

ORDINANCE NO. 2020-16

AN ORDINANCE OF COLTS NECK TOWNSHIP, COUNTY OF MONMOUTH, STATE OF NEW JERSEY REPEALING CHAPTER 102, ARTICLE VI, SECTION 102-46.6 “AFFORDABLE HOUSING GROWTH SHARE” AND ESTABLISHING A NEW SECTION 102-46.6 ENTITLED “AFFORDABLE HOUSING GROWTH SHARE - GRANDFATHER” OF THE CODE OF THE TOWNSHIP OF COLTS NECK

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 New Jersey Council on Affordable Housing (COAH) adopted Third Round Rules (N.J.A.C. 5:97-1.1 et. seq.) addressing municipal affordable housing obligations from 2004 to 2008 on June 2, 2008 which employed a growth share methodology; and

WHEREAS, on December 10, 2008, the Colts Neck Township Committee adopted Ordinance 2008-17 establishing an affordable housing growth share policy in accordance with COAH’s Third Round Substantive Rules; and

WHEREAS, on October 18, 2010 the New Jersey Appellate Division remanded to COAH for adoption of Third Round Rules using the methodology for determining prospective need similar to those methodologies used in prior rounds; and

WHEREAS, on March 14, 2014 the New Jersey Supreme Court affirmed the Appellate Division’s decision regarding the Third Round Rules and ordered COAH to adopt new rules by October 22, 2014; and

WHEREAS, COAH failed to adopt new Third Round Rules and on March 10, 2015 the Supreme Court stripped COAH from its power in the affordable housing process and transferred enforcement of the Fair Housing Act from COAH to the New Jersey Superior Courts; and

WHEREAS, on June 8, 2015 Colts Neck Township filed a Complaint for Declaratory Judgment Action and Order to Show Cause seeking injunctive relief for temporary immunity from builder’s remedy litigation and approval of an Affordable Housing Plan in accordance with the Fair Housing Act; and

WHEREAS, In August 2020 Honorable Linda Grasso Jones entered an Order of Fairness and Preliminary Mount Laurel Compliance resolving the Township’s Declaratory Judgment Action (DOCKET No. MON-L-2234-15); and

WHEREAS, the Township Committee of Colts Neck Township desires to rescind all growth share policies invalidated by the Supreme Court and promulgate new affordable housing policies advancing the order of fairness and Preliminary Mount Laurel Compliance dated August 2020.

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

SECTION I: That Section 102-46.6 Affordable housing growth share is hereby repealed.

SECTION II: That new Section 102-46.6 “Affordable housing growth share - grandfather” is hereby established as follows:

- A. Purpose. The purpose of the Affordable housing growth share-grandfather is to establish reduced lot size, lot frontage, lot width and side setback requirements for the two developments [PB704 (Block 10, Lots 2 & 2.01) and PB719 (Block 39, Lot 11.01)] approved under the affordable housing growth share ordinance and to prevent these developments from becoming nonconforming.
- B. For Planning Board Applications PB704 (Block 10, new Lots 2.03, 2.04, 2.05, 2.06, 2.07, 2.08 and 2.09) and PB719 (Block 39, new Lots 11.03, 11.04, 11.05, 11.06, 11.07, 11.08 and 11.09) the minimum lot size, lot frontage, lot width and side setback shall be as follows:

1. The minimum lot size, lot frontage and lot width shall be 75% of the applicable minimum zoning requirement for the zoning district.
 2. The minimum side setback shall be 40 feet.
- C. All other provisions of the applicable zone district which have not been specifically modified in this subsection shall apply. This includes, but not limited to, all of these standards in Section 102-87, schedule of limitations and requirements applicable to each zone along with the notes and schedules contained therein.

SECTION III: That Article VII, "Zoning Requirements" §102-84 through 102-86 are hereby amended and supplemented in the following parts only:

102-84. A-1 and A-2 Agricultural Residential Districts; A-3 Village Residential District.

B. Principal permitted uses on land and in buildings. The following shall be permitted as principal uses:

- (9) Affordable housing ~~units~~ growth share-grandfather subject to §102-46.6

102-85. A-4 Mixed Housing District.

B. Principal permitted uses on land and in buildings. The following shall be permitted as principal uses:

- (5) ~~Affordable housing units~~ subject to §102-46.6 [Reserved for future use]

102-85.2. A-6 Residential District

B. Principal permitted uses on land and in buildings. The following shall be permitted as principal uses:

- (7) ~~Affordable housing units~~ subject to §102-46.6 [Reserved for future use]

102-85 AG Agricultural District

B. Principal permitted uses on land and in buildings. The following shall be permitted as principal uses:

- (8) Affordable housing ~~units~~ growth share-grandfather subject to §102-46.6

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

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

I hereby certify the Ordinance foregoing to be a true copy of an Ordinance introduced by the Township Committee of the Township of Colts Neck on the 12th day of August, 2020. A public hearing will be held on September 9, 2020, 7:30 p.m. Town Hall, 124 Cedar Drive.

Frank Rizzuto, Mayor

Trina Lindsey, Township Clerk

RECORD OF VOTE												
	First Reading					Second Reading						
	August 12, 2020					September 9, 2020						
	M	S	Yes	No	NV	Ab	M	S	Yes	No	NV	Ab
Mayor Rizzuto			X									
Deputy Mayor Viola	M		X									
Bartolomeo			X									
Fitzpatrick	S		X									
Orgo						X						
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent												

AffordableHousingGrowthShareGrandfather2020