ORDINANCE NO. 2026-17

AN ORDINANCE AMENDING
CHAPTER 12 "LAND DEVELOPMENT DEFINITIONS" OF THE BOROUGH CODE, AND CHAPTER 16 "DESIGN AND PERFORMANCE STANDARDS", SECTIONS 1632 "LANDSCAPE STANDARDS" AND SECTION 1632.1 "PUBLIC ART" OF THE BOROUGH CODE

WHEREAS, the Borough seeks to modernize its landscape design and planting regulations; and

WHEREAS, the Borough seeks to comply with the model NJDEP Tree Removal – Replacement Ordinance; and

WHEREAS, the Borough seeks to consolidate the tree removal and replacement standards in Chapter 16 with its landscape standards; and

WHEREAS, the Public Art regulations in Section 1632.1 are relocated to a new section to provide better organization to the Borough Code.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Flemington, the County of Hunterdon, that Chapters 12 and 16 of the Code of the Borough of Flemington (the "Code"), are hereby amended and supplemented as follows:

Section I. Section 1201 of the Code, entitled "Words and Terms Defined," is hereby amended to read as follows (additions are shown as thus; deletions are shown as ~~thus~~);

CRITICAL ROOT RADIUS (CRR)

The zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CRR = 6" x 1.5' = 9'.

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of the trunk of a tree generally measured at a point 4 1/2 feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 1/2 foot height, the DBH shall be measured at the highest point before any division.

HAZARD TREE

A tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

A. Has an infectious disease or insect infestation;

B. Is dead or dying;

C. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;

D. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or

E. Is determined to be a threat to public health, safety, and/or welfare.

NATIVE PLANT

A plant that occurs naturally within New Jersey. Also referred to as indigenous plants.

PLANTING STRIP

The part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

STREET TREE

A tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

TREE

A woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

TREE CALIPER

The diameter of the trunk of a young tree, measured six inches from the soil line. For young trees whose caliper exceeds four inches, the measurement is taken 12 inches above the soil line.

TREE REMOVAL

To kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

<u>Section II</u>. Section 1632 of the Code, entitled "Landscape Standards," is hereby amended to read as follows (additions are shown as <u>thus</u>; deletions are shown as ~~thus~~);

§ 1632.1 LANDSCAPE STANDARDS

A. Every applicant for subdivision or site plan approval shall comply with the following minimum standards, except that, with respect to the alternative design concepts set forth below, the applicant may choose between the concepts or present an alternate design equal or superior to the design concepts in terms of quantity of landscaping materials and suitability to the site and to the proposed development. The approving Board may require additional landscaping, if necessary, to create an appropriate landscaping scheme for the site, given the nature of the site and the proposed development thereof. Where subdivisions only are applied for, the minimum standards shall apply only to street trees and to common open space and areas proposed to be dedicated to the public.

1. General. Landscape plans shall conform to the following general design principles:

    a. Use landscaping to accent and complement buildings, e.g., groupings of tall trees to break up long, low buildings and lower plantings for taller buildings.

    b. Locate landscaping to provide for climate control, e.g., shade trees on the south to shield

the hot summer sun and evergreens on the north side for windbreaks.

c. Provide for a variety and mixture of landscaping. Variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage.

d. Local soil conditions and water availability shall be considered in the choice of landscaping.

e. Consider the impact of any proposed landscaping plan at various time intervals so that, e.g., shrubs do not grow and eventually block sight distances or encroach upon road or sidewalks.

f. All landscape plants shall be typical full specimens conforming to the American Association of Nurserymen Standards and/or Landscape Plans and Specifications for quality and installation.

g. Assure that no aspect of the landscape design inhibits access to a development by emergency vehicles.

h. With minor exceptions, all plants shall be native and adaptive to the State of New Jersey, with an emphasis on native plants.

i. Landscape design should seek to reduce the need for water, pesticides and chemical fertilizer in planted areas through the use of native and adaptive plants and xeriscaping.

2. Street Trees. Street trees shall be provided for all streets.

a. Spacing between trees shall be not more than 40 feet on center.

b. The use of more than one variety of street tree along a roadway is encouraged in order to avoid problems be associated with monoculture.

c. Trees shall be planted in groupings of similar varieties. Use trees of similar form, height and character along a roadway to promote uniformity and allow for smooth visual transition between species.

d. Tree variety selection shall be based upon on-site conditions and tree suitability to these conditions. The Street Tree Selection Guide with the approved street tree list shall be followed.

e. Street trees within the public right-of-way shall be maintained by the property owner abutting the right-of-way. Street trees on public property shall be maintained by the property owner.

3. Cul-de-sac. Cul-de-sac islands provide an opportunity to create visual interest, soften the harshness of a large paved area, increase groundwater recharge, screen headlight glare into residences, and preserve existing vegetation.

    a. All plant material shall exhibit a mature height under 30 inches or above 7 feet with no more than three trunks in order to allow for proper visibility.

    b. All plants shall be tolerant of harsh, dry roadside conditions.

    c. Ground cover plantings shall be consistent with the degree of maintenance expected for the cul-de-sac and of sufficient density to entirely cover the ground plane.

4. Stormwater. Stormwater management areas include retention and detention basins, drainage ditches and swales, and wetland areas. Sensitively-designed basins and swales can benefit the health, welfare and safety of Borough residents. This may involve integration of these areas as aesthetic landscape features, naturalized wetland areas, or active and passive recreation areas, in addition to their stormwater management function.

    a. Stormwater Facilities.

        (1) Stormwater facilities, such as but not limited to bioretention basins, detention basins, and vegetative filter strips shall be graded creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge. This shall include gentle berming and avoiding linear, geometric basins.

        (2) Stormwater facilities shall be planted with trees and shrubs, both along the perimeter area and within the facility, to the extent permitted by Chapter 21, Stormwater Management, of the Borough Code. The ground plane shall be seeded with a naturalization, wildflower and/or wet meadow grass mix. The facility shall have a natural planting design that includes a wide variety of species.

        (3) Planting shall not be located within 10 feet of low flow channels to allow for maintenance.

        (4) Provisions for emergency access as well as general maintenance of the basins shall be reviewed by the Borough Engineer. Plantings shall be designed to disguise yet not hinder vehicular access.

        (5) Plantings are not permitted upon any dikes associated with a detention basin unless approved by the Borough Engineer.

        (6) Stormwater Retention Areas - Open Space/Recreation Features. This landscape treatment can take on a variety of landscape forms, from formal reflecting pools and canals or entry fountain features to natural park-like lakes and ravines.

            (a) Water fountains/features are encouraged.

            (b) The water's edge shall be easily maintained and stable. Possible treatments might include rip-rap, stone walls, natural plantings, decking and bulkheads.

            (c) The planting of the perimeter of the feature shall accentuate views and interest and integrate pedestrian paths, sitting areas, and other uses.

            (d) Plantings shall include formal or informally-massed deciduous and evergreen trees and shrubs to screen and frame views with ornamental trees, shrubs and grasses used for visual interest or special effects. A continuous landscape area shall be provided.

(e) If used as a recreational feature, the connection to the water must be addressed and controlled. The types of uses shall be specified and the plantings and pedestrian spaces shall be integrated with these uses.

(f) Plants with pervasive root systems shall not be located where they may cause damage to drainage pipes or other underground utilities.

(g) All engineered basin structures shall be designed to blend into the landscape in terms of construction materials, color, grading and planting.

5. Open Space. Common or public open space provided as a part of any cluster development shall be landscaped in one of the following ways, depending upon the intent of the use for the open space.

a. Preservation of Open Space. This treatment is appropriate in areas adjacent to and inclusive of natural amenities to be preserved, such as wooded areas, water bodies; streams and wetlands, as well as other undevelopable areas

The following standards shall apply:

(1) Use open space to preserve existing natural amenities during site planning.

(2) Provide pedestrian walkways and bridges as necessary to connect to open space on adjacent tracts of land.

(3) Cleared areas shall be renaturalized where appropriate.

(4) The ground plane shall be seeded with a naturalization wildflower and/or meadow grass mix.

b. Recreation Open Space. Recreational open space includes public and private lands provided for active recreation and passive recreation and as additions to park lands. It can take on many forms, from a tot lot or tennis and swimming complex in a residential development to an English landscape garden in an office development. The landscape treatment of these areas shall address safety, visual interest, microclimate and use.

The following standards shall apply:

(1) The proposed use of all open space areas shall be indicated and comply with Borough ordinances.

(2) Open space in commercial, residential or similar developments shall include sitting and outdoor eating areas. Provisions for other active and passive recreation facilities are encouraged.

(3) Grading and plantings of the recreation area shall remain consistent with the overall landscape design. The landscape design shall consist of massed deciduous and evergreen trees and berms to create spaces and views and ornamental trees and shrub masses for visual variety, interest and detail.

(4) Suggested improvements for residential recreation open space areas include but are not limited to a tot lot (play structure with slide and a separate swing set), an open air shelter, an open lawn area for open field play, pedestrian pathways, and benches.

(5) The adjacent residences shall be partially screened from play areas using berms, plantings and/or fencing.

(6) If a recreation facility fronts onto a roadway, a post and rail fence or other protective measures may be integrated to provide protection and separation. The adjacent street tree planting shall be continued along this area, and any reverse frontage buffer

planting shall be integrated with open space planting.

6. Buffers. Landscaping buffers are areas provided to minimize and screen any adverse impacts or nuisances on a site or from any adjacent area. Included within any landscape buffer area shall be a landscape strip consisting of trees, conifers, shrubs, berms, and if appropriate, fences or walls and providing a completely planted visual barrier. In areas of less than 25 feet width, the provisions of the windbreak/heavy buffer requirements shall be followed.

   a. Nonconforming Use Buffer. These buffers shall be provided where a residential zone abuts an area currently used or zoned for a different or higher intensity use. The following landscape treatment shall be provided to assure complete visual screening.

      (1) Provide a buffer area as per zoning ordinance yard/setback requirements.

      (2) Preserve existing trees within the provided landscape buffer area. If existing vegetation is insufficient, the landscape strip shall be supplemented with new understory plantings of shade-tolerant coniferous and ornamental trees in naturalistic groupings in order to provide a complete visual screen.

      (3) Areas void of existing vegetation shall receive landscape treatment including berming and planting consisting of groupings of predominantly evergreen trees, with deciduous and ornamental trees and shrubs for visual interest and variety.

      (4) Berming shall be 2-8 feet in height and meander in a naturalistic manner without adversely affecting natural drainage.

      (5) Planting shall consist of evergreen trees in naturalistic groupings of mixed plant varieties and sizes.

   b. Reverse Frontage Buffer. Reverse frontage screening shall be required where residential units and/or lots back onto any arterial or major collector street. The following landscape treatments shall be provided in order to screen private residential spaces from the roadway.

      (1) Provide a continuous landscape/sidewalk easement or open space strip of not less than 50 feet width.

      (2) Preserve existing trees within the provided landscape buffer area. Supplement understory with shade tolerant naturalistic massed plantings of evergreen and ornamental trees in order to complete screening of residences. Meander sidewalk into new plantings and, as necessary, to preserve existing trees.

   c. Filtered Buffer. Filtered screening shall be required around the perimeter of parking areas and where interior roads run parallel with other roads, parking areas, or the perimeter of a site in order to screen unsafe distractions and avoid confusion.

      The following standards shall apply:

      (1) Provide landscape buffer area of 25 feet in width or as per zoning ordinance front yard requirements, whichever is greater.

      (2) Preserve existing trees within the landscape buffer area. If existing vegetation is insufficient, the landscape strip shall be supplemented with new understory plantings of shade-tolerant coniferous and ornamental trees in naturalistic groupings.

      (3) In areas of necessary disturbance, existing quality vegetation shall be relocated for use in other areas. Detailed plans for tree removal and relocation must be made on plans and in the field (tag trees) for review and inspection.

      (4) The landscape design shall provide shade for parking areas and evergreen and

ornamental trees to screen nuisances and emphasize appropriate views.

(5) All plants shall be tolerant of harsh roadside conditions.

(6) If a 25 feet landscape strip cannot be provided, a row of evergreen trees or a combination of a low wall and berm with planting may be required.

d. Windbreak/Heavy Screening. Windbreak screening shall be required where necessary to provide windbreak or to stop windborne debris from leaving a site. This type of screening may also be required in undersized buffer areas or around outdoor storage facilities. The following standards shall apply:

(1) Provide a landscape strip consisting of a double staggered row of evergreen trees of 6-8 feet height spaced 8 feet on center.

(2) If a landscape buffer area is less than 10 feet wide, or windborne debris is produced, then a fence may be required in addition to planting.

(3) All outdoor storage facilities shall be screened with a landscape strip. If the strip is less than 10 feet wide, a fence shall be required.

(4) If a fence is required, it shall be 6 feet high and of a design consistent with the architecture of the principal building. Planting shall be included in any fencing plan.

e. Parking Areas. The objectives of the landscape architectural treatment of all parking areas shall be to provide for safe and convenient movement of vehicles, to limit pedestrian/vehicular conflicts, to limit paved areas, to provide for screening from public right-of-way and buildings, to soften the overall visual impact of parking lots, and to provide shade and reduce heat island effects.

(1) Large parking lots shall be subdivided into modules of 10-12 spaces on a side. Separation of modules should be achieved by a landscape buffer area and strip of 10 feet width. Integrating pedestrian circulation into these strips should be considered.

(2) Trees within the parking areas shall be provided at a minimum rate of 1 tree per 3 parking spaces, except where the normal spread of the tree exceeds 30 feet. Preservation or relocation of existing trees greater than 5 inches in caliper is encouraged to meet this requirement. Landscape buffer or parking area perimeter plantings do not satisfy this requirement. Any parking area in a front yard or within clear view from the public right-of- way shall be screened from view by a landscape buffer area.

(3) Parking areas shall be screened from interior drives using evergreen, deciduous and flowering trees and shrubs to create a continuous landscape strip of 10 feet minimum width. Consider integration of pedestrian walkways within these strips.

(4) Parking lot lighting should be sited within landscape islands. However, trees shall not hinder safe lighting coverage. Therefore, varieties must be considered. Shade trees should be used so as to reduce glare to adjacent properties, buildings and roadways.

(5) Pedestrian and vehicular conflicts shall be minimized through design, yet, when necessary, clearly indicated by change of paving and/or plant material.

7. Amenities/Resources. The objectives of landscape architectural treatment of sites inclusive of historic resources and natural amenities shall be to preserve and enhance such amenities for present and future residents. Historic resources and natural amenities are areas of unique landscape character. This may include, but is not limited to, bodies of water, streams, wetlands, windbreaks, groves of trees, hedge rows, orchards, unique vistas, farmsteads, villages and historic structures and landmarks. Land developments in the Borough shall be designed to

preserve and utilize these amenities as features. The architectural, site plan and landscape architectural design shall utilize these amenities for design themes, preserving their heritage and enhancing their significance.

8. Provisions Applicable to Site Plans and Subdivisions.

    a. Utilize the uniqueness of the existing bodies of water, groves of trees, hedge rows, historic structures and landmarks, and farmsteads within the site plan as features.

    b. Respect the historic value and character of the villages and hamlets which exist in the Borough. Development within these areas shall conserve their individual character.

    c. Provide landscaping as required, integrated with existing vegetation or historic landscape themes.

    d. When appropriate, the development of historical markers or displays in coordination/agreement with the Historic Preservation Commission shall be required.

    e. Use of native plants and xeriscaping is encouraged in order to reduce the need for water, pesticides and chemical fertilizer in planted areas.

9. Planting Requirements and Landscape Maintenance.

    a. All material and planting details shall conform to the latest version of the American Standard for Nursery Stock.

    b. All plant material shall be insect and disease-free and in good condition at time of planting.

    c. A landscape management/ maintenance specification shall be provided in conjunction with all approved subdivisions as to street trees, common open space and areas to be dedicated to the public and all approved site plans.

    d. All plantings shall be maintained in an attractive and presentable condition free of weeds, refuse and debris, and shall be continuously maintained in a sound health and vigorous growing condition, free of plant disease and insects, per the final landscape plan.

    e. Landscaping shall be maintained as approved on the site plan or a permit issued pursuant to this Chapter, including but not limited to quantity and species of trees, shrubs and other plantings. All dead, diseased, missing plant material shall be replaced. Such replacements shall be resolved within four weeks from time of notification, weather permitting.

    f. Street trees within the public right-of-way shall be maintained by the property owner abutting the right-of-way. Street trees on public property shall be maintained by the property owner.

10. Water Conservation. All permanent sprinkler and irrigation systems installed on or after the adoption date of this Ordinance are required to include automatic rain sensors which prevent watering during and shortly after precipitation.

11. Tree Planting Alternatives.

    a. In the event that relief is granted for the number of street trees or the number of trees within a parking lot, the Planning Board may require a payment in lieu of planting as set forth herein.

12. Planting Standards

    a. Any tree to be replanted, replaced or planted new shall adhere to the following size and planting standards;

(1) Shade Trees shall have a minimum of 2.5 inches in caliper size at the time of planting.

(2) Evergreen Trees shall have a minimum height of 6 feet at the time of planting.

b. Any shrub to be replanted, replaced or planted new shall adhere to the following size and planting standards

(1) Upright shrubs shall have a minimum height of 2.5 feet at the time of planting.

(2) Spreading shrubs shall have a minimum height of 2 feet at the time of planting.

B. Plant Selection.

1. With minor exceptions, all species of plants and trees shall be native or adapted to the State of New Jersey with an emphasis on native plants.

2. Any invasive species to The State of New Jersey are prohibited. A full list of invasive species is currently maintained by the New Jersey Department of Environmental Protection.

3. The following list of shade trees shall be utilized for street trees, buffers and other appropriate planting purposes. Landscape designs shall also incorporate ornamental trees, evergreen trees, shrubs, and grasses as appropriate and as may be specified in the Borough Code.

SHADE TREE SELECTION GUIDE Shade Trees for Street Planting				
Botanical Name	**Common Name**	**Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')**	**Value as a Street Tree**	**Comments**
Acer campestre	Hedge Maple	Small	Moderate	Globe shaped, urban tolerant
Acer rubrum	Red Maple	Tall	Excellent	Globe shaped, wet site tolerant, invasive roots
A. rubrum 'Columnare'	Columnar Red Maple	Tall	Moderate	Columnar, wet site toleratant, invasive roots
A. rubrum 'October Glory'	October Glory Red Maple	Tall	Excellent	Broad oval shape, wet site tolerant, good fall color
A. rubrum 'Scanlon'	Scanlon Red Maple	Medium	Excellent	Columnar, wet site tolerant, urban intolerant
Acer saccharum	Sugar Maple	Tall	Excellent	Broad oval shape, urban intolerant
A. saccharum 'Columnare'	Columnar Sugar Maple	Tall	Excellent	Columnar, urban intolerant
A. saccharum 'Green Mountain'	Green Mountain Sugar Maple	Tall	Excellent	Broad oval shape, urban intolerant
A. saccharum 'Temple's Upright'	Temple's Upright Sugar Maple	Tall	Moderate	Columnar, urban intolerant
Aesculus carnea 'Brioti'	Ruby Horsechestnut	Medium	Moderate	Globe shaped, red flowers, urban tolerant
Aesculus hippocastanum	Double Flowering	Tall	Moderate	Narrow conical shape, double white flowers,

SHADE TREE SELECTION GUIDE Shade Trees for Street Planting				
Botanical Name	**Common Name**	**Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')**	**Value as a Street Tree**	**Comments**
'Baumanni'	Horsechestnut			urban tolerant
Carpinus betulus	European Hornbeam	Small	Moderate	Broad oval shape, urban tolerant
Carpinus betulus 'Fastigiata'	Pyramidal European Hornbeam	Medium	Moderate	Columnar shape, urban tolerant
Carpinus caroliniana	American Hornbeam	Small	Moderate	Spreading shape, difficult to transplant
Celtis occidentalis	Common Hackberry	Tall	Moderate	Globe shaped, wet site, dry site, urban tolerant
Cladrastis kentukea (lutea)	Yellowwood	Medium	Moderate	Globe shaped, white flowers in early summer
Gleditsia triacanthos inermis 'Shademaster'	Shademaster Thornless Honeylocust	Tall	Moderate	Broad oval shape, mimosa webworm problem, urban tolerant
Gleditsia triacanthos inermis 'Skyline'	Skyline Thornless Honeylocust	Tall	Moderate	Pyramidal, mimosa webworm problem, urban tolerant
Liquidambar styraciflua	American Sweet Gum	Tall	Poor-Moderate	Broad oval shape, good fall color, wet site tolerant, gumballs are litter problem
Magnolia xloebneri 'Merrill'	Dr. Merrill Magnolia	Small	Moderate	Broad oval shape, white flowers, urban tolerant
Magnolia salicifolia	Anise Magnolia	Medium	Excellent	Narrow conical shape, white flowers
Platanus acerifolia	London Planetree	Tall	Moderate	Spreading shape, urban tolerant
Platanus occidentalis	American Sycamore	Tall	Poor	Spreading shape, wet site tolerant, subject to twig blight
Quercus palustris	Pin Oak	Tall	Moderate	Narrow conical, wet site tolerant, lower branches are a problem
Quercus phellos	Willow Oak	Tall	Moderate	Broad oval shape, wet site tolerant, fine texture
Quercus rubra	Red Oak	Tall	Excellent	Spreading shape, urban tolerant
Ulmus americana	American Elm	Tall	Moderate	Vase shaped, resistant to Dutch Elm Disease
Zelkova serrata 'Green Vase'	Japanese Zelkova	Tall	Moderate	Wine-glass shaped, wide canopy, resembles elm, dry site tolerant

SHADE TREE SELECTION GUIDE Shade Trees for Street Planting				
Botanical Name	**Common Name**	**Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')**	**Value as a Street Tree**	**Comments**
Zelkova serrata 'Village Green'	Village Green Zelkova	Tall	Excellent	Vase shaped, resembles elm, dry site tolerant

4. The following list of trees and shrubs shall be utilized for wet sites. Landscape designs shall also incorporate ornamental trees, evergreen trees, shrubs, and grasses as appropriate and specified herein.

TREES AND SHRUBS RECOMMENDED FOR WET SITES	
Botanical Name	**Common Name**
Amelanchier alleghiensis	Allegheny Serviceberry
Viburnum recognitum	Arrowwood Viburnum
Aronia melanocarpa	Black Chokeberry
Nyssa sylvatica	Black Gum
Salix nigra	Black Willow
Acer negundo	Boxelder
Cephalanthus occidentalis	Buttonbush
Sambucus canadensis	Elderberry
Betula populifolia	Gray Birch
Vaccinium corymbosum	Highbush Blueberry
Ilex glabra	Inkberry Holly
Quercus palustris	Pin Oak
Salix discolor	Pussy Willow
Aronia arbutifolia	Red Chokeberry
Acer rubrum	Red Maple
Cornus sericea	Red Twig Dogwood
Betula nigra	River Birch
Amelanchier canadensis	Shadblow Serviceberry
Cornus amomum	Silky Dogwood
Acer saccharinum	Silver Maple
Alnus serrulata	Smooth Alder

TREES AND SHRUBS RECOMMENDED FOR WET SITES	
Lindera benzoin	Spicebush
Salix purpurea ‘Streamco’	Streamco Willow
Rhododendron viscosum	Swamp Azalea
Rosa palustris	Swamp Rose
Quercus bicolor	Swamp White Oak
Magnolia virginiana	Sweetbay Magnolia
Liquidambar styraciflua	Sweetgum
Clethra alnifolia	Sweet Pepperbush
Platanus occidentalis	Sycamore
Itea virginica	Virginia Sweetspire
Ilex verticillata	Winterberry Holly

C. Tree Fund.

There shall be established a Borough Tree Fund for the purposes set forth in this chapter.

1. All funds collected from an applicant, as a contribution in lieu of planting trees shall be deposited in a dedicated account clearly designated as the Borough of Flemington Tree Fund. All funds so deposited shall be used exclusively for the planting of trees. This fund may be used to plant trees on private property locations facing a street, public property and rights-of-way, including but not limited to public parks, public schools, and public buildings.

2. The Tree Fund shall be administered by the Shade Tree Commission, who shall report to the Borough Council on an annual basis detailing the use of the fund.

§ 1632.2 TREE REMOVAL AND REPLACEMENT

A. Purpose. A chapter to establish requirements for tree removal and replacement in the Borough of Flemington to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

B. Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory. See also Chapter 12, Land Development Definitions.

APPLICANT

Any "person," as defined below, who applies for approval to remove trees regulated under this chapter.

PERSON

Any individual, resident, corporation, utility, company, partnership, firm, or association.

RESIDENT

An individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this chapter is removed or proposed to be removed.

SHADE TREE COMMISSION

Shall mean the commission responsible for overseeing this subsection on behalf of the Borough and with the consent of the Borough's Council.

C. The Borough of Flemington finds that:

1. Flemington has an abundance of trees that have benefited citizens for many years, providing protection, shade and food for wildlife

2. Flemington trees have played an important role in the quality of life and the economic value of homes and properties in the Borough.

3. Flemington trees have acted as purifying systems for the air, and helped to control erosion and flooding through their root systems.

4. Flemington trees have improved the quality of life in the Borough by providing shade, reducing noise and glare, and providing an essential natural landscape.

5. Flemington trees have provided valuable energy saving benefits by moderating the effects of heat in summer and cold in winter.

6. Therefore, the Borough of Flemington has determined a need to safeguard the community's interest in trees that comprise the community's natural resources, and to protect these resources from deforestation or indiscriminate or excessive tree removal in an effort to preserve the general welfare of the community. All tree removal activities shall be done in accordance with this section.

D. Application Process & Permitting.

1. Any person seeking to or planning to remove a street tree, as defined as tree removal, or any tree with DBH of six inches or more on their property, shall submit a Tree Removal Permit Application to the Code Enforcement Officer. No tree shall be removed until the Borough has reviewed and approved the removal.

2. The application fee for a Tree Removal Permit not associated with an application for site plan or subdivision approval shall be $50.00. Application fees for tree removal subject to a site plan or subdivision application shall not apply.

3. Permits granted for the removal of street tree(s), as defined as tree removal, or any tree(s) with DBH of six inches or more on their property, shall run with the land and shall remain in force and effect for the following periods of time, and not thereafter. Once the permit has expired, a new application must be submitted for review and approval.

   a. If granted for a lot or parcel of land which no construction permit is required: one year from the date of issuance.

   b. If granted for a lot or parcel of land for which a construction permit is required, but for which no subdivision or site plan approval is required by the Borough’s Planning Board: until the expiration of the construction permit granted with such tree removal permit.

   c. If granted for a lot or parcel of land in connection with a site plan or subdivision approval, until expiration of such approval.

E. Tree replacement requirements:

1. Any person who removes one or more street tree(s), as defined as tree removal, or any tree with DBH of six inches or more on their property, unless otherwise exempted under § 1632.2(F), shall be subject to the requirements of the Tree Replacement Requirements Table below.

2. Replacement tree(s) shall:

   a. Be replaced within any area on the premises the removal took place. Street Trees shall be replaced in kind within the planting strip of the Right of Way;

   b. Be planted in accordance with the applicable planting standards set forth in §1632.1 and §1632.2.

   c. Be selected from the approved planting lists within §1632.1, or shall be approved by the Borough Shade Tree Commission.

3. All replacement plantings shall be subject to the following diversity requirements:

   a. Where up to two replacement trees are provided, there is no diversity requirement.

   b. Where at least three and up to five replacement trees are provided, not more than 2/3 of such replacement trees shall be of any one species.

   c. Where six or more replacement trees are provided, not more than 1/2 of such replacement trees shall be of any one species.

4. Replacement trees shall be planted within 12 months of the date of removal of the original tree(s) or at an alternative date specified by the Borough;

5. Replacement trees shall be monitored by the applicant for a period of two years to ensure their survival and shall be replaced as needed within 12 months; and

6. Replacement trees shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

7. Replacement trees shall be inspected by the Code Enforcement Officer to confirm plant health and compliance with the requirements herein.

8. Replacement Tree Requirements.

Tree Replacement Requirements Table			
Category	Tree Removed (DBH)	Tree Replacement Criteria	Fee in Lieu of Planting per Removed Tree
1	DBH of 2.5” (for street trees) or 6” (for non-street trees) to 12.99”	Replant 1 tree with a minimum tree caliper of 1.5” for each tree removed	$350
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 1.5” for each tree removed	$700

3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	$1,050
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	$1,400

9. Replacement Tree Selection and Schedule.

    a. Trees selected from §1632.1 shall constitute as 1.00 replacement trees.

    b. Evergreen trees shall constitute as 0.75 replacement trees.

    c. Arborvitae and other evergreen shrubs at least six feet tall at time of planting shall constitute as 0.25 replacement trees.

    d. Saplings shall constitute as 0.05 replacement trees.

    e. Individual values that result in a fractional number as calculated above shall be rounded to the nearest whole number.

    f. At least 75% of the total value of replacement trees as calculated above shall consist of trees selected from §1632.1

10. Replacement alternatives.

    a. If the Borough determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

        (1) Plant replacement trees in a separate area(s) approved by the Borough.

        (2) Provide payment to the Borough Tree Fund the sum of $350 per replacement tree not planted on the property or in a separate area(s) approved by the Borough where the tree removal activity occurred, to be used by the Shade Tree Commission for tree planting and continued maintenance of the trees.

F. Exemptions.

1. All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the Borough by all persons claiming an exemption. Trees proposed to be removed on a lot half an acre or less need only submit photo documentation showing the state and condition of the tree(s) in question. Any property containing more than half an acre shall provide justification by way of a report and/or survey plan of the trees to be removed prepared by a Licensed Professional Arborist or Tree Expert in the State of New Jersey.

2. Residents who remove fewer than three (3) trees that fall into Category 1, 2, or 3 of the Tree Replacement Requirements Table within a rolling five-year period shall be exempt from the tree-replacement and Fee in Lieu of Planting requirements for those trees.

    a. This exemption shall not relieve the resident from submitting a Tree Removal Permit application, obtaining Borough approval before removal, or paying the applicable application fee.

3. Tree farms in active operation, nurseries, fruit orchards, and garden centers.

4. Properties used for the practice of silviculture under an approved forest stewardship or woodland

management plan that is active and on file with the Borough.

5. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.

6. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or United States Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan.

7. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.

8. Unless in the case of imminent threat of danger exists to persons or property, an application to remove hazard trees shall be filed prior to their removal. In the event of imminent danger, a person seeking to remove hazard trees shall document that such tree meets the definition of "hazard tree" contained herein as well as such hazardous conditions which warrants the immediate removal without filing the application pursuant to this section. Hazard trees may be confirmed by the Code Enforcement Officer; however, the Code Enforcement Officer may require certification by a certified arborist or Licensed Tree Expert (LTE) that the tree(s) in question meets the definition of a “hazard tree” as defined herein.

    a. Trees deemed hazard trees may be removed with no fee in lieu of planting or replacement requirement.

G. Enforcement.

1. This chapter shall be enforced by the Borough Code Enforcement Officer during the course of ordinary enforcement duties.

H. Violations and Penalties.

1. Any person(s) who is found to be in violation of the provisions of this chapter shall be subject to a fine of $550 per tree for each violation and the Fee in Lieu of Planting Per Removed Tree, as stated in Section 1632.2.E.8.

Section III. Section 1632.1 of the Code, entitled “Public Art” is hereby amended to read as follows (additions are shown as <u>thus</u>; deletions are shown as ~~thus~~);

§1635 Public Art
…..

Introduced: September 28, 2026
Adopted: October 13, 2026