**ORDINANCE 2025-2**

**ORDINANCE AMENDING CHAPTER 62 "SHADE TREE COMMISSION" AND CHAPTER 102 "DEVELOPMENT REGULATIONS" OF THE CODE OF COLTS NECK TOWNSHIP, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY TO ABOLISH THE TOWNSHIP SHADE TREE COMMISSION AND PLACE POWERS OF SAID COMMISSION WITHIN THE AUTHORITY OF THE TOWNSHIP ENVIRONMENTAL COMMISSION**

**WHEREAS**, under N.J.S.A. 40:64-1 et seq., the New Jersey Legislature ("Legislature") provided municipal governing bodies with the power to create commissions for the purposes of regulating municipal concerns regarding the planting, care and control of shade and ornamental trees and shrubbery; and

**WHEREAS**, Colts Neck Township ("Township") previously created a Shade Tree Commission for purposes of addressing the concerns identified by the Legislature in N.J.S.A. 40:64-1 et seq. (see Chapter 62 of the Township Code); and

**WHEREAS**, per Chapter 24 of the Township Code, the Township Environmental Commission ("Environmental Commission") exists to research and make recommendations regarding concerns of an ecological and environmental manner, as well as to coordinate the efforts of Township bodies relating to environmental concerns; and

**WHEREAS**, the purposes of the Shade Tree Commission and Environmental Commission to a large extent overlap, as both entities are concerned with matters affecting the natural environment of the Township; and

**WHEREAS**, the Colts Neck Township Committee finds that the continued existence of the Township Shade Tree Commission is unnecessary given the existence of the Township Environmental Commission, the latter of which is capable of responsibly assuming the powers previously granted to the Shade Tree Commission.

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

**SECTION 1**. Chapter 62 of the Code of Colts Neck Township shall be amended as follows:

Chapter 62 ***~~Shade Tree Commission~~*** ***Environmental Commission Powers Over Shade Tree Concerns***

§ 62-1 Purpose; ***Powers of Environmental Commission Over Shade Tree Concerns***~~***; Commission created; appointment; composition; alternate members***~~.

A. The purpose of this chapter is to protect the general welfare of the citizens of Colts Neck Township by establishing standards governing the planting and preservation of all trees, brush, vines, shrubs and/or ground cover upon Township-owned land, greenways and access corridors for greenways in an effort to retain the rural, bucolic character of the Township.

B. The regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of Colts Neck Township, except state highways, unless the State Highway Department shall assent thereto, and except county highways, parks and parkways, if a County Shade Tree Commission is operative and gives assent thereto, shall be exercised by and under the authority of Colts Neck Township ***~~Shade Tree~~*** ***Environmental*** Commission***~~, which is hereby created. The Commission shall consist of no less than five and no more than seven members and may include not more than two alternate members. The members~~***

~~*and alternate members shall be appointed by the Mayor, shall be residents of the municipality and shall serve without compensation.*~~

C. ***The Township entity heretofore known as the "Colts Neck Township Shade Tree Commission" is hereby abolished. All powers heretofore held and exercised by the said Shade Tree Commission shall hereby be placed under the authority of the Colts Neck Environmental Commission. Any reference in this chapter to the "Commission" shall be considered a reference to the Township Environmental Commission.*** ~~*The alternate members shall be assigned and designated by the Mayor as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The term of each alternate member shall be five years, commencing on January 1 of the year of the appointment. In the event that two alternate members are appointed, the initial term of Alternate No. 1 shall be five years and the term of Alternate No. 2 shall be four years. The terms of the first alternate members appointed shall commence on the day of their appointment and shall expire on the fourth or fifth December 31 following said appointment. An alternate member may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.*~~

~~*§ 62-2 First Commission; subsequent Commissions; terms.*~~

~~*A. The first Commissioners shall be appointed within 60 days after the effective date of this chapter, and their terms of office shall commence upon the day of their appointment and be for the respective periods:*~~

~~*(1) One for a term of one year.*~~
~~*(2) One for a term of two years.*~~
~~*(3) One for a term of three years.*~~
~~*(4) One for a term of four years.*~~
~~*(5) One for a term of five years.*~~

~~*B. The terms of each appointee shall be designated in his or her appointment. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1 next succeeding such appointment.*~~
~~*§ 62-3 Vacancies.*~~

~~*Any vacancy occurring by reason of the death, resignation or removal of any Commissioners shall be filled for the unexpired term by the Mayor of the municipality.*~~

~~*§ 62-4 Annual appropriation; estimate; amount.*~~

~~*During the month of December in each year, the Shade Tree Commission shall certify to the Township Committee of the municipality the estimated sum necessary for the proper conduct of its work during the ensuing fiscal year. Any sums approved by the Township Committee shall be placed in a separately established and maintained Township of Colts Neck Shade Tree Fund for the purposes of its work, which sums shall be expended for such of the following items: purchase of trees and shrubbery, purchase of necessary equipment and materials, trimming and/or removal of trees, and/or the cost of services for the prudent promotion of work.*~~

§ 62-6 Authority of Commission ***Over Shade Tree Concerns***.

A. ~~*Said*~~ ***The Environmental*** Commission shall exercise such authority as is conferred upon ~~*it*~~ ***commissions created under*** N.J.S.A. 40:64-1 et seq. and the amendments thereof and supplements thereto, except as otherwise modified by the provisions of this chapter.

B. The Commission or Township Administrator shall have the authority to remove any vegetation of any kind from any Township-owned land, greenways or access easements for greenways. Notwithstanding the Commission's authority to trim trees and shrubs on Township-owned land, prior to undertaking the removal of any tree on Township-owned land, as set forth in § 62-7D of this chapter, the Commission must first consult with the

Code Enforcement Officer and Township Administrator, with ultimate review and final approval by the Administrator and/or Township Committee prior to undertaking any tree removal by the Commission. In the event that there is a conflict, the ultimate determination is to be made by the Township Committee. No trees, brush, vines, shrubs and/or ground cover are to be removed by anyone, including adjacent landowners or agents of any landowner, from any Township-owned land, greenways or access corridors for greenways without permission of the Colts Neck ~~***Shade Tree***~~ ***Environmental*** Commission or Township Administrator.

C. Routine maintenance.

(1) The provisions of this chapter shall not be construed to apply to the routine maintenance (i.e., mowing) of township-owned conservation and/or landscape easements by neighboring property owners, with the following requirements:

(a) Conservation easement areas may be mowed if the area was shown as an open grass area with no shrubs or trees on the approved subdivision plats.

(b) Landscape easement areas may be mowed, provided that the approved plats show the areas to be planted with grass or turf.

(2) In neither case shall trees, shrubs and/or ground cover be disturbed, damaged or destroyed, nor shall structures be located within these easements.

§ 62-7 Tree removal.

A. No tree within a Township right-of-way and/or Township greenway or access easement for a greenway or within any Township-owned land may be removed or trimmed by the adjoining property owner without ~~***Shade Tree***~~ Commission approval. Street trees pursuant to § 102-71A and planted on private property may be removed by the property owner at any time and for any reason once the maintenance guarantee posted by the developer is released and the Township has accepted the tree.

B. No person, except as is otherwise provided in this chapter or pursuant to state law, shall remove, trim or cause harm to any tree on Township property or the Township Greenway or on an access easement for a greenway or within any Township-owned land.

C. ~~***Members of the Colts Neck Shade Tree Commission, pursuant to the authority conferred upon it by N.J.S.A. 40:64-1 et seq.,***~~ ***The Environmental Commission***, by process of routine inspection and observation and through screening complaints as lodged with the Township, and while working in concert with the Township Administrator and Code Enforcement Officer, shall seek to ensure that no substantive violations of § 62-7A and B, as enumerated above, occur on Township-owned land.

D. Powers and duties of the ~~***Shade Tree***~~ ***Environmental Commission concerning shade tree matters. So far as its duties extend to shade tree concerns,*** the Colts Neck ~~***Shade Tree***~~ ***Environmental*** Commission shall have the following general powers and duties:

(1) Responsibility for the regulation, planting, removal and trimming of trees and shrubs upon and in any Township-owned land, as land is defined in § 62-7A;

(2) Responsibility to consult and advise with the Code Enforcement Officer and Township Administrator in all matters within its purview;

(3) Prior to undertaking the removal of any tree, the responsibility to consult with the Code Enforcement Officer and Township Administrator for ultimate review and final approval by the Administrator and/or Township Committee. In the event there is a conflict, the ultimate determination is to be made by the Township Committee;

(4) Authority to review tree surveys, removal plans and planting plans submitted with land development applications referred to it by the Planning Board or Zoning Board. After its review, the commission may prepare a report of its findings and

recommendations to be sent to the board of jurisdiction at least 14 days prior that board's scheduled hearing of the development application;

(5) Authority to prepare criteria, standards, guidelines, and recommendations, including recommendations as to specific appropriations, for the use of funds collected in the Colts Neck Shade Tree Commission Removal Fund;

(6) Authority to develop a list of sites throughout Colts Neck that require the removal of trees, replacement of trees or the addition of new trees, and regularly update the list to reflect the replacement or removal of trees;

(7) Authority to develop and maintain a recommended tree species list;

(8) Authority to develop and maintain an inventory of trees and shrubs upon and in any Township-owned land, as land is defined in § 62-7A;

(9) Responsibility to monitor and maintain the health of the trees in the Township's Arboretum;

(10) Responsibility to make, keep, and preserve minutes and records of its meetings and activities, and to make annual reports to the Township Mayor and Committee. Copies of all minutes and records of its meetings and activities shall be filed with the Township Clerk;

(11) All authority conferred ***on commissions created*** by N.J.S.A. 40:64-1 et seq., to the extent applicable.

§ 62-8 Violations and penalties; restoration plan; exceptions.

A. Any person violating any provision of this chapter shall, pursuant to N.J.S.A. 40:64-12, be liable to a penalty not to exceed $1,500 for each violation, in the discretion of the court before whom the conviction is had. Each day that the infraction exists represents a new occurrence of the violation. The Commission or Township Zoning Officer shall have the authority to issue a summons for any violation.

B. In addition to the penalties authorized by Subsection A of this section, the Commission may require a person who removes or otherwise destroys a tree in violation of this chapter to pay a replacement assessment to the township. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or certified tree expert retained by the Commission for that purpose. In lieu of an appraisal, the Commission may adopt a formula and schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value per square inch, not to exceed $27 per square inch. The square-inch cross section shall be calculated from the diameter at breast height, and, if there is a multiple-stem tree, then each trunk shall be measured and an average shall be determined for the tree. For the purposes of this section, "diameter at breast height" shall mean the diameter of the tree taken at a point 4 1/2 feet above ground level. The Commission shall modify the value of the tree based upon its species variety, location and its condition at the time of removal or destruction. Failure to comply with this section shall constitute an additional violation of this chapter.

C. As an alternative to Subsection B, the Commission may require a person who removes or otherwise destroys trees, brush, vines, shrubs and/or ground cover in violation of this chapter to provide and obtain ~~***Shade Tree***~~ Commission approval of a restoration plan, drawn by a certified landscape architect. Said person may be required to implement the approved restoration plan at his or her expense, including inspection fees and on a schedule specified by the ~~***Shade Tree***~~ Commission.

(1) A tree of six-inch or less caliper shall be replaced with one tree, which meets with the approval of the ~~***Colts Neck Shade Tree***~~ Commission, of not less than two-and-one-half-inch caliper. The following guidelines shall apply to caliper of trees destroyed:

| Existing Tree Removed (inches) | Number of Replacement Trees (minimum two-and-one-half-inch-caliper tree) |
|---|---|
| 12 or less | 2 |
| 13 to 18 | 3 |
| 19 to 21 | 4 |
| 22 to 23 | 5 |
| 24 to 25 | 6 |
| 26 to 27 | 7 |
| 28 to 29 | 8 |
| 30 to 31 | 9 |
| 32 to 33 | 10 |
| 34 to 35 | 11 |
| 36 to 37 | 12 |
| 38 to 39 | 13 |
| 40 to 41 | 14 |

(2) The Commission shall have the discretion to prescribe the appropriate number of replacement trees for the removal of any existing tree of over 41 inches and to specify where the replacement trees are to be planted. The caliper or diameter of a tree is measured six inches from the existing undisturbed ground. Failure to comply with this section shall constitute an additional violation of this chapter.

D. All members of the ~~*Colts Neck Shade Tree*~~ Commission or the Township Zoning Officer shall have the authority to issue a stop-work order if any destruction is occurring on township-owned land, greenways or access corridors for greenways.

E. Any public utility or cable television company that clears, moves, cuts or destroys any trees, shrubs or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication or cable television services upon any lands in which it has acquired an easement or right-of-way shall not be subject to any penalty imposed by the Commission pursuant to this section. This subsection, however, shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent actions.

**SECTION 2.** Subparagraph (1) of Section (A) of §34 of Chapter 102 of the Code of Colts Neck Township shall be amended as follows:

§ 102-34 Submission of sketch plat, minor subdivision plat or minor site plan.

A. Filing procedure.

(3) Within five days of certification of a complete application, the administrative officer shall forward one copy of the plat to the following:

(a) Township Engineer.
(b) Tax Assessor.
(c) Board of Health.
(d) Environmental Commission.
~~*(e) Shade Tree Commission (as applicable).*~~
(~~*f*~~*e*) Such other Township, county or state officials as directed by the Board

**SECTION 3.** Subparagraph (2) of Section (B) of §36 of Chapter 102 of the Code of the Township of Colts Neck shall be amended as follows:

§ 102-36 Submission of preliminary plat.

B. Action by the approving authority.

(2) Application requirements.

(a) The administrative officer shall issue an application number, and thereafter it shall appear on all papers, maps, plats, etc., submitted for processing in conjunction with the application. Within five days of certification of complete application, the administrative officer shall submit copies of the plat and supporting data to each of the following:

[1] Township Engineer.
~~*[2] Shade Tree Commission.*~~
[*2* ~~*3*~~] Board of Health.
[*3* ~~*4*~~] Environmental Commission.
[*4* ~~*5*~~] Tax Assessor (two).
[*5* ~~*6*~~] Any other agency or person, as directed by the approving authority for their review or action.

**SECTION 4.** Subparagraph (1) of Section (A) of §38 of Chapter 102 of the Code of Colts Neck Township shall be amended as follows:

§ 102-38 Plat design standards for subdivision plats.

A. Plat conformity.

(1) No development application shall be accepted unless submitted in plat form, and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information and complies with the provisions of N.J.S.A. 46:23-1 et seq., as amended.[1] All plats shall be drawn by a land surveyor, as required by law, licensed to practice in the State of New Jersey and shall bear the signature, seal, license number and address of the land surveyor, except that plats submitted under the informal discussion provisions of Article V[2] are exempt from this requirement. All drawings of improvements shall be drawn to comply with the Route 34, Colts Neck, Highway Access Management Plan for developments located in the area included in that Plan, and shall be signed and sealed by a licensed professional engineer of the State of New Jersey if they are a part of an application requiring formal approval. All landscaping plans shall be prepared by a professional licensed landscape architect and/or engineer. Each such person shall affix his or her name, title, address and signature and seal to such plans. All landscaping shall fully comply with and be installed and planted in accordance with the Colts Neck Township ~~*Shade Tree*~~ ***Environmental*** Commission Planting Specifications, as well as in conformance with any conditions stated in the resolution approving a development.

**SECTION 5.** Subparagraph (17) of Section (D) of §38 of Chapter 102 of the Code of Colts Neck Township shall be amended as follows:

§ 102-38 Plat design standards for subdivision plats.

D. Preliminary major subdivision plat.

(17) The following notes and diagrams shall be added to preliminary plats:

(a) General notes.

[1] Following installation of the street base course, the areas around catch basins and manholes shall be immediately built up with pavement to facilitate snowplowing and to prevent damage to vehicles passing over them, said buildup to be in accordance with Township Engineer's recommendations and to be maintained until the top course is applied. See § 102-77Q.
[2] All site improvements shall be completed within two years of the date that a certificate of occupancy is issued for the first new home in a subdivision development.

[3] All utilities to be placed under streets are to be installed before the street base course pavement is installed.
[4] Conservation, open space, drainage and utility right-of-way easements and landscape easements and greenway areas are not to be used for roadways or storage or as a dump area or driven over by construction or other equipment or disturbed in any manner without prior permission, in writing, from the Township Engineer. Any such areas disturbed must be restored to the natural state or to the state specified on the approved plats and to the satisfaction of the Colts Neck Township ~~***Shade Tree***~~ ***Environmental*** Commission.

**SECTION 6.** Subparagraph (3) of Section (D) of §39 of Chapter 102 of the Code of Colts Neck Township shall be amended as follows:

§ 102-39 Plat design standards for site plan plats.

D. Preliminary site plan plat.

(3) The following notes and diagrams shall be added to preliminary site plans (see also § 102-85I):

(a) General notes.

[1] All site improvements shall be completed within one year of the date that a certificate of occupancy is issued for the building for which such improvements are required or necessary in a site plan development.
[2] Conservation, open space, drainage and utility right-of-way and landscape easement areas are not to be used for roadways or storage or as a dump area or driven over by construction or other equipment or disturbed in any manner without prior permission, in writing, from the Township Engineer. Any such areas disturbed must be restored to the natural state or to the state specified on the approved plats and to the satisfaction of the Colts Neck Township ~~***Shade Tree***~~ ***Environmental Commission.***

**SECTION 7.** All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed. All portions of the ordinance not modified herein remain in full force and effect.

**SECTION 8.** Should any section, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

**SECTION 9.** This ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

I hereby certify the Ordinance foregoing to be a true copy of an Ordinance adopted by the Township Committee of Colts Neck Township on the 29th day of January, 2025.

Tara Torchia Buss, Mayor

Trina Lindsey, Municipal Clerk

| RECORD OF VOTE | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | First Reading | | | | | Second Reading | | | | |
| | January 8, 2025 | | | | | January 29, 2025 | | | | |
| | M | S | Yes | No | NV | Ab | M | S | Yes | No | NV | Ab |
| Mayor Buss | | | X | | | | | | X | | | |
| Deputy Mayor Viola | | | X | | | | M | | X | | | |
| Buzzetta | S | | X | | | | | | X | | | |
| Fitzpatrick | M | | X | | | | | | X | | | |
| Rizzuto | | | X | | | | S | | X | | | |
| M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent | | | | | | | | | | | | |