

ORDINANCE - 2008-15

AN ORDINANCE OF THE TOWNSHIP OF COLTS NECK IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTERS 102, DEVELOPMENT REGULATIONS, AND 67, SHADE TREE COMMISSION OF THE CODE OF THE TOWNSHIP OF COLTS NECK PERTAINING TO TREE REMOVAL AND PRESERVATION

WHEREAS, on April 23, 1997 the Colts Neck Township Committee amended in its entirety Chapter 102, Development Regulations of the Code of the Township of Colts Neck; and

WHEREAS, the Township of Colts Neck is continuously and closely involved in the planning and development process in the Township; and

WHEREAS, one of the purposes of planning is to review the Township's policies and Development Regulations based on best available information and past experiences and to adopt regulations to guide the use of lands in a manner that promotes the public good and general public welfare; and

WHEREAS, the Township has historically concentrated its tree preservation and protection efforts on trees located in public rights-of-ways and on public property; and

WHEREAS, the Township recognizes that the indiscriminate and excessive removal and clear-cutting of larger, more mature trees located within subdivision and site plan applications can produce serious negative visual and environmental effects not only on the individual property but also upon neighboring properties and the community at large; and

WHEREAS, a significant part of Colts Neck overall aesthetic quality is the existence of trees and wooded areas throughout the Township; and

WHEREAS, the Township seeks to protect historic landscapes and streetscapes by preventing the indiscriminate and extensive removal of trees as part of subdivision and site plan applications; and

WHEREAS, property owners who purchase lots with trees that have been retained as part of the subdivision and site plan process will be less likely to remove the trees as compared to the original developer; and

WHEREAS, the Township seeks to alleviate the negative visual, economic and environmental impact of indiscriminate or excessive removal, clear-cutting and destruction of larger, more mature trees and their canopy as part of the subdivision and site plan process while not unduly interfering with the right of Township property owners to appropriately develop their land; and

WHEREAS, the preservation of trees, wooded areas, forests contributes to the preservation of light air and open space, and thereby furthers the purposes of the Municipal Land Use Law and the Township Master Plan.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Colts Neck, County of Monmouth, State of New Jersey as follows: (additions to text are indicated by underline; deletions to text indicated by ~~strikeout~~).

SECTION 1 That Section 102-4, Definitions in Chapter 102, Development Regulations be amended and supplemented to add the following new definitions:

Diameter at Breast Height (DBH) – The diameter of a tree measured 4 ½' above the natural ground

Drip Line – An imaginary ground line around a tree that defines the limits of the tree canopy

SECTION II That Section 102-38D, Preliminary Major Subdivision Plat in Chapter 102 Development Regulations be amended and supplemented as follows:

§102-38D Preliminary Major Subdivision Plan

(1) thru (6) No Change

- (7) The locations, species and diameter of all existing trees having a diameter of 12 inches or more at a height five feet above ground level within the street right-of-way shall be shown. The location of individual trees with a DBH equal to or greater than 10" shall be identified by size and species. All areas intended for tree removal and each tree with a DBH equal to or greater than 10" to be removed shall be clearly labeled. A Tree Protection Detail and or Limit of Disturbance Line detail shall be provided. The proposed location of shade trees to be provided by the subdivider in accordance with §102-71, Shade trees, wooded areas and landscaping, in Part 3 shall also be shown.

(8) thru (19) No Change

SECTION III That Section 102-39D, Preliminary Site Plan Plat in Chapter 102, Development Regulations be amended and supplemented as follows:

§102-39D Preliminary Plat

(1) No Change

(a) No Change

[1] thru [15] No Change

[16] Location of individual trees with a DBH equal to or greater than 10" shall be identified by size and species.

[17] Clear labeling of the areas intended for tree removal and identifying each tree with a DBH equal to or greater than 10" that it is proposed to be removed.

[18] Providing a Tree Protection Detail and/or a Limit of Disturbance Line Detail.

(2) No Change

(3) No Change

SECTION IV That Article VI, Zoning Requirements Common to all Districts in Chapter 102, Development Regulations is hereby amended and supplemented to add new Section 102-80.1 entitled "Tree Removal" as follows:

§102-80.1 Tree Removal

(The following provisions shall apply to the initial construction of a development and not to individual land owners once a certificate of occupancy is issued.)

- A. No application for site plan or subdivision approval may be submitted to the approving authority on any lands where site clearing or clear cutting of trees occurred within five years preceding the application.
- B. No tree with a diameter equal to or greater than 10" shall be removed as part of a subdivision or site plan application without approval by the approving authority.
- C. In subdivision applications trees with a DBH equal to or greater than 10" shall be saved within the minimum required principal building side and rear setback on each individual lot. This requirement does not include the enhanced side and rear setbacks associated with the 90' rule (Section 102-87 Note 1). It is also encouraged, but not required, to save trees within the minimum required principal building front setback.
- D. In site plan applications trees with a DBH equal to or greater than 10" shall be saved in within the minimum required principal building side and rear setback. It is encouraged, but not required, to save trees within the minimum principal building front setback.
- E. The approving authority may allow trees with a DBH equal to or greater than 10" to be removed in the principal building side and rear setbacks in site plan and subdivision applications where such removal is necessary for the installation of utilities (i.e. drainage, electrical lines, etc.).
- F. Where tree removal is allowed in E above, the applicant shall mitigate each tree removed by planting two replacement trees of species determined by the Approving Authority of not less than 3" in caliber within the subdivision or site plan. Replacement

trees required by this section shall be in addition to any other landscaping required by the Development Regulations.

G. Tree Protection

1. Prior to any construction or land disturbance all trees designated to be removed must be flagged and clearing areas delineated by protective snow fencing.
2. Tree protection snow fencing or other protective barrier acceptable to the approving authority shall be placed at the drip line of all trees to be saved to protect their root zones.
3. Tree protection snow fencing or other protective barrier shall remain in place until all construction activities are terminated.
4. No soil stockpiling, storage of materials, equipment, or vehicles shall be permitted within the drip line of any tree to be saved.

SECTION V That Chapter 62, Shade Tree Commission in the Code Of the Township of Colts Neck be amended and supplemented to add new Section 62.7 entitled Tree Removal as follows:

§62.7 Tree Removal

- A. No tree within a Township right-of-way or any tree planted along the side of the road which was planted specifically as a street tree pursuant to Section 102-71A may be removed without Shade Tree Commission approval.
- B. No person shall remove, trim or cause harm to any tree on Township property or Township Greenway.

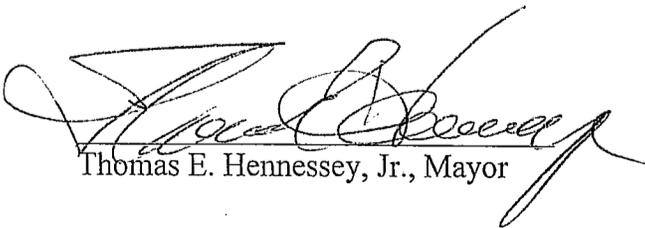
SECTION VI: Severability. If any section, paragraph subsection, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

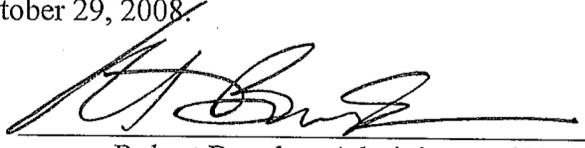
SECTION VII: Repealer. The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this ordinance shall remain in full force and effect.

SECTION VIII: Inconsistent ordinance. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

SECTION IX: This ordinance shall take effect immediately upon passage, publication and filing according to law.

I, Robert Bowden, Township Clerk of the Township of Colts Neck, in the County of Monmouth, New Jersey, hereby certify that annexed hereto is a true and complete copy of Ordinance No. 2008-15 which was introduced at a duly convened meeting of the Township Committee on September 24, 2008 and was adopted after public hearing at a duly convened meeting of the Township Committee on October 29, 2008.


Thomas E. Hennessey, Jr., Mayor


Robert Bowden, Administrator/Clerk