

§ 25-1700.38. Landscaping.

Prior ordinance history includes portions of Ordinance Nos. 94-16, 99-20, 02-36, 03-22, 08-12 and 09-28.

§ 25-1700.38.1. Purpose Statement.

The purpose of this Ordinance is to provide comprehensive regulations for the selection, planting and maintenance of landscaping within the City of Ocean City. In order to promote an attractive, sustainable and diverse community environment, the Governing Body of the City recognizes that appropriate landscaping represents an important part of the City's character that has environmental benefits and contributes positively to an improved quality of life for its citizens.

§ 25-1700.38.2. Definitions. [Ord. # 12-03, § 3]

- a. For all purposes of this section, the following terms, phases, words, and their derivations shall have the meaning given therein;

ANSI — Shall mean the American National Standards Institute.

APPROVING AUTHORITY — Shall in terms of this Ordinance mean the Zoning Official, City Engineer, Planning Board and Zoning Board of Adjustment.

CALIPER — Shall mean the type of diameter measurement used in the nursery industry. The height of the measurement shall be taken from the ground level for the field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken three feet (3') above the top of the root flare up and including six inch (6 ") caliper size. For trees smaller than six inch (6") caliper, the caliper measurement will be taken twelve inches (12") above ground. Seldom are tree trunks are perfectly round. The most accurate measurement will result from the use of diameter tape measurements. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements. (ANSI Z60.1-2004).

COMMUNITY FORESTRY PLAN — Shall mean a plan developed by the municipality and Shade Tree Committee that outlines the goals and objectives for managing trees on municipal property, with the intent of minimizing liability to the municipality and maximizing the useful life of its tree resource. This plan is to be

approved by the New Jersey Forest Service, Division of Parks and Forestry, New Jersey Department of Environmental Protection. The Shade Tree Committee shall be formed to oversee the implementation of the Community Forestry Management Plan.

DIAMETER BREAST HEIGHT (DBH) — Shall mean the diameter of a tree measured four and one half feet (4.5') along the center of the trunk axis with the ground, so that the height is the average of the lowest and highest sides of the trunk.

DRIPLINE — Shall mean the area directly located under the outer circumference of the tree branches.

GROUND COVER — Shall mean any densely planted evergreen or broadleaf evergreen plant that does not attain a mature height of more than eighteen inches (18").

HAZARDOUS TREE — Shall mean any tree that poses a danger to the public or threatens the integrity of any public or private property.

HISTORIC TREE — Shall mean a tree that has been found to be of notable historic interest to the City of Ocean City, because of its age, type, size, or historic significance that has been so designated and that designation has been made and promulgated as part of the official records of the Shade Tree Committee and the City of Ocean City.

SHADE TREE — Shall mean a tree usually deciduous, planted primarily for its overhead canopy.

SHRUB — Shall mean a woody evergreen or deciduous plant smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

SPECIMEN TREE — Shall mean any tree in fair or better condition, which is so designated by the Shade Tree Committee. Considerations are based upon whether the tree is a rare species or a species variant thereof: is extraordinary height, trunk diameter or drip line circumference for a tree of its kind; has foliage of a very unusual quality for a tree of its kind; occupies an outstanding or important location and confers special shade-tree attributes such as, fragrance, erosion control, aesthetic, scenic enhancement, historical, preservation or cultural significance to the community.

STREET TREE — Shall mean a tree that is currently located or proposed for planting along a street on either private or public property.

TOPPING — Shall mean the severe cutting back of limbs to stubs within the trees crown to such a degree so as to remove or destroy the normal canopy architecture and causes tree disfigurement.

TREE — Shall mean a woody plant having at least one well-defined stem or trunk and normally attaining a mature height of at least fifteen feet (15').

RECOMMENDED STREET TREES — Shall mean a document containing selected tree species and cultivars that are appropriate for street tree use within the City of Ocean City. This document has been prepared by a licensed tree expert, was reviewed and approved by the Shade Tree Committee and is attached hereto as Appendix A. (Appendix A may be found at the end of this section.)

§ 25-1700.38.3. Applicability. [Ord. # 12-03, § 3]

The regulations contained in this Ordinance shall apply to developments proposing the construction, reconstruction and enlargement of one (1) or more residential dwelling units, minor and major subdivisions, minor and major site plans, landscaping within the public right-of-way, landscaping on public property, and landscaping as specified on private property.

§ 25-1700.38.4. Administration. [Ord. # 12-03, § 3]

- a. The provisions of this Ordinance shall be administered as follows:
 - 1. Zoning Official — Construction, reconstruction or enlargement of any use or structure not involving approval of a subdivision or site plan.
 - 2. Planning Board or Zoning Board — All applications for development.
 - 3. Zoning Official, City Engineer or their designee shall:
 - (a) Exercise full and exclusive control over the regulation of, planning of, the planting of, and care of all trees and shrubbery now located, or which may hereafter be located, within the public right-of-way and on public lands including the planting, trimming, spraying, care and protection thereof;

- (b) Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection;
- (c) Move or require the removal of any tree, or part thereof, deemed hazardous to public safety. Where such tree is located on private property the expense shall be borne by the property owner;
- (d) Solicit advice and comments from the Shade Tree Committee;
- (e) Administer treatment to, or remove any tree situated upon private property which is believed to harbor disease and/or insects readily communicable to neighboring healthy trees in the care of the City or surrounding private property owners, and to enter upon private property for that purpose, with consent of the owner thereof provided that the suspected condition is first confirmed by a certificate issued by or on behalf of:
 - (1) The New Jersey Forestry Service
 - (2) A certified tree expert.

§ 25-1700.38.5. Licensing. [Ord. # 12-03, § 3]

- a. Persons wishing to engage in any business related to tree trimming, pruning, cutting or removing pursuant to the 2009 Tree Experts and Tree Care Operators License Act, are required to engage the services of a New Jersey licensed tree expert and associated tree care operators. This Act exempts public utility employees and their contractors and government employees who are engaged in tree care activities, from abiding by its provisions;
- b. A City mercantile license will be required for those engaging in tree care within the City of Ocean City.

§ 25-1700.38.6. Landscaping Guidelines and Principles. [Ord. # 12-03, § 3]

All areas not devoted to structures, parking areas, or other required uses shall be appropriately graded, landscaped and maintained in accordance with the landscaping plan approved by the Approving Authority, upon review and consideration of recommendations by the Shade Tree Committee. Consideration shall be given in the choice and location of plant materials to screen or create views, to define boundaries between private and common open space, to attenuate

noise, to enhance and articulate outdoor spaces, to provide shade and define circulation systems.

- a. All nonpaved areas adjoining residential, commercial, industrial, public and semi-public buildings shall be suitably landscaped with lawn, trees, shrubs, and other landscape materials. Landscaping plans shall include provisions for watering of landscaped areas, except when it can be shown that indigenous or drought-tolerant species are planted. Such methods shall be adequate and acceptable to the Approving Authority.
- b. In nonresidential zone districts, a minimum of fifteen percent (15%) of the lot or tract area, not including any parking areas or drives, shall be devoted to landscaped open space, which may include existing vegetation.
 1. The exterior perimeter and yards of all buildings shall be properly landscaped and lighted.
 2. The exterior foundation of all buildings shall be suitably planted with shrubs, trees, and ground cover.
 3. (Reserved)
 4. Existing healthy specimen trees may be included in satisfying these requirements.
- c. Whenever possible, natural features will be preserved.
- d. Landscaped areas not dedicated to the City shall be maintained by and at the expense of the owner(s) or an approved agent thereof.
- e. The landscaping plan should observe the following design principles:
 1. Locate landscaping to provide for climate control. For example, shade trees on the south to shield the hot summer sun and evergreens on the north for wind breaks.
 2. Use landscaping to accent and complement buildings. For example, groups of tall trees to break up long low buildings and lower plantings for taller buildings.
 3. Landscaping shall be provided for public areas, recreation sites, and adjacent to buildings.
 4. Landscaping plans shall provide for a variety and mixture of plantings. The variety shall consider susceptibility to disease,

colors, seasonal interest, textures, shapes, blossoms, and foliage.

5. Local soil conditions and water availability shall be considered in the choice of landscaping. Native species and drought-tolerant plants are encouraged.
6. The landscaping plan shall provide for adequate plant installation and maintenance including, pruning, fertilization and irrigation.
7. Areas in which parking is not permitted pursuant to this Ordinance shall be landscaped using trees, shrubs, grass, groundcover or other plants of suitable size and variety in a plan compatible to the area.
8. Parking of motor vehicles on landscaped areas, on grass, or against trees and shrubbery is prohibited. Parking of vehicles on landscaped/grass areas is permitted during special events.
9. Bases of trees and other landscaped areas shall include suitable groundcover so as to discourage the growth of weeds.
 - (a) Suitable groundcovers include Ivy, Creeping Myrtle, and Pachysandra.
 - (b) Areas are to receive two to three inches (2"-3") of shredded organic mulch. The mulch shall not contact any part of the tree trunk and shall be spaced at least six inches (6") away from the butt of the tree.

§ 25-1700.38.7. Landscaping Plan — Existing Residential and Commercial Properties. [Ord. # 12-03, § 3]

Any person requiring a Zoning Permit to construct, reconstruct, or enlarge any residential or commercial use or structure shall provide a landscaping plan in compliance with this Ordinance.

§ 25-1700.38.8. Landscaping Plan — Two or More Residential Lots. [Ord. # 12-03, § 3]

Tracts being developed for the construction, reconstruction or enlargement of two (2) or more residential lots shall submit a landscaping plan to the Approving Authority by the owner/developer.

- a. Street trees shall meet planting requirements as specified in Subsection 25-1700.38.12 of this Ordinance.

- b. The plan shall indicate the location of all existing shade trees of six inches (6") or greater caliper, all existing ornamental trees of three inch (3") or greater caliper, and all evergreen trees five feet (5') or greater in height. Trees which are required to be removed shall be identified.
- c. Buffers are to be provided in accordance with Subsection 25-1700.38.11 of this Ordinance.

§ 25-1700.38.9. Landscaping Plan – Major Subdivision and Major Site Plan Applications. [Ord. # 12-03, § 3]

Applicants for major subdivision and/or major site plan approval shall submit landscaping plans designed, prepared, and duly signed by a certified landscape architect, professional engineer, professional planner or registered architect, acceptable to the Planning Board or Zoning Board professionals.

- a. The landscaping plan shall specify the location of planting material, their minimum sizes at time of planting, quantity, variety, and species (botanical and common names). The landscaping plan shall be forwarded to the Shade Tree Committee for advice and comment.
- b. The landscaping plan shall show the location of all existing shade trees of six inches (6") caliper or greater, all existing ornamental trees of three inches (3") caliper or greater, all evergreen trees five feet (5') and greater in height, and all trees which are proposed for removal.
 - 1. Parking lots shall be landscaped pursuant to the requirements contained in Subsection 25-1700.38.10 of this Ordinance.
 - 2. Street trees selected from Appendix A of this Ordinance, shall be planted along all undedicated roads, drives and parking areas at twenty-five to thirty feet (25'-30') on-center.
 - 3. Trees referred to above shall be selected in accordance with requirements set forth in Subsection 25-1700.38.12 of this Ordinance.

§ 25-1700.38.10. Parking Lots of Five or More Spaces. [Ord. # 12-03, § 3]

Parking lots containing five (5) or more spaces shall be landscaped as follows:

- a. At least one (1) shade or ornamental tree of two inches (2") caliper or greater, and two (2) shrubs shall be provided for each five (5) parking spaces. The base of each tree shall be left free of pavement to the dripline, or for a diameter of three feet (3'), whichever is greater.
- b. Groundcover shall consist of Ivy, Creeping Myrtle, Pachysandra, or other similar material acceptable to the Approving Authority installed in accordance with the requirements set forth in Subsection 25-1700.38.12.c of this Ordinance.
- c. No parking lot shall contain more than fifteen (15) spaces in a row in a business, commercial or other zone, nor more than ten (10) spaces in a row in a residential zone, without interruption by a landscaped island at least four feet (4') wide.

§ 25-1700.38.11. Buffer Areas and Screening. [Ord. # 12-03, § 3]

- a. A buffer is an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by use of trees, shrubs, fences and/or berms, designed to continuously limit view of and/or sound from the site to adjacent properties. Buffers shall be designed, installed and maintained so as to provide a year-round visual screen.
- b. Buffering shall be provided when the Planning Board or Zoning Board determines that there is a need to shield the subject site from adjacent properties and to minimize adverse impacts such as incompatible land uses, noise, light, and traffic.
- c. Where buffers are required, the buffer shall be at least four feet (4') wide and shall comply with the following standards:
 1. Shrubs and trees required as buffer elements shall be comprised of a variety of species approved by the Shade Tree Committee and shall conform to the current American Standard for Nursery Stock (ANSI Z60.1-2004).
 2. A berm may be used as part of the landscaped buffer screen in which case the landscaping requirements may be reduced in minimum height and quantity, provided a suitable and attractive visual screen is maintained. The berm shall not be less than three feet (3') horizontally. The design shall be reviewed by the Planning Board or Zoning Board Engineer or Planner, as appropriate.

d. Screening.

1. Walls, plantings and fences meeting Ordinance requirements may be erected where required for privacy, screening, separation, security or to serve other necessary functions.
2. Design and materials shall be functional and shall compliment the character, size, and type of the building. No fence, plantings or wall shall be so constructed or installed so as to constitute a hazard to traffic or safety.
3. When the effective operation of a building or structure, or equipment within a building or structure, necessitates placing machinery, motors, generators, or similar device for cooling, heating or generating purposes, outside or on top of a structure, they shall be screened from public view.
4. Screening at ground level may consist of one or combination of the following:
 - (a) Densely-planted evergreen trees a minimum of five feet (5') in height at time of installation;
 - (b) A solid and uniform fence of sufficient height to properly screen said equipment;
 - (c) A masonry wall of sufficient height to properly screen said equipment.
5. For rooftop installations, extensions of parapet walls or mansard rooflines, structural or ornamental screens or baffles.
6. Any similar type of solid or uniform screening which will prevent exposure of such equipment to public view.
7. The above requirements shall not be constructed to prevent an opening in any required screening for maintenance and access purposes. However, any such opening shall be made as inconspicuous as is possible so as not to present any unsightly display of said equipment to public view.

§ 25-1700.38.12. Specifications and Standards. [Ord. # 12-03, § 3; Ord. #17-23 § 2]

a. Requirements for Trees.

1. All trees that are to be used to satisfy the requirements of this Ordinance shall be supplied, installed and maintained

according to the specifications contained herein. All planting, clearing, selective thinning, top-soiling, seeding, and other landscaping work shall conform to the applicable requirements of the standard specifications and the relevant provisions of the City Code.

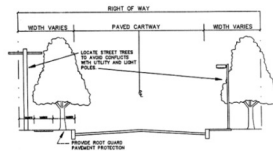
2. All landscaping required as a condition of development approval shall be of a type, size and installed in locations in conformance with the specifications of this Ordinance. All such landscape material must meet the minimum standards set forth within the American Standard for Nursery Stock, ANSI Z60.1-2004.
3. A list of approved and coastal-appropriate trees is attached to this Ordinance as Appendix A.
4. To the greatest practicable extent, each street block shall be encouraged to use like-formed trees that exhibit similar crown shapes at maturity and have similar growth rates. It is desirable that neighboring blocks differ in the variety used to increase tree-stock diversity.
5. Street trees shall not be less than two inch (2.0") caliper at the time of planting when planted behind the sidewalk and where the distance between the curb and sidewalk is three feet (3') or greater. Trees planted where the distance between the curb and sidewalk is less than three feet (3') shall have a caliper of one-and-one-half inches (1.5") to one-and-three-quarters inches (1.75").
6. Trees should be planted while in a dormant state, preferably in Spring and Autumn.
7. Tree planting per the Planting Diagram: (A) dig the hole at least two feet (2') wider than ball width and no deeper to even slightly less than ball depth; (B) backfill with existing soil without amendments so that the root flair (red arrow) is even with to slightly higher than existing grade and tamp so no air pockets remain; (C) fully expose root flair by opening its burlap covering and if possible remove a wire basket entirely or at least cut away its upper portion; (D) apply a ring of hardwood mulch; (E) optional staking.



8. Hole excavations should not be deeper than the tree's root-ball shoulder, so that when the rootball is placed in the hole the bottom of its root-collar is even with to slightly above the existing grade. Furthermore, sediments should not be loosened more than one inch (1") below the root-ball.
9. At the time of planting all nonbiodegradable string, twine, metal wiring and metal or plastic baskets shall be removed. In the case of wire baskets, if it is not deemed feasible to remove the wire in its entirety, the upper third portion of the basket shall be removed with wire cutters as to minimize future root and root-collar injury.
10. Trees are to receive two to three inches (2-3") of shredded organic mulch. This mulch shall be spaced at least six inches (6") away from the trunk of the tree to allow for aeration.
11. All planting soil shall be backfilled containing parent soil, and shall be free from debris, other vegetation, and dirt clumps. Soil remediation will be required as necessary.
12. Each tree shall be given a slow and thorough soaking with at least five (5) gallons of water at the time of planting. Irrigation should continue throughout the first year after planting and as necessary thereafter.
13. Staking and guy wiring systems shall be provided when necessary and shall be considered a temporary apparatus. It is recommended that two inch by two inch (2" x 2") stakes be driven securely into the ground. Chain lock, binding tube and coco rope or similar products are to be used for the guying systems. Tree stakes and guyed wires if employed should be removed by the homeowner or contractor within one (1) year of planting or until the tree is established (refer to Planting Diagram).
14. Removal of all excess planting debris is required. The property shall be left in a neat and orderly condition in accordance with good and acceptable planting practices.
15. The varieties of cultivars and species of ornamental and evergreens selected for landscaping and screening purposes shall be subject to the review and recommendations of the Shade Tree Committee, especially to address such issues as health, safety, or environmental concerns.
16. Automated drip irrigation for trees shall be provided for all new developments containing three (3) or more trees.

- 17. The City Engineer or the Director of Public Works may at his or her discretion remove any tree, or parts thereof, deemed dangerous to the public safety.
- 18. Property owners are responsible for the care of all trees on their property and in the right-of-way adjacent to their property, up to and including the curblines. Should any tree interfere with utility wires or sight triangles, the Director of Public Works, other government agencies, or utility company shall have the authority to trim or otherwise alleviate the interference.
- 19. Except where existing utilities or other factors create unsuitable conditions, new street trees shall be planted within the area between the sidewalk and the curblines and outside of the sight triangles on all public streets and alleyways (refer to Diagram "A").
- 20. Trees that cannot be placed adjacent to the street as required by Subsection 25-1700.38.12.a.18 above, shall be placed in the front yard at least four (4') feet from the rear edge of the sidewalk (refer to Diagram "A").
- 21. Street trees shall be located twenty-five to thirty feet (25' to 30') on-center based on their mature height, canopy spread of the individual species, and existing trees on adjoining lots (refer to Diagram "A").

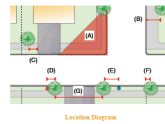
LOCATION DIAGRAM "A"



- 22. Additional guidance regarding the locations for new street trees is illustrated on Diagram "B" and described below:
 - (a) At intersections, outside of the street or alley sight triangle (A); and on the approach to STOP signs, not within an area defined as ten feet (10') from the curb for a distance of thirty-five feet (35') along said curb from the intersection
 - (b) Not more than fourteen feet (14') from the curblines (B)

- (c) A minimum of five feet (5') from driveways (C) and fire hydrants (D)
- (d) A minimum of ten feet (10') from utility and light poles (E)
- (e) A minimum of two feet (2') from property lines (F)
- (f) Between twenty-five to thirty feet (25'-30') on-center (G) considering the presence of existing trees and utility infrastructure.

Location Diagram "B"



23. Sidewalk cuts for tree planting shall be at least one foot (1') wider than the size of the rootball at the time of planting. Typical rootball measurements for various size trees are addressed within the American Standard for Nursery Stock (ANSI Z60.1-2004). Rootball diameters for field-grown shade trees up to three and one-half inch (3.5") caliper, and evergreen trees up to nine feet (9') in height, are indicated on the following table.

Rootball Standards			
Shade Trees		Evergreen Trees (pyramidal, upright)	
Caliper	Minimum Rootball Diameter	Height	Minimum Rootball Diameter
(in.)	(in.)	(ft.)	(in.)
1.5	20	4	20
1.75	22	5	22
2	24	6	24
2.5	28	7	26
3	32	8	28
3.5	38	9	32
Source: American Standard for Nursery Stock (ANSI Z60.1-2004)			

24. Persons planting street trees shall be aware of overhead wires and underground utilities. All persons are required to utilize state programs regarding utility markouts before digging.
 25. All trees that were originally required as part of an application for development approval that have failed since original planting shall be replaced with City-approved plantings at cost to the property owner.
 26. All existing street trees, when removed, shall be replaced with a new street tree except when the Approving Authority has determined that the location is not suitable for street trees, and a waiver has been approved.
- b. Existing Street Trees.
1. Pursuant to the authority contained in N.J.S.A. 40:48-2:26, it is hereby declared to be the responsibility of the owners or tenant of lands lying within the City of Ocean City, to keep all trees growing within ten feet (10') of any roadway and within thirty-five feet (35') of any intersection of two (2) or more roadways, pruned and free of branches and leaves to a minimum height of twelve feet (12') above the gutterline of the road.
 2. No portion of a tree or shrub twelve feet (12') in height or less shall overhang or encroach into a public alley.
 3. All trees and shrubs must be pruned to provide a clear height of eight feet (8') above sidewalks, twelve feet (12') over residential streets, and fourteen feet (14') over arterial streets.
 4. Where it is determined and documented by the Approving Authority that a tree or shrub cannot be pruned as required by this Ordinance, or that is deemed to be an obstruction, it may be removed.
 5. It shall be unlawful as a normal practice, for any person, business, firm or City department to top any street tree, park tree, or other tree within the public right-of-way or on nonpublic property. Trees severely damaged by storms or other natural cause, certain trees under utility or other obstructions, or when pruning practices are impractical may be exempted from this Ordinance at the determination of the Director of Public Works or the City Engineer or their designee. Since topping irreversibly injures trees and, in the

long term, creates hazardous conditions, persons that are found to have topped trees are subject to penalty, as outlined below.

c. Shrubs, Groundcover, Planting Beds.

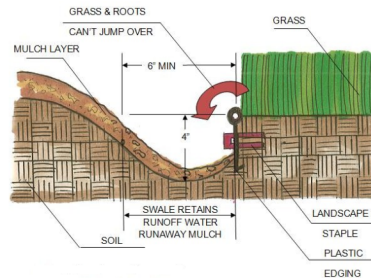
1. Shrubs, evergreen trees, ornamental grasses and other plant material that will exceed twelve inches (12") in height shall not be allowed along curblines that front on a named street in Schedule B. **[Ord. #17-23 § 2]**
2. Recommended on-center spacing for common groundcover plantings are indicated in the following chart:

Pachysandra terminalis	6-8" on-center
Vinca minor	6-8" on-center
Hedra helix	8" on-center
Cotoneaster	18" on-center
Euonymus fortunei	12" on-center
Erica & Calluna	12-18" on-center
Gaulthera	8-12" on-center
Arctostaphylos	12-18" on-center
Rubus calycinoides	18" on-center
Ajuga	6-12" on-center
Asarum	8-12" on-center
Chrysogonum virginianum	12" on-center
Geranium varieties	12" on-center
Houttynia	12" on-center
Lamium maculatum	8" on-center
Sedum kamschaticum & spurium	6-8" on-center
Stachys lanata	6-8" on-center
Veronica 'Waterperry'	8-12" on-center

3. A minimum two inch (2") layer of mulch is required between plantings to discourage weed growth, conserve moisture, control soil temperature and add organic matter to the soil.
4. With the exception of lawns and areas within the public right-of-way, planted areas adjacent to hard surfaces shall have wooden edges, raised borders, or similar structures to

prevent soil washing over the adjoining paths. All borders shall be anchored to prevent flotation at high tide or during storm events. Planting beds designed per the following illustration are recommended in this area.

Planting Bed Border



§ 25-1700.38.13. Topsoil Protection. [Ord. #12-03, § 3]

Topsoil protection shall be enforced according to requirements of § 25-1700.39 of the Ocean City Code. Where necessary, topsoil temporarily stored shall be stabilized in conformance with the Standard Specifications for Road and Bridge Construction of the New Jersey Department of Transportation, as amended.

§ 25-1700.38.14. Trees and Shrubs Not Shown for Removal – Restrictions. [Ord. # 12-03, § 3]

No material or temporary soil deposits shall be placed within six feet (6') of any trees or shrubs designated to be retained on the approved landscaping plan. Where grading may be required, trees not shown for removal shall be walled-in and extension tiled to the dripline of the tree.

§ 25-1700.38.15. Removal of Dead Vegetation, Undesirable Trees and Planting Debris. [Ord. # 12-03, § 3]

- a. Throughout the development, except in areas specifically designated to remain in their natural state, in landscaped or buffer areas, on building lots and in open space areas for public or quasi-public use, the developer shall selectively thin to remove all dead or dying vegetation, either standing or fallen, and shall remove all undesirable trees, stumps and other growth.
- b. No healthy tree of eight inch (8") caliper or more, located between the borders of the lot and building setback line, shall be removed except for the installation of a driveway aisle or parking area unless, such removal is in accordance with a plan approved

by the Planning Board or Zoning Board in consultation with the Shade Tree Committee.

- c. Removal of all planting debris is required. All properties shall be maintained in neat and orderly condition in accordance with good and accepted planting practices.
 - 1. All tree stumps and other tree parts or other debris shall be removed from the site and disposed of in accordance with the law.
 - 2. No tree stumps, portions of a tree trunk or limbs shall be buried anywhere in the development.
 - 3. If trees and limbs are reduced to chips, they may be, subject to the approval of the City Engineer, Planning Board or Zoning Board, used as mulch in landscaped areas.

**§ 25-1700.38.16. Cuts, Fills, Terraces and Roadway Slopes.
[Ord. # 12-03, § 3]**

Landscaping of the area of all cuts or fills and terraces shall be sufficient to prevent erosion and shall be approved by the City Engineer, Planning Board Engineer or Zoning Board Engineer, as appropriate. All roadway slopes steeper than one foot (1') vertically to three feet (3') horizontally shall be planted with suitable groundcover plants combined with grasses and/or sod.

§ 25-1700.38.17. Salvaging of Existing Plants and Tree Preservation. [Ord. # 12-03, § 3]

Existing plants may be salvaged and/or relocated from clearing areas within the development and utilized to meet the planting requirements of this Ordinance provided that:

- a. Subject to approval by the City Engineer, Planning Board or Zoning Board, each three (3) items of salvaged and/or relocated plant material may be considered equivalent to two (2) items of new plant material, and;
- b. All such salvaged and/or relocated plant material shall be of a type, size, and quality acceptable to the City Engineer, Planning Board or Zoning Board and;
- c. All such salvaged and/or relocated plant material shall be dug, transported, and replanted at a season of the year and using equipment, methods and materials conforming to the requirements of the Standard Specifications and subject to the

approval of the City Engineer, Planning Board or Zoning Board and;

- d. The developer has received the approval of the City Engineer, Planning Board or Zoning Board in consultation with the Shade Tree Committee of the items to be relocated and the schedule and methods of relocation prior to any work or salvaging and/or relocation taking place.
- e. Trees and shrubs existing on land subject to the provisions of this chapter shall be preserved wherever feasible. Criteria for judging the feasibility of retaining existing vegetation include:
 1. The practicability of arranging site plan components around existing features. In general, plans for groups of structures should be designed so as to preserve tree masses, individual tree specimens, and small stands of trees or shrubs;
 2. The condition of the vegetation with respect to continued vitality;
 3. The amount of healthy vegetation the area involved will support;
 4. The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation;
 5. The desirability or lack thereof of a particular tree or species by reason of its appearance; historic or ecological significance; botanical characteristics; and the function the vegetation would fulfill as a site plan component;
 6. Interference with utility services or encroachment into the traffic visibility triangle; and,
 7. The possibility of preserving the vegetation while meeting the development needs through pruning rather than removal.
- f. Existing trees that are preserved may contribute to the required landscaping, based on individual tree types. For each shade tree that is preserved, which is greater than six inch (6") caliper, and is found on the approved list, the number of new shade trees to be installed shall be reduced by two (2) trees. Shrubbery will be evaluated in the same manner as new trees based on the species.
- g. Substantial barriers shall be specified on the Landscape Plan and shall be placed at or beyond the drip line of trees to be protected. These barriers shall remain in place during heavy construction on

the site, and no vehicle, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.

- h. Where trees are to be preserved in areas of cut or fill, specific grading measures or other protective devices, such as tree wells, tree walls, or specialized fill and pavement designs shall be required and shall be fully detailed on the Landscape Plan.

§ 25-1700.38.18. Performance Bond Required. [Ord. #12-03, § 3]

Applicants or developers of any tract of land or building site shall be required to post a performance bond and maintenance bond pursuant to N.J.S.A. 40:55D-53 and as required herein to cover the cost associated with the approved landscaping plan.

- a. The amount of the performance bond shall be set by the Planning Board Engineer, Zoning Board Engineer or the City Engineer, as appropriate, with the advice of the Shade Tree Committee.
- b. It shall be posted before a construction permit is issued. The performance bond shall be released only after certification by the Planning Board Engineer, Zoning Board Engineer or the City Engineer, as appropriate and after consultation with the Shade Tree Committee that the total landscaping plan has been completed.
- c. A Certificate of Occupancy shall not be issued by the Code Enforcement Official until all requirements of this Ordinance have been met as documented by a written report from the Planning Board Engineer, Zoning Board Engineer or the City Engineer, as appropriate.

§ 25-1700.38.19. Maintenance Requirements. [Ord. # 12-03, § 3]

All trees, shrubbery, and plants which fail to survive for a period of twenty-four (24) months or are severely damaged within the 24-month period following certification shall be replaced with City-approved plantings by the builder at no cost or expense to the City or the Shade Tree Committee. Said replacement shall be made within sixty (60) days following written demand for such replacement from the City Engineer or Zoning Official, or within such extended periods as may be specified. If the developer refuses to do so, the City shall

have recourse to the performance bond and/or maintenance bond to remedy their default.

§ 25-1700.38.20. Waiver of Provisions. [Ord. # 12-03, § 3]

- a. If conditions upon the subject property at the time of planting will negatively affect the property or the survivability of street trees required by this Ordinance, a payment to the Shade Tree Fund in lieu of the trees in the amount prescribed in the City Fee Ordinance may be requested. The determination to accept or reject the request for an in lieu payment shall be by the approving authority considering the proximity, size, species and health of existing trees; the location of utilities including those underground, on the ground surface and overhead; and environmental factors including soils and flooding.
- b. The Planning Board or Zoning Board, after favorable recommendation by the Board Engineer or Board Planner, and after examination and review, may waive fully or partially, provisions of this section, in areas unsuitable for plantings or because of other exceptional conditions, and/or may require supplementary plantings.

§ 25-1700.38.21. Enforcement. [Ord. # 12-03, § 3]

The provisions of this Ordinance will be enforced by the City Engineer or Zoning Officer or their designee. Any person who wishes to report what he or she believes to be an unauthorized removal or replacement of trees should contact the Department of Community Service.

§ 25-1700.38.22. Penalty. [Ord. # 12-03, § 3]

For any and every violation of the provisions of this ordinance, the applicant, subdivider, developer, owner, lessee, tenant, general agent or contractor of a building or premises where such violations have been committed or shall exist, shall for each violation, and for each and every day that such violation continues, be subject to a fine of one hundred (\$100.00) dollars, but not more than one thousand two hundred fifty (\$1,250.00) dollars. In addition to a monetary fine, the Administrative Officer may request and the Municipal Court may grant a specific performance penalty. The violator may be required to replace the trees that were removed or destroyed.

§ 25-1700.38.23. Bamboo Planting Prohibited; Containment and Removal.

It is determined the bamboo plant is an invasive and not native plant and often difficult to control, and can and has caused significant damage to properties in the City of Ocean City. The purposes of this subsection are to preserve and protect private and public property from the damaging spread of bamboo grasses and plants, to protect indigenous and other plant materials from the invasive spread of bamboo, and to maintain the general welfare of the residents of the City of Ocean City.

- a. Prohibition. No owner, tenant or occupant of a property, or person, corporation or other entity, shall plant, install or cause or permit the planting or installation of plant species commonly known as Running (monopodial) Bamboo or Clumping (sympodial) Bamboo, including but not limited to the following plant genera: Arundinaria, Bambusa, Chimonobambusa, Dendrocalamus, Fargesia, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, Semiarundinaria upon any property located within the City of Ocean City.
- b. Duty to Confine. In the event any species commonly known as Running Bamboo or Clumping Bamboo is located upon any property within the City of Ocean City, prior to the effective date of this prohibition, (Ord. No. 14-32 was adopted 9-25-14) the owner and occupant of said property shall jointly and severally be required to confine such species to prevent the encroachment, spread, invasion or intrusion of same onto any other private or public property or public right-of-way. In lieu of confining the species, the property owner or occupant may elect to totally remove the bamboo from the property, and all affected properties. Failure to properly confine such bamboo shall require removal as set forth below. The cost of said removal shall be at the bamboo property owner's expense. This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the Code Enforcement Officer that the bamboo which is on his/her property at the time of the adoption of this Ordinance originated on another property.
- c. Removal.
 1. In the event Running Bamboo or Clumping Bamboo is present on the effective date of this prohibition (Ord. No. 14-32 was adopted 9-25-14) and a complaint is received by the City regarding an encroachment of any bamboo plant or root, and

the Code Enforcement Officer of the City, after observation and/or inspection, determines that there is an encroachment or invasion on any adjoining/neighborhood private or public property or public right-of-way (hereinafter, "the affected property"), the City shall serve notice to the bamboo property owner in writing that the bamboo has invaded other private or public property(s) or public right-of-way(s) and demand the removal of the bamboo from the affected property, and demand approved confinement against future encroachment or, in the alternative, the total removal from the bamboo property owner's property. Notice shall be provided to the bamboo property owner, as well as to the owner of the affected property, by certified, return receipt requested mail and regular mail. Within forty-five (45) days of receipt of such notice, the bamboo property owner shall submit to the Code Enforcement Officer of the City, with a copy to the owner of the affected property, a plan for the removal of the bamboo from the affected property, which plan shall include restoration of the affected property after removal of the bamboo. Within one hundred twenty (120) days of receipt of the Code Enforcement Officer's approval of the plan of removal and restoration, the removal and restoration shall be completed to the satisfaction of the Code Enforcement Officer of the City.

2. If the bamboo property owner does not accomplish the removal of the bamboo from such other private or public property or public right-of-way in accordance herewith, the Code Enforcement Officer of the City of Ocean City shall cause a citation to be issued with a penalty up to \$100.00 (Subsection 25-1700.38.22) for each day the violation continues, enforceable through the Municipal Court of the City of Ocean City. The Administrative Officer may request, and the Municipal Court may grant, a specific performance remedy. The City may also institute civil proceedings for injunctive or civil relief.
3. Nothing herein shall be interpreted as limiting the rights of a private property owner to seek civil relief through a Court of proper jurisdiction, nor the institution of civil proceedings against the property parties.
4. When an encroachment is upon public property or public right-of-way and the bamboo property owner and/or occupant has not complied with the written notice provided as set forth above, the City of Ocean City, at its discretion, may remove or

contract for the removal of such bamboo from the City property or public right-of-way. The cost of such removal shall be the responsibility of the bamboo property owner and occupant and shall be paid or assessed as a lien against the property on which the bamboo growth originated. The cost of said removal from the City owned property and/or public right-of-way shall include the installation of an appropriate barrier to prevent future bamboo invasion.

- d. Replanting Prohibited: Any Running Bamboo or Clumping Bamboo either planted or caused to be planted or existing on the effective date of this regulation, (Ord. No. 14-32 was adopted 9-25-14) may not be replanted or replaced once such bamboo is or has become dead, destroyed, uprooted, or otherwise removed. **[Ord. #14-32]**

Appendix A	
Recommended Street Trees	
(Subsection 25-1700.38.2)	
Botanical Name	Common Name
General Purpose Trees:	
Acer pseudoplatanus	Sycamore Maple
Alnus glutinosa	European Alder
Betula nigra*	River Birch
Broussonetia papyrifera	Paper Mulberry
Carpinus betulas	European Hornbeam
Celtis occidentalis**	Common Hackberry
Chamaecyparis thyoides**	Atlantic White cedar
Ginkgo biloba	Maidenhairtree (male cultivars only)
Gleditsia triacanthos	Honeylocust
Lagerstroemia	Crapemyrtle (single trunk, tree-form only)
Liquidambar styraciflua**	American Sweetgum
Maackia amurensis	Amur Maackia
Morus spp., cvs.	Mulberry (fruitless cultivars only)
Nyssa sylvatica**	Black Gum

Appendix A	
Recommended Street Trees	
(Subsection 25-1700.38.2)	
Botanical Name	Common Name
Prunus spp., cvs	Cherry, Plum (ornamental cultivars only)
Pyrus calleryana cvs.	Callery Pear (except Bradford)
Quercus alba**	White Oak
Quercus coccinea**	Scarlet Oak
Quercus falcate**	Southern Red Oak
Quercus imbricaria**	Shingle Oak
Quercus marilandica**	Blackjack Oak
Quercus palustris**	Pin Oak
Quercus phellos**	Willow Oak
Quercus prinus**	Chestnut Oak
Quercus stellata**	Post Oak
Quercus velutina **	Black Oak
Sassafras albidum**	Sassafras
Sophora japonica	Japanese Pagodatree
Taxodium ascendens	Pondcypress
Taxodium distichum*	Common Baldcypress
Tilia tomentosa	Silver Linden
Ulmus parviflora	Lacebark Elm
Trees for Special Locations:	
Oceanfront Blocks:	
Acer pseudoplatanus	Sycamore Maple
Alnus glutinosa	European Alder
Albizia julibrissin	Mimosa
Betula nigra*	River Birch
Celtis occidentalis**	Common Hackberry
Chamaecyparisthyoides**	Atlantic Whitecedar
Cupressocyparis Leylandii	Leyland Cypress

Appendix A	
Recommended Street Trees	
(Subsection 25-1700.38.2)	
Botanical Name	Common Name
Cupressus arizonica	Arizona Cypress
Elaeagnus angustifolia	Russian-olive
Hibiscus syriacus	Rose-of-Sharon (tree-form only)
Hydrangea paniculata	Panicle Hydrangea (tree-form only)
Ilex opaca**	American Holly (narrow-growing cultivars only)
Juniperus chinensis	Chinese Juniper
Juniperus virginiana**	Eastern Redcedar
Lagerstroemia	Crapemyrtle (single trunk, tree-form only)
Populus alba	Silver-leaved Poplar (and other smaller growing Poplar selections)
Prunus caroliniana	Carolina Cherrylaurel (narrow-growing cultivars only)
Pyrus calleryana cvs.	Callery Pear (except Bradford)
Salix caprea	Goat Willow (tree-form only, and other smaller-growing Willows)
Tamarix ramosissima	Five-stamen Tamarix
Yucca thompsoniana	Beaked Yucca
Drought-Tolerant Trees:	
Sycamore Maple	Mulberry
Paper Mulberry	Cherry
Common Hackberry	Plum
Maidenhairtree	Callery Pear
Honeylocust	Oaks
Crapemyrtle	Japanese Pagodatree
Amur Maackia	Lacebark Elm
Wet-Tolerant Trees:	

Appendix A	
Recommended Street Trees	
(Subsection 25-1700.38.2)	
Botanical Name	Common Name
Sycamore Maple	Black Gum
European Alder	Willow Oak
River Birch	Pondcypress
Atlantic Whitecedar	Common Baldcypress
American Sweetgum	
Salt-Tolerant Trees:	
Sycamore Maple	Black Gum
Paper Mulberry	Cherry
Atlantic Whitecedar	Plum
Common Hackberry	Callery Pear
Maidenhairtree	Blackjack Oak
Honeylocust	Post Oak
Crapemyrtle	Sassafras
Mulberry	Lacebark Elm