



Mayor and Common Council Borough of Flemington

July 11, 2022

Council Meeting Room and Online

Call to Order (7:00 PM)

I. Statement regarding OPMA

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting of July 11, 2022 was included in a list-of-meetings notice sent to the Hunterdon County Democrat and Courier-News on Jan. 5, 2022, posted on the bulletin board at Borough Hall on that date, and has remained continuously posted as required. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Borough Clerk.

Work Session (7:00 PM)

Presentation about holding the fossil fuel industry accountable for climate change damages - Lauren O'Brien, NJ Campaign Director, Center for Climate Integrity

Regular Meeting (7:30 PM)

This meeting is being held in conformance with the Open Public Meetings Act.

Flag Salute

Roll Call:

Betsy Driver	Mayor
Jessica Hand	Council Vice President
Malik Johnston	Council Member
Jeremy Long	Council President
Tony Parker	Council Member
Elizabeth Rosetti	Council Member
Kimberly Tilly	Council Member

I. Mayor's Report

II. Council Members' Reports

III. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)

IV. Approval of Minutes

Motion To: **Approve Minutes: June 27 2022 Regular Council Meeting**

Motion To: **Approve Minutes: June 27, 2022 Executive Session**

Consent Agenda

1. RESOLUTION 2022-156: AUTHORIZING THE REDEMPTION OF TAX SALE CERTIFICATE 2021-004 HELD ON BLOCK 12 LOT 2, 5 HIGHLAND AVENUE
2. RESOLUTION 2022-157: AUTHORIZING RAFFLE LICENSES FOR THE FLEMINGTON WOMAN'S CLUB
3. RESOLUTION 2022-158: CONFRONTING AND COMBATING ANTISEMITISM IN FLEMINGTON BOROUGH
4. RESOLUTION 2022-159: ACCEPTING THE RESIGNATION OF COURT VIOLATIONS CLERK PEREZ AND AUTHORIZING THE SEARCH FOR A REPLACEMENT

Regular Agenda

1. ORDINANCE 2022-8, SECOND READING: ORDINANCE AMENDING SECTION 1404 OF THE BOROUGH CODE REGARDING THE HISTORIC PRESERVATION COMMISSION
 2. ORDINANCE 2022-9, SECOND READING: AN ORDINANCE AUTHORIZING AN AGREEMENT FOR THE ACQUISITION OF LEASEHOLD INTEREST, AND NON-EXCLUSIVE GROUND LEASE AGREEMENT, BETWEEN THE BOROUGH OF FLEMINGTON AND 307(L) FLEMINGTON LAND HOLDINGS, LLC FOR PROPERTY KNOWN AS BLOCK 44, LOT 6 IN THE BOROUGH OF FLEMINGTON
 3. ORDINANCE 2022-10: AN ORDINANCE AUTHORIZING THE PURCHASE OF PROPERTY DESIGNATED AS BLOCK 42, LOT 9 (200 MAIN STREET)
 4. ORDINANCE 2022-11: AN ORDINANCE AUTHORIZING THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN CERTAIN AREAS OF THE BOROUGH OF FLEMINGTON
 5. ORDINANCE 2022-12: BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF, AND PAYMENT OF THE PURCHASE PRICE FOR, CERTAIN REAL PROPERTY COMMONLY KNOWN AS 200 MAIN STREET, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,550,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,476,190 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF
 6. RESOLUTION 2022-160: RECOGNIZING THE EFFORTS OF MARC HAIN IN ARRANGING FIREWORKS DISPLAYS IN THE BOROUGH OF FLEMINGTON
 7. RESOLUTION 2022-161: AUTHORIZING PARTIAL CLOSURE OF STANGL ROAD FOR THE CORN, TOMATO & BEER FESTIVAL, AND ISSUING A BLANKET FOOD CONCESSION LICENSE
 8. RESOLUTION 2022-162: AUTHORIZING A PER DIEM RATE OF UP TO \$25/HOUR FOR MUNICIPAL COURT SUPPORT STAFF
-

9. RESOLUTION 2022-163: AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE FLEMINGTON COMMUNITY PARTNERSHIP REGARDING THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS' NEIGHBORHOOD PRESERVATION PROGRAM

10. RESOLUTION 2022-164: AUTHORIZING AN AGREEMENT WITH CME ASSOCIATES FOR ENGINEERING SERVICES FOR THE BLOOMFIELD AVENUE ROAD IMPROVEMENTS PROJECT

11. RESOLUTION 2022-165: RESOLUTION IN OPPOSITION TO NEW JERSEY DIVISION OF ALCOHOLIC BEVERAGE CONTROL'S SPECIAL CONDITIONS ON LIMITED BREWERY LICENSEES

V. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)

VI. Attorney's Report

VII. Payment of the Bills

Motion To: **Pay the Bills in the Amount of \$975,437,60**

VIII. Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

IX. Adjournment

Motion To: **Adjourn**

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Rebecca Newman

Initiator: Rebecca Newman

Sponsors:

SCHEDULED

RESOLUTION 2022-156

DOC ID: 3839

**Authorizing the Redemption of Tax Sale Certificate 2021-004
Held on Block 12 Lot 2, 5 Highland Avenue**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

WHEREAS, funds were received in the amount of \$2,893.89 for the redemption of tax sale certificate # 2021-004 held on Block 12 Lot 2, known as 5 Highland Avenue, property owners Paul DeMarco, certificate owner, US Bank Cust/PC8 Firstrust Bank;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that the Tax Sale certificate #2021-004 held on Block 12 Lot 2 is redeemed in the amount of \$2,893.89 plus a premium of \$700.00 and the CFO is instructed to cut a check to the lien holder.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to the Tax Collector.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, R.M.C.
Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2022-157

DOC ID: 3838

Authorizing Raffle Licenses for the Flemington Woman's Club

WHEREAS applications have been received by the Borough of Flemington to grant an On-Premises 50/50 Draw Raffle License to the Flemington Woman's Club, and to grant an Off-Premises Merchandise Draw License to the club; and

WHEREAS no objection has been received by the Borough Clerk;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that licenses be granted to the Flemington Woman's Club, to benefit the club's scholarship and education fund, for the following raffles, to be held at 43 Park Ave., Flemington:

On-Premises 50/50 Draw Raffle License:

DATES: September 14, 2022, noon-2 p.m.
October 12, 2022, 1-3 p.m.
October 25, 2022, noon-2 p.m.
November 9, 2022, 1-3 p.m.
December 14, 2022, 1-3 p.m.
January 11, 2023, 1-3 p.m.
February 8, 2023, 1-3 p.m.
March 8, 2023, 1-3 p.m.
April 12, 2023, 1-3 p.m.
April 26, 2023, noon-3 p.m.
May 10, 2023, noon-3 p.m.

Off-Premises Merchandise Draw Raffle License:

DATE: October 25, 2022, noon-3 p.m.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2022-158

DOC ID: 3840

Confronting and Combating Antisemitism in Flemington Borough

WHEREAS antisemitism, including harassment on the basis of actual or perceived Jewish origin, ancestry, ethnicity, identify, affiliation, or faith, remains a persistent, pervasive, and disturbing problem in American society; and

WHEREAS Jews continue to be a targeted minority in the United States and are consistently the most likely of all religious groups to be victimized by incidents of hate, and such incidents are increasing at an alarming rate; and

WHEREAS we acknowledge that following the attacks on the Tree of Life Synagogue in Pittsburgh, the Chabad of Poway in San Diego, a Kosher supermarket in Jersey City and a Chanukah gathering in Monsey, synagogues felt compelled to re-evaluate their own security measures to keep their congregations safe; and

WHEREAS the recent AJC (American Jewish Committee) *State of Antisemitism in America* Report found that more than one in three American Jews (37%) say they have been victims of antisemitism over the past five years; and

WHEREAS Flemington Borough officials and institutions have a responsibility to protect citizens from acts of hate and bigotry, including antisemitism, and must be given the tools to do so; and

WHEREAS valid monitoring, informed analysis and investigation, and effective policy-making all benefit from accurate and uniform definitions; and

WHEREAS the International Holocaust Remembrance Alliance (IHRA), by consensus vote of its member states, adopted a Working Definition of Antisemitism in May 2016, which has become the internationally recognized, authoritative definition of antisemitism for use by governments and international organizations. That definition reads in full:

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

“To guide IHRA in its work, the following examples may serve as illustrations:

“Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

“Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.

- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective - such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.

- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.

- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).

- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.

- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.

- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.

- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.

- Drawing comparisons of contemporary Israeli policy to that of the Nazis.

- Holding Jews collectively responsible for actions of the state of Israel.

"Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

"Criminal acts are antisemitic when the targets of attacks, whether they are people or property - such as buildings, schools, places of worship and cemeteries - are selected because they are, or are perceived to be, Jewish or linked to Jews.

"Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries."

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington adopts the non-legally binding International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism in full.

BE IT FURTHER RESOLVED that the Council of the Borough of Flemington will ensure that the IHRA Working Definition of Antisemitism is available as an educational resource for the Department of Police and other borough agencies responsible for addressing antisemitism and other forms of discrimination.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2022-159

DOC ID: 3844

**Accepting the Resignation of Court Violations Clerk Perez
and Authorizing the Search for a Replacement**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

WHEREAS, Alicia Perez has resigned from her position as Court Violations Clerk effective July 11, 2022; and

WHEREAS, the Borough of Flemington accepts this resignation; and

WHEREAS, this resignation leaves a vacancy in the position of Court Violations Clerk;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that the resignation of Court Violations Clerk Alicia Perez is hereby accepted; and

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Flemington that the Court Administrator is authorized to begin the process of seeking a replacement to fill the vacancy in the Court Violations Clerk position.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2022-160

DOC ID: 3842

Recognizing the Efforts of Marc Hain in Arranging Fireworks Displays in the Borough of Flemington

WHEREAS, fireworks displays in the Borough of Flemington bring delight to residents, business owners, officials and visitors; and

WHEREAS, the details involved in successfully arranging a fireworks display are extensive and technical; and

WHEREAS, Borough resident Marc Hain has repeatedly done an impressive job of making all the arrangements necessary to ensure safe and uplifting fireworks displays over the years;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington acknowledge the tremendous job Marc Hain has done in arranging the Borough's fireworks displays; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Flemington honor and commend Mr. Hain for his efforts on behalf of the Borough.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2022-161

DOC ID: 3841

**Authorizing Partial Closure of Stangl Road for the Corn,
Tomato & Beer Festival, and Issuing a Blanket Food
Concession License**

WHEREAS, the Flemington Community Partnership is planning a Corn, Tomato and Beer Festival on August 13, 2022 (rain date August 14, 2022) on Stangl Road; and

WHEREAS, the Flemington Community Partnership has requested that Stangl Road be closed from Church Street to Mine Street on August 13, 2022 (Rain Date August 14, 2022) from 8:00 a.m. to 10:00 p.m. for this festival; and

WHEREAS, the Flemington Borough Police Department has reviewed this request and has approved the road closure as requested; and

WHEREAS, the Flemington Community Partnership has requested that the Borough of Flemington issue a blanket food concession license that will cover all vendors for the Corn, Tomato and Beer Festival, for a fee of \$100;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that the requested road closure as outlined above is approved for the Flemington Community Partnership's Corn, Tomato & Beer Festival being held on August 13, 2022 (Rain Date August 14, 2022).

BE IT FURTHER RESOLVED, that the Borough of Flemington issue a blanket food concession license that will cover all vendors for the Corn, Tomato and Beer Festival, for a fee of \$100 to be paid by the Flemington Community Partnership.

BE IT FURTHER RESOLVED, that this approval is contingent on agreed security arrangements and costs.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2022-162

DOC ID: 3843

Authorizing a Per Diem Rate of Up to \$25/Hour for Municipal Court Support Staff

WHEREAS, the violations clerk serving Flemington Municipal Court has submitted her letter of resignation effective July 11th, 2022; and

WHEREAS, Court Administrator Olivia Barrick has requested authorization to pay support staff a per diem rate of \$25 per hour to assist with the duties of the violations clerk while a replacement is sought;

WHEREAS, this hourly rate is consistent with other similar positions in the area and with the current salary for the violations clerk; and

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington authorizes payment of a per diem rate of up to \$25 per hour for municipal court support staff to temporarily assist with the duties of the violations clerk.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2022-163

DOC ID: 3845

**Authorizing a Memorandum of Understanding with the
Flemington Community Partnership Regarding the New
Jersey Department of Community Affairs' Neighborhood
Preservation Program**

WHEREAS, Flemington Borough officials wish to enter into the attached Shared Services Agreement (the "Agreement") (in substantially the same form as attached hereto) with the Flemington Community Partnership ("FCP") regarding the New Jersey Department of Community Affairs' Neighborhood Preservation Program ("NPP") Grant; and

WHEREAS, this Agreement supersedes and replaces the Memorandum of Understanding between the Borough and FCP dated on or about August 23, 2021 and approved by the Borough Council pursuant to Resolution No. 2021-177 adopted on August 23, 2021;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington authorizes Council President Jeremy Long and the Borough Clerk to sign the aforementioned Shared Services Agreement.

BE IT FURTHER RESOLVED, that Resolution No. 2021-177 is hereby rescinded and the subject Memorandum of Understanding is terminated.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2022-164

DOC ID: 3847

**Authorizing an Agreement with CME Associates for
Engineering Services for the Bloomfield Avenue Road
Improvements Project**

WHEREAS, The Borough of Flemington has undertaken the Bloomfield Avenue Road Improvements Project; and

WHEREAS, the Borough requires engineering services for the project including:

Design Phase Services as described in the attached document; and

WHEREAS, CME Associates, 3141 Bordentown Ave., Parlin, NJ is serving as the Borough's Municipal Engineer; and

WHEREAS, CME Associates has submitted a proposal as detailed in the attached document, with engineering services to be provided at an estimated cost not to exceed \$59,453.00; and

WHEREAS, the Borough wishes to enter into an agreement with CME Associates, in substantially the same form as attached hereto, for engineering services for the Bloomfield Avenue Road Improvement Project;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington hereby authorizes a project engineering contract with CME Associates for the Bloomfield Avenue Road Improvements Project, in substantially the same form as attached.

BE IT FURTHER RESOLVED that the Mayor and Borough officials be authorized to execute any documents as needed for this project.

Adopted: July 11, 2022

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2022-165

DOC ID: 3849

Resolution in Opposition to New Jersey Division of Alcoholic Beverage Control's Special Conditions on Limited Brewery Licensees

WHEREAS, the New Jersey Division of Alcoholic Beverage Control (NJABC) issued new special conditions on each limited brewery licensee (aka "craft brewery") in the state beginning Friday, July 1, 2022; and

WHEREAS, under the license conditions, craft breweries are limited to holding 25 on-site activities open to the general public annually, as well as 52 private parties. Breweries can also attend 12 off-premises events, such as town, charitable and holiday celebrations; and

WHEREAS, under these license conditions, craft breweries have restrictions on the types of television programming they can air in their tasting rooms, restrictions on what types of live or recorded music they can play or host, limits on what food options they can make available to customers, bans on the sale of coffee, and prohibitions on the sale of soft drinks and other non-alcoholic beverages not made onsite at the brewery; and

WHEREAS, according to the national Brewers Association, the one-hundred and forty-one craft breweries operating in New Jersey in calendar year 2021 contributed almost \$2 billion to the state's economy, creating over 11,000 jobs at an annual income of more than \$55,000 per employee; and

WHEREAS, Flemington Borough is home to Lone Eagle Brewing, a craft brewery located on Stangl Road; and

WHEREAS, these new conditions will force this local, homegrown small business to rethink its business model and closely consider which events it should participate in or host, which will reduce its profits and opportunities to engage in the Flemington community; and

WHEREAS, visiting this microbrewery is a unique experience, and the proprietors have found exciting ways to engage other local businesses, vendors and artists in the community; and

WHEREAS, the Governor and State Legislature should work with breweries to develop smart and fair law revisions and regulations that will guide state regulators at the New Jersey Division of Alcoholic Beverage Control on how to oversee the state's craft beer industry;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Flemington strongly opposes the New Jersey Division of Alcoholic Beverage Control's Special Conditions on Limited Brewery Licensees, and requests the conditions be removed immediately.

BE IT FURTHER RESOLVED that copies of this resolution shall be forwarded the leaders of the New Jersey Legislature and Governor Phil Murphy.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

INTRODUCED

Initiator: Sallie Graziano
Sponsors:

ORDINANCE 2022-8

DOC ID: 3834

**Ordinance Amending Section 1404 of the Borough Code
Regarding the Historic Preservation Commission**

WHEREAS, the Borough of Flemington Historic Preservation Commission (the "Commission") has suggested the following amendments to the ordinances regarding the Commission's establishment, powers, and review procedures.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1. Section 1404 of the Borough Code, entitled "Establishment of the Historic Preservation Commission" is hereby amended as follows (Additions noted in bold italics *thus* and deletions noted with a strikethrough ~~thus~~):

(See attached document)

Introduced: June 27, 2022

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

**ORDINANCE AMENDING SECTIONS 1404 OF THE BOROUGH CODE REGARDING
THE HISTOIC PRESERVATION COMMISSION**

WHEREAS, the Borough of Flemington Historic Preservation Commission (the "Commission") has suggested the following amendments to the ordinances regarding the Commission's establishment, powers, and review procedures.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1. Section 1404 of the Borough Code, entitled "Establishment of the Historic Preservation Commission" is hereby amended as follows (Additions noted in bold italics *thus* and deletions noted with a strikethrough ~~thus~~):

- A. A Historic Preservation Commission (HPC) is hereby established consisting of 5 regular members and 2 alternate members, each of whom shall be appointed by the Mayor, of the following 3 classes:
 - 1. Class A - Persons who are knowledgeable in building design and construction or in architectural history;
 - 2. Class B - Persons who are knowledgeable or have a demonstrated interest in local history.
 - 3. Class C - Persons who are residents of the municipality and who hold no other municipal office, position or employment except for membership on the Planning Board.
 - 4. There shall be at least one regular member from each class. ***A majority of members shall be Class C. Class A and Class B members need not be residents of the municipality.***
 - 5. Alternate members shall meet the qualifications of Class C members and shall be designated "Alternate No. 1" and "Alternate No. 2" at the time of appointment.
- B. Terms of Membership.
 - 1. The term of each regular member shall be 4 years and the term of each alternate member shall be 2 years.
 - 2. Alternate Members. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."
 - 3. The term of any member in common with the Planning Board shall be for the term of membership on such Board.
- C. Role of Alternate Members. Alternate members may participate

in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.

- D. Vacancies. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term, only. **All vacancies shall be filled within 60 days.**
- E. Compensation. Members of the HPC shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.
- F. Removal. Any member may be removed by the governing body for cause but only after public hearing and other due process proceedings.
- G. Conflict. No member or alternate member of the HPC shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Commission on the hearing of such matter, nor shall participate in any discussion or decision.
- H. Organization. The HPC shall elect from its members a chairman and vice-chairman and select a secretary who may or may not be a member of the HPC or a municipal employee.
- I. Funding. The governing body shall make provisions in its budget and appropriate funds for the expenses of the Historic Preservation Commission.
- J. Rules and Procedures. The HPC shall adopt and may amend internal rules and procedures for the transaction of its business subject to the following:
 - 1. A quorum for any action by the HPC shall be 3 members.
 - 2. All HPC minutes and records shall be public records.
 - 3. All HPC meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
 - 4. HPC meetings shall be scheduled at least once every month or as often as required to fulfill its obligations to advise the Planning Board, governing body, or construction official.
- K. Role of the HPC.

1. For applications that would otherwise not require Planning Board review, the Zoning Officer shall refer the application to the HPC for a written report on the application *in accordance with ordinance §1631* and its compliance with the Borough's Historic District regulations. This report shall be submitted to the Zoning Officer, who shall issue a written approval or denial based on the HPC report, pursuant to N.J.S.A. 40:55D-111. The report of the HPC shall also be provided to the applicant and the Planning Board. The report shall be sent to the Zoning Officer within 45 days of the referral to the HPC. Failure of HPC to report within the forty-five-day period shall constitute a determination that the application is consistent with the Historic District regulations and that no condition on the issuance of the permit shall be imposed.

2. For applications that require Planning Board review based on provisions of the Borough Land Development Ordinance, the application shall be referred ~~shall be referred~~ to the HPC for a written report on the application in *accordance with ordinance §1631* and its compliance with the Borough's Historic District regulations. This report shall be submitted to the Planning Board which *shall issue a written approval or denial based on taking into account the HPC report and recommendations, pursuant to N.J.S.A. 40:55D*~~shall make a final decision on the matter.~~ The report of the HPC shall be sent to Planning Board, *Zoning Officer* and applicant within 45 days of the referral to the HPC or prior to the scheduled public hearing before the Board on the matter, whichever is sooner ~~or prior to the scheduled public hearing before the Board on the matter, whichever is sooner.~~ Failure of the HPC to report shall constitute a determination that the application is consistent with the Historic District regulations and that no condition shall be imposed on the issuance of any approval.

3. An applicant may appeal any determination of the Zoning Officer to the Borough Planning Board. Said appeal shall occur within 45 days of the final determination by the Zoning Officer.

- L. The HPC shall advise the Planning Board from time to time through the process of amending the Historic Preservation Element of the Master Plan.

- M. The HPC shall recommend to the Planning Board for their approval ~~recommend to the Planning Board guidelines for review to be utilized in~~ determinations of historic landmark status and undertake ~~for~~ reviews of ~~of~~ development applications or permits affecting historic landmarks or improvements within historic districts *in accordance with ordinance §1631*. ~~The Planning Board may~~

~~recommend modifications of the guidelines.~~

SECTION 2. Section 1405 of the Borough Code, entitled "Powers and Responsibilities of the Historic Preservation Commission" is hereby amended as follows (Additions noted in bold italics **thus** and deletions noted with a strikethrough ~~thus~~):

The Historic Preservation Commission shall have the following duties and responsibilities:

- A. To prepare a survey or surveys of historic sites and districts pursuant to criteria established in such survey;
- B. To make recommendations to the Planning Board on the Historic Preservation Element of the Master Plan and on the implications of any other Element on the preservation of historic sites and districts;
- C. To advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- D. To advise the Planning Board on applications for development;
- E. Provide written reports on the application of the zoning provisions of this Ordinance or other land development regulations on historic sites and districts;
- F. Provide technical assistance upon request to property owners on the preservation, restoration, and rehabilitation of historic structures;
- G. To carry out such other advisory, educational, and informational functions as will promote historic preservation in the municipality.
- H. To review applications in accordance with and for compliance with the Historic District Review Ordinance (Ordinance §1631) and Ordinance §1404.***
- I. To review and recommend to the Planning Board the designation of landmark and historic districts in accordance with Ordinance §1404.***

SECTION 3. Section 1631 of the Borough Code, entitled "Historic District Review Ordinance" is hereby amended as follows (Additions noted in bold italics **thus** and deletions noted with a strikethrough ~~thus~~):

- A.*** Introduction. The requirements of this Historic District Review Ordinance shall apply to all development, including new construction, repair, renovation, alteration, reconstruction, demolition, relocation, and additions to existing buildings, structures, real property, natural objects or configurations or any portion or group of the foregoing which are located in the Flemington Borough Historic District, or specifically identified as historic sites within the Historic Preservation Plan of the Master Plan pursuant to N.J.S.A. 40:55D-28b(10). These requirements do not apply to normal maintenance

(including in-kind repair of existing building features, repainting of existing color schemes, in-kind repair of an existing roof, etc.). Prior to construction or alteration of buildings or structures in the Historic District, an Application for Review by the Flemington Historic Preservation Commission must be submitted to the Flemington **Historic Preservation Commission** Borough Clerk, and the project must be reviewed at one of the Commission's regularly scheduled meetings. See Chapter 14 of the Flemington Borough Land Development Ordinance for additional information regarding project review.

- 1. Definitions. In addition to the definitions set forth in Ordinance 1201, the following definitions apply in Ordinances 1404, 1405 and 1631:**

Addition shall mean an extension or increase in the size, floor area or height of any building, structure, site, object, or improvement added at some time after the completion of the original.

Alteration shall mean any change in the exterior features of any building, structure, site, object or improvement.

Application shall mean a request to the Commission made pursuant to this ordinance for the purposes of obtaining approval or other action by the Commission hereunder specified.

Building shall mean any man-made structure created principally to shelter any form of human activity as well as its functionally related appurtenances such as a house and a barn.

Commission shall mean the Historic Preservation Commission established pursuant to the provisions of Ordinance Sections 1404 and 1405.

Construction Official shall mean the officer in charge of granting building or construction permits in the Borough.

Contemporary shall mean any buildings, structures, sites, objects, or improvements in a historic district which date from a later period but possess some architectural importance and/or visually contribute to the cohesiveness of the district's streetscapes.

Contributing shall mean any buildings, structures, sites, objects or improvements which are integral components of a historic district either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant.

Demolition shall mean the partial or total razing, dismantling or

destruction, whether entirely or in significant part, of any building, structure, site, object or improvement. Demolition includes the removal of a building, structure, site, object or improvement from its location or the removal or destruction of its facade or surface.

Designated historic landmark or historic district shall mean an individual building, structure, site, object, landscape, park, viewshed, improvement or district which has been determined to have historical significance pursuant to the provisions of this ordinance.

Emergency repairs shall mean immediate repairs to preserve the continued habitability and/or the health and safety of occupants or others, performed in accordance with Borough codes without first submitting an application. A consultation with the Commission or its staff is still required.

Encroaching shall mean any buildings, structures, sites, objects or improvements in a historic district which date from a later period and do not visually contribute to the cohesiveness of the district's streetscapes.

Facade shall mean the face or front of a structure or any vertical surface thereof adjacent to a public way.

Historic shall mean having historical, cultural, architectural, archaeological, economic, social, or other significance as defined by the provisions of this ordinance.

Historical shall mean of, relating to, or having the character of history. Historic district shall mean a significant concentration, linkage or continuity of buildings, structures, sites, objects, or improvements united historically by plan or physical development which qualifies for designation under this ordinance including those which were formerly designated.

Historic district resources shall mean those resources classified as either significant, contributing, or noncontributing, which are defined as follows:

- a. Significant shall mean any buildings, structures, sites, objects or improvements which, due to their significance, would individually qualify for historic landmark status;***
- b. Contributing shall mean any buildings, structures, sites, objects or improvements on the site which are integral components either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is***

historically significant:

- c. Noncontributing shall mean any building, structure, site, object or improvement on the site which do not have significant historical value because they neither date from a time period nor represent an architectural type, period or method which is historically significant***

Historic landmark shall mean any building, structure, site, object or improvement which qualifies for designation under this ordinance.

Historic site shall mean any building, structure, site, landscape, object or improvement determined to be of historical, archeological, cultural, scenic or architectural significance in accordance with the provisions of this ordinance.

Improvement shall mean a building or other structure, or any work constituting a manmade alteration of, or addition to, any building, structure, site or object.

In-kind shall mean construction or construction materials that match construction or construction materials being replaced on a designated structure or object, thereby maintaining historic composition, design, color, texture and other visual qualities.
Integrity shall mean the authenticity of a building, structure, site, object, improvement or district evidenced by the survival of the physical characteristics that existed during its historic or prehistoric period.

Inventory shall mean a list of historic properties determined to meet criteria of significance specified herein.

Landscape shall mean the visual character of the land, including but not limited to architecture, building setbacks and height, fences, hedgerows, plantings, lawns trees as well as man-made features including, but not limited to, sculptures, patterned walks, fountains, reflecting pools and vistas.

Lot shall mean any designated parcel, tract, or area of land established by a plat or otherwise, as permitted by law and to be used, developed, or built upon as a unit.

Master plan shall mean the master plan of the Borough of Flemington, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

Municipal Land Use Law shall mean the Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1, et seq.), as amended from time to time.

National Register Criteria shall mean the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places, as set forth in 36 C.F.R. 60.4, et seq.

Non-contributing shall mean any buildings, structures, sites, objects or improvements in a historic district which do not have significant historical value because they neither date from a period of significance nor represent an architectural type, period or method which is historically significant, or due to alterations, disturbances, additions, or other changes, no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period.

Object shall be used as a term to distinguish from buildings and structures those constructions or features that are primarily artistic in nature or are relatively small in scale and simply constructed. Examples include, but are not limited to, fountains, sculptures, statuary and similar items. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Ordinary maintenance and repair shall mean the repair of any deterioration, wear or damage to a structure or any part thereof in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage with in-kind material and quality workmanship.

Owner shall mean the owner of record as shown on the current tax list of the borough tax collector; the mortgage holder of record, if any, as shown in the mortgage records of the borough; and any purchaser under a land contract.

Partial Demolition shall mean the pulling down, destruction or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.

Permit shall mean any required approval issued by the construction official pursuant to applicable building or construction codes for exterior work to be performed on any historic landmark or on any building, structure, object or site located within a historic district, which exterior work will be subject to public view. Said permit shall include but not be limited to a building permit, a demolition permit or a permit to move, convert, relocate or remodel or to change the use or occupancy of any landmark or any building, structure, object or site located within an historic district. "Permit" shall also include all exterior work to be performed on windows, doors, roofing, fences, signs, awnings, porches, railings, steps, lighting and sidewalks and any other work subject to public view which would alter the exterior appearance of historic landmarks or properties

located within a historic district or their sites.

Person shall mean any individual, natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, firms, companies, corporations, entities or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

Preservation shall mean the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic landmark. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

Protection shall mean the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

Reconstruction shall mean the act or process of reproducing, by means of new construction, the form, features and detailing of a non-surviving building, structure, site, object, improvement or landscape for the purpose of replicating its appearance at a specific period of time and in its historic location when documentary and physical evidence is available.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic values.

Replacement shall mean the act or process of replicating any exterior architectural feature that is used to substitute for an existing deteriorated or extensively damaged architectural feature. Restoration shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time. It may sometimes mean the removal of later work or the replacement of missing earlier work.

Secretary of the Interior's Standards shall mean the publication issued by the U.S. Department of the Interior, National Park Service, entitled: "The Secretary of the Interior's Standards for the Treatment

of Historic Properties," 36 C.F.R. 68, revised and supplemented from time to time.

Site shall mean the location of a significant event, a prehistoric or historic occupation or activity, a building or structure, or a burial ground or cemetery, whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure.

Significant shall mean any buildings, structures, sites, objects or improvements in a historic district which, due to their extraordinary significance, would individually qualify for historic landmark status.

Staff means the Historic Preservation Consultant, the Zoning Officer and such other consultants or officials as may from time to time be retained and/or employed to provide application review services to the Commission.

Streetscape shall mean the visual character of the street including, but not limited to, the architecture, building setbacks and height, fences, storefronts, signs, lighting, parking areas, materials, sidewalks, curbing and landscaping.

Structure shall be used as a term to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter, such as a bridge, a walkway, driveway and sometimes referred to as a type of improvement, meaning a combination of materials that becomes a part of, is placed upon, or is affixed to real estate.

Survey shall mean the inventory of buildings, structures, sites, objects, improvements and districts located within the Borough of Flemington which is conducted by the Commission for the ascertainment of their historical significance pursuant to the provisions of this ordinance.

Survey data shall mean the raw data produced by the survey; that is, all the information gathered on each property and area investigated.

View, vista or viewshed shall mean the view by the public of a building, structure, site, object, improvement or landscape from any point on a street, road or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

B. The purposes of the Historic District Review Ordinance include:

1. Safeguarding the heritage of Flemington Borough by preserving its historical, cultural, social, economic and architectural resources;
2. Encouraging the continued use of historic buildings, structures and sites and to facilitate their appropriate re-use;
3. Maintaining and developing a harmonious setting for the historically significant buildings, structures, sites, objects and District;
4. Preventing the unnecessary demolition or relocation of historic resources;
5. Preventing new construction or development which is not in keeping with or that negatively impacts the ambience and character of the Historic District;
6. Encouraging the proper maintenance, per the Borough's existing Property Maintenance Code Chapter 9B, and preservation of buildings, structures and sites within the Historic District so as to promote Flemington Borough as an attractive area to live, work and visit;
7. Protecting and enhancing property values;
8. Promoting civic pride in and appreciation of Flemington Borough's historic resources for the education, pleasure and welfare of its citizens and visitors; and
9. Fostering beautification and private reinvestment.

C. General Guidelines.

1. **Building Design.** All development that is situated within the Flemington Borough Historic District and all development that affects individual historic sites shall be designed to reflect the design vocabulary, massing, proportion, directional expression, height, width, scale, orientation, windows, roof, details and materials of vernacular 18th and 19th and early 20th-century styles found in the Borough of Flemington. These styles include Georgian, Federal, Greek Revival, Gothic Revival, Italianate, Second Empire, Queen Anne, Shingle, Romanesque Revival, Colonial Revival, Neoclassical and Tudor Revival styles. Acceptable styles and examples from the relevant periods can be found within the following references, which are maintained for review in the Borough Hall and the Public Library:

- a. Historic District Guidelines; Flemington Historic Preservation Commission (~~McCormick-Taylor, 2006~~); See for definitions of general architectural, style and building terminology, as well as more detailed design recommendations.
 - b. What Style Is It? A Guide to American Architecture (Poppeliers, John C., John Wiley & Sons, Inc., ~~1983~~)
 - c. A Field Guide to American Houses (McAlester, Knopf~~1984~~)
 - d. Identifying American Architecture (Blumenson, Norton)
 - e. The Secretary of the Interior's Standards for the Treatment of Historic Properties (www.nps.gov/history/hps/tps/standards_guidelines.htm): See for definitions regarding historic preservation terminology including "preservation," "restoration," "rehabilitation," "reconstruction," "renovation," etc.
2. Procedures for review by the Flemington Historic Preservation Commission are contained within Chapter 14 of the Flemington Borough Land Development Ordinance.
 3. New buildings are not required to copy historic examples. Individual architectural expressions that incorporate the stylistic tenets of historical buildings are acceptable, provided that the design principles in the above references are adhered to. New buildings shall show a harmony of design with their surroundings, and any shapes, massing, materials, signs, lighting, colors and other characteristics which might cause a new building to call excessive attention to itself and create disharmony within the historic district, shall be avoided.
 4. All buildings shall be related harmoniously to the context of the site, the neighborhood as a whole and to existing buildings and other structures in the vicinity that have a visual relationship to the proposed building or buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing/proposed buildings or the creation of focal points. With respect to public spaces, building design/orientation may have to be adjusted in order to maintain a positive spatial relationship or to preserve visual access to community focal points, either natural or man-made.
 5. The selection of building design elements, for example in the

use of materials, windows, color, texture, and other design considerations, should ensure that such treatment is generally consistent with traditional and vernacular 18th and 19th and early 20th- century architectural styles. If the applicant is an existing building, the design elements shall be consistent with the existing building's style and configuration.

6. Building additions and renovations should be designed to reflect the existing building in terms of scale, materials, massing, window and door configuration and color.
7. Appearance of the side and rear elevations of buildings shall receive architectural treatments comparable to that of any proposed front façade only if said elevations are generally within the public view.
8. Buildings should, where appropriate, strengthen the particular design features of their neighborhood by, for example, reinforcing the “street wall”, or continuing a particular design feature or statement. Such construction should complement the existing historic building designs in the Borough.
9. Buildings deemed to be "Significant" and indicated as such on the Flemington Historic District Map, shall be reviewed with particular care and have special requirements that are described later in this section (see Subsection C17). These are buildings that have been determined to be particularly important to the character of the Historic District.
10. Buildings located on Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, are also considered to be particularly important to the character of Flemington and the Historic District, partly through their location along the busiest thoroughfare and partly from the quality of buildings along this route. Many of these structures are indicated to be "Significant" on the Flemington Historic District Map. Because of the importance of this area to the character of the Borough, all of these buildings will be reviewed **for strict compliance with the Historic Guidelines** with particular care. ~~Some Buildings~~ that are deemed particularly prominent or visible **by the Historic Preservation Commission** shall be reviewed using the same criteria as "Significant" structures, even if they are not listed as such on the Historic District Map.
11. Contemporary designs for new buildings and for additions to existing buildings or landscaping in the Historic District are not

discouraged if such designs are compatible with the character, scale and materials of the neighborhood and its environment.

12. New additions or alterations to buildings should be done in such a manner that they reflect the materials, massing and scale of the existing building. In addition, alterations and additions should be designed such that they are reversible, i.e. that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
13. Exterior alterations should not destroy the distinguishing qualities or character of the property and its environment, and the removal or alteration of any historical material or architectural features is not permitted.
14. Deteriorated architectural features should be repaired rather than replaced wherever possible, and in the event, replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities.
15. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.
16. Wherever possible, there should be compliance with the standards set forth in the "Secretary of the Interior's Standards for the Treatment of Historic Properties", as periodically amended and available through the National Park Service.
17. Alternative Materials. The use of nonhistoric, alternative materials may be considered under certain circumstances. These materials include, but are not limited to: vinyl or composite siding (smooth finish only); vinyl, fiberglass or composite railings and porch columns, particularly when these materials are paintable; fiberglass or composite trim, brackets or moldings; composite porch floor decks; vinyl, clad, or aluminum windows and doors; fiberglass/asphalt shingle roofing; etc. The use of these materials will be limited on all buildings or structures deemed to be "Significant" on the Flemington Historic District Map, or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, as indicated in Subsection C10 above. Specifically, the use of vinyl siding or windows and doors of alternative materials will

be prohibited on the public sides of "Significant" structures. Where visible roofs need to be replaced on "Significant" structures, using replacement materials and methods that match the historic materials is preferable. If the use of historic materials is not feasible, particular care will be taken in selecting alternative materials that match the historic appearance as closely as possible. Composite materials that are painted and that match the configuration of the historic materials are considered to be more acceptable than other replacement materials. Buildings in other parts of the Historic District that are considered to be "Contributing", "Non-Contributing" or "Encroaching" will be permitted to use alternative materials, provided that the following conditions are met:

- a. Vinyl or composite siding shall be smooth (i.e. not textured) and shall be of a scale and color compatible with the buildings in the immediate vicinity of the applicant property. Existing decorative trim shall not be removed or covered by new vinyl siding or trim casing. This trim shall be retained and repaired so that the building's distinguishing historic features shall remain.
- b. Replacement windows and doors shall fit the existing openings exactly and shall be configured to match the historic appearance and detail. Existing window and door openings shall not be "infilled" or made smaller to accommodate standard window or door sizes.
- c. Alternative materials may only be used to replace existing porches if the historic porch is not repairable, if the new porch configuration and appearance closely matches the original, and if the new materials that are clearly visible from a public way are painted. The Commission will consider additional new materials as they become available.
- d. Alternative materials may be considered for visible roofs when existing slate, copper, wood shakes, etc., are shown to be beyond repair. The alternative materials on the visible facades shall match the existing appearance as closely as possible. Alternative materials are acceptable to be used on roofs that are not visible from public streets.

18. Sustainable Energy Sources and Energy Efficiency. This Ordinance is not intended to discourage the installation and use of sustainable energy sources, including solar panels, geothermal wells and wind turbines, provided that the installations meet all required building, zoning and safety codes, etc., and that they are installed to have as minimal an impact on the visible portions of the historic property as possible. Particular care shall be taken to reduce the impact on buildings listed as "Significant" on the Flemington Historic District Map or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue.
19. This Ordinance is not intended to discourage the improvement of the energy efficiency characteristics of the historic structures in Flemington. However, where energy efficiency improvements are being considered, care should be taken to reduce negative impacts on the historic character of the building. In particular on all buildings or structures deemed to be "Significant" on the Flemington Historic District Map, or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, it is important to keep, repair or restore existing character-defining features that affect energy efficiency, including original doors and windows. Energy efficiency improvements for these features can be achieved through weather-stripping, interior storm windows, appropriate exterior storm windows or doors and other appropriate measures. See the Borough's "Historic District Guidelines" for suggestions.
20. Additional Matters Considered. In regard to all applications, additional pertinent matters may be considered, but in no instance shall interior arrangements be considered except as it may result in exterior changes important to the integrity of the historic structure, such as additions, chimneys, roof design, blocking of windows or similar changes.
21. ***Emergency reviews of applications to the Historic Preservation Commission may be requested for construction or repair work that is required to be undertaken before the next scheduled meeting of the Historic Preservation Commission. The applicant shall notify the Historic Preservation Commission and request an emergency review and the Historic***

Preservation Commission shall determine if an emergency review is required and the format of the review. Any work done by the applicant prior to formal approval by the Historic Preservation Commission shall be at the sole risk of the applicant.

a. In the event an applicant requires an emergency review, the applicant shall pay all fees incurred by the Commission to properly advertise an emergency meeting of the Commission.

D. Building Massing and Scale of New Buildings and Additions.

1. Scale of Building. The size of a proposed building or addition and the mass of a proposed building or addition in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the other buildings and built features to which it is visually related.
2. On proposed buildings and additions, long, horizontal facades should be broken down into segments having vertical orientation and tall vertically oriented facades shall be broken down into horizontal components through use of appropriate design features in proportions complementary to the overall architecture and design.
3. New buildings or additions with expansive blank walls are prohibited, particularly on sides of the building facing public ways.
4. New buildings and additions should be designed so that facades are the prominent architectural feature and the roofs are visually less dominant in the total design. Architecturally accurate roof styles shall be consistent with the surrounding historic context.
5. A pedestrian scale should be achieved at ground level and along street frontages and entryways through the use of such scale elements as windows, doors, columns, plazas, awnings, canopies, and site furnishings.
6. In new infill construction, the alignments of proposed facades shall be consistent with the existing setback of nearby buildings to the extent permitted by this Ordinance.
7. Height. The height of any proposed structure and landscaping shall be visually compatible with adjacent structures.

8. Proportion of Building's Front Façade. The relationship of the width of any new building or addition to the height of the front elevation shall be visually compatible with the nearby buildings and structures.
9. Proportion of Openings. The relationship of the width of windows to the height of windows in a new building or addition shall be visually compatible with the nearby buildings and structures.
10. Rhythm of Solids to Voids on Facades Fronting on Public Places. The relationship of solids to voids in facades of new or altered buildings shall be visually compatible with the nearby buildings and structures.
11. Rhythm of Spacing of Structures on Streets. The relationship of any new structure to the open space between it and adjoining structures shall be visually compatible with the nearby buildings and structures.
12. Rhythm of Entrance and/or Porch Projection. The relationship of new or renovated entrances and porch projections to the street shall be visually compatible with the nearby buildings and structures.
13. Roof Shapes. The roof shape of a new building or addition shall be visually compatible with nearby buildings and structures.
14. Walls of Continuity. Features of a proposed building or addition, such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of any structure with the nearby buildings and structures.
15. Directional Expression of Front Elevation. A new or altered building shall be visually compatible with nearby buildings and structures, whether this is a vertical, horizontal or nondirectional character.

E. Facade Treatment.

1. The Flemington Historic Preservation Commission is particularly concerned with elevations of buildings that are visible from public ways. Rear and side elevations that are not visible will have greater flexibility in terms of design and materials.

2. Multi-tenant buildings shall provide uniform store fronts, doorways, windows, awnings and other design features for all ground floor tenants. Upper floors of said buildings shall at a minimum be coordinated with the ground floor through common materials and colors.
3. New buildings should use windows of similar sizes and shapes or incorporate other façade elements that establish the same pattern as other buildings in the immediate area.
4. Design elements that carry through a block such as store front patterns, window spacing, entrances, canopies or awnings, etc., should be incorporated into new or renovated facades.
5. Exterior mounted mechanical and electrical equipment (e.g. air conditioning units, satellite dishes, etc.) shall be located so that they are not visible from public ways, or shall be completely screened from public view with opaque architectural elements that are unobtrusive and visually compatible with the character of the Historic District and the nearby structures.
6. Facade renovations should be consistent with the original architectural style of the building. Original details should be retained; when it becomes necessary to introduce new features, they should harmonize with existing features. If windows and doors must be replaced, new windows and doors that match the original design should be used. Window and door sizes and shapes should not be altered by any building renovation. Changes to window and door sizes and configurations may be considered if a building is being restored to an earlier, documented, historic appearance. In buildings that are listed as Significant or which are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, replacement doors, windows and trim on the visible facades should match the original materials. On other buildings, alternative materials may be used. See Subsection C10 for more information.
7. The use of overly dramatic and/or intrusive lighting designs and fixtures is not permitted.

F. Building Materials, Colors and Texture.

1. On existing buildings, original materials shall be retained

wherever possible. No existing brick or stone shall be covered for cosmetic reasons, and the repair and restoration of existing materials deemed of architectural value is strongly encouraged. Great care shall be taken in the cleaning and repair of existing materials. The gentlest, effective means shall be used in all cases. "Sandblasting" and other abrasive cleaning techniques, as well as harsh chemical cleaning methods are not to be used under any circumstances.

2. Where appropriate, building renovations shall incorporate elements of the original structure into the renovation design.
3. The use of brick, stone, clapboard, shakes and other façade materials of a traditional and vernacular nature is strongly encouraged. In general, a maximum of 2 principal facade materials shall be permitted for new structures.
4. Flat, metal panels and mirrored glass surfaces are prohibited on all existing, historic buildings, as are flush metal, composite or wood doors on visible facades. On buildings indicated as "Significant" on the map of the Flemington Historic District or buildings located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, the use of vinyl or aluminum siding on facades visible from public ways shall also be prohibited.
5. The painting of buildings in patterns, checks, stripes or overly bold colors is not permitted.
6. The use of colors generally associated with traditional building design is required on all buildings. Accent or complementary colors which harmonize with the main façade colors shall be permitted for trim, awning and other building details. Acceptable paint colors from the relevant periods can be found within the following reference, which is maintained for review in the Planning Office: *Paint in America, the Colors of Historic Buildings* (Moss, Roger, John Wiley & Sons, Inc., 1994)
7. Relationship of Materials, Texture and Color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related, especially those immediately adjacent.

G. Demolition.

1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. The demolition or partial demolition of any structure deemed Contributing or Significant in the Historic District is generally not permitted, except when public health or safety is at risk, as certified by a licensed structural engineer, or there are other reasons deemed to be crucial for the future development and prosperity of the Borough.
2. Applications to demolish any structure within the Historic District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current and potential uses;
 - c. Its overall condition, including a report from a structural engineer licensed in the State of New Jersey and with experience dealing with historic structures indicating its condition and suitability for preservation and re-use.
 - d. Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
 - e. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;
 - f. The extent to which its retention would promote the general welfare;
 - g. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and
 - h. The probable impact of its removal upon the character and ambience of the Historic District.

- i. The impact of its removal upon future development or redevelopment.

H. Relocation of Structures Out of the Flemington Historic District.

1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. Therefore, the review of applications for the relocation of any structure currently located within the Flemington Historic District to a location outside of the District will be undertaken with the greatest care. The relocation of any structure deemed Contributing or Significant in the Historic District is generally not permitted, except when public health and safety is at risk.
2. Applications to relocate any structure currently located within the Flemington Historic District to a location outside of the District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition, including a report from a structural engineer licensed in the state of New Jersey and with experience dealing with historic structures indicating its condition and suitability for relocation and re-use.;
 - d. The extent of the historic and architectural loss to the site and District that results from moving the structure from its original location;
 - e. The reasons for not retaining the structure at its present site;
 - f. The proximity of the proposed new location to Flemington Borough, including the accessibility by the residents of Flemington Borough and other citizens;
 - g. The probability of significant damage to the structure during the relocation.
 - h. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in

American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and

- i. The probable impact of its relocation upon the character and ambience of the Historic District.
- j. The impact of its relocation upon future development or redevelopment.
- k.

I. Relocation within Flemington Borough.

- 1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. Therefore, the review of applications for the relocation of any structure currently within the Flemington Historic District to another location within the District will be undertaken with the greatest care. The relocation of any structure deemed Contributing or Significant in the Historic District is not permitted.
- 2. Applications to relocate any structure currently located within the Flemington Historic District to another location within the District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition;
 - d. The extent of the historic and architectural loss to the site and District that results from moving the structure from its original location;
 - e. The reasons for not retaining the structure at its present site;
 - f. The probability of significant damage to the structure during the relocation;
 - g. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in

American culture and heritage, or make the municipality a more attractive and desirable place in which to live;

- h. The probable impact of its relocation upon the character and ambience of the Historic District; and
- i. The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this Ordinance.
- j. The impact of its relocation upon future development or redevelopment.

J. Other Requirements.

1. Signage. Appropriately designed signage can be an important design feature in the Historic District. A member of the Historic Preservation Commission is appointed by the HPC Chair to the SRC (Sign Review Committee) and participates in the review of proposed signage on properties within the Historic District, whether or not they will be attached to a structure. Relatively small, painted signage either mounted to the face of the building as part of the storefront design, or perpendicular to the face of the building, is encouraged. Large, contemporary, neon or neon-like, or plastic internally illuminated signs are not permitted, as are signs that conceal important architectural features. All signs must also meet the requirements of the Flemington Land Development Ordinance, Chapter 26, Zoning.
2. Awnings. Appropriately designed awnings may be acceptable on residential and nonresidential buildings. All awnings shall be constructed and installed so that the frame and fabric of the awning is integrated into the overall building design. Awnings shall not extend beyond a dimension appropriate with the size and scale of the subject building. Awnings shall not be placed so as to conceal or disfigure any architectural feature or detail. Awning materials shall be limited to cloth, canvas and similar materials; metal and aluminum awnings are prohibited. Plastic and/or internally illuminated awnings are also prohibited. Awnings may be solid or striped, but colors shall complement the façade colors. If the building has several tenants, the overall awning design should be consistent and compatible across the entire façade.

3. **Public Art.** All art visible from public ways, including murals, outdoor sculpture, etc., that is being permanently attached or applied to structures in the Historic District shall be reviewed by the Flemington Historic Preservation Commission for compatibility with the design of the building and neighboring structures.
4. **Street Furniture.** The installation of all street furniture, including benches, fencing, trash cans, lighting, planters, etc., that is visible from public ways must be reviewed by the Flemington Historic Preservation Commission. The items should be selected to fit the scale, materials and character of the Historic District.
5. **Building and Accessibility Codes.** The Flemington Historic Preservation Commission does not review applications for compliance with relevant building or accessibility codes. Compliance with these codes is the responsibility of the applicant. The Flemington HPC review in no way supersedes or alters building code or accessibility requirements, although these codes, including the Rehabilitation Subcode and Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey, take into account existing conditions and the special characteristics of historic buildings. Any changes to the exterior of a building in the Flemington Historic District that are necessitated by requirements of building and handicapped accessibility codes should be designed to complement the character and style of the existing building to the greatest degree possible.

K. Violations and Penalties.

1. Any person who undertakes an activity which would cause a change in the exterior architectural appearance of any improvement within the Flemington Historic District or on any individually listed structure by addition, alteration, relocation, demolition or replacement without obtaining the approval of the Flemington Historic Preservation Commission shall be deemed to be in violation of this Ordinance.
2. Upon learning of the violation, the Construction Official for Flemington Borough shall personally serve upon the owner of the lot or property whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the property, structure or improvement to the condition it was in prior to the violation

occurring. If the owner cannot be personally served within the municipality with this notice, a copy shall be posted on the site and a copy sent to the owner at his or her last known address as it appears on the municipal tax rolls.

3. In the event that the violation is not abated within 10 days of service or posting on site, whichever is earlier, the Construction Official shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this Ordinance and specifying the wrongful conduct of the violator. Each separate day the violation exists past the initial 10-day abatement period shall be deemed to be a new and separate violation of this Ordinance.
4. The penalty for violation past the initial 10-day abatement period shall be as follows:
 - a. For each day up to 15 days, not more than \$50.00 per day.
 - b. For each day 16 to 30, not more than \$75.00 per day.
 - c. For each day beyond 30 days, not more than \$100.00 per day.
5. If any person undertakes activity which would cause a change to the exterior architectural appearance of any structure within the historic district or of any structure individually listed as historically significant within the Borough of Flemington by addition, alteration or replacement without first having obtained the approval of the Historic Preservation Commission, he or she shall be required to immediately stop the activity, apply for approval and take any necessary measures to preserve the historic structure affected, pending a decision. If the proposed project is denied, the historic structure shall be immediately restored to its pre-activity condition. The Construction Official is authorized to seek injunctive relief regarding a "stop action" on the activity in the Superior Court, Chancery Division, not less than 10 days after the delivery of notice pursuant to Subsection K2 above. Such injunctive relief shall be in addition to the penalties authorized in Subsection K4 above.

L. Designation of Historic Landmarks and Historic Districts

1. ***The Commission shall maintain and expand, when appropriate, a comprehensive survey of the Borough of Flemington to identify historic landmarks and historic districts that are worthy of protection and preservation.***
2. ***Criteria for Designation. The criteria for evaluation and***

designating historic landmarks and historic districts shall be guided by the National Register Criteria as currently published and amended from time to time. The Commission or any person may recommend designation of historic landmarks or historic districts that are in accordance with the National Register Criteria or that possess one or more of the following attributes:

- a. Character, interest, or value as part of the development, heritage or cultural characteristics of the borough, State or Nation; or**
 - b. Association with events that have made a significant contribution to the broad patterns of our history; or**
 - c. Association with the lives of persons significant in our past; or**
 - d. Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering; or**
 - e. Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the borough, State or Nation; or**
 - f. Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative; or**
 - g. Unique location or singular physical characteristics that make a district or landmark an established or familiar visual feature; or**
 - h. Ability or potential ability to yield information important in prehistory or history.**
- 3. Procedures for Designation. Proposals to designate a property as historic pursuant to this ordinance may be made by the governing body, the Commission, or the planning board, in accordance with the following procedures:**
- a. Nomination report for historic landmark. A**

nomination to propose an historic landmark shall include the following information which addresses the criteria for designation as set forth herein:

- i. A photograph of the proposed landmark; and***
 - ii. A copy of the municipal tax map showing the property on which the proposed landmark is located; and***
 - iii. A physical description of the proposed landmark; and***
 - iv. A statement of significance.***
- b. Nomination report for historic district. A nomination to propose an historic district shall include the following information which addresses the criteria for designation as set forth herein:***
- i. A building-by-building inventory of all properties within the district identifying significant, contributing, non-contributing, or encroaching; and***
 - ii. A photograph of each property and building within the district; and***
 - iii. A copy of the municipal tax map of the district showing boundaries; and***
 - iv. A physical description of the proposed district; and***
 - v. A statement of significance.***
- c. Schedule a hearing. Following receipt of a nomination to propose an historic landmark or historic district, the Commission shall schedule a public hearing on the proposed designation.***
- d. Notification requirements. At least 20 days prior to the public hearing, the Commission shall, by personal service or certified mail, perform the following:***
- i. Notify the owner(s) of record of a property that has been proposed for historic landmark designation, or the owner(s) of record all properties located within a district that has been proposed for historic district designation, that the property or district, as***

applicable, is being considered for such designation and the reasons therefor;

- ii. Advise the owner(s) of record of the significance and consequences of such designation, and of the rights of the owner(s) of record to contest such designation under the provisions of this ordinance;**
- iii. Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property or district; and**
- iv. Serve any further notices as may be required under the provisions of the Municipal Land Use Law.**
- e. Public notice of hearing. At least 20 days prior to the public hearing, the Commission shall also cause public notice of the hearing to be published in the official newspaper of the borough.**
- f. Public report. At least 20 days prior to the public hearing, a copy of the nomination report shall also be made available for public inspection in the municipal offices of the borough.**
- g. Public hearing. At the public hearing scheduled in accordance with this ordinance, the Commission shall review the nomination report and accompanying documents. Interested persons shall be given the opportunity to be heard and to comment on the proposed nomination for designation.**
- h. Commission report. If the proposed nomination is approved by the Commission, then the Commission shall forward a report to the Planning Board for review, which shall contain a statement of the Commission's recommendations and the reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved for designation.**
- i. Report to governing body. The Planning Board shall review and provide a report with recommendations to the governing body as soon as possible, but within 60 days.**
- j. Final designation. As soon as possible after its receipt of the report of the planning board, the**

governing body shall act upon the proposed designation list and map and may approve, reject or modify by ordinance the designation recommendations made by the planning board. In the event that the governing body votes to reject or modify any planning board recommendations for a proposed designation, the governing body shall record in its minutes the reasons for not following such recommendation.

- k. Public notice of designation. Notice of designation shall be made public by publication in the official newspaper of the borough and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.**
- l. Incorporation of designated landmarks into Borough records. Upon adoption of a resolution by the governing body designating an historic landmark or an historic district, the said designation shall supplement, rather than supersede, the existing zoning district in which the affected historic landmark or historic district is located. At that time, the designation list and map shall be incorporated into the master plan and zoning ordinance of the borough as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. Designated properties shall also be noted as such on the records for those properties as maintained by the engineering and zoning offices, as well as the offices of the construction official, the borough tax assessor and the borough clerk. In addition to the requirement for notation in the foregoing borough records upon the designation of a landmark or historic district by the governing body, within 90 days of the adoption of this Ordinance, there shall be entered upon the property records in the offices of the Tax Assessor, the Construction Code Official, the Borough Engineer, the Zoning Officer and the Borough Clerk a notation which identifies the designation of each property located within or historic district as constituted on the date of adoption hereof.**

Each tax/assessment search requested for a property located within an historic district shall

note thereon the subject property is so located. Similarly, all forms maintained and issued by the Construction Code Official, Borough Engineer, Zoning Officer and Borough Clerk responsive to requests for information, permits, and like documents, shall contain a notation which identifies, as applicable, the designation of a property within an historic district as constituted on the date of the adoption hereof and as new landmarks as historic district designations occur hereafter.

- m. Amendments. Amendments to historic landmark or historic district designations may be made in the same manner as they were adopted in accordance with the provisions of this ordinance.***

M. Appeals.

Whenever the Commission shall make a final decision regarding the grant or denial of a permit, the decision shall be subject to appeal to the Planning Board operating as the Zoning Board of Adjustment as provided under N.J.S.A. 40:55D-70. An appeal from the decision of the Planning Board operating as the Zoning Board of Adjustment shall be made in the same manner as permitted and prescribed by law for appeals from any other decisions made by such Boards in accordance with applicable law.

N. Escrow Review Fees

The Commission may require an applicant for a demolition or relocation permit to post a review escrow fee in an amount not to exceed \$1,000.00 if the review of said application will be complicated and require consultation with a professional engineer or architect. Such escrow account will be managed consistent with the Municipal Land Use Law (N.J.S.A. 40:55D-53.1 et seq.) and Ordinance Section 2800.

SECTION 4. All ordinances of the Borough of Flemington, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 6. This Ordinance shall take effect upon final passage and publication as

required by law.

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/2022 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

INTRODUCED

ORDINANCE 2022-9

DOC ID: 3837

An Ordinance Authorizing an Agreement for the Acquisition of Leasehold Interest, and Non-Exclusive Ground Lease Agreement, Between the Borough of Flemington and 307(L) Flemington Land Holdings, LLC for Property Known as Block 44, Lot 6 in the Borough of Flemington

WHEREAS, 307(L) Flemington Land Holdings, LLC (“Lessor”) is the fee owner of the real property commonly known at 307 US Highway 202, Flemington, NJ 08822 (Block 44, Lot 6); and

WHEREAS, Lessor was granted preliminary and final major site plan approval with variances to construct signage, a living wall, solar trees, and associated site improvements pursuant to Flemington Borough Planning Board Resolution No. 2019-5 (the “Resolution”),

WHEREAS, pursuant to a condition of the Resolution, the Borough has use of the signage for eight (8) seconds every two (2) minutes to display public messaging; and

WHEREAS, the Borough desires to lease from Lessor and Lessor desires to lease to the Borough, subject to the terms and conditions set forth in a Non-Exclusive Ground Sublease Agreement (attached in substantially the same form as Exhibit “A” hereto), a portion of Lessor’s Property where the monument display is located in order to facilitate Lessor’s performance of its obligations and exercise of its rights under the Resolution; and

WHEREAS, Lessor desires to promote the Borough by having the Borough’s official seal on the Lessor’s property; and

WHEREAS, the Lessor’s property will contain public service messages and emergency messaging which will provide a public purpose; and

WHEREAS, this Non-Exclusive Ground Sublease Agreement will promote and facilitate this public purpose; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-5, requires that the lease of real property by a public entity be authorized by Ordinance, and it is the desire of the Borough Council to enact this Ordinance authorizing same to comply with the terms and conditions of the Local Lands and Buildings Law.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Mayor and Council of the Borough of Flemington, County of Hunterdon, and State of New Jersey, as follows:

Section 1. The Mayor and Borough Council hereby authorizes the lease of a long-term leasehold interest in property owned by 307(L) Flemington Land Holdings, LLC at Block 44, Lot 6. The Council further authorizes the execution of such documents as may prove

necessary for the Non-Exclusive Ground Sublease Agreement. Said lease of land by the Borough shall be subject to a Non-Exclusive Ground Sublease Agreement between the Borough and 307(L) Flemington Land Holdings, LLC. The lease of the interest in the property known as Block 44, Lot 6, also known as 307 US Highway 202, Flemington, NJ 08822, shall be for a period of twenty-five (25) years.

Section 2. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

Section 3. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Mayor and Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Borough to meet the goals of the Ordinance.

Section 4. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

Introduced: June 27, 2022

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Land Development
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

ORDINANCE 2022-10

DOC ID: 3846

**An Ordinance Authorizing the Purchase of Property
Designated as Block 42, Lot 9 (200 Main Street)**

WHEREAS, Main 200, LLC (the “Property Owner”) is the owner of Block 42, Lot 9 (the “Property”); and

WHEREAS, the Borough wishes to acquire the Property for public purposes, specifically to establish a new Police Department headquarters and develop a drinking water well; and

WHEREAS, Borough and the Property Owner agreed on a purchase price of \$1,500,000.00; and

WHEREAS, the Borough will be funding the purchase through a bond; and

WHEREAS, the New Jersey Local Land and Buildings Law, N.J.S.A. 40A:12-3, *et seq.*, requires adoption of an ordinance to authorize the acquisition of the Property.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1.

Subject to the availability of funds described herein, the Borough is hereby authorized to acquire the Property as referenced hereinabove for the amount of \$1,500,000.00

SECTION 2.

The Mayor and Clerk are hereby authorized and directed to take all necessary actions and execute all necessary documents, including but not limited to a Contract of Sale (in a form substantially similar to that attached hereto as Exhibit “A”), a deed of conveyance, HUD-1 settlement statement, affidavit of title, and such other closing documents in order to authorize both the acquisition and conveyance of the Property.

SECTION 3.

This Ordinance shall take effect after final passage and publication as prescribed by law.

Introduced: July 11, 2022

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

ORDINANCE 2022-11

DOC ID: 3848

An Ordinance Authorizing the Consumption of Alcoholic Beverages in Certain Areas of the Borough of Flemington

WHEREAS, on January 18, 2022 Governor Murphy signed P.L.2021, c.395, which allows municipalities to designate outdoor areas upon which people may consume alcoholic beverages; and

WHEREAS, certain areas of the Village Artisan District of the Borough of Flemington (the "Borough") have long been hubs of entertainment and activity, and there are a number of food and beverage establishments in those areas for the public to enjoy; and

WHEREAS, the success of permitting expanded outdoor dining as a result of the COVID-19 pandemic has made it apparent that Borough restaurants and other food and beverage establishments benefit from permitting patrons of such establishments to possess open containers of alcoholic beverages in certain areas; and

WHEREAS, permitting such outdoor consumption also benefits the public health by providing for open air social distancing; and

WHEREAS, it is apparent that the public desires these opportunities to enhance their enjoyment of the Borough's food and beverage establishments; and

WHEREAS, those open container areas would help both visitors to the Borough and local residents safely enjoy the open spaces and food and beverage experiences that the Borough has to offer and would be consistent with the intent of the new legislation allowing consumers to purchase alcohol for individual consumption; and

WHEREAS, in addition to areas of the Village Artisan District of the Borough, there are other times and areas of the Borough in which the open consumption of alcoholic beverages should be formally permitted, such as during special Flemington Community Partnership-sponsored events.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION I. Chapter 10 of the Borough Code, entitled "Streets and Sidewalks", shall be and hereby is amended by adding a new section, 10-7, "Open Container Areas" as follows:

10-7. Establishment of Open Container Areas.

A. Pursuant to P.L.2021, c.395, it shall be lawful for any person who is at least 21 years of age to consume open containers of alcoholic beverages outdoors in the following areas:

1. Stangl Road between Church Street and Mine Street, but only in those areas that are delineated, designed and/or partitioned for use as outdoor seating or dining areas or for social activities (said areas commonly referred to and defined herein as “parklets”), or on the sidewalks abutting or immediately adjacent to said areas, as well as on the roadway or portions thereof which have been sufficiently closed to vehicular traffic and reserved exclusively for pedestrian use. Such permitted consumption of open containers shall be limited to Fridays, Saturdays, and Sundays between the hours of 1pm and 11pm.

B. A “Parklet” is defined as an area over parking spaces adjacent to a sidewalk area upon which tables, chairs, umbrellas, landscaping, benches, and other accessory components may be placed to create an enhanced pedestrian experience for the general public and patrons of retail businesses, offering an area where one might sit, rest, recreate, socialize and/or indulge in open air dining and beverage experience. No parklet shall exist within the Borough of Flemington without the permission of the Borough.

C. Notwithstanding the provisions of this Ordinance, the sale of alcoholic beverages for consumption in an open container area shall be subject to the provisions of Title 33 of the Revised Statutes of the State of New Jersey, rules and regulations promulgated by the director of the Division of Alcoholic Beverage Control, and all other municipal ordinances.

D. This Ordinance does not, and is not intended to, confer any greater rights upon a holder of an ABC license or permit than that permitted by the Division of Alcoholic Beverage Control itself, or any law, rule, or regulation regarding alcoholic beverage licenses and permits.

SECTION II. Section 5-6.3 of the Borough Code, entitled “Permitted” Exceptions”, concerning the consumption of alcoholic beverages in public places, shall be amended as follows (additions noted in bold italics *thus*, and deletions noted in strikethrough ~~thus~~):

A. The Borough Council may, by motion and upon application being made therefor and for good cause, permit the possession and consumption of alcoholic beverages within premises not covered by a plenary retail consumption liquor licensee, for special functions or social events. The permission if granted, shall be consistent with the Alcoholic Beverage Control Law of the State of New Jersey and the regulations enacted pursuant thereto, and upon such further conditions as may be imposed by the Borough Council.

B. Consumption of alcoholic beverages is permitted in certain public areas during certain times consistent with Section 10-7, entitled “Open Container Areas.”

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the

validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

Introduced:

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 07/11/22 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

ORDINANCE 2022-12

DOC ID: 3850

Bond Ordinance Providing for the Acquisition Of, and Payment of the Purchase Price For, Certain Real Property Commonly Known as 200 Main Street, by and in the Borough of Flemington, in the County of Hunterdon, State of New Jersey; Appropriating \$1,550,000 Therefor and Authorizing the Issuance of \$1,476,190 Bonds or Notes of the Borough to Finance Part of the Cost Thereof

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$1,550,000, said sum being inclusive of \$73,810 as the amount of down payment for said improvements or purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"). The down payment is now available therefor by virtue of either provisions or a provision in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes or from moneys actually held by the Borough.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof, and to meet the part of the \$1,550,000 appropriation not provided for by application hereunder of the down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,476,190 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or

purpose, negotiable notes of the Borough in the principal amount not exceeding \$1,476,190 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvement hereby authorized and purpose for the financing of which said bonds or notes are to be issued is the acquisition of, and payment of the purchase price for, real property, a lawful public purpose, such real property being designated as Block 42, Lot 9 on the Official Tax Map of the Borough, and being commonly known as 200 Main Street, Flemington, New Jersey, and all improvements thereon (the "Property").

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$1,476,190.

(c) The estimated cost of said improvement or purpose is \$1,550,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the down payment available for said improvement or purpose in the amount of \$73,810.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity make a contribution or grant in aid to the Borough, for the improvement and purpose authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer of the Borough shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of N.J.S.A. 40A:2-8(a). The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance, and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, will be on file in the Office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement or purpose which the Borough may lawfully undertake as a general improvement or purpose, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 40 years.

(c) The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,476,190 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$50,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and

to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.100-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 10c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough is hereby authorized to acquire the Property and to negotiate an agreement of sale or any other document for the aforesaid acquisition of the Property. The Mayor, Chief Financial Officer, Borough Attorney, Borough Administrator, and the Borough Clerk are each hereby authorized, as applicable, to negotiate, approve, execute, attest, deliver and perform said agreement of sale and any and all documents necessary to acquire said Property.

SECTION 12. The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 13. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

ADOPTED ON FIRST READING
DATED:

SALLIE GRAZIANO,
Borough Clerk

ADOPTED ON SECOND READING
DATED:

SALLIE GRAZIANO,
Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2022.

BETSY DRIVER
Mayor