 Intent and Purpose.

This article is intended to further the intent and purpose of this chapter, as set forth in Article I hereinabove. To that end, this article establishes tree removal standards for trees located on private property. The purpose of these specific standards is to encourage and further the protection and preservation of trees and their canopy as important public and environmental resources and to:

- A. Control and prevent the indiscriminate or excessive removal and destruction of trees and their canopy; and
- B. Control and prevent conditions that cause an increase in stormwater run-off, sedimentation, soil erosion, loss of wildlife habitat and air and noise pollution, or that inhibit aquifer recharge or impair the ambiance or physical appearance of neighborhoods, historic landscapes and streetscapes; and
- C. Strike a balance between limiting the adverse impacts of tree removal and not unduly interfering with the ability of a property owner to appropriately remove trees on private property.

§ 425-8 Trees Requiring Permit Before Removal.

It shall be a violation of this article for any person to remove or otherwise destroy any tree as set forth in this section, or to cause or permit the same to be done by any third-party contractor or subcontractor, without first obtaining a permit or approval as provided hereinbelow. Except as otherwise provided in Section 425-9, the following acts are hereby regulated and shall require a tree removal permit:

- A. Removal of or otherwise destroying a tree with a DBH of five (5) inches or more;
- B. Removal of or otherwise destroying an ornamental or evergreen tree with a height of ten (10) feet or more;
- C. Removal or otherwise destroying a tree with a canopy extending over a public right-of-way; and
- D. Removal of or otherwise destroying any heritage, specimen or significant tree, as defined in Section 425-2.

§ 425-9 Exceptions.

Excepted from the requirements of this article are the following:

- A. Any tree that poses imminent danger to life or property or where removal is in response to an emergency. To qualify under this exception, the tree shall only be removed to the extent necessary to abate the imminent danger or emergency. If notification of the removal of said tree pursuant to this article has not been given to the enforcement officer prior to removal, then notification must be provided by the next business day or as soon as practicable thereafter. Said notification shall include verification that the tree removal was necessary to abate the imminent danger or emergency;
- B. Any tree that has fallen solely as a result of storm damage, accident, or other *bona fide* casualty;
- C. Any dead tree or substantially diseased tree as a result of natural causes or storm damage where:
 - 1. The tree is still standing;
 - 2. The person desiring to destroy or remove the tree is the owner of the land upon which the tree is located;
 - 3. The person notifies the enforcement officer of the desire to remove the tree; and
 - 4. The enforcement officer verifies in writing that the tree is dead or substantially diseased as a result of natural causes. The failure of the enforcement officer to approve or deny the request within twenty (20) business days shall constitute an approval of the request;

- D. The removal of any trees that are a part of an approved woodland management program pursuant to the provisions of the New Jersey Farmland Assessment Act of 1964.
- E. Tree removal as part of an application requiring preservation plan approval by a historic preservation commission or such a commission's administrative officer for properties that are subject to the commission's jurisdiction within the historic preservation zoning districts or historic preservation buffer zoning districts.

§ 425-10 Application for Tree Removal Permit.

A. *General Application Requirements.* A person desiring to remove or otherwise destroy a tree or trees as provided for in Section 425-8 shall first apply to the enforcement officer for a permit, on forms provided by the Borough and containing the information required in Subsections (b), (c) and (d) of this Section. All filings and materials submitted to the Borough under this section shall be provided to the enforcement officer in both electronic and hard copy formats, to scale where appropriate.

B. *Narrative.* The application required by subsection (a) above shall include a narrative specifying:

1. The location of the premises where the tree removal or destruction is to take place, by both street address and lot and block number;
2. The name and address of the owner of the premises;
3. The name and address of the applicant for the permit, if other than the owner, accompanied by the owner's consent to said application;
4. A list providing the species, DBH and number of trees to be destroyed or removed;
5. The reason or purpose for the destruction or removal of trees; and
6. A description of the applicant's tree replacement plan, in accordance with subsection (d) below.

C. *Sketch/Printed Plan.* The application required by subsection (a) above shall be accompanied by a sketch and/or printed plan showing the following:

1. The size of the lot;
2. All structures and their appurtenances, including but not limited to any building, garage, shed, deck, pool, driveway, walkway, patio or other impervious surface;
3. The location upon the lot where the destruction or removal of the tree or trees is proposed;
4. The identity and location of trees to be destroyed or removed;

5. The location of all streams and wetlands on the lot; and
6. The proposed location(s) for planting of replacement tree(s), as well as their species and DBH.

D. *Tree Replacement Plan.* The application required by subsection (a) above shall be accompanied by a narrative and/or sketch or printed plan showing a tree replacement plan, to include and comply with the following:

1. The tree replacement plan shall provide for replacing the removed or destroyed tree(s) in the same or contiguous location(s) on the premises, and in accordance with the following specific requirements. The tree replacement plan shall require that the applicant replace each removed or destroyed tree with one or more trees depending upon the DBH of the removed or destroyed tree, in accordance with Schedule A: “Tree Replacement Schedule.”
2. Based on industry standards and site conditions on the premises, and in consultation with the enforcement officer, the applicant may, in lieu of on-premises planting of the required replacement tree(s), be permitted to plant the replacement tree(s) on one or more appropriate off-premises locations, or pay a tree replacement fee into the Bradley Beach Shade Tree Trust Reserve for each tree removed based on the foregoing Tree Replacement Schedule. The tree replacement fee shall represent the cost to replace the removed or destroyed tree(s), including administration and labor costs. At least fifty percent of the required replacement trees shall be planted either on the premises or in an appropriate off-premises location(s). As used hereafter, the phrase “tree replacement plan” shall be deemed to include reference to the payment of a tree replacement fee.
3. The tree replacement plan shall identify the applicant’s proposal for compliance with this subsection (d), including specifying the species, size and quantity of replacement trees, the proposed location(s) for planting of replacement trees on and off the premises and the applicant’s acknowledgment of the required tree replacement fees. In order to maintain the existing canopy, preference shall be for the replacement of deciduous trees with deciduous trees and evergreen trees with evergreen trees.

SCHEDULE A – TREE REPLACEMENT SCHEDULE

Tree Removed/Destroyed	Required Replacement Tree*	Tree Replacement Fee
Tree with DBH of 5” to 7.99”	One (1) Replacement Tree	\$250.00
Tree with DBH of 8” to 16.99”	One (1) Replacement Tree	\$500.00
Tree with DBH of 17” to 30.99”	Two (2) Replacement Trees	\$1,000.00
Tree with DBH greater than 31”	Three (3) Replacement Trees	\$2,000.00

* Replacement trees must be on approved Shade Tree Commission species list and measure at least 2.5” in caliper.

E. *Marking*. The applicant shall conspicuously mark each tree to be removed or destroyed with a material which can be wrapped around the trunk of each tree, such as ribbon or string.

F. *Fee*. The fee for each permit application shall be fifty dollars (\$50.00).

§ 425-11 Review and Decision on Permit Application.

A. The enforcement officer, or in his or her absence or incapacity, the Commission, shall accept for filing the permit application referenced in Section 425-10 hereinabove. Said application shall be date and time stamped when received. Thereafter, the enforcement officer or the Commission shall within twenty (20) business days of receipt of the completed application:

1. Visit and inspect the location and inspect the land and trees that are the subject of the application;
2. If necessary, meet with the applicant to discuss the application; and
3. Grant or deny the requested permit in whole or in part, or make recommendations that would make the application acceptable to the enforcement officer, in writing and in accordance with the following considerations:
 - a. Whether the removal or destruction of the tree or trees will cause or contribute to physical or environmental problems on the land and other property, including but not limited to flooding, soil instability and erosion.
 - b. Whether the destruction or removal of the tree or trees will have a negative impact on the contiguous canopy or on the growth and development of the remaining trees on the land and other property.
 - c. Whether the destruction or removal of the tree or trees will have a negative aesthetic or visual impact on the land and other property.
 - d. Whether the destruction or removal of the tree or trees will threaten or otherwise lead to a loss of wildlife habitat or tree species.
 - e. Whether the tree or trees are specimen or significant tree(s) as defined in Section 425-2.
 - f. Whether the destruction or removal of the tree or trees is under the jurisdiction of a New Jersey or Federal agency.
 - g. Whether the destruction or removal of the tree or trees is a part of an overall landscape plan for the property.

- h. Whether a denial of the permit, in whole or part, would cause an undue hardship on the applicant.
 - i. Whether the applicant's tree replacement plan will mitigate the negative impact that the tree removal or destruction will have on the land and other property.
- B. A decision other than one to grant the requested permit in its entirety shall include the enforcement officer's written findings and reasons for said decision.
- C. The failure of the enforcement officer to grant or deny the application for a permit for the removal or destruction of a tree or trees within the twenty-business-day period shall constitute approval of said application and entitle the applicant to the permit requested unless an extension of the twenty-business-day period has been agreed upon between the applicant and the enforcement officer in writing before the period expires.
- D. The removal of trees and any tree replacement plan are to be implemented within one year from issuance of the permit. A permit shall expire and shall no longer be in effect twelve months after the date said permit was first granted, unless an extension of the twelve-month period has been agreed upon between the permittee and the enforcement officer in writing before the period expires.
- E. Permits may be transferred only within ninety (90) days of their date of issuance.

§ 425-12 Appeals.

- A. If an application for a permit is denied or otherwise not granted in whole, the applicant shall have a right to appeal the matter.
- B. The applicant may appeal to the Shade Tree Commission or may choose to appeal directly to the governing body. "Written notice" under this section may be provided electronically or in hard copy by the appellant and/or the Borough in connection with the processing of any appeals hereunder. Should the applicant choose to appeal to the Shade Tree Commission and is not thereafter satisfied with the Shade Tree Commission's decision, the applicant shall have the right to appeal to the governing body. An applicant who appeals the enforcement officer's decision directly to the governing body waives his or her right to appeal to the Commission.
1. *Appeal to Shade Tree Commission.* An appeal to the Shade Tree Commission is taken by submitting written notice to the Commission within ten (10) days of receipt of a full or partial denial from the enforcement officer. The applicant will be notified as to the date and time when his or her matter will be heard by the Commission. The Shade Tree Commission shall decide the matter anew and in accordance with the standards set forth in Section 425-11(a)(3) hereinabove. The Shade Tree Commission shall render its decision within forty-five (45) days of receipt of the written notice of appeal. The failure of the Shade Tree Commission to decide the appeal within forty-five days shall constitute reversal of the decision by the enforcement officer. In any event, the applicant shall be notified of the Shade Tree Commission's action or failure to act by written notice from the Commission. If the applicant

is not satisfied with the Shade Tree Commission's decision, then the applicant shall have a right to appeal to the mayor and council as set forth in Subsection 425-12(B)(2) hereinbelow.

2. *Appeal to Governing Body.* An appeal to the governing body is taken by submitting written notice to the Borough Clerk within ten (10) days of receipt of a full or partial denial from the enforcement officer or within ten (10) days of receipt of the Shade Tree Commission's decision, as the case may be. The applicant will be notified as to the date and time when his or her matter will be heard by the governing body. The governing body shall decide the matter anew and in accordance with the standards set forth in Section 425-11(a)(3) hereinabove. The governing body shall render their decision within forty-five (45) days of receipt of the written notice of appeal. The failure of the governing body to decide the appeal within forty-five (45) days shall constitute reversal of the decision being appealed. In any event, the applicant shall be notified of the governing body's action or failure to act by written notice from the Borough Clerk. If the applicant is not satisfied with the governing body's decision, then the applicant shall have a right to pursue an appeal in a court of competent jurisdiction as permitted by law.

ARTICLE V GENERAL PROVISIONS.

§ 425-13 Violations and penalties; Enforcement procedures.

A person who removes or destroys a tree without a required permit or approval, or otherwise violates or causes to be violated any of the provisions of this chapter, shall be subject to the following informal resolution and formal complaint procedures, as applicable:

- A. *Informal resolution.* Any person who removes or destroys a tree without a required permit or approval under this chapter shall have the opportunity to resolve the matter prior to the issuance of a summons and complaint. The following procedure shall apply:
 1. The enforcement officer shall offer an electronic and/or hard copy written recommendation that is, in his or her judgment, sufficient to resolve the matter, which shall include either replacement of the removed or destroyed tree(s) or the payment of a replacement fee for removal or destruction of the tree(s), or both, in accordance with Schedule A above, the Tree Replacement Schedule. In addition to the planting of a replacement tree(s) and/or payment of a tree replacement fee(s) in accordance with Schedule A, there shall also be required the payment of an administrative service fee, which shall be charged per hour based on the anticipated staff time in investigating and resolving the matter, and which may include site visits and analysis, supervisory services and/or clerical services. The hourly rate shall be the hourly wage of the employee conducting the site visit(s) and analysis, supervisory services and/or clerical services as set by the governing body from time-to-time. The hourly wage of salaried personnel shall be calculated by dividing the employee's annual salary as set by twenty-six (weeks) and then dividing that biweekly pay by the number of hours worked in a biweekly period. The tree replacement and service fees shall be paid into the Bradley Beach Shade Tree Trust Reserve.
 2. The person shall have ten (10) days following receipt of the enforcement officer's electronic and/or hard copy written recommendation to accept said recommendation. If the person, in

an electronic and/or hard copy writing, accepts the enforcement officer’s recommendation within the ten-day period, then any agreed-upon tree replacement or payment of a tree replacement fee, and payment of the service fee, shall be completed within ten (10) days of electronic and/or hard copy written acceptance of the recommendation. If not completed within this ten-day period, then the enforcement officer shall have the authority to cause the issuance of a summons or complaint returnable in the Municipal Court.

3. If the person does not accept the enforcement officer’s recommendation, then during the initial ten-day period the person may request, in an electronic and/or hard copy writing, that the Shade Tree Commission review the enforcement officer’s recommendation. If such request is timely submitted to the enforcement officer, then the person shall have the opportunity to bring the matter before the Commission during its next regularly scheduled meeting. The Shade Tree Commission shall have thirty (30) days after said meeting to issue its recommendation on the matter. The person seeking such review shall have ten (10) days after receipt of the Shade Tree Commission’s recommendation to advise the Commission and enforcement officer in an electronic and/or hard copy writing as to whether he or she accepts the Commission’s recommendation. Any agreed-upon tree replacement or payment of a tree replacement fee, and payment of the service fee, shall be completed within ten (10) days of the electronic and/or hard copy written acceptance of the Shade Tree Commission recommendation. If not completed within this ten-day period, the enforcement officer shall have the authority to cause the issuance of a summons and complaint returnable in the Municipal Court.

4. If the person does not accept the enforcement officer’s initial recommendation or the Shade Tree Commission’s recommendation within the applicable periods set forth above, then the enforcement officer shall have the authority to cause the issuance of a summons and complaint returnable in the Municipal Court.

B. *Adjudication before Municipal Court.* A person violating this chapter, who has not otherwise resolved the matter as set forth above in Subsection 425-13(A), upon conviction before the Municipal Court, shall be sentenced in accordance with Schedule B herein below, with the violator having the option to pay a monetary fine and provide replacement tree(s) under Schedule B(1), or in the alternative, pay a double monetary fine under Schedule B(2). Each and every tree damaged, destroyed, or removed by the violator, even if located upon the same lot, shall be a separate and distinct offense under this chapter. In addition to the fine(s) assessed hereunder, the Municipal Court may order the violator to pay restitution to the Borough in the form of an administrative service fee, as provided in Section 425-13(A)(1). Any fines and/or restitution ordered by the Municipal Court shall be paid into the Bradley Beach Shade Tree Trust Reserve, except as otherwise provided by law.

SCHEDULE B – SHADE TREE PENALTY SCHEDULE

Tree Removed/Destroyed	Penalty Schedule B(1)	Penalty Schedule B(2)
Tree with DBH of 5” to 7.99”	One (1) Replacement Tree and \$250.00	\$500.00

Tree with DBH of 8” to 16.99”	One (1) Replacement Tree and \$500.00	\$1,000.00
Tree with DBH of 17” to 30.99”	Two (2) Replacement Trees and \$1,000.00	\$2,000.00
Tree with DBH greater than 31”	Three (3) Replacement Trees and \$2,000.00	\$4,000.00

* Replacement trees must be on approved Shade Tree Commission species list and measure at least 2.5” in caliper.

§ 425-14 Annual Report.

The enforcement officer shall make an annual report to the Shade Tree Commission, which shall then report to the governing body, as to permits granted and denied in each calendar year pursuant to this article. Said report shall include data concerning the quantity of complaints resolved, fees and assessments collected and disbursements from the Bradley Beach Shade Tree Trust Reserve. Such report shall be submitted by February 1 of each year regarding the preceding year's activities.

§ 425-15 Severance.

In the event that any portion of this chapter, or the application of this chapter to any specific situation, shall be declared invalid, such declaration shall not, in any manner, prejudice the enforcement of the remaining provisions, or the enforcement of this chapter in other situations.

SO ORDAINED as aforesaid.

Introduced: May 26, 2020

Date of Hearing and Adoption: July 14, 2020