



**BOROUGH OF FLORHAM PARK
COUNTY OF MORRIS, STATE OF NEW JERSEY
ORDINANCE #26-17**

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF FLORHAM PARK IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 229, "TREES", OF THE CODE OF ORDINANCES OF THE BOROUGH OF FLORHAM PARK

WHEREAS, the Mayor and Council of the Borough of Florham Park have determined that the preservation, protection, maintenance and controlled removal of trees is essential to the health, safety and general welfare of the Borough and its residents; and

WHEREAS, the protection and preservation of trees has been found by the New Jersey Courts to unquestionably affect the public interest; and

WHEREAS, the Borough deems it necessary to further update and strengthen its ordinance and regulations in order to further refine and improve its standards, requirements and procedures for tree permits and removals; and

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

Section 1. Chapter 229, "Trees," § 229-2, "Applicability" of the Code of Ordinances of the Borough of Florham Park is hereby amended and supplemented as follows:

All applications to the Planning Board or Zoning Board of Adjustment for approval of a major subdivision, minor subdivision or site plan requiring tree removal shall include an application for a Tree Removal Permit. All applications for demolition permits for the purpose of tearing down a house for reconstruction in the Borough shall also require a Tree Removal Permit. Any residential, commercial, business or industrial lot owner owner, resident or other person wishing to Remove Trees upon said lot any residential, commercial, business or industrial lot must comply with **§ 229-8** of this Chapter. The application shall be submitted to the Engineering Department for review and approval by the Borough Engineer or his/her designee. No tree that was planted or preserved as part of any landscape plan or in accordance with any subdivision or site plan approval shall be removed, except for such trees directed to be removed pursuant to **§ 229-5A (6)(5)** through **(9)(8)**.

Section 2. Chapter 229, "Trees," § 229-3, "Definitions" of the Code of Ordinances of the Borough of Florham Park is hereby amended and supplemented to add additional definitions, and to modify only the specified existing definitions, as follows:

APPLICANT

Any person, as defined in this Chapter, who applies for a Tree Removal Permit on any Lot within the Borough.



LOT

A designated parcel or tract of land established in the local and county records by plat, deed, subdivision, zoning lot of record, or as otherwise permitted by law.

PERSON

Any individual, Resident as defined in this Chapter, group, company, firm, corporation, partnership, limited liability company, association, society or other legal entity, including its officers, agents or employees.

QUALIFIED TREE CONTRACTOR

A contractor duly licensed by the New Jersey Board of Tree Experts pursuant to N.J.S.A 45:15C-11 *et seq.*

REMOVE or REMOVAL

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

RESIDENT

An individual who resides on the property, the property owner, or a Qualified Tree Contractor hired or engaged by the individual who resides on, or is the property owner of, the property where a Tree(s) regulated by this Chapter is Removed or proposed for Removal. In the event the property owner is a business entity, or no individual otherwise resides on the property, the term "Resident" shall also mean and include the business entity that owns, or is the tenant of, the property where a Tree(s) regulated by this Chapter is removed or proposed to be removed.

TREE DAMAGE

Any purposeful or accidental actions which causes a Tree(s) harm which includes, but is not limited to, excessive pruning, application of substances that are toxic to the Tree, over-mulching or improper mulching, improper grading, and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree and shall be treated the same as Tree Removal.



TREE REMOVAL PERMIT

A permit issued by the Borough Engineer, or his/her designee, to remove or destroy a tree or trees. A permit issued to an Applicant, who complies with all requirements of this Chapter, by the Borough Engineer, or his/her designee, to remove or destroy a tree or trees and which must be obtained prior to undertaking any such removal.

Section 3. Chapter 229, "Trees," § 229-4, "Tree cutting or removal restricted" of the Code of Ordinances of the Borough of Florham Park is repealed and replaced in its entirety as follows:

Subject to the exemptions set forth in § 229-5, no person shall cut, or remove, damage, or cause to be cut or, removed or damaged, any existing tree with a diameter at breast height (DBH) of 10 inches or greater upon located on any lands within the Borough of Florham Park unless the cutting or removal can be accomplished in accordance with the provisions of this chapter without first submitting an application and being issued a Tree Removal Permit, unless such action is specifically exempted by this Chapter. It shall be the duty and responsibility of each Applicant, Resident, Qualified Tree Contractor and any other Person to comply with all requirements and standards of this Chapter. All provisions of this Chapter shall apply to any Person performing or causing the Removal of Tree(s) on behalf of an Applicant, Resident or other Person, including any Tree Removal company or contractor, or any Person engaged in the business of Tree Removal. It shall be a violation of this Chapter for any Person, Applicant, Resident or Qualified Tree Contractor to Remove or cause to be Removed any Tree unless a valid Tree Removal Permit is in effect, all Trees to be Removed have been properly marked and inspected in accordance with § 229-13, prior advance notice of the commencement of Tree Removal activity has been provided to the Borough, and the Tree Removal Permit has been, and remains, properly posted on the Lot for such time and in such manner as required by § 229-14. Any such Removal or work performed in violation of this Chapter shall subject the Person, Applicant, Resident and/or Qualified Tree Contractor to all penalties and remedies provided herein.

In any instance in which a Tree has been Removed, cut, damaged or otherwise reduced below breast height such that DBH cannot be determined, DBH shall constitute the average stump diameter of the remaining stump. This average stump diameter shall be determined by taking two (2) measurements across the top of the stump at right angles to each other and calculating the average of those measurements.

In any instance in which a Tree has been Removed, cut, damaged or otherwise reduced below breast height such that DBH cannot be determined and that no measurable stump remains, DBH may be established by any reliable and competent evidence reasonably sufficient to establish the size of the Tree prior to Removal, including photographs, prior surveys or inventories, plans, arborist reports, inspection records, aerial imagery, remaining tree material, root collar measurements, permits or witness observations and/or in accordance with published by the USDA Forest Service or other professionally accepted forestry or arboricultural standards.



Section 4. Chapter 229, "Trees," § 229-5, "Exemptions" of the Code of Ordinances of the Borough of Florham Park is repealed and replaced in its entirety as follows:

- A. The Borough Engineer or designee must inspect Trees in order to qualify for the exemptions listed in this Section. Except as otherwise expressly provided in Subsection C of this Section, any Applicant, Resident, Qualified Tree Contractor or Person seeking an exemption pursuant to this Section shall be required to submit an application and obtain a Tree Removal Permit under this Chapter. The exemptions are as follows:
- (1) Commercial nurseries and fruit orchards.
 - (2) Christmas Tree farms.
 - (3) Residential Lots that are located in any residential zones where Removal is no more than three Trees with a ten-inch DBH or greater in any two-year period.
 - (4) Any Tree which is part of a cemetery.
 - (5) Trees directed to be removed by municipal, county, state or federal authority pursuant to law.
 - (6) Removal of Trees which are dead, dying or diseased, or Trees which have suffered damage, or any Trees whose angle of growth makes them a hazard to structures, roads, or human life. Dead or diseased Trees shall not be turned into mulch and applied to the site, but shall be disposed of in a manner so as not to disease other Trees on the site.
 - (7) Removal of Trees which appear to cause structural damage to buildings or foundations.
 - (8) Any Tree growing on or over a public right-of-way or public land when such action is performed by, or at the express direction of, a governmental authority with jurisdiction.
 - (9) Pruning or Removal of Trees within the right-of-way for maintenance of utility wires or pipelines and the pruning of Trees within sight easements when such action is performed by, or under contract from, the public utility.



- (10) Trees removed in conjunction with farmland greater than five acres in size that will be actively devoted primarily to agricultural uses and that yield a minimum annual income of \$500 from said farming activities, except that where the owner desires to remove any Trees for the purpose of expanding farmlands, an inventory of Trees to be removed, identified by size, species, and common name shall be prepared and filed with the Engineering Department prior to any Tree Removal. In the event the expanded farmlands are not actively devoted primarily to farming activities for a period of seven years following Tree Removal, the Tree replacement provisions contained in §229-7 shall apply.
 - (11) Those projects which have received major subdivision or site plan approval prior to the effective date of this chapter and amended major subdivision and site plans shall be exempt from the provisions of §229-6, but must still apply for a Tree Removal permit prior to cutting pursuant to §229-8.
- B. An application and Tree Removal Permit are required to be submitted and obtained regardless of the qualification for an exemption under this Section to allow the Borough to facilitate the enforcement of N.J.S.A. 45:15C-11 et seq., which implemented the Licensed Tree Expert and Licensed Tree Care Operator Act. This Act requires Tree Removal companies to register with the New Jersey Board of Tree Experts. To be registered, Tree Removal companies must meet minimum education requirements and have sufficient liability and workers' compensation insurance. The enforcement of this Act will reduce the hazard associated with Tree Removal through the Borough of Florham Park.
- C. Notwithstanding anything herein to the contrary, no application or Tree Removal Permit shall be required to be submitted or obtained prior to undertaking any Removal qualifying for exemption pursuant to Subsection A(1), (2), (4), (8) or (9) of this Section.
- D. Any Removal qualifying for exemption under Subsection A of this Section as determined by the Borough shall also be deemed to be exempt from compliance with any Tree Replacement and reforestation requirements provided by § 229-7 and any tree replacement fee pursuant to § 229-15B. An exemption under this Section shall only be construed to exempt a Person from compliance with the provisions of this Chapter to the extent expressly and specifically provided herein.

Section 5. Chapter 229, "Trees," § 229-7, "Tree replacement and reforestation." of the Code of Ordinances of the Borough of Florham Park is hereby amended and supplemented to repeal and replace Subsection A and D as follows:

- A. All replacement trees shall be planted on site in accordance with the following tree replacement schedule. However, if the site in question cannot physically accommodate the total replacement amount of trees, then the applicant may plant tree replacements off site ~~on private property owned by the applicant;~~ on Borough-owned property or rights-of-way pursuant to the Borough's Tree Planting Plan and upon direction and supervision of the Department of Public Works and/or Borough Engineer;



or shall make payment to the Tree Fund in accordance with the Tree replacement schedule below; or any approved combination thereof. The applicant's Tree Replacement and Reforestation Plan shall be submitted in writing to the Borough Engineer for his or her approval.

B. *No changes.*

C. The replacement of trees shall occur as prescribed in the following table:

Tree Replacement Schedule	
DBH Caliper of Existing Tree Removed (inches)	Number of Replacement Trees (3-inch DBH Caliper)
Between 10 and 12	3
Between 12 and 18	4
Between 18 and 24	5
Between 24 and 30	7
Between 30 and 36	10
36 or greater	The equivalent of 3-inch Caliper Trees or greater needed to equal the DBH of the Removed Tree

D. The dollar amount paid to the Tree Fund per replacement tree shall be \$325 450 per required replacement Tree.

Section 6. Chapter 229, "Trees," § 229-8, "Tree removal and protection on lots zoned residential, commercial, industrial and business, excluding major and minor subdivisions and site plans." of the Code of Ordinances the Borough of Florham Park is hereby amended and supplemented to repeal and replace Subsection A as follows:

A. ~~Applicability. For any residential lot that is located in the R-15 Zone with a tree removal rate of more than three trees with a ten-inch DBH or greater in a two-year period, or any residential lot that is located in all other residential zones with a tree removal rate of more than six trees with a ten-inch DBH or greater in a two-year period, an application for a tree removal permit shall be submitted to the Engineering Department. The application and development proposal shall conform to the provisions contained herein. Except as otherwise provided by § 229-5, an application for a Tree Removal Permit shall be required to be submitted to the Engineering Department for any Tree Removal on any Lot located within a residential zone in the Borough. The application and development proposal shall conform to the provisions contained herein.~~



- E. Site protection. Site protection measures shall be provided in accordance with **§ 229-6C**, except that this provision shall not be construed to impose any obligation on the part of any Applicant or Person with respect to a Tree Replacement and Reforestation Plan and/or a Landscape Plan independent of any such obligation that may otherwise be expressly required under any other provision of this Chapter.

Section 7. Chapter 229, "Trees," § 229-10, "Protection of trees" of the Code of Ordinances of the Borough of Florham Park is hereby amended and supplemented to repeal and replace the existing Subsections A and B with a new Subsection A and create a new Subsection B as follows:

- A. Whenever an application for a Tree Removal Permit is granted under the terms and conditions of this Chapter, the following protective measures shall be observed:
- (1) No material or temporary soil deposits shall be placed within the dripline of any existing Tree to be preserved.
 - (2) Except while engaged in Tree Removal, no equipment shall be operated within six feet of any Tree protected by this Chapter, nor shall such equipment be operated at any time in such a manner as to break, tear, bruise, decorticate or otherwise injure any living or dormant Tree.
- B. Notwithstanding any other prohibitions or requirements of this Chapter, no Applicant, Resident, Qualified Tree Contractor or Person shall do any of the following:
- (1) Remove, Damage or cut down any Tree unless it is performed by a Qualified Tree Contractor, except that Tree Removal may be completed by the Resident or owner of the property.
 - (2) Make or provide any materially false or misleading statement, representation and/or information in or in connection with any application for a Tree Removal Permit, including any documents or records attached or incorporated therein.
 - (3) Engage in activities that cause harm to the health of the Tree not otherwise authorized pursuant to a Permit issued by the Borough, including but not limited to, volcano mulching, grade cut or fill, soil compaction within the drip line, chemical contamination, excessive alterations to established drainage patterns or mechanical damage, cutting off light, water, or air, and/or planting of invasive species which cause harm to native species of Trees.
 - (4) Operate, place, or maintain within the dripline of any Tree any machinery, equipment, heavy object, stone, rocks, cement, earth, soil, or other substance which may harmfully affect such Tree by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such Tree.



- (5) Excavate around or remove earth or soil from, or cause any water to flow upon, the roots of any Tree in a manner to damage the health of the Tree.
- (6) Perform street, curb and sidewalk construction or repairs unless utilizing methods that protect the roots and trunk of a Tree, such as manual excavation, reducing the curb, curving sidewalks around a tree, and modifying driveway aprons to accommodate Trees as directed by the Borough Engineer or his/her designee.
- (7) Fail to properly protect Trees not subject to Removal in undertaking any Removal, including any protection measures as may be required in accordance with § 229-6C.

Section 8. Chapter 229, "Trees," § 229-11, "Permit approval" of the Code of Ordinances of the Borough of Florham Park is hereby amended and supplemented to repeal and replace existing Subsection A (2), and to add and create a new Subsection C, as follows:

- (2) Where the application is made in connection with a residential, commercial, business or industrial Lot that is not part of a major or minor subdivision or site plan, the Borough Engineer shall act on the application within thirty (30) days of its receipt, provided it is deemed complete, or within such additional time as is consented to by the applicant. Failure to act within thirty (30) days, or any extension thereof, shall be deemed to be an approval of the application and thereafter, a Tree Removal Permit shall be issued. For purposes of this Section, any material revision shall constitute a new application.

C. Any Applicant aggrieved by denial of an application for a Tree Removal Permit or by the suspension or revocation of a Tree Removal Permit as provided in this Chapter may appeal to the Borough Administrator by service of a written request on the Borough Clerk within ten (10) days of the receipt of the decision by which the Applicant is aggrieved. Such appeal shall contain a general statement of the decision by which the Applicant is aggrieved and reasonably describe the basis upon which the decision is contested, the reason(s) the appeal should be granted and the specific nature of the relief the Applicant is seeking. The Borough Administrator shall hear the matter, upon notice to the Applicant, within forty-five (45) days after the filing of the notice of appeal unless otherwise agreed. Upon conclusion, the Borough shall render a decision either in the presence of the Applicant, if applicable, or in writing, within thirty (30) days.



Section 9. Chapter 229, "Trees," § 229-12, "Duration of permits" of the Code of Ordinances of the Borough of Florham Park is hereby amended and supplemented to modify Subsection A only as follows:

- A. If granted for a Lot or parcel of land for which no building permit is required: one-year six months, except that the Applicant shall be required to notify the Borough in writing in accordance with § 229-14 if the work is not to be commenced within thirty days from the date of issuance.

Section 10. Chapter 229, "Trees," § 229-13, "Inspection" of the Code of Ordinances of the Borough of Florham Park is hereby repealed and replaced in its entirety as follows:

§ 229-13 Inspection

- A. Prior to taking final action upon any application for a Tree Removal Permit, an inspection of the site shall be made by the Borough Engineer or his or her designee.
- B. Prior to any Tree Removal, each Tree planned for Removal shall be clearly marked with colored tape, ribbon, tags or similar high visibility markers securely tied or attached to the trunk, and areas to be cleared identified for inspection by Borough officials. Failure to comply with the provisions of this Subsection shall constitute a violation subject to enforcement under **§ 229-18**.
- C. The Borough Engineer or his or her designee shall periodically inspect the site throughout the duration of construction or Removal activity in order to ensure compliance with this Chapter. Such inspection shall be made of the Lot referred to in the application, and of contiguous and adjoining lands, as well as of lands in the vicinity of the application, for the purpose of determining drainage conditions and physical conditions existing thereon.
- D. The Applicant and Qualified Tree Contractor shall have an obligation to cooperate in facilitating the performance and completion of any and all inspections that may be required by the Borough, including pre-permit, post-permit, during activity and/or post-completion inspections. Unless otherwise directed by the Borough, the Applicant and Qualified Tree Contractor shall be responsible to ensure that the Trees marked for Removal at the time of inspection approval shall remain marked in the same manner through the time of completion of the Tree Removal and shall not otherwise remove, alter, modify, untie, detach or otherwise change any such marking on any Tree prior to completion of the Tree Removal without the prior express approval of the Borough. Failure to comply with the provisions of this Subsection shall constitute a violation subject to enforcement under this Chapter.



Section 11. Chapter 229, "Trees," § 229-14, "Notice of commencement of tree removal" of the Code of Ordinances of the Borough of Florham Park is hereby repealed and replaced in its entirety as follows:

§ 229-14 Notice of commencement of tree removal

- A. The Applicant or Qualified Tree Contractor shall notify the Engineering Department, in writing, at least four (4) business days in advance of when the Tree Removal activity will commence. Any delay or change in the planned commencement of the Tree Removal activity shall be promptly reported to the Borough. Failure to provide the required notice to the Borough under this Subsection shall constitute a violation subject to enforcement under this Chapter.
- B. The notice shall also include information as to the manner of disposal of the removed Trees.
- C. No Tree Removal authorized by a Tree Removal Permit issued pursuant to this Chapter shall commence until the Applicant or Qualified Tree Contractor shall have prominently posted the Tree Removal Permit in public view on the property. Such Tree Removal Permit shall be posted at least two (2) calendar days prior to commencement of any Tree Removal activity and shall remain continuously posted throughout the Tree Removal activity and for no less than two (2) calendar days after the approved Tree Removal activity has been completed. Failure to post and maintain the Tree Removal Notice in the time and manner required by this Subsection shall constitute a violation subject to enforcement under this Chapter.
- D. Any Applicant, Qualified Tree Contractor or Person, other than the Resident, undertaking the Removal of Tree(s) shall, at all times, carry with them, and present for inspection upon request, a copy of their authorization from the Resident for the Removal of Trees on the premises. Failure to present a copy of the authorization from the Resident upon request of a Borough official shall constitute a violation subject to enforcement under this Chapter.
- E. All Applicants, Qualified Tree Contractors, Residents and Persons shall, at all times, comply with the terms and conditions of the Tree Removal Permit issued by the Borough, the provisions of this Chapter and other applicable provisions of the Borough Code and any permits, licenses, certificates, authorizations, registrations, approvals or other requirements of State or Federal regulatory agencies governing the subject matter or activity with which this Chapter is concerned.



Section 12. Chapter 229, "Trees," § 229-15, "Fees" of the Code of Ordinances of the Borough of Florham Park is hereby repealed and replaced in its entirety as follows:

§ 229-15. Fees.

- A. A review fee of \$75 shall accompany the application for a Tree Removal Permit, except that a review fee shall not be required in connection with applications in which the Tree Removal is directed by municipal, county, state or federal authority pursuant to law in accordance with **§ 229-5A (5)**. This fee is per event, not a fee for each Tree. This fee will be deposited into the Tree Fund.
- B. The Tree replacement fee will be in accordance with **§229-7**.
- C. Any fines or fees imposed or collected from enforcement of this Chapter pursuant to **§ 229-18** shall be deposited in the Tree Fund.
- D. Tree Fund. A Tree Fund shall be established by the governing body of the Borough of Florham Park to receive and disburse replacement Tree contributions. Appropriations from the Tree Fund shall be authorized by the governing body with consideration of the Environmental Commission's and/or Borough Engineer's recommendation in accordance with the Borough's Tree Planting Plan. The primary purpose of said fund is to provide for the planting of replacement Trees on public land. The Tree Fund will also cover administrative costs to implement plans, specifications, and bid documents for planting contracts on public lands only, in accordance with the Public Contracts Law. The Tree Fund may also be used to disperse Tree vouchers from a Tree nursery to residents who desire to obtain a Tree for planting within the front yard only of private property where planting in the Borough's right-of-way is not possible due to the presence of utility lines.

Section 13. Chapter 229, "Trees," § 229-16, "Violations and penalties Enforcement; violations and penalties", of the Code of Ordinances of the Borough of Florham Park is hereby repealed and replaced in its entirety as follows:

§ 229-16 Compliance as a defense.

- A. Applicants, Residents, Persons and Qualified Tree Contractors as defined hereunder as well as any other person undertaking the cutting or Removal of any Tree within the Borough shall have all the duties, obligations and responsibilities prescribed in this Code, and no such Applicant, Resident, Person, Qualified Tree Contractor or Person undertaking the cutting or Removal of any Tree shall be relieved of any duty, obligation or responsibility hereunder, nor entitled to assert as a defense against any violation of this Code the fact that another Applicant, Resident, Person, Qualified Tree Contractor or any other third person or entity is also responsible therefor and/or in violation hereof.



- B. No Tree Removal Permit shall constitute a defense against any violation of any other ordinance of the Borough applicable to any other matter regulated under this Chapter, nor shall any one act of compliance constitute a defense against any subsequent or other violation of this Chapter or shall any other provision herein relieve any Applicant, Resident, Qualified Tree Contractor or Person undertaking the cutting or Removal of any Tree from complying with any such other provision, nor any official of the Borough from enforcing any such other provision.

Section 14. Chapter 229, "Trees," § 229-17, "Enforcement", of the Code of Ordinances of the Borough of Florham Park is hereby established as follows:

§ 229-17 Enforcement.

- A. The provisions of this Chapter shall be enforceable by the Borough Engineer, Construction Official, Zoning Officer, Health Officer, Fire Official, Property Maintenance Officer or other officer or employee of the Borough authorized to enforce the provisions of the Borough Code, all of whom, unless otherwise specified by ordinance or State law, shall be considered an "enforcement official" for purposes of this Chapter.
- B. Whenever an authorized enforcement official determines that there is or has been a violation of any provision of this Chapter, the enforcement official may issue a violation to any Applicant, Resident, Qualified Tree Contractor or Person responsible thereof under this Chapter, including any Applicant, Resident, Qualified Tree Contractor or Person undertaking the Removal or cutting of any Tree.
- C. Violations of the provisions, standards and requirements set forth or referenced herein may be enforced in any lawful manner the Borough may deem appropriate, including but not limited to in accordance with the provisions of this Chapter or by bringing an appropriate ordinance enforcement action. Notwithstanding and in addition to any other violations, fines, penalties, remedies or relief pursuant this Chapter, any violation of this Chapter shall also be subject to enforcement under any other applicable provision of the Borough Code. In addition to the aforementioned, the Borough, if appropriate, may also institute proceedings for injunction, temporary or final restraints, mandamus, abatement or other appropriate civil, equitable or other remedies to prevent, enjoin, abate or remove any violations of this Chapter. The imposition of a fine or other penalty shall not exempt the violator from compliance with the provisions of this Chapter.
- D. Any authorized enforcement official may issue a stop work order as to all activity under the Tree Removal Permit issued upon discovery or observation of any violation or material noncompliance with the Tree Removal Permit issued or the provisions of this Chapter. Such stop work order shall be issued in writing and a copy served upon any Applicant, Qualified Tree Contractor, or Person engaged in such tree work or such other activity. If no such Applicant, Qualified Tree Contractor or Person is present upon the property, then the order shall be served upon the Resident of the Lot in question. The stop-work order shall remain in effect until such time as compliance has been achieved



and the enforcement official is reasonably satisfied that the resumption of the activity shall comply with the terms and conditions of any Tree Removal Permit issued by the Borough with respect to such property and the provisions of this Chapter.

Section 15. Chapter 229, "Trees," § 229-18, "Violations and penalties", of the Code of Ordinances of the Borough of Florham Park is hereby established as follows:

§ 229-18 Violations and penalties.

- A. Civil and Administrative Remedies and Enforcement. In addition to any other remedies available under this Chapter, the Borough Code, or applicable law, the Borough Engineer, Construction Official or any other authorized Borough enforcement official may, in the event of a violation of this Chapter or a failure to comply with the requirements of any Tree Removal Permit, revoke or suspend any Tree Removal Permit or Permits issued pursuant to this Chapter, deny issuance of any future permits, any building permit or permits or any certificate or certificates of occupancy related to the subject property, as the case may be, issue such stop-work order or orders, as the case may be, seek to enjoin any such failure or violation through a court of competent jurisdiction, or take such other steps as may be authorized and permitted by law to correct such violation or enforce implementation of the terms and conditions of this Chapter.

Notwithstanding any other provision of this Chapter, any Tree Removal Permit issued hereunder may be suspended, revoked, or denied for good cause upon determination by the Borough of a violation of, or failure to comply with, a material term or provision of this Chapter, the permit issued hereunder, or any applicable federal or state statute, regulation, or Borough ordinance.

The Removal of any Tree in violation of this Chapter shall invalidate or void any existing Tree Removal Permit(s) associated with the property and may result in the denial of future Tree Removal Permit applications for the property until the violation has been resolved and all required Tree replacement has been completed.

- B. Violations; Separate and Continuing Offenses.

- (1) Any Person, Applicant, Qualified Tree Contractor or Resident who violates, or causes or permits the violation of, any provision of this Chapter, including, but not limited to, cutting, Removal or Damaging any Tree without a valid Tree Removal Permit or in any manner in violation of an issued permit or the provisions of this Chapter, shall be deemed in violation of this Chapter.
- (2) Each Tree Removed or Damaged without a permit, or in violation of a permit or of the provisions of this Chapter, shall constitute an additional separate and distinct offense and violation of this Chapter.



- (3) Each day that a violation continues, including each day that a Person engages in Tree Removal without a permit, continues work in violation of a permit or stop-work order or otherwise violates the conditions of the permit or the provisions this Chapter, shall constitute an additional separate and distinct offense and violation of this Chapter.
- (4) Each violation of any provision of this Chapter, and each distinct act constituting a violation, shall be deemed a separate and continuing offense and violation of this Chapter.
- C. Fines and Penalties. Notwithstanding and in addition to the foregoing civil and administrative remedies and/or other remedies and penalties authorized by law, this Chapter or the Borough Code, any Person, as defined in this Chapter, who violates, or causes or permits the violation of, this Chapter shall be subject to the penalties and procedures set forth in § 1-16, entitled "General penalty" of the Code of Borough of Florham Park. In addition to the penalties set forth therein, any Person found to be in violation shall be subject to a fine not exceeding \$2,000.00 per offense, unless a greater penalty is authorized under § 1-16. In addition to the penalties provided in § 1-16, each Tree improperly or illegally Removed, destroyed or damaged in violation of this Chapter shall be subject to a mandatory Tree replacement requirement pursuant to § 229-7 and the provisions of this Chapter. The penalties set forth herein shall be cumulative and not exclusive, and the Borough may pursue any and all remedies available at law or in equity.
- D. Repeat Offenses. Any Person who is convicted of violating any ordinance in this Chapter within one (1) year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.
- E. Any fines or fees collected from enforcement of the provisions of this Chapter pursuant to this Section shall be deposited in the Borough Tree Fund.

Section 16. Chapter 229, "Trees," § 229-19, "Conflict with other provisions", of the Code of Ordinances of the Borough of Florham Park is hereby established as follows:

§ 229-19 Conflict with other provisions.

- A. The regulations established pursuant to this Chapter for Tree Removal are subject to the enabling authority of the State of New Jersey and are subject to compliance with all State and Federal statutes and regulations. If any provision of this Chapter is inconsistent with the statutes and/or regulations of the State of New Jersey or of the Federal Government,



the State or Federal statutes and regulations shall prevail. Nothing in this Ordinance shall be construed to supersede any applicable federal or state laws.

- B. Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be independent. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect. To this end, the provisions of this Ordinance are severable.

Section 17. Repealed. All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 18. Severability. Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

Section 19. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

Section 20. Prior actions. All actions of the Borough of Florham Park taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

Section 21. Codification. This Ordinance may be renumbered for codification purposes.

INTRODUCED: July 16, 2026

ADOPTED: August 13, 2026



Scott Carpenter, Acting Mayor



Attest:

Danielle M. Lewis
Danielle M. Lewis, RMC, Municipal Clerk

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Florham Park, and adopted on August 13, 2026.

Danielle M. Lewis
Danielle M. Lewis, RMC, Municipal Clerk