

ORDINANCE #1357

**An Ordinance Amending the Land Use Ordinance of the Township of Bernards
Chapter XXI, Section 45 Regarding "Tree Removal and Protection"**

SECTION 21-3 Definitions

DRIP LINE shall mean a limiting line established by a series of perpendicular drop points marking the maximum radius of the crown of an existing tree, but not less than six feet from the trunk.

NATURAL FEATURES shall mean having or constituting features existing in a natural setting; implanting or being as if implanted by nature.

SPECIMEN TREE shall mean a tree noticeable by reason of individual characteristics within a species. These characteristics shall include, but not limited to a slow growing tree with a caliper of at least 12 inches.

TREE shall mean any deciduous or coniferous species which reaches a typical height of 12 feet or more at maturity and has a DBH of four inches or greater.

§ 21-43.3. Shade Trees.

Each development plan shall provide for shade trees having a maximum spacing of 50 feet along each side of all streets, public or private, existing or new. In determining the need for new shade trees, the location of existing shade trees shall be considered. If existing shade trees will remain, the tree protection committee and/or the Chief Engineering Inspector shall determine if new shade trees will be required. Additionally, shade trees shall be provided within parking areas containing eight thousand (8,000) or more square feet and shall be planted at a minimum ratio of one shade tree for every ten (10) parking spaces. Shade trees shall be a minimum caliper of three (3) - four (4) inches measured six (6) inches above grade. The board may consult with the shade tree commission concerning the adequacy and appropriateness of the proposed shade trees. (Ord. #585, § 614C; Ord #1103, § 41)

§ 21-44.2. Grading.

- e. Any grading or stripping shall be done so as to minimize permanent damage to existing trees over four inches DBH that are not designated to be removed by permit.

SECTION 21-45
Tree Removal and Protection

§ 21-45.1. Removal of Trees.

- a. No tree with a diameter in excess of four DBH shall be removed if located a distance greater than 25 feet from any construction unless approved by the board.
- b. All areas of tree removal shall be indicated on the development plan.
- c. All provisions of any other applicable ordinance of the township regulating the removal of trees shall be complied with.
- d. When regulated trees or areas of trees are removed without proper approvals from the Board, the affected areas shall be replaced to the satisfaction of the Zoning Enforcement Officer in accordance with Section 16-3.5. The following table:

REPLACEMENT OF TREES	
EXISTING TREES REMOVED DIAMETER OF TREE	NUMBER OF REPLACEMENT TREES
0" - 6"	1
6" - 12"	2
12" - 18"	3
18" - 24"	4
24" - 30"	5
31" - 36"	6
37" - 40"	9
41" OR GREATER	10

All replacement trees shall be of nursery grade quality, balled and burlapped and not less than 2 ½" - 3" caliper. Replacement trees shall be consistent with the type and species removed from the site and shall be planted in accordance with accepted nursery practice.

- e. Any tree along the side of any road which was planted specifically for street shade tree purposes shall not be removed without the approval of the Shade Tree Commission.
(Ord. #585, § 616A)

§ 21-45.2. Tree Protection.

- a. The first priority is to protect all trees on the site whenever possible. The trees to be saved should be protected with fences, signs, or other suitable devices to protect the root zones as well as the tree trunks and branches.
- b. Prior to any tree removal, all trees must be flagged and clearing areas identified for field inspection by the Township Engineer or other approved representative of the Township.
- c. Tree Protection During Construction
 - 1. Tree protection measures and the limit of disturbance line shown on the landscape plan shall be provided in the field with snow fencing or other durable material and verified by the Township Engineer or other designated official prior to soil disturbance.
 - 2. Protective barriers shall not be supported by the plants they are protecting but shall be self-supporting. Barriers shall be minimum for four feet high and last until construction is complete.
 - 3. Chain link fence may be required for tree protection if warranted by site conditions or variety of the plant.
 - 4. Snow fencing used for tree protection shall be firmly secured along the drip line, but no less than six feet from the trunk.
 - 5. The grade of the land located within the drip line shall not be raised or lowered more than six inches unless compensated by welling or retaining wall methods. In no event shall welling retaining wall methods be less than six feet from the trunk of a tree.
 - 6. No soil stockpiling, storage of building materials, construction equipment or vehicles shall be permitted within the drip line or within six feet of any remaining trees, whichever is greater.
 - 7. Any clearing as shown on the approved plan within the drip line, or within six feet of the trunk of a remaining tree, whichever is greater, shall be done by hand-operated equipment.
 - 8. When it is necessary for curbing or utility line installation within the dripline or within six feet of a remaining tree, damage to roots shall be kept to the minimum necessary for proper installation of the line.

§ 21-52.4. Additional Details Required Prior to Classification and Approval of a Minor Subdivision Flag Lot.

- c. The location and species of all existing trees or groups of trees having a diameter in excess of six inches (DBH). When the tree count is more than 25 trees in excess of six inches DBH per acre, the area may be shown as a wooded area with the approximate number of trees per acre. In such designated wooded areas, the

location and species of all trees having a diameter of ten inches or greater (DBH) must be shown.

- i. A landscaping plan in conformance with Section 21-43.

(Ord. #585, § 706D)

§ 21-54.3. Format for Preliminary Development Plans.

- a. Each submission shall be at a minimum scale of one inch equals 30 **feet** for a tract up to 40 acres in size; one inch equals 50 **feet** or a tract over 40 acres in size. Each submission shall be on one of the following standard sheet sizes: 24 x 36 inches or 30 x 42 inches unless an alternate sheet size is approved by the township engineer. If one sheet is not sufficient to contain the entire tract, the map may be divided into sections to be shown on separate sheets equal sizes, with reference on each sheet to the adjoining sheet.
- b. The application shall be submitted in bound sets of drawings. Each set of drawings shall be broken down according to the following criteria:
 - 1. Title sheet;
 - 2. Site survey and layout plan;
 - 3. Tree Identification Plan
 - 4. Clearing, grading and drainage plan;
 - 5. Landscape plan;
 - 6. Lighting, signing and striping plan;
 - 7. Erosion and sedimentation control plan;
 - 8. Utilities plan;
 - 9. Building plans and elevation;
 - 10. Township standard details;
 - 11. Public Improvement Construction Documents. Two (2) sets of construction plans (and specifications) shall be submitted as separate documents in addition to being part of the complete submission. Drawings shall be at a scale of one (1) inch equals thirty (30) feet, in the format set forth in Section 21-54.3. The degree of completeness required at the time of preliminary submission will depend upon the implementation schedule. If the applicant plans to construct public improvements prior to submission for final approval, the plans should show sufficient detail to allow a thorough engineering review. If, however, the applicant does not plan to construct the improvements prior to submission for final approval, the plans may be graphical, giving typical sections, center line geometry, typical details, limits of construction, general drainage structures, etc.

(Ord. #585, § 708C)

§ 21-54.4. Details Required for Preliminary Development Plans.

a. Required Details

20. The locations and species of all existing trees or groups of trees having a diameter in excess of six inches DBH. When the tree count is more than 25 trees in excess of six inches DBH per acre, the area may be shown as a wooded area with the approximate number of trees per acre. In such designate wooded areas, the location and species of all trees having a diameter of ten inches or greater DBH must be shown.

38.(d) The plan shall show;

(2) Existing individual trees in excess of six inches DBH, identified by species and showing the approximate drip lines.

(3) Contiguous stands of trees with intergrown crowns which will be preserved.

a. Existing individual trees in excess of ten inches DBH or contiguous stands of trees with intergrown crowns which will be cut down.

45. Tree removal requirements for major subdivisions and site plans

Each application to the Planning Board or Zoning Board of Adjustment for approval of a major or minor subdivision or any site plan that requires the removal of trees shall include an application for a tree removal permit. The application and development proposal shall conform to the following provisions:

a. Application form - The application form shall be available from the Zoning Enforcement Officer and shall include the following information.

1. Name and address of the owner of the premises and status of legal entity (individual, partnership, corporation of this or any other state, etc.);
2. Status of the applicant with respect to land (owner, lessee, tenant, purchaser, under contract, etc.);
3. Name and address of the applicant for the permit if other than the owner, accompanied by the owner's written consent;
4. Description of the premises where removal is to be taken place, including lot and block numbers, and street address;
5. A list of all trees to be removed with a DBH equal to or greater than six inches identified by size and species, including total number of each species to be removed;

6. Purpose for tree removal (construction, street or roadway, driveway, utility easement, recreation areas, patio, parking lot, etc.);
 7. Proof that there are no delinquent property taxes or assessments due on the property for which the application is submitted;
 8. Such other information as may be deemed necessary in order to effectively process and decide such application;
 9. Trees that had been removed within the past two years.
- b. Landscape Plan - The following information shall be provided on a landscape plan prepared in accordance with this Chapter.

1. Base information

- a. Location of tree canopy within the property boundaries.
- b. Location of individual trees with a DBH equal to or greater than six inches identified by size and species within the area of development/limit of disturbance.
- c. Location of individual trees with a DBH equal to or greater than six inches identified by size and species thirty feet beyond a delineated limit of disturbance line.
- d. Location of individual existing trees noted for preservation within the area of development/limit of disturbance identified by size and species.
- e. Clear labeling of the area intended for tree removal.
- f. Tree protection details and limit of disturbance line.
- g. Anticipated areas subject to regrading.

2. Design requirements

- a. Only those trees necessary to permit the construction of buildings, structures, streets, driveways, infrastructures and other authorized improvements shall be removed. Existing vegetation shall be preserved to the greatest extent feasible.
- b. No more than sixty (60) percent of existing tree canopy within the property boundaries shall be removed. Existing tree canopy comprised of the forty (40) percent minimum shall be noted for preservation. Steep slope limits of disturbance shall supersede this section when approved by the Board.
- c. No more than ten (10) percent of existing trees with a DBH equal to or greater than ten (10) inches within the area of development/limit of disturbance shall be removed unless the applicant shall replace trees removed in accordance with the table in Section 21-45.1.
- d. Landscape standards may be waived by the Board when trees and/or shrub masses are preserved and/or relocated on-site that essentially duplicate the landscape requirements contained in this section.

- e. The approving authority shall have the option of requiring a conservation easement to protect any or all trees or tree canopy areas to remain on site.

§ 21-54.6 Support Documentation.

- c. Natural Features Report. This report shall include:

- 5. Data on landscaping, including a vegetation map showing tree and ground cover existing on the site as compared with that proposed.

21-54.6.m.4.

- (c) Storm Water. The following data and documentation:

(2) Changes in peak rates and volumes of stormwater runoff and runoff coefficients expected to be caused by changes in land use and whether or not there will be any increased incidence of flooding caused by increased storm water runoff due to the projected project.

(3) Submission of plans showing the disposition of storm water and attempts to delay the time of concentration by the use of detention basins or other acceptable methods.

(4) Submission of an erosion and sediment control plan in accordance with the requirements of Article V.

§ 21-54.9. Effect of Preliminary Approval.

- e. Preliminary Approval Construction Rights. In the case of a subdivision or site plan, preliminary approval shall grant the right to the owner the ability to construct the roadways, drainage system, detention basins, utility and other site improvements as shown on the approved preliminary subdivision of site plan. A performance bond for restoration of the site will be required as per subsection 21-59.2. In the case of a subdivision, one (1) building permit certificate of occupancy may be granted if there are no other dwelling units on the property. Preliminary approval does not grant the right to the owner the ability to begin additional grading or tree removal outside the roadway right-of-way or outside any approved detention basins except for the construction of one dwelling, utilities, or drainage if necessary.

(Ord. #585, § 708I; Ord. #1103, § 46)

§ 21-55.2. Details Required for Final Plats and Final Plans.

- d. The final submission shall be accompanied by the following documents:
 - (i) The finalized landscape plan and associated documentation pursuant to Section 21-43 through 21-45 inclusive.

§ 21-63.2. Construction Permits.

- c. Every application for a construction permit shall be accompanied by three (3) sets of plans drawn in ink or a blueprint showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of all existing and proposed structures and substructures, the location and species of all trees equal to or greater than six inches DBH within 15 feet of proposed structure, indicate all trees to be removed, a tree removal permit application if applicable, all existing easements, the existing or intended use of each structure, the number of dwelling units the structure is designed to accommodate, the number and location of off-street parking spaces and off-street loading areas and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. A construction permit shall be granted or denied in writing within twenty (20) business days from the date of a complete application unless additional time is agreed upon in writing by the applicant. One (1) copy of such plans shall be returned to the owner when such plans shall have been approve or denied by the construction code enforcement official and zoning enforcement officer together with such permit as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a licensed land surveyor in the State of New Jersey. The lot and the location of the structure(s) thereon shall be staked out on the grounds before construction is started. No construction permit shall be issued for any structure:

5.Until a tree removal permit is applied for and issued, if required.

(ORD. #585, § 1002b; Ord. #1103, § 60; Ord. #1229, § 3)

§ 21-64. Violations

In case any building or structure is erected, constructed, reconstructed, altered, moved or converted; or any building, structure or land is used in violation of, or contrary to, the provisions of this chapter; or any person removing any trees from any property within the Township limits without obtaining a tree removal permit, the township may institute an action to enjoin or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use. However, nothing in this

chapter shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law. (Ord. #585, § 1003)

21-65 Penalties

§ 21-65.1. Fines.

Any owner, agent, person or corporation who violates any of the provisions of this chapter or who fails to comply with any of the requirements thereof or who erects, raises, moves, extends, enlarges, alters or demolishes any structure in violation of any detailed statement or plan submitted hereunder, or who puts into use any lot or premises in violation of any detailed statement or plans submitted hereunder or who refuses reasonable opportunity to inspect any premises shall, or removed a tree without a permit that is required upon conviction thereof by any court authorized by law to hear and determine the matter, be liable to a fine of not more than one thousand (\$1,000.00) dollars, or to imprisonment for a term of not more than ninety (90) days or both, as such court in its discretion may impose. Each tree removed shall be considered a separate offense. The owners of any property wherein a violation exists, and any builder, contractor, or agent who may have assisted in the commission of any such violation, shall be guilty of a separate offense.

Each day during or on which a violation occurs or continues shall be deemed a separate offense.

(Ord. #585, § 1004A; Ord. #845, § 2)

Publication by Summary Pursuant to N.J.S.A.40:49-2

ORDINANCE #1357

An Ordinance Amending the Land Use Ordinance of the Township of Bernards
Chapter XXI, Section 45 "Tree Removal and Protection"

This ordinance sets forth and defines regulations concerning tree removal and provides for protection of trees in conjunction with new development within the township.

TOWNSHIP OF BERNARDS PUBLIC NOTICE

Ordinance #1357 having been introduced and passed on first reading by the Township Committee of the Township of Bernards in the County of Somerset on May 25, 1999, and then ordered to be published according to law, will be further considered for final passage and adoption at a public hearing held at a meeting of said Township Committee at the Municipal Building, 1 Collyer Lane, Basking Ridge, NJ in said township on June 29, at 8:00 P.M., when and where, or at such time and place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance. A complete text of this ordinance is available in the Office of the Municipal Clerk, 1 Collyer Lane, Basking Ridge, NJ, from 8:30 A.M. to 4:30 P.M., Monday through Friday. Copies are also available via e-mail from dszabo@bernards.org.

By Order of the Township Committee
Denise Szabo, Municipal Clerk

TOWNSHIP OF BERNARDS COUNTY OF SOMERSET Public Notice

Notice is hereby given that the Township of Bernards, **Ordinance #1357 – An Ordinance Amending the Land Use Ordinance of the Township of Bernards, Chapter XXI, Section 45 Regarding "Tree Removal and Protection"**, was introduced and passed on

first reading at a meeting of the Township Committee, on May 25, 1999 and was passed on final reading and adopted following a public hearing thereon at a regular meeting of the Governing Body of the Township of Bernards on June 29, 1999.

Denise Szabo
Municipal Clerk