

2009-25

AN ORDINANCE AMENDING SECTION 2-24.1, CONCERNING THE SHADE TREE COMMISSION, AND AMENDING THE LAND USE CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968, REGARDING TREE REMOVAL, PRESERVATION, AND MITIGATION.

WHEREAS, the removal, cutting, and destruction of trees within Princeton Township results in increased drainage control costs, increased soil erosion, increased buildup of atmospheric carbon and dust, decreased fertility of the soil, a decrease in the overall tree canopy, and impacts the general health, safety, welfare, and well-being of the residents of Princeton Township as well as the integrity of the natural environment and processes upon which the residents of Princeton Township depend; and,

WHEREAS, trees are declared to be important cultural, ecological, scenic and economic resources; and

WHEREAS, trees allow for the conservation of energy by providing, *inter alia*, shade in the summer and a windbreak in the winter; and

WHEREAS, it is in the public interest that Princeton Township establish conditions, standards, and procedures for the removal, preservation, and replacement of trees in connection with development within the Township; and,

WHEREAS, an ordinance that controls tree cutting, removal and destruction will meet the objective of preserving, protecting, enhancing, and maintaining trees;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Princeton as follows.

1. New Section 2-24.1, Additional Powers of the Shade Tree Commission, is hereby added to the Code of the Township of Princeton (“Code”) to read as follows:

Sec. 2-24.1. Additional Powers of the Shade Tree Commission.

The Shade Tree Commission shall have the power to:

1. Review tree surveys submitted with development applications for Minor Site Plan, Major Site Plan or Preliminary Major Subdivision referred by the Regional Planning 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 fourteen days prior to that Board’s scheduled hearing of the development application.

2. Prepare criteria, standards, guidelines, and recommendations, including recommendations as to specific appropriations, for the use of funds collected in the Princeton Township Shade Tree Escrow Fund.
 3. Develop an inventory of sites throughout Princeton Township that require the addition of new trees, and regularly update such inventory to reflect the removal or replacement of trees by development.
 4. Develop and maintain a recommended tree species list.
 5. Make, keep, and preserve minutes and records of its meetings and activities, and make annual reports to the Township Committee. Copies of all minutes and records of its meetings and activities shall be filed with the Township Clerk.
2. Section 10B-2, Definitions, of Chapter 10B, Land Use, of the Code is supplemented and amended to add the following definitions:

Diameter at Shoulder Height (D.S.H.). The diameter of the trunk of a tree measured at a point four and one-half feet above ground level.

Tree. Any woody plant with a main stem or multiple stems with branches protruding above the root flare.

3. Subsection 10B-158(c)(11), Existing and Proposed Features, of Section 10B-158, Preliminary major subdivision checklist, of Chapter 10B, Land Use, of the Code is deleted in its entirety and replaced with the following:

11. A tree survey that shall:
 - a. Denote the location and approximate height of those trees on the site, including both those being removed and preserved, that are within 200 feet of the construction's limit of disturbance, which shall include all utilities and driveway areas, and that are eight (8) inches caliper D.S.H. or greater. Trees with multiple trunks shall be shown on the tree survey if the average of the D.S.H. of the tree's multiple trunks is eight (8) inches caliper or greater.
 - b. Include a tree removal/preservation key detailing size, species and condition of the trees shown on the survey.
 - c. Delineate the limit of disturbance for construction taking into account vehicular access and egress, equipment and material storage, grading, utilities installation and other construction activity that may detrimentally impact the remaining trees. The limit of disturbance should extend to the drip line of the trees, at a minimum and be species specific.

4. Subsection 10B-207.1(c), Existing and Proposed Features, of Section 10B-207.1, Minor site plan checklist, of Chapter 10B, Land Use, of the Code is amended as follows (gaps in text where no changes are being made are indicated with ***):

1. Location of streams, waterway corridors, water courses, flood hazard and flood plain areas, bodies of water and wetland areas. All existing physical features including streams, watercourses, bodies of water, rock out cropping and, in some areas to be affected by proposed construction, significant soil conditions, affecting the site and an outline of tree masses on site, with an indication whether such masses are evergreen or deciduous and their approximate height.

14. A tree survey that shall:

- a. Denote the location and approximate height of those trees on the site, including both those being removed and preserved, that are within 200 feet of the construction's limit of disturbance, which shall include all utilities and driveway areas, and that are eight (8) inches caliper D.S.H. or greater. Trees with multiple trunks shall be shown on the tree survey if the average of the D.S.H. of the tree's multiple trunks is eight (8) inches caliper or greater.
- b. Include a tree removal/preservation key detailing size, species and condition of the trees shown on the survey.
- c. Delineate the limit of disturbance for construction taking into account vehicular access and egress, equipment and material storage, grading, utilities installation and other construction activity that may detrimentally impact the remaining trees. The limit of disturbance should extend to the drip line of the trees at a minimum and be species specific.

5. New Section 10B-219.1, Review by Various Commissions, is hereby added to Chapter 10B, Land Use, of the Code to read as follows:

Sec. 10B-219.1. Review by Various Commissions.

After any development application for Minor Site Plan, Major Site Plan or Preliminary Major Subdivision is deemed complete copies of the completed application and plans are to be sent to the Shade Tree Commission, Environmental Commission and Traffic Safety Committee for review. After its review each Commission may prepare a report of its findings and recommendations to be sent to the Board of jurisdiction at least fourteen days prior to that Board's scheduled hearing on the development application.

6. Subsection 10B-226(b), Landscape, of Section 10B-226, Enumeration, of Chapter 10B, Land Use, of the Code is hereby amended to read as follows:

(b) *Landscape.* The historic and natural character of the landscape shall be preserved, insofar as practicable and environmentally desirable, by minimizing tree and soil removal. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacement trees or to other landscape treatment. (Refer to Section 10B-227.A for tree preservation, protection and mitigation standards.) Any grade changes shall be in keeping with the general appearance of neighboring developed areas. In historic preservation zoning districts, in historic preservation buffer zoning districts and on historic sites landscaping shall be in keeping with the historic character of the district or site. Flexibility should be provided when reviewing landscaping to include the period of significance and historical characteristics of the district or site.

7. New Section 10B-227.A, Tree Preservation, Protection, and Mitigation, is hereby added to Chapter 10B, Land Use, of the Code to read as:

Sec. 10B-227.A. Tree Preservation, Protection, and Mitigation.

(a) Purpose and Intent.

1. It is the purpose of this section to protect the general health, safety, welfare, and well-being of the residents of Princeton Township as well as the integrity of the natural environment and processes upon which the residents of Princeton Township depend through the protection of trees and the preservation, as much as practically possible, of Princeton Township's tree canopy. Trees are important cultural, ecological, scenic and economic resources, and the removal, cutting, and destruction of trees within Princeton Township result in increased drainage control costs, increased soil erosion, increased buildup of atmospheric carbon and dust, decreased fertility of the soil, and a decrease in the overall tree canopy.
2. Therefore, it is in the public interest that Princeton Township exercise its police powers and enact the following section to control tree cutting, removal and destruction in connection with development in an effort to meet the objective of preserving, protecting, enhancing, and maintaining trees and the overall tree canopy.

(b) Tree Preservation.

A development plan shall be designed to minimize tree disturbance. Where healthy and desirable trees slated for removal by a development plan can be saved by reasonable adjustments to the plan, the applicant working with the Township Engineer and Arborist shall seek to make such adjustments.

The following standards shall be used to identify healthy and desirable trees:

1. Size of the tree, including both height and caliper.
2. Species of the tree. This factor shall take into account the type of tree and whether it is an invasive species, a rare and/or unusual type

of tree, or a native plant. Preference should be given to preserving native and unusual, or rare, trees over invasive species and trees that have a remaining life of over 50 years.

3. Condition of the tree. This factor shall take into account:
 - a. The tree's roots, including anchorage, collar/flare soundness, mechanical injury, girdling/kinked roots, compaction/waterlogged roots, toxic gasses/chemical systems, and presence of insects or diseases.
 - b. The tree's trunk, including sound bark and wood, cavities, mechanical or fire injury, cracks, swollen or sunken areas, presence of insects or disease, fungal growths and lightning strikes.
 - c. The tree's scaffold branches, including strong attachment, vertical branch distribution free of included bark and decay and cavities. Scaffold branches shall be well proportioned with proper taper, good wound closure and absence of deadwood, insects or diseases.
 - d. The tree's small branches and twigs, including vigor of current shoots, good distribution throughout canopy, normal appearance of buds, absence of insects or diseases, absence of weak or dead twigs.
 - e. The tree's foliage and/or buds, including size of foliage and or buds, coloration of foliage, wilted or dead leaves, dry buds, presence of insects or diseases.
 - f. The tree's age. Preference should be given to preserving trees that have a remaining life of over fifty (50) years.
4. Locational importance of the tree. This factor shall take into account the tree's unique functional and aesthetic contributions to the property; the effect of the removal of the tree from the landscape; the effect of the removal of the tree on the canopy of the subject property and abutting properties; the impact of tree's removal on property's drainage, soil erosion, loss of tree species and loss of wildlife habitat.

(c) Protection of trees during construction.

All trees remaining on site during construction shall be protected. Developers shall use the following methods to ensure that trees remaining on site during construction are not damaged:

1. No soil shall be deposited or removed within the drip line or within eight (8) feet of any existing tree trunk, whichever is greater. No machinery or materials shall be stored, deposited, cleaned, or operated within the drip line or within eight (8) feet of any existing trunk, whichever is greater.

2. Drip lines of trees being preserved on site shall be clearly protected by snow fencing. At no time during construction shall the placement of the fencing be altered without the written permission of the Township Engineer.
3. The grade of the land located along the drip line shall not be raised or lowered more than six (6) inches unless protected by welling or retaining methods and in no event shall the welling or retaining methods be less than eight (8) feet from the trunk of the tree.
4. All debris created during tree removal and replacement shall be removed from the site for disposal before any certificate of occupancy shall be issued.
5. Where clearing and construction on the site results in accidental removal or damage of any tree denoted in the tree survey as remaining on the site, such removed or damaged tree shall be replaced as set forth in this section.
6. The construction's limit of disturbance shall be delineated with snow fencing.
7. Any and all appropriate measures to maintain the vitality of the preserved trees on the property shall be denoted on the tree survey.

(d) Mitigation.

1. Replanting.

- a. Planting will occur on-site as a one for one replacement of all trees of eight (8) inches caliper D.S.H. or greater that are to be removed. Trees with multiple trunks shall be eligible for the one for one replacement if the average D.S.H. of the tree's multiple trunks is eight (8) inches caliper or greater. The replanted trees shall be in accordance with industry standards of 2.5 to 3" caliper. The trees shall be of indigenous species and shall be site specific.
- b. On-site planting is preferred. If on-site planting is not feasible then off-site planting on public lands may occur with the written authorization of, and subject to a plan approved by, the Township Engineer.
- c. All planting will be subject to the planting standards detailed in the document entitled "Engineering Standard Details & Design Criteria: Department of Engineering" and shall be completed prior to the release of the performance bond.
- d. All planted trees, both planted on-site and off-site, will be subject to a two-year maintenance guarantee period during which the applicant will be responsible for all care and maintenance. During the two-year maintenance period, the Township Engineer or his designee shall identify all trees that are weak, diseased, dying or dead, and these trees shall be replaced by the applicant at no cost to the Township.

2. Monetary contribution.

- a. A monetary contribution of \$600.00 per tree shall be made by the applicant to the Princeton Township Shade Tree Escrow Fund for each tree removed that the applicant is not able to replant in accordance with 10B-227A(d)(1).
- b. Payment must be submitted prior to the release of the applicant's performance bond.
- c. All funds collected shall be made out to the Princeton Township Shade Tree Escrow Fund and deposited into an escrow account clearly designated as the Princeton Township Shade Tree Escrow Fund. Funds so deposited shall be used solely for the planting of trees in public parks, property surrounding public buildings, and rights-of-way.
- d. Any and all appropriations from the Princeton Township Shade Tree Escrow Fund shall be made by the Township Committee of the Township of Princeton, upon recommendation and report from the Shade Tree Commission, which shall include locations within the Township needing remediation based upon the removal of trees at those locations nearest the site that generated the funds.
- e. The Princeton Township Shade Tree Escrow Fund shall be administered by the Township's Chief Financial Officer. The Chief Financial Officer shall report (listing by date for the report period) to the Township Committee, the Regional Planning Board, and the Shade Tree Commission, on an annual basis, the amount in the Princeton Township Shade Tree Escrow Fund as of the end of each year, the amount deposited by each development application or other contribution, and all amounts dedicated from the Escrow Fund for that period. Such report shall be filed with the Township Clerk and made available as a public record.

8. Subsection 10B-230(c), Existing and Proposed Features, of Section 10B-230, Major site plan checklist, of Chapter 10B, Land Use, of the Code is hereby amended to read as follows (gaps in text where no changes are being made are indicated with *****):

5. All existing physical features, including streams, watercourses, bodies of water, rock outcroppings and in areas to be affected by proposed construction, significant soil conditions affecting the site and an outline of tree masses on the site, with an indication whether such masses are evergreen or deciduous and their approximate height.

17. Facility location for temporary storage of solid (paper) waste and recycling items.

18. Landscaping plan including location, height and types of planting and screenings.
 19. Right of way easements.
 20. Location of exterior lighting, area of illumination and height and type of standards.
 21. Proposed location and layout of sidewalks, bicycle paths, curbs and interior walkways.
 22. Key map showing entire project and its relation to surrounding areas, roads and watercourses.
 23. A tree survey that shall:
 - a. Denote the location and approximate height of those trees on the site, including both those being removed and preserved, that are within 200 feet of the construction's limit of disturbance, which shall include all utilities and driveway areas, and that are eight (8) inches caliper D.S.H. or greater. Trees with multiple trunks shall be shown on the tree survey if the average of the D.S.H. of the tree's multiple trunks is eight (8) inches caliper or greater.
 - b. Include a tree removal/preservation key detailing size, species and condition of the trees shown on the survey
 - c. Delineate the limit of disturbance for construction taking into account vehicular access and egress, equipment and material storage, grading, utilities installation and other construction activity that may detrimentally impact the remaining trees. The limit of disturbance should extend to the drip line of the trees at a minimum and be species specific.
9. Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, section, paragraph, sentence or clause is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.
10. Effective Date. This Ordinance shall take effect upon its passage, publication, and the filing of a copy of same with the Mercer County Planning Board, all of which is required by law.

I, Kathleen K. Brzezynski, Deputy Clerk of the Township of Princeton, County of Mercer, State of New Jersey, do hereby certify that the foregoing is a true copy of an ordinance adopted by Township Committee at its meeting held November 23, 2009.



Kathleen K. Brzezynski, Deputy Clerk