

ORDINANCE NUMBER 09-2021

An Ordinance to Amend the Lambertville Land Use Code, Chapter Z Zoning Ordinance, Section 510, Landscaping

WHEREAS, Lambertville Goes Wild, the Shade Tree Commission and the Environmental Commission determined that the City's Landscape Ordinance needed to be revised; and

WHEREAS, the Lambertville Goes Wild, the Shade Tree Commission and the Environmental Commission collectively drafted the herewith proposed revised ordinance to include landscape-related definitions and amend Section Z-510 Landscaping; and

WHEREAS, the City Council of the City of Lambertville introduced the revised Landscape Ordinance on March 18, 2021; and

WHEREAS, the Planning Board has determined that the revised Landscape Ordinance is consistent with the goals and objectives of the City of Lambertville's 2009 Re-examination of the Master Plan on May 5, 2021; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the City Council of the City of Lambertville held a public hearing on the revised Landscape Ordinance on _____; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAMBERTVILLE, in the County of Hunterdon and the State of New Jersey that the "Zoning Ordinance", of the Code of the City of Lambertville (2014) (hereafter "Code") is hereby amended and supplemented as follows:

SECTION 1: Section Z-201 Definitions of the Zoning Code of the City of Lambertville shall be supplemented and amended to include the following definition

APPROPRIATE NATIVE VEGETATION

Indigenous vegetation found in the natural community that is suited to the soil, topography, and hydrology of a particular site.

CALIPER

A measurement of the size of a tree equal to the diameter of the trunk six (6) inches from the root ball.

COMMUNITY GARDEN

A public or community use area intended for the purposes of gardening.

COMMUNITY PLAY AREA

Public use areas, including school and athletic fields, composed of predominantly turfgrass intended for use for recreational purposes.

ENDANGERED PLANT

Any plant species which is in danger of extinction throughout all or a significant part of its range.

INVASIVE PLANT

A plant reproducing outside its native range and outside cultivation that disrupts naturally occurring native plant communities by altering structure, composition, natural processes or habitat quality. Invasive plants are those plants recognized by the New Jersey Department of Environmental Protection and those on the most recent New Jersey Invasive Species Strike Team “Do Not Plant List.”

LANDSCAPED AREA

The entire parcel less the building footprint, driveway, paved areas of parking lots, hardscapes such as decks and patios, and other non-porous areas. Water features are included in the calculation of landscaped areas.

LANDSCAPING

Any combination of living plants and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

NATIVE PLANT

Those species of indigenous plants occurring within the state prior to European contact, according to best scientific and historical documentation. More specifically, it includes

those species understood as indigenous, occurring in natural associations in habitats that existed prior to significant human impacts and alterations of the landscape.

NATURAL COMMUNITY

A distinct and recurring assemblage of populations of plants, animals, fungi and microorganisms naturally associated with each other and their physical environment.

NATURAL AREA

An area on a site that contains natural vegetation and that will be undisturbed during development and will remain undisturbed when the property is fully developed

TREE

A self-supporting woody plant having a single trunk or a multi-trunk of lower branches, growing to a mature height of at least sixteen (16) feet

TURFGRASS

Continuous plant coverage consisting of a grass species that is mowed to maintain an established height.

SECTION 2: Section Z-510 Landscaping of the Zoning Code of the City of Lambertville shall be replaced in its entirety with the following:

§ Z- 510 LANDSCAPING. (Added 4-16-01 by Ord. No. 2001-07) Editor's Note: Former §510, Pending Applications for Building Permits, repealed by Ord. No. 2001-07.

Z-510.1 APPLICABILITY. This ordinance shall be a minimum standard and shall apply to all newly developed public and private buildings, developments, and land within the incorporated areas of the City. This ordinance shall also apply to the expansion or renovation of any existing development when the expansion or renovation of the existing landscape is equal to fifty percent (50%) of the total undeveloped area of a lot or when the total square footage of a structure is expanded by fifty percent (50%) or greater.

Z-510.2 EXEMPTIONS.

A. The following areas are exempt from this ordinance:

1. Community gardens;
2. Community play areas;
3. Non-invasive food plants on residential properties;
4. Turfgrass in public rights-of-way;
5. Agricultural lands;
6. Scientific and educational purposes; and
7. Cemeteries

B. The City, however, encourages the protection and promotion of appropriate native vegetation in these areas to the maximum extent practicable.

Z-510.3 GENERAL PROVISIONS. The following general provisions shall apply to the installation and design of landscapes:

A. All land areas not covered with buildings, parking, or other impervious surfaces shall be landscaped with suitable materials. Landscaping shall consist of trees, shrubs, ground cover, perennials, and annuals singly or in common as well as inanimate materials such as rocks, water, sculpture, art, walls, fences, and paving materials.

B. A landscape design shall be provided as part of site plan and subdivision submissions. Every applicant for subdivision or site plan approval shall comply with the minimum standards as set forth in this section.

C. The Board of Jurisdiction may require additional landscaping to create an appropriate landscaping scheme for the site given the nature of the site and the proposed development.

D. Where subdivisions only are applied for, the minimum standards shall apply to street trees, foundation plantings, and to common open space and areas proposed to be dedicated to the public.

E. All landscape plants shall be typical in size and weight for their species and shall conform to the standards of the American Association of Nurserymen for quality and installation.

F. Plants with pervasive root systems shall not be located where they may cause damage to drainage pipes or other underground utilities and storm water management facilities and should generally be no closer than 6 feet measured horizontally.

G. All plants shall be tolerant of specific site conditions. The use of indigenous species is strongly encouraged. Exotic, non-native plant species are strongly discouraged.

H. The City shall require a minimum coverage of appropriate native vegetation in all newly landscaped areas, as set forth in APPLICABILITY section of this ordinance. However, at no time shall the minimum coverage of appropriate native vegetation be less than 75%.

I. The City declares that invasive species are a public nuisance that degrade landscaped and natural areas. The City shall prohibit the planting on all public and private properties of any plant species identified as invasive by the New Jersey Department of Environmental Protection, or identified as “widespread” or “emerging”, or are on the ‘Do Not Plant list’ published by the NJ Invasive Species Strike Team.

J. For any action requiring regulatory approval by the Planning board, the city may include a requirement that the owner of the property remove any invasive species that the city deems to be a public nuisance.

Z-510.4 LANDSCAPE DESIGN GUIDELINES.

A. Landscaping shall be conceived holistically and be designed to achieve a thorough integration of the various elements of site design, including building and parking placement, the natural

features of the site and the preservation of pleasing or aesthetic views. Landscaping shall be used to accent and complement the form and type of building proposed.

B. In the landscape design of sites, areas shall be designated for retaining existing trees and the replacement of trees cleared from the site.

C. Landscaping shall be located to provide effective climatic control. The east and west walls of a building should be the most heavily vegetated to shade for summer sun and the north to northwest area for winter prevailing winds. The southerly facing side of a building should be shaded from summer sun but open for solar gain during the winter.

D. Plant's susceptibility to disease, their colors, textures, shapes, blossoms, and foliage characteristics shall be considered in the overall design of a landscape plan.

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

F. In the design process, the eventual maturity of the plant shall be considered for its effect on circulation patterns, solar access, site lighting, drainage, emergency access and relationship to buildings and the streetscape.

Z-510.5 STREET TREES.

A. Location.

1. Street trees shall be installed on both sides of all streets in accordance with an approved landscape plan. Trees shall be spaced evenly along the street between the curb and sidewalk. Where the distance between the curb and sidewalk is less than 5 feet, sidewalks should be placed in a public access easement outside of the right-of-way to create a planting strip at least 5 feet wide to facilitate street tree growth. In areas with wider sidewalks that extend to the curb, trees shall be placed in tree wells with root guard systems. Such tree wells shall have sufficient soil volume to support tree growth as follows:

Table 5.1 Soil Volume Required by Tree Size at Maturity	
Tree Size at Maturity (height in feet)	Soil Volume (in cubic feet)
Large trees (45'+)	200
Medium-sized trees (30'-45')	150
Small trees (to 30')	100

2. Areas under sidewalks may be used to meet the soil volume requirement provided no more than 50% of the volume is located under such hard paving.

B. Spacing.

1. When trees are planted at predetermined intervals along streets, spacing shall depend on tree size.

Table 5.2 Planting Interval required by Tree Size at Maturity	
Tree Size at Maturity (height in feet)	Planting Interval (in feet)
Large trees (45'+)	40
Medium-sized trees (30'-45')	30
Small trees (to 30')	20

2. Trees may be planted closer together in order to avoid interference with utilities, roadways, sidewalks, sight easements, and street lights.

C. Street Tree Type. All street trees shall be large deciduous trees except directly under utility wires. Tree species selection shall be approved by the Board in consultation with the Shade Tree Commission, as required by Chapter 3, Article IV, section 3-16 of the City Code and in accordance with the most current recommended tree list as specified by the Shade Tree Commission. Alternate selections may be approved at the discretion of the Board in consultation with the Shade Tree Commission.

D. Planting Specifications. Street trees shall be substantially uniform in size and shape, and have straight trunks. Trees shall be properly planted and staked in accordance with standards promulgated by the American Nurserymen's Association. Provision shall be made by the developer for regular watering and maintenance until trees are established. Trees are to be guaranteed for two years after the date of planting; dead or dying trees shall be replaced by the developer during the next suitable planting season. If a tree is replaced, the replacement tree is to be guaranteed for two years after the date of planting. The developer is released from this guarantee only after a tree has survived for two consecutive years.

Z-510.6 ADDITIONAL RECOMMENDED TREES. Any of the trees on the list currently recommended by the Shade Tree Commission may also be used for other purposes in the design of landscapes. The trees in Table 5.3 are recommended for site development purposes:

Table 5.3 Additional Recommended Trees		
Botanical Name	Common Name	Minimum Planting Size
<i>Acer negundo</i>	Boxelder	6' to 7' in height
<i>Amelanchier alleghiensis</i>	Allegheny Serviceberry	6' to 7' in height
<i>Amelanchier Canadensis</i>	Shadblow (Downy Serviceberry)	6' to 7' in height
<i>Betula lenta</i>	Black Birch	7' to 8' in height
<i>Betula nigra</i>	River Birch	7' to 8' in height
<i>Betula populifolia</i>	Gray Birch	10' to 12' in height
<i>Cornus alternifolia</i>	Alternate-leaf or Pagoda Dogwood	8' to 10' in height
<i>Cornus florida</i>	Flowering Dogwood	8' to 10' in height
<i>Diospyros virginiana</i>	Common Persimmon	2-1/2" to 3" caliper
<i>Ilex opaca</i>	American Holly	6' to 7' in height
<i>Juniperus virginiana</i>	Eastern Red Cedar	8' to 10' in height
<i>Magnolia virginiana</i>	Sweetbay Magnolia	8' to 10' in height

<i>Pinus strubis</i>	White Pine	8' to 10' in height
<i>Pinus virginiana</i>	Virginia Pine	8' to 10' in height
<i>Platanus occidentalis</i>	Sycamore	8' to 10' in height
<i>Prunus Americana</i>	American Plum	2" to 2-1/2" caliper
<i>Pseudotsuga menziesii</i>	Douglas Fir	8' to 10' in height
<i>Quercus palustris</i>	Pin Oak	2-1/2" to 3" caliper
<i>Salix nigra</i>	Black Willow	8' to 10" in height
<i>Ulmus Americana</i> 'Delaware'	American Elm, Delaware	3" to 3-1/2" caliper

Z-510.7 FALL PLANTING HAZARD. Certain trees have been identified as having a high degree of transplantation failure if installed during the Fall season. These should be noted on landscape plans as "Spring planting season only". The Fall planting hazard trees include the following genus and/or species:

Betula *Pyrus*

Carpinus *Quercus* ssp., excluding *Q. palustris*

Crataegus

Tilia tomentosa

Ilex opaca

Liquidambar styraciflua

Liriodendron tulipifera

Z-510.8 RECOMMENDED SHRUBS. The following shrubs are recommended for site development use:

Table 5.4 Recommended Shrubs		
Botanical Name	Common Name	Minimum Height at Planting
<i>Alnus serrulata</i>	Smooth Alder	5' to 6'
<i>Aronia arbutifolia</i>	Red Chokeberry	30" to 36"
<i>Aronia melanocarpa</i>	Black Chokeberry	30" to 36"
<i>Asimina triloba</i>	Pawpaw	30" to 36"
<i>Calycanthus floridus</i>	Carolina Allspice	2' to 3'
<i>Ceanothus americanus</i>	New Jersey Tea	18" to 24"
<i>Celphalanthus occidentalis</i>	Buttonbush	24" to 36"
<i>Clerthra alnifolia</i>	Summersweet	24" to 30"
<i>Comptonia peregrine</i>	Sweetfern	18" to 24"
<i>Cornus amomum</i>	Silky Dogwood	30" to 36"
<i>Cornus racemosa</i>	Gray Dogwood	30" to 36"
<i>Cornus sericea</i>	Osier Dogwood	30" to 36"
<i>Cornus stolonifera</i> <i>Iutea</i> syn. <i>Cornus sericea</i> ssp. <i>Sericea</i>	Yellowtwig Dogwood	30" to 36"
<i>Corylus Americana</i>	American Hazelnut	30" to 36"
<i>Corylus cornuta</i>	Beaked Hazelnut	2' to 3'
<i>Fothergilla gardenia</i> **	Dwarf Fothergilla	12" to 18"

<i>Fothergilla major</i> **	Large Fothergilla	30" to 36"
<i>Hammalis virginiana</i>	Witch Hazel	4-1/2' to 5'
<i>Hydrangea arborescens</i>	Wild Hydrangea	24" to 30"
<i>Hypericum prolificum</i>	Shrubby St. Johnswort	12" to 18"
<i>Ilex glabra</i>	Inkberry	24" to 30"
<i>Ilex glabra compacta</i>	Compact Inkberry	18" to 24"
<i>Ilex verticillata</i>	Winterberry Holly	36" to 42"
<i>Itea virginica</i>	Virginia Sweetspire	24" to 30"
<i>Juniperus horizontalis</i> bar harbor	Bar Harbor Juniper	6"
<i>Juniperus horizontalis</i> wiltoni	Blue Rug Juniper	6"
<i>Kalmia latiflora</i>	Mountain Laurel	30" to 36"
<i>Leucotheo axillaris</i>	Coast Leucothoe	18" to 24"
<i>Lindera benzoin</i>	Spicebush	36" to 42"
<i>Myrica pensylvanica</i>	Northern Bayberry	30" to 36"
<i>Physocarpus opulifolius</i>	Ninebark	30" to 36"
<i>Potentilla fruticose</i> syn. <i>Dasiphora fruticosa</i>	Bush Cinquefoil	12" to 18"
<i>Rhododendron arborescens</i>	Smooth Azalea	30" to 36"
<i>Rhododendron catawbiense</i> **	Catawba Rhododendron	30" to 36"
<i>Rhododendron maximum</i>	Rosebay Rhododendron	30" to 36"
<i>Rhododendron periclymenoides</i>	Pinxter-flower Azalea	30" to 36"
<i>Rhododendron princophyllum</i>	Mountain Azalea	30" to 36"
<i>Rhododendron viscosum</i>	Swamp Azalea	30" to 36"
<i>Rhus aromatic</i> , inc. "Grow-Low" var.	Fragrant Sumac	18" to 24"
<i>Rhus copallina</i>	Shining or Winged Sumac	18" to 24"
<i>Rosa virginiana</i>	Virginia Rose	24" to 30"
<i>Rubus odoratus</i>	Purple-flowering Raspberry	18" to 24"
<i>Salix discolor</i>	Pussy Willow	30" to 36"
<i>Sambucus Canadensis</i>	Elderberry	30" to 36"
<i>Sambucus racemosa</i>	Red Elder	30" to 36"
<i>Spiraea alba</i>	Meadowsweet	18" to 24"
<i>Spiraea latifolia</i>	Broadleaf Meadowsweet	18" to 24"
<i>Spiraea tomentosa</i>	Steeplebush	18" to 24"
<i>Symphoricarpos orbiculatus</i>	Coralberry	18: to 24"
<i>Thuja occidentalis</i>	American Arborvitae	8' to 10'
<i>Thuja occidentalis nigra</i>	Dark American Arborvitae	8' to 10'
<i>Vaccinium angustifolium</i>	Lowbush Blueberry	12" to 18"
<i>Vaccinium corymbosum</i>	Highbush Blueberry	30" to 36"
<i>Viburnum acerifolium</i>	Maple-leaf Viburnum	24" to 30"
<i>Viburnum dentatum</i>	Arrowwood	30" to 36"
<i>Viburnum lentago</i>	Nannyberry	30" to 36"
<i>Viburnum nudum</i> var. <i>nudum</i>	Possom-haw Viburnum	30" to 36"
<i>Viburnum prunifolium</i>	Blackhaw Viburnum	30" to 36"
<i>Viburnum trilobum</i>	American Cranberrybush	2' to 3'
** Native in U.S. further south		

C. Required buffer widths may be reduced by 5 feet in width if an opaque fence or wall is used in conjunction with plantings and is sufficiently high to visually obstruct the view of persons at ground level. See §507 for fence and wall regulations.

Z-510.10 PARKING AND LOADING AREA LANDSCAPING. The objectives of the landscape architectural treatment of all parking areas shall be to provide for safe and convenient movement of vehicles, to limit pedestrian/vehicular conflicts, to limit paved areas, to provide for screening from the public right-of-way and adjacent buildings, to reduce the overall visual impact of parking lots, and to provide shade and reduce heat island effects. All non-residential parking lots and residential parking lots in excess of 5 spaces shall conform to the following requirements:

A. The minimum width of landscape islands shall be 8 feet on the side of parking spaces and 10 feet between parking bays. If sidewalks are incorporated through the long axis of the landscape islands, their width shall be added to these requirements. Where the parking lot design will result in pedestrians cutting perpendicularly through landscape islands, sidewalks shall be installed at regular intervals through its short axis.

B. Landscape islands within parking lots shall be planted with a combination of deciduous trees, evergreen and deciduous shrubs, and ground cover at the rate of 6 large or medium trees, 4 small or ornamental trees and 60 shrubs per 100 lineal feet along the long axis of the island.

C. Parking and loading areas shall be screened by a combination of hedges, fences and/or walls. The minimum screening height at planting shall be 2½ feet and shall have a height of at least 4 feet within 3 years of installation. Loading dock areas shall be screened with a minimum height of 6 feet at planting and shall achieve a height of at least 10 feet 5 years after installation. Land use mitigation buffers pursuant to Table 5.11 may be used to meet these requirements.

D. Parking lot lighting should be sited within landscape islands, however, without hindering necessary lighting coverage. See also §511 for lighting requirements.

E. No more than 20 parking spaces shall be placed in one row of parking without an intervening landscape island.

Z-510.11 HISTORIC DISTRICT LANDSCAPING. Landscape design within the Lambertville Historic District and historic sites outside of the district shall encourage the preservation of historic resources and natural amenities and areas of unique character within the landscape. This may include, but is not limited to, bodies of water, streams, windbreaks, groves of trees, hedge rows, orchards, unique vistas, historic structures and landmarks. Redevelopment in the Lambertville Historic District shall be designed to preserve and utilize cultural resources of the historic landscape.

Z-510.12 SITE PROTECTION AND GENERAL PLANTING REQUIREMENTS.

A. Topsoil Preservation. Topsoil moved during the course of construction shall be redistributed on all regraded surfaces so as to provide at least 4 inches of even cover to all disturbed areas of the development and shall be stabilized by seeding or planting.

B. Removal of Debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials, or other debris shall be removed from the site and disposed of in accordance with New Jersey Department of Environmental Protection regulations. No tree stumps, portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site. If trees and limbs are reduced to chips, they may, subject to approval of the City Engineer, be used as mulch in landscaped areas, provided they have been properly composted.

C. Slope Plantings. Landscaping of the area of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than 3:1 shall be planted with ground covers appropriate for the purpose and soil conditions, water availability, and environment.

D. Additional Landscaping. In residential developments, besides the screening and street trees required, additional plantings or landscaping elements shall be required throughout the subdivision where necessary for climate control, privacy, or for aesthetic reasons in accordance with a typical planting plan approved by the Board of Jurisdiction.

E. Planting Details. Planting details shall be consistent with the American Nurserymen's Association recommendations as they may be amended or superseded.

Z-510.13 TREE PROTECTION STANDARDS.

A. Standards for Tree Retention. The following standards shall apply to all trees regardless of location:

1. Existing trees on a site contemplated for development shall be retained to the greatest feasible extent.
2. In off-street parking areas and storm water management facilities, islands of trees shall be retained. These requirements shall not pertain to individual single family detached and two-family dwellings.
3. No paving of any impervious nature shall be placed within the dripline of any tree, and the grade shall be such that drainage of rainwater will water the root area without pooling or exceeding the requirements of the species. Excess water shall be admitted to storm sewers in the parking lot or drained by other means acceptable to the City Engineer.
4. Any live tree which is substantially damaged as a result of grading or general construction shall be replaced with another tree. A tree shall be substantially damaged when 1/2 or more of the tree bark is destroyed below 4 feet or the trunk is girdled.
5. Any tree used in a required planting, or to replace a damaged tree, shall have a trunk or main stem which is at least 2.5 inches in caliper in accordance with the specifications herein, unless the tree is used for storm water management facility plantings, and shall meet the specifications of the American Nurserymen's Association standards.

6. Existing trees are encouraged to be used for the required buffer zone of trees and shrubs to be established in accordance with §510.8.

7. Trees in the area between the street line and the setback line of the building shall be preserved to the greatest extent possible.

8. Specimen trees in excess of 24 inches in diameter, measured 4½ feet above grade, shall not be removed unless diseased or constitute a hazard to the general public.

9. No trees on public rights-of-way, parks, or public areas are to be removed by private individuals except as approved by the Administrative Officer or other officer designated by the Governing Body. The removal of trees shall not be permitted from a Master Plan right-of-way unless trees are dead, diseased, or endanger life or property, or a letter of approval is obtained from the Governing Body or Administrative Officer. Conversely, no trees are to be planted on public rights-of-way without express approval granted as part of a site plan or subdivision application or by the Administrative Officer.

B. Methods of Tree Protection. All persons shall exercise due care to protect trees which are to be retained from damage during construction. Critical root zones shall be protected by the use of fencing located at the dripline in accordance with the City of Lambertville engineering standards. The procedures in this subsection shall be observed in order to protect retained trees, as follows:

1. Protection from mechanical injury.

a. Prior to any grubbing or clearing, all trees in the tree protection zone from its edge to a depth of 25 feet into the zone shall be protected from equipment damage by enclosing the area at the dripline. Individual trees to be retained shall be completely encircled as required herein. All exposed roots, trunks, and low lying branches shall be equally protected. Groups of trees in an area to be retained after construction may be protected by fencing the entire area where they are located. Compaction of the ground by mechanical, vehicular, storage of materials, or other means within the dripline shall not be permitted.

b. Feeder roots shall not be cut within the dripline; however, if feeder root cutting is waived in order to further other objectives of this section, such cuts shall be made by hand with pruning shears to produce sharp, clean cuts. Removal of feeder roots by mechanized equipment shall not be permitted.

c. Tree trunks and exposed roots shall not be damaged. However, accidental damage shall be addressed and action taken to avoid further injury to the tree. Damaged branches shall be sawed off at the branch collar. No shellac or pruning paint shall be used. When the portion of the tree that is damaged is diseased, pruning equipment shall be dipped in alcohol to prevent further spread of disease.

d. Deciduous trees shall be given a liquid, slow-release, low-nitrogen, all-purpose fertilizer to aid in their recovery from potential damage from construction activities. Such

application shall be made at a distance of one foot from the trunk extending out in concentric circles to the dripline. The fertilizer shall be injected into the ground at the time of the cease of construction and one year thereafter.

e. Trees shall not be used for roping, cabling, signs, or fencing. Nails and other fastening devices shall not be driven or attached to the tree.

f. The area in the critical root zone under the dripline shall be left open to provide access for water and nutrients. No impervious cover, storage of equipment, materials, debris or fill shall be allowed within this area except as specifically approved by the Board of Jurisdiction.

g. Trees being removed under the allowances in this section shall not be felled, pushed, or pulled into a tree protection or tree save area.

2. Protection from grade change.

a. Increase in grade. If an increase in the grade of the land is proposed, the applicant shall install either:

(1) A system of gravel and drains at the old soil level which opens into a dry well built around the trunk and individually designed for the contour of the land to provide aeration and drainage.

(2) A retaining wall between the existing grade and higher grade to the satisfaction of the City Engineer.

b. Lowering the grade. If a lowering of the grade is proposed one of the following methods to protect the tree shall be followed:

(1) Terracing the grade at the dripline and out from the tree.

(2) A retaining wall between the existing grade and lower grade to the satisfaction of the City Engineer.

3. Protection from excavation. Trenches for utility lines or other similar uses shall adhere to the following, listed in descending order of preference:

a. Trenches shall bypass the critical root area unless the approving authority determines that no other practical alternative exists; in which case

b. Trenches should be tunneled under the feeder roots a minimum of 2 feet from existing grade, unless the approving authority determines that no other practical alternative exists; in which case

c. Trenches may be dug within the dripline of the tree, provided that the following provisions shall be observed:

- (1) Trenches shall be no closer to the trunk than half the distance to the dripline.
- (2) Roots shall be cut with sharp hand tools to reduce feeder root damage.
- (3) The trench shall be backfilled within the shortest amount of time possible and the soil shall not be compacted.

d. Protection during cleanup.

- (1) All construction debris shall be hauled to an approved landfill or recycling facility and shall not be buried or burned.
- (2) Snow fences, barriers or other tree protection devices shall be the final item to be removed from the site prior to occupancy.

SECTION 3: If any article, section, paragraph, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

SECTION 4: In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the City of Lambertville, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.

SECTION 5: This ordinance shall take effect upon its passage and publication, filing with the Hunterdon County Planning Board, and as otherwise provided for by law.

SECTION 6. This Ordinance shall take effect upon its passage and publication, filing with the Hunterdon County Planning Board, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire City of Lambertville upon final adoption.

INTRODUCTION AND FIRST READING: March 18, 2021

PUBLIC HEARING AND SECOND READING:

CLERKS CERTIFICATE

I, Cynthia L. Ege, CMR, RMC, Clerk of the City of Lambertville, in the County of Hunterdon, State of New Jersey, HEREBY CERTIFY as follows:

1. I am the duly appointed Clerk of the City of Lambertville, in the County of Hunterdon, State of New Jersey (herein called the "City"). In this capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the City and the records relative to all ordinances and resolutions of the City. The representations made herein are based upon the records of the City.

2. Attached hereto is a true and complete copy of an ordinance passed by the governing body of the City on first reading, March 18, 2021 and finally adopted by the governing body on _____.

3. On _____, a copy of the ordinance and a notice that copies of the ordinance would be made available to the members of the general public of the municipality who requested copies, up to and including the time of further consideration of the ordinance by the governing body, was posted in the principal municipal building of the City at the place where public notices are customarily posted. Copies of the ordinance were made available to all who requested them.

4. After final passage, the ordinance, a copy of which is attached hereto, was duly published on _____ in the Trenton Times. No protest signed by any person against making the improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the ordinance has been presented to the governing body or to me or filed in my office within the 20 days after the publication or at any other time after the final passage thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this _____ day of _____.

Cynthia L. Ege, CMR, RMC, City Clerk

(Seal)