

**TOWNSHIP OF CRANFORD
CRANFORD, NEW JERSEY**

ORDINANCE NO. 2023-10

**AN ORDINANCE ESTABLISHING A SHADE TREE
MANAGEMENT COMMISSION**

WHEREAS, the Township Committee, Township of Cranford, in the County of Union, State of New Jersey (the “Township”), seeks to promote the general welfare of Township residents by providing for the protection, regulation and planting and cutting of trees in such a way as to protect and preserve the environment by conserving to the maximum extent possible the tree life in the Township.

WHEREAS, the adverse impacts of uncontrolled tree removal affect the public’s health, safety, and welfare as well as the integrity of the natural environment and drainage processes in the Township; and

WHEREAS, it is in the public interest to establish monitoring and tree inventory procedures for the removal and replacement of trees, and incentives for the preservation of mature trees.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Cranford, in the County of Union, State of New Jersey, that Chapter 398, Trees shall be deleted in its entirety and replaced with a new Chapter 398 entitled “Shade Tree Management Commission”:

SECTION 1. Effective January 1, 2024, Chapter 398 is hereby replaced as follows:

§ 398-1. Definitions.

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

BUILDING -- A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

CALIPER -- A type of diameter measurement used in the tree/nursery industry. The height measurement shall be taken from the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare. Caliper measurement of a trunk shall be taken six inches above the top of root flare up to and including four-inch caliper size. If the caliper, six inches above the ground, exceeds four inches, the caliper must be measured at 12 inches above the top of root flare. Caliper measurements taken with manual or electronic slot or pincer-type caliper tools should be the average of the smallest and largest measurement.

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CLEAR CUTTING -- The complete removal of all standing trees on a portion and/or the entire lot.

DRIP LINE --A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

EMERGENCY -- A weather event(s), disease or condition which has damaged or destroyed a tree or trees, such that the continued presence of such damaged or destroyed tree or trees imminently threatens life or property in proximity thereto.

NON-TOWNSHIP TREE -- Any trees or shrubbery located on private property.

PERSON -- Any individual, partnership, corporation, agency or other entity.

PROTECTIVE BARRIER -- A barrier constructed to protect the root system or trunk of a tree from damage during construction or from equipment or soil or material deposits.

ROOT SYSTEM -- Tree roots within the drip line perimeter.

SHADE TREE MANAGEMENT COMMISSION -- (hereafter referred to as "the Commission") has been created to assist the Township's tree preservation and management matters and serve in an advisory capacity to Cranford's Land Use Boards, Environmental Commission, and Green Team.

SHADE TREE -- Any species of tree having characteristics which provide shade and is identified by the Shade Tree Management Commission as so designated.

SHRUB or SHRUBBERY-- A woody plant that does not have a center trunk and does not grow over 10 feet high.

TOWNSHIP SHRUB -- A shrub located on land owned by the Township, or which is otherwise located on a street, highway, public place, right-of-way, Township easement, park or parkway or within the sidewalk lines.

TOWNSHIP TREE --A tree located on land owned by the Township, or which is located on a street, highway, public place, right-of-way, Township easement, park or parkway or within the sidewalk lines.

TREE -- Any living, woody perennial plant having a diameter greater than four inches measured at a point four feet above the ground.

§398-2 Establishment of a Shade Tree Management Commission; Membership.

The Shade Tree Management Commission is hereby established, to be known as the "Shade Tree Management Commission of the Township of Cranford." The Shade Tree

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Management Commission (hereafter referred to as “the Commission”) shall consist of seven (7) members and may include not more than two (2) additional alternate members. Members shall be required to reside in Cranford at all times during membership of the Commission and shall serve without compensation. The members and alternate members shall be appointed by the Mayor. In the event that the Mayor fails to make an appointment at the second regular public meeting of the Committee after a position becomes vacant then a majority of the Commission shall fill the vacancy(ies) with a Temporary appointment.

§ 398-3 Organization.

The Commission shall organize within thirty (30) days after the appointment of its total membership for the remainder of the calendar year and thereafter annually by the election of one of its members as Chair and the appointment of a secretary, who need not be a member.

§ 398-4 Vacancies.

Any vacancy occurring by reason of the death, resignation or removal of any member shall be filled for the unexpired term by appointment by the Mayor.

§ 398-5 Powers and Duties.

A. The selection, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways and public places and parks of the Township of Cranford, except state highways and except county highways, county parks and other county property shall be exercised by the Shade Tree Management Commission.

B. The powers of the Commission shall include:

- (1) Exercise full and exclusive control over the selection, planting and care of trees and shrubbery, including the planting, trimming, care and protection thereof.
- (2) Control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.
- (3) Removal of any Township trees or shrubs or part thereof under the conditions set forth herein.
- (4) Apply for grants and, as authorized by the Township Committee, contract for, engage, and employ existing Township and, as needed, additional resources and personnel as necessary for carrying out the powers and duties set forth in this Chapter.

C. The duties of the Commission shall include:

- (1) Develop and maintain a community Forestry Management Plan in compliance with the New Jersey Shade Tree and Community Forestry Assistance Act.

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- (2) Organize and implement recognition of Arbor Day.
- (3) Submit reports to the State to maintain current certification of the Urban Forestry Program.
- (4) Maintain the designation of Tree City, USA.
- (5) Work in conjunction with Cranford's Environmental Commission, Cranford's Green Team, Board of Education and other local entities to encourage arboriculture and these powers and duties.

D. The Commission shall develop any plans and specifications needed to solicit bids for planting, care or removal of Township shade trees. Bids for such work, when required, shall be let by the Township according to the applicable statutes, ordinances and regulations. Nothing in this section shall be construed to delegate to the Commission the power to solicit bids directly or appropriate any sums therefore.

§ 398-6 Maintenance and Removal of Township Trees and Shrubs.

A. All Township Trees and Township Shrubs located on property owned by the Township or on a street, highway, right-of-way, park or parkway or within the sidewalk lines of any street shall be maintained by the Commission.

B. No Township Trees, as heretofore defined, shall be removed except by order of the Commission. The Commission may order the removal of such Township Tree if, but only if:

- (1) Such tree is so diseased or so infested as to be a danger to other trees in the Township or surrounding communities.
- (2) Such tree is dead or dying and its presence would cause hardship or endanger the public or an adjoining property owner.
- (3) Such a tree or shrub is a hazard to the public safety because it obstructs the view of motor vehicle operators or otherwise interferes with traffic or pedestrian safety. In the event that the full removal of the tree or shrub is not required, it may be pruned pursuant to § 398-9.
- (4) Such a tree, if the Commission determines for other reasons, is necessary to be removed.
- (5) In the case of construction on Township property:
 - (a) The presence of such tree would cause hardship or endanger the public or an adjoining property owner.

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(b) Such tree is located in an area to be occupied by buildings, driveways, recreation areas or other construction or within a distance of 15 feet around the perimeter of such construction, depending on tree species and conditions to be determined by the Commission.

(c) Such tree is located in an area to have a cut or fill of land deemed injurious or dangerous to such tree. The determination of the Shade Tree Commission in this respect shall depend on the species of trees and degree of injury.

C. The electric utility of the Township of Cranford shall have the right to remove trees, without the prior approval of the Commission, when an emergency as defined herein exists and when obtaining the prior approval of the Commission is not practical. At all times, the electric utility shall have the right to trim trees which reasonably are required to be trimmed for the purpose of ensuring continuous electric utility service or to avoid danger to the public or electric utility personnel or equipment.

D. In the event that the governing body has reason to believe that the removal of a Township tree at the direction of the Commission, or otherwise, does not meet the criteria set forth in this section or will be detrimental to the welfare of the Township, the Committee may stay the removal of said tree pending a report on the reasons for removal, which report shall be submitted promptly by the Commission. After consideration of the Commission's report and such other information as is pertinent to the decision to remove the tree, the Committee shall either approve or disapprove the removal of the tree.

E. In the event that the governing body has reason to believe that the Commission's refusal to agree to a requested removal of a Township tree is inconsistent with the criteria of this chapter or will be detrimental to the welfare of the Township, the Committee may order the Shade Tree Commission to submit a report explaining its reason for refusing to remove the tree, which report shall be promptly submitted by the Commission. After consideration of the Shade Tree Commission's report and such other information as is pertinent to the decision of whether or not to remove the tree, the Committee shall either approve the Shade Tree Commission's refusal to remove the tree or order the removal of the tree, which the Shade Tree Commission shall promptly do.

§ 398-7 Permission Required for Certain Actions.

A. It shall be unlawful to commit any of the following acts with respect to Township trees without the prior written consent of the Shade Tree Commission:

- (1) Cut, prune, break, injure, alter or remove any tree; or cut, unduly disturb or interfere in any way with any root of a tree or trees, except as provided in § 398-8.
- (2) Fasten any object, rope, wire, sign, insulator or other device to a tree or trees or to any guard about such a tree or trees in any public street or park.

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- (3) Install, remove or injure any guard or device placed to protect trees.
- (4) Close or obstruct any open spaces provided about the base of a tree or trees to permit the access of air, water and fertilizer to the roots of such tree or trees.
- (5) Cut any tree roots within 10 feet of any trunk or any roots four inches in diameter.
- (6) String or bury wires or lines through a public park.

B. The Commission shall grant such written permission if the activity for which such permission is requested is in the public interest and is not likely to injure any Township Tree. The Commission will notify the Superintendent of Public Works if written permission is granted for any of the above so that the terms of the consent are followed.

C. Any person or persons who cause damage to any Township Tree(s) by machines, autos, etc., shall be held liable for damages to the tree(s). Damages shall be corrected or repaired and the liable person or persons billed for the damages.

D. Any and every person having or maintaining any electric, telephone, telegraph or other wires or lines running through a public street or park shall securely fasten and maintain such wires and lines in such a manner as will safeguard Township trees against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to Township Trees and Township Shrubs.

E. Any person except the Cranford electric utility having line clearance operations (tree trimming) done for them by any other person or persons shall first obtain the written approval of the Commission.

F. No person shall move or cause to be moved any building or large object along any street without having first obtained a valid permit from the Zoning Officer, which, if the Zoning Officer deems necessary, may require the mover to furnish a bond or cash deposit in an amount sufficient to cover any damage to or destruction of Township trees on such street or streets as a result of such moving operations.

G. No person shall operate, place or maintain, within the dripline of any Township tree, any machinery, equipment, heavy object, stone, rocks, cement, earth, soil or other substance which may harmfully affect such Township trees by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such tree or excavate around to remove earth or soil from or cause any water to flow upon the roots of any tree. The Zoning Officer may waive, in whole or in part, such provisions, but only to the extent absolutely necessary to alleviate undue hardship in the appropriate use and enjoyment of property.

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H. The Commission shall have the primary jurisdiction and responsibility to identify any violations hereunder and to refer those locations, in writing, to the Township Zoning Officer for enforcement action.

§ 398-8 Non-Township Trees.

A. The Commission shall not exercise any of the powers granted to it herein over care and planting of trees or shrubbery located on private property. In the following circumstances, the Commission shall notify the owner of the tree of the existence of the danger or disease and report to the Committee the need for action with respect to Non-Township Trees, and the Committee may direct such action as is necessary to protect the public safety and welfare:

(1) Where any Non-Township Trees, whose drip line is partly within the area of any property owned by the Township or within the area of any street, highway, public place, right-of-way, park or parkway or within the sidewalk lines of any street, endanger the public safety, interfere with public travel or traffic on sidewalks, streets, highways or the right-of-way or interfere with the lighting of sidewalks, streets, highways or the right-of-way.

(2) Where any tree is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Township.

§ 398-9 Advisory Services.

A. The Commission will provide assistance to any Township resident on the planting, treatment and care of Non-Township Trees, including but not limited to:

(1) Advice on the species of trees most appropriate for the owner's location and purpose.

(2) Advice on minimizing or eliminating adverse impact on existing trees due to proposed construction.

(3) Advice on whether tree removal is necessary and how best to effect removal.

B. Advisory work with Cranford's Land Use Boards (Planning and Zoning Board of Adjustment).

One copy of all plans for major and minor subdivisions and site plans submitted to the Cranford's Land Use Boards (Planning Board or Board of Adjustment) shall be forwarded by the Boards' Secretary to the Chair of the Shade Tree Management Commission for review. The Commission, in appropriate cases, shall submit to the Land Use Board and the owner written recommendations with respect to the following:

(1) Minimizing removal of trees located on the property.

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(2) Appropriate species of trees that could be used to replace trees that must be removed because of construction and appropriate locations for the trees.

(3) Minimizing damage that may occur during construction to trees that will not be removed.

(4) The number of shade trees, their species and variety, if any, to be placed within the Township right-of-way at the property owner's expense.

C. All such recommendations shall be submitted to the respective Land Use Board on or before the date the matter is scheduled to be heard unless otherwise directed. The failure of the Shade Tree Management Commission to approve its recommendations within the required time shall be deemed a waiver of its right to submit comment to the Land Use Board.

D. Whenever the Planning Board and/or Board of Adjustment incorporates in its approval of plans the recommendation of the Commission with respect to planting of trees on Township property, it shall require each tree so planted to be nursery-grown stock, two inches to three inches in diameter, characteristic of its species, balled and burlapped and planted in accordance with American Nursery Association specifications. Each tree shall bear a two-year guaranty by the permit holder and shall be guaranteed further by a two-year maintenance bond or cash bond. If any tree so guaranteed must be replaced, a new two-year guaranty and maintenance or cash bond shall apply to the replacement. Upon acceptance, such trees shall become Township Trees. However, the Commission's recommendations shall be advisory only.

§ 398-10 Landmark Trees.

A. The Commission shall have, as one of its duties, the location, selection, and identification of any trees, which qualify as "landmark trees." A tree may qualify as a landmark tree if it meets one or more of the following criteria:

(1) The tree species is rare.

(2) The tree is more than 100 years of age.

(3) The tree has been connected with a significant historical event.

(4) The tree is of an outstanding trunk diameter or drip line diameter for a tree of its species.

(5) The quality of the tree foliage is outstanding for a tree of its species.

(6) The location, shade value, fragrance, erosion control, aesthetic features or scenic enhancement of such tree is of especial importance to the Township.

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B. All trees designated as "landmark trees" by the Commission shall be shown on an official Township Map with appropriate code marks signifying each tree's designation, number, species, age, size and other distinguishing characteristics for ready reference and periodic monitoring.

C. If the owner or owners of the property on which a landmark tree is located consent thereto; the Commission shall identify such tree as a landmark tree by the placement of a suitable marker thereon.

D. If and when any landmark tree is removed, the Commission shall arrange for the necessary changes to be made to the official landmark tree inventory records and the Township Map.

§ 398-11 Annual Appropriation.

A. During the month of October in each year, the Commission shall certify to the Mayor of the Township the estimated sum necessary for the proper conduct of its work during the following fiscal year, which shall include the sums estimated to be expended for the following items, namely:

(1) Acquisition of trees and shrubbery.

(2) Acquisition and operation of necessary equipment, materials, and personnel and the cost of services for the prudent promotion of the Commission's work.

(3) Retention of professional services in furtherance of the Commission's powers and duties.

B. The governing body of this Township shall annually appropriate such sums as it may deem necessary for said purposes but not less than \$2 per capita.

§ 398-12 Public Improvements Affecting Trees.

(A) The laying of any sidewalk along any street within the Township or the opening, constructing, curbing, or paving of any such street or any similar act undertaken by the Township or requiring the consent of the Township, if done by a party other than the Township, shall be done to the extent practicable so as to conserve a maximum number of trees consistent with the appropriate and practical construction of the public improvement. The Commission shall advise the Superintendent of Public Works prior to the start of such work and the Superintendent shall advise the Township or other party performing the work how the work can be accomplished without injury to any trees, and he shall monitor such project for the protection of any tree, consistent with the conditions set forth in this chapter. Nothing in this section shall be construed to prohibit or impede the construction of any public improvement.

§ 398-13 Notification of Commission of trees and shrubs needing attention.

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Any persons having knowledge of any tree or shrub in or upon any street, highway, road, park or other property of or under the jurisdiction of the Township of Cranford which has suffered any accident or injury, is in need of attention or care or has become dangerous to the public or to the adjacent property should notify the Shade Tree Commission or the Township. This provision shall be considered as directive only and for the public good, and no penalty shall be imposed for the failure to comply with this provision.

§ 398-14 Application for and Issuance of Permits.

A. Applications for a permit, where required under this chapter, shall be made directly to the Zoning Officer, with a copy to the Commission, which application shall be filed with the office of the Zoning Officer and shall contain the name of the applicant, location of the property or street affected and, in addition thereto, the purpose for which the application is being made.

B. Within ten (10) business days after the submission of an application for a permit, the Zoning Officer, shall review the site and the application and either grant or deny said permit or extend for an additional four (4) business days the period for review, by the end of which he shall grant or deny said permit. Failure of the Zoning Officer to act within the aforesaid time shall be deemed approval of the application.

C. Fees. There shall be no fee charged for the issuance of a permit by the Zoning Officer.

D. Appeal. Any applicant shall have the right to appeal the decision of the Zoning Officer to the Township Committee by filing with the Township Clerk of the Township of Cranford a letter requesting such appeal within 14 days from the decision of the Zoning Officer the Committee may solicit the advice of the Shade Tree Management Commission, Environmental Commission or other experts and shall review the Zoning Officer's decision. The Committee shall, by resolution duly adopted by it within 45 days of the submission date of the appeal, either affirm the denial of said permit or direct the Zoning Officer to issue such permit with such conditions as may be appropriate.

398-15 Tree Replacement Program

- A) The Commission shall implement a Tree Replacement Program. The Program will ensure that any tree removed on public property, including right of ways, due to tree disease, death or other reason, is replaced with an appropriate tree at the same location and comply with the requirements of this chapter. If the existing location is not suitable, the Commission shall identify an alternative location.
- B) In addition to the trees required to be replaced by section A of this chapter, the Program shall seek to provide for one (1) shade tree for every hundred (100) feet of frontage on a proposed right-of-way.
- C) Where development includes the construction of off-street parking for ten (10) vehicles or more, shade trees shall be planted around the perimeter of the parking space.

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- D) The types and locations of shade trees to be planted shall be shown in the plans submitted to the Planning Board or Zoning Board of Adjustment in conjunction with the application for development.
- E) Any upgrade or redesign of Township Parking lots shall seek to provide a minimum of one tree for every ten (10) spots.
- F) The Shade Tree Commission shall, in conjunction with the advice of the Director of Public Works or designee of the same, establish a tree and shrub nursery at the Cranford Conservation Center to provide trees and shrubs as part of the Replacement Program.

§398-16 Violations and Penalties.

A. Any person, firm or corporation who shall violate any of the provisions of this chapter shall be liable, upon conviction thereof, to a fine of not less than \$100 nor more than \$1,000 or imprisonment in the county jail for a period not to exceed 90 days, or community service not to exceed 90 days or a combination of fine, imprisonment and/or community service in the discretion of the judge, for each violation hereof.

B. Each 24 hours of continuous violation of any of the provisions hereof shall be considered a separate offense and shall be punishable accordingly.

C. The Commission shall strive to avoid the need for such penalties in this Section through discussion and negotiation with any person, firm or corporation who violates any provisions of this chapter and is willing to work in good faith to with the Commission to remediate such violations.

§ 398-17 Minutes of Shade Tree Management Commission.

The minutes of the Commission's regular meetings shall be presented to the Township Clerk as soon as possible.

SECTION 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Cranford, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Cranford are hereby ratified and confirmed, except where inconsistent with the terms hereof.

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SECTION 4. This Ordinance shall take effect as set forth herein and in accordance with the laws of the State of New Jersey

Introduced: August 8, 2023

Adopted:

Approved:

Brian Andrews, Mayor

Attest:

Patricia Donahue, RMC
Municipal Clerk

RECORDED VOTE

INTRODUCED

ADOPTED

Brian Andrews

Aye

Terrence Curran

Aye

Paul Gallo

Aye

Kathleen Miller Prunty

Aye

Gina Black

Aye

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