

No. 1981-94

AN ACT

HB 127

Providing for shade trees in incorporated towns.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Shade tree commission.

An incorporated town may by ordinance establish a commission to be known as the shade tree commission, but in incorporated towns where the council shall not elect by ordinance a shade tree commission council may exercise all the rights and perform the duties and obligations imposed by this act upon the shade tree commission.

Section 2. Composition of commission.

The commission shall be composed of three residents of the incorporated town, who shall be appointed by the council, and shall serve without compensation. Whenever a shade tree commission is established by any incorporated town, the council shall appoint one member for a term of three years, one for a term of four years, and one for a term of five years. On the expiration of the term of any commissioner, a successor shall be appointed by the council to serve for a term of five years. Vacancies in the office of commissioner shall be filled by the council for the unexpired term.

Section 3. Powers of commission.

The commission shall have exclusive custody and control of the shade trees in the incorporated town, and is authorized to plant, remove, maintain and protect shade trees on the streets and highways in the incorporated town.

The commission may employ and pay such superintendents, engineers, foresters, tree-wardens, or other assistants, as the proper performance of the duties devolving upon it shall require, and may make, and enforce regulations for the care and protection of the shade trees of the incorporated town. No such regulation shall be in force until it has been approved by the council and enacted as an ordinance.

Section 4. Report of commission.

The shade tree commission shall annually report in full to the council its transactions and expenses for the last fiscal year of the incorporated town.

Section 5. Notices by commission.

Whenever any shade tree commission proposes to plant, transplant, or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given in one newspaper of general circulation in the incorporated town once a week for two weeks immediately preceding the time of the meeting. The notice

shall specify in detail the streets or portions upon which trees are proposed to be so planted, replanted, or removed.

Section 6. Payment by owners.

The cost of planting, transplanting, or removing any shade trees in and along the streets and highways in the incorporated town, of the necessary and suitable guards, curbing or grading for the protection thereof, and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, shall be paid by the owner of the real estate abutting which the work is done.

The amount each owner is to pay shall be ascertained and certified by the commission to council and to the treasurer of the incorporated town.

Section 7. Assessments; liens.

Upon the filing of the certificate with the council, the secretary of the incorporated town shall cause 30 days' written notice to be given to every person against whose property an assessment has been made. The notice shall state the amount of the assessment, and the time and place of payment, and shall be accompanied with a copy of the certificate.

The amount assessed against the real estate shall be a lien from the time of the filing of the certificate with the council, and if not paid within the time designated in the notice, a claim may be filed and collected by the incorporated town solicitor in the same manner as municipal claims are filed and collected.

Section 8. Maintenance by town; tax levy.

The cost and expenses of caring for such trees after having been planted and the expense of publishing the notice hereinbefore provided for shall be paid by the incorporated town.

The needed amount shall each year be certified by the commission to the council and shall be drawn against, as required by the commission, in the same manner as money appropriated for incorporated town purposes.

The council may levy a general tax, not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in said incorporated town taxable for county purposes, for the purpose of defraying the cost and expenses of caring for such shade trees and the expense of publishing the notice; or it may provide for the expense of the caring for trees already planted and of publishing the notice by appropriations equal to the amount certified to be required by the commission.

Section 9. Penalties.

The commission, to the extent as may be provided by ordinance, may assess penalties for the violation of its regulations and of this act so far as it relates to shade trees. Any penalty so assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

All penalties or assessments imposed under this act shall be paid to the treasurer of the incorporated town, to be placed to the credit of the commission, subject to be drawn upon by the commission for the purposes of the preceding sections.

Section 10. Ordinances to require planting and replanting.

Any incorporated town may, by ordinance, upon the petition of a majority of the property owners upon any public street thereof, require the planting and replanting of suitable shade trees along and upon the sides of such streets, upon such alignment and at such points as may be designated by such ordinance, by the owners of property abutting the street at the points designated. This section shall not authorize any incorporated town to require the planting or replanting of trees at any point which may interfere with the necessary or reasonable use of any street or abutting property or unreasonably interfere with any business conducted thereon.

Section 11. Power of incorporated town where owners fail to comply.

On failure of any owner, after reasonable notice, to comply with the terms of any such ordinance, the incorporated town may cause such trees to be planted or replanted at the expense of the incorporated town, and thereupon, in the name of the incorporated town, collect the cost of such work from the owners in default, as debts of like amount are by law collectible.

Section 12. Removal of diseased plants, shrubs and trees.

The commission may upon such notice as may be provided by ordinance, require owners of property to cut and remove plants, shrubs and trees, afflicted with the Dutch elm or other disease, which threatens to injure or destroy plants, shrubs and shade trees, in the incorporated town under regulations prescribed by ordinance. Upon failure of any such owner to comply with such notice, the incorporated town may cause the work to be done by the incorporated town, and levy and collect the cost thereof from the owner of the property. The cost of such work shall be a lien upon the premises from the time of the commencement of the work, which date shall be fixed by the engineer of the incorporated town and shall be filed with the secretary of the incorporated town. Any such lien may be collected by action in assumpsit or by lien filed in the manner provided by law for the filing and collection of municipal claims.

Section 13. Effective date.

This act shall take effect in 60 days.

APPROVED—The 1st day of October, A. D. 1981.

DICK THORNBURGH