

**CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY**

**ORDINANCE NO. 525-2024**

**AN ORDINANCE AMENDING SECTIONS 482 AND 525 OF THE CITY OF CAPE MAY CODE TO UPDATE THE POLICIES AND PROCEDURES FOR THE PROTECTION OF TREES IN THE CITY OF CAPE MAY**

**WHEREAS**, Section 482 of the City of Cape May Code provides regulations for trees and shrubs in the City; and

**WHEREAS**, Section 525-60(I) of the Zoning Code provides for landscaping and vegetation plan for certain development applications; and

**WHEREAS**, Section 525-78 of the Zoning Code sets forth the requirements for the issuance of a building permit; and

**WHEREAS**, the City of Cape May has determined that trees constitute a valuable resource to the community providing various environmental and economic benefits; and

**WHEREAS**, according the State of New Jersey, Department of Environmental Protection, NJ Forest Service, trees improve neighborhood appeal, increase property value, cool cities and towns in the summer, save on utility costs, purify the air, and mitigate stormwater among many other benefits (<https://www.nj.gov/dep/parksandforests/forest/docs/community-forestry-bro.pdf>); and

**WHEREAS**, the City Council has determined it necessary to update the City Code to confirm a policy of preserving trees and clarifying the procedures for applications for removal; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-26, the City Council has reviewed the report and any recommendation of the Planning Board prior to final adoption.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Cape May as follows:

**Section 1.** Section 482 of the City of Cape May Code shall be **deleted** in its entirety and **replaced** with the following **NEW SECTION**:

§ 482-1 Purpose.

The intent and purpose of this section is to establish standards for the City for the protection and preservation of certain trees defined herein growing in a natural state within this municipality, including the public right of way and private property.

For purposes of Section 482 and Section 525, a "tree" shall mean any woody perennial plant with a main stem or trunk exceeding three (3") inches in diameter measured at a point four and one-half (4.5') feet above the ground level on the downhill side of such tree.

A "replacement tree" shall be of at least two (2") inches in diameter at four and one-half (4.5') feet above the ground.

§ 482-2 Significant Specimen Trees.

A Significant Specimen Tree shall include any tree with a diameter at breast height (DBH) larger than sixteen (16") inches or has a trunk diameter exceeding 60% of that of the largest similar tree listed in the Cape May List of Approved Trees and Shrubs that is prepared and annually updated by the Cape May Shade Tree Commission.

§ 482-3 City Tree Specialist.

The City Council may appoint a Tree Specialist who shall be responsible for the inspection of sites for which application(s) are filed under this Chapter as directed by the Shade Tree Commission and who shall meet either of the following qualifications:

- a. A forester who shall have a bachelor's degree in forestry or arboriculture from a college or university, shall be certified as a certified tree expert by the State of New Jersey; or
- b. A conservation officer who shall be certified as a certified tree expert by the State of New Jersey

§ 482-4 Applicability of Regulations.

The restrictions in this section shall apply to the removal of all trees as defined in Section 482-1 that grow on any land in the City, and including Significant Specimen Trees, unless such trees are 1) permitted to be removed under the provisions of this section, or 2) are otherwise regulated as part of the City's site plan, subdivision or zoning regulations, as set forth in subsection 482-7. For the avoidance of any doubt, the regulations herein shall apply to trees growing in any public right of way as well as on private property.

In the case of an emergency where, for example, trees are blown over and/or uprooted, damaged beyond repair, or in such condition that the tree poses a risk of serious damage to person, property or public safety, a tree may be removed immediately per the following process:

- A. The Tree contractor or property owner must contact either the Code Enforcement Officer, the Deputy Code Enforcement Officer, or any member of the Cape May City Shade Tree Commission.
- B. The responding individual shall inspect the tree and determine if the tree is considered dangerous. The term "dangerous" is defined as in such condition that the tree risks immediate and serious damage to a person, property or public safety.
- C. If the responding individual determines the tree is not dangerous, the requesting party must submit an application for tree removal pursuant to Subsection 482-5.

- D. If the responding individual determines the tree is dangerous:
1. The tree may be removed upon verbal approval to the Tree Contractor or property owner by the responding individual.
  2. The responding individual must notify the Code Enforcement Office and Shade Tree Commission, in writing, of the determination within 24 hours.
- E. Within five business days following an emergency requiring the removal of the tree, the Tree Contractor or property owner must submit an application pursuant to Subsection 482-5. The applicant shall provide evidence demonstrating the need for the emergency removal, including, but not limited to, photographs. The applicant shall comply with any replacement obligations as determined by the Shade Tree Commission pursuant to Subsection 482-6.
- F. All tree care services within the City shall be conducted by a person or entity licensed pursuant to N.J.S.A. 45:15C-11, et seq., unless the person, entity, or activities are exempt pursuant to N.J.S.A. 45:15C-31. Exemptions include the following:
1. Any public utility or any employee of a public utility while engaged in the actual performance of his duties as an employee;
  2. Any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice for purpose of line clearance, or any employee of the employer while engaged in the actual performance of duties in regard to tree trimming or other utility vegetation management practice or for the installation of underground facilities or associated site construction;
  3. Any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, nor are aerial lifts, cranes, or rope and rigging operations used;
  4. Landscape construction activities, including those performed by, or under the direction of, a landscape architect, or ground based landscape maintenance activities such as pruning, fertilization, insect and disease control, planting, transplanting and all other forms of ground based landscape maintenance, in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with any pesticide regulations promulgated by the Department of Environmental Protection. For the purposes of this subsection, ground based landscape maintenance means operations that do not involve climbing, the use of aerial lifts, cranes, rope and rigging operations, or the removal of trees over 6 inch D.B.H;

5. Any person or employer that does not offer tree care services for hire;
6. Any trees being removed pursuant to an approved site plan or subdivision approval, provided that the tree removal activities are performed in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with applicable safety standards of the American National Standards Institute as designated by the board by regulation; and
7. Any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

§ 482-5 Permit; Application; Procedure; Fee.

- A. No person shall remove or destroy any tree subject to the regulations contained in this section without first obtaining a tree removal permit from the City.
- B. All applications for tree removal shall be filed with the Cape May City Shade Tree Commission. The applicant shall file an application for a tree removal permit on forms made available in the office of the City Clerk or the Secretary of the Commission. When the application is filed, the applicant shall pay a nonrefundable application fee of \$75 for each tree to be removed. The application shall contain the name and address of the owner of the lands upon which the tree or trees sought to be removed are located, and the type, size and location of tree or trees sought to be removed. If the application is approved, the applicant shall pay an additional \$75 removal fee per tree to be removed as a condition of issuance of the tree removal permit.
- C. Once a complete application is submitted, the application will be placed on the next available Shade Tree Commission Meeting Agenda. The Shade Tree Commission may direct applications to the Tree Specialist who shall assess and provide a report to the Shade Tree Commission within two weeks of receiving the application.
- D. Tree removal permits shall be reviewed, approved or denied, and a decision shall be issued by the Shade Tree Commission to the owner or his authorized contractor, within five (5) business days of the Shade Tree Commission meeting where the application was reviewed. Permits shall contain the name and address of the owner of the lands upon which the tree or trees sought to be removed are located, and the type, size and location of tree or trees sought to be removed.
- E. The tree removal permit shall be valid for one year from the date of issuance and will automatically expire at the conclusion of the one-year term. Any request for renewal or extension thereof shall be subject to the procedures for new applications pursuant to this section.

§ 482-6 Grant or Denial of Permit; Standards.

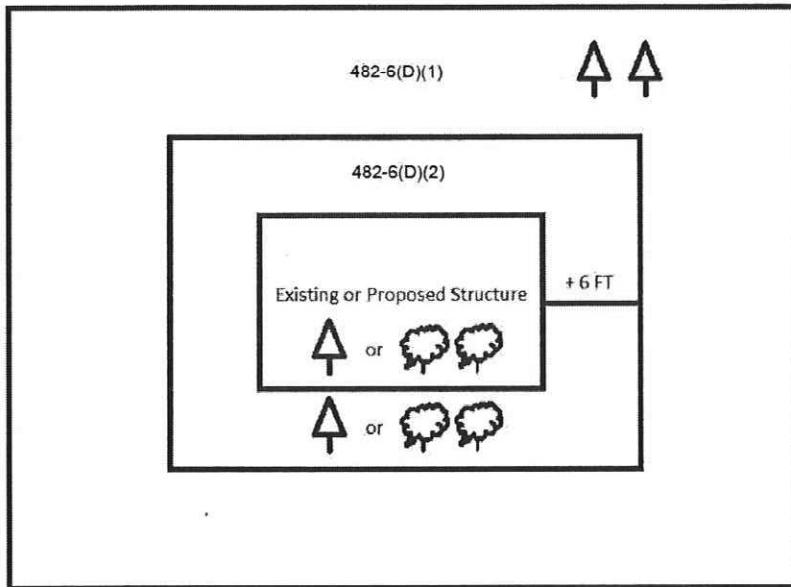
The Shade Tree Commission shall grant or deny the permit with reference to the standards contained in this subsection. In applying such standards, the Commission may condition the grant of the permit upon such reasonable conditions as may be deemed necessary to effectuate the purpose of this section.

- A. The Commission shall be satisfied that the removal of any particular tree is required for the effective utilization of the lands in question, and that no alternative to removal is available.
- B. The Commission shall be satisfied that the proposed removal shall not impair the growth and development of the remaining trees on the lands where the proposed tree or trees are located, as well as on adjacent lands.
- C. The Commission shall be satisfied that adequate precautions shall be taken with respect to the removal of the tree or trees, so that other trees will not be damaged by removal, and that the roots of remaining trees will not be cut.
- D. Should the Commission authorize the removal of any tree, it shall require the applicant to provide a replacement tree, or trees, of a size and type, and at a location, in accordance with the following:
  1. All existing trees outside a building footprint having a three (3") inch diameter trunk measured at a point four and one-half (4.5') feet above the ground on the downhill side of such tree, shall remain if said trees are in excess of six (6') feet from the outside of the exterior wall of the proposed structure. In the event that an applicant wishes to remove a tree or trees as above described, that applicant shall then be required to plant two trees for each tree removed, which replacement trees shall be of at least two (2") inches in diameter at a point four and one-half (4.5') feet above the ground at a location on the property to be chosen by applicant.
  2. In addition to the replacement of removed trees above described, the applicant shall replace at a location of his or her choice on the property, any trees located within the footprint of the proposed structure, plus six (6') feet, if said trees have a trunk at least three (3") inches in diameter measured at a point four and one-half (4.5') feet above the ground on the downhill side of such tree.

For every tree removed within the footprint of the existing or proposed structure, plus six feet, the applicant shall plant one tree along the side yard and rear yard, which tree shall be of the same size as the replacement tree above described. However, the applicant shall not be required to plant trees closer than 10 feet between the two, said distances measured from center trunk to center trunk. The replacement trees need not be of the same species as the trees removed; however, they shall be of the same height classifications as the trees removed. There may be circumstances in which

these general guidelines for replacement are unworkable due to unique conditions affecting land. The Shade Tree Commission may determine the appropriate replacement obligation balancing the purposes of Tree protection and with the general guidelines for replacement contained herein.

3. The location of the tree to be removed determines the replacement obligation. All replacement trees or shrubs may be installed in a location determined by the applicant in accordance with this section. The example graphic below depicts the areas subject to D(1) and D(2):



- E. The Commission may permit an exemption from the replacement requirements of this section upon a showing of extraordinary circumstances or undue hardship.
- F. A Tree Protection Zone (TPZ) shall be delineated around all trees to be protected during a project to limit root pruning and restrict traffic and material storage. The TPZ shall specify a distance in which excavation, storage, and other construction-related activities shall be prohibited. The TPZ may vary depending on species, factors, age and health of the plant, soil conditions, and proposed construction. The TPZ shall be accomplished by physical barriers or soil protection layers or treatments. TPZ barrier(s) shall be installed prior to any activities performed on the site that may impact the root zone or aboveground parts of the tree.
  1. Generally, the area and dimensions of the TPZ shall be calculated by multiplying the diameter of the tree by 12. However, the dimensions of the TPZ shall be subject to the discretion of the Shade Tree Commission after consideration of all relevant site conditions. Post and rail fencing with a height of at least four feet shall be located at that distance and surround the tree completely. Plastic fencing is not appropriate for use in connection with a TPZ. Nothing should enter or be placed within the TPZ until the project has been completed.

Example: A tree with a ten-inch diameter: 12 inches by 10 inches equals 120 inches or 10 feet. In this example, the wooden fencing should surround the tree at a distance of 10 feet from the trunk of the tree.

2. If site conditions make compliance with the TPZ impractical, a designated representative of the Shade Tree Commission may approve alternative mitigation procedures reasonably calculated to advance the purposes of the TPZ, or, that such activities will not impact tree health. The designated representative may include such reasonable conditions necessary for the protection of trees as described herein.
3. Fencing or other barriers to the TPZ shall be installed prior to site clearing, grading, and demolition, and maintained through construction and landscaping. Activities within the TPZ are prohibited. TPZ fencing may be removed upon the issuance of a CO, or earlier if approved by the designated representative of the Shade Tree Commission.

§ 482-7 Exception to Regulations.

Section 525-60 and this chapter are to be read together for the protection and preservation of trees. No tree as defined herein may be removed unless through compliance with this section, or, through approval of a landscaping and vegetation plan approved by the City of Cape May Planning Board or Zoning Board. The Zoning Officer shall refer any applicant proposing removal, or, other tree care services as part of a landscaping and vegetation plan pursuant to § 525-60, to the Shade Tree Commission for review and determination pursuant to this section. Any removal or tree care services approved pursuant to § 525-60 by the Zoning Officer and/or the Planning or Zoning Board shall be deemed to be permitted by this section. For the avoidance of any doubt, applications to the Historic Preservation Commission that propose removal of any tree shall be required to comply with this section in addition to any other requirements or conditions imposed by the HPC. Decisions by the HPC will not exempt the applicant from compliance with this Chapter.

§ 482-8 Right to Hearing.

- A. Any person aggrieved by a decision of the Shade Tree Commission shall be entitled to a full hearing before the City Manager if a written request is filed with the Shade Tree Commission Secretary within 10 days from the Commission's initial written decision.
- B. Upon receipt of request for hearing, the City Manager's office will set a date for hearing taking into consideration the availability of the applicant and the Shade Tree Commission. At the time of hearing, the City Manager will hear from the applicant and provide the Shade Tree Commission representative(s) with the opportunity to respond. The City Manager will consider all relevant materials, exhibits, and testimony from the applicant and the Shade Tree Commission. The proceedings will be open to the public.

If no resolution by consent of the parties can be reached during the course of hearing and discussion, the City Manager's Office will issue a written determination. After taking into consideration the purposes and standards set forth herein, the City Manager may affirm, modify (including any conditions), or reverse the initial decision. The City Manager's determination will constitute a final decision.

§ 482-9 Violations.

It shall be a violation of this section, punishable under Section 482-10, for any person, corporation or entity to remove a tree in order to avoid the provisions of this section.

§ 482-10 Penalties, Assessments and Costs; Enforcement.

- A. Any person, corporation or entity violating any provision of this section shall be punished as provided in this chapter.
- B. The Code Enforcement Officer shall be responsible for enforcing of this chapter. The Shade Tree Commission will annually appoint a liaison to the Code Enforcement Office from among the Commission's membership. The Enforcement Liaison will, in coordination with the City Manager's Office, communicate with the Code Enforcement Office and keep the Shade Tree Commission apprised of enforcement issues arising under this Section.
- C. Nothing herein shall be deemed to limit the remedies available to the City of Cape May or other person seeking to compel enforcement of this section, and the remedies of compelling replacement of a tree or trees by paying money damages shall be considered cumulative.
- D. Should the City choose reimbursement as a penalty for the violation of this section, the rate of reimbursement shall be \$27 per basal inch of the tree, in accordance with the state-sanctioned reimbursement value. Should the state modify or amend that value, the reimbursement value to the City shall reflect that modification or amendment.
- E. In addition to the above, if construction or development is being undertaken contrary to the provisions of this section, the Code Enforcement Officer shall issue a stop-construction order, in writing, which shall state the reasons for such order and the conditions upon which construction may be resumed and which shall be given to the owner or the holder of the construction permit or to the person performing the construction. If the person doing the construction is not known or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the site.

No person shall continue, or cause or allow to be continued, the construction of a building or site in violation of a stop-construction order, except with the permission of the enforcing agency to abate the condition or remove a violation, or except by court order.



If an order to stop construction is not obeyed, the enforcing agency may apply to the appropriate court as otherwise established by law for an order enjoining the violation of the stop-construction order. The remedy for violation of such an order provided in this subsection shall be in addition to, and not in limitation of, any other remedies provided by the City Code or other applicable laws or regulations.

- F. Each day the violation shall continue after a notice and a reasonable opportunity to correct or remedy the violation shall constitute a separate violation.
- G. Any appeal of a stop construction order issued by the City Code Enforcement Officer for failure to comply with this section shall be made to the Shade Tree Commission and further subject to the right to hearing procedures set forth in Section 482-8.
- H. Any contractor or tree professional who pleads guilty, or has been adjudicated guilty, of violating this section three times in a running five-year period shall be barred from conducting work for hire as a contractor or tree professional in the City for a period of five years from the adjudication of the third offense. For purposes of this section, any contractor or tree professional who violates a stop-construction order, or who does not appeal a duly issued stop-construction order, shall be deemed to have committed an adjudicated violation of this section.
- I. Any appeal of a stop construction order issued by the City Code Enforcement Officer shall be made to the City Manager pursuant to the appeal procedures set forth herein.

§ 482-11 Posting on Trees.

- A. No person shall do or cause to be done any of the following acts: affix any item, handbill, poster, notice, sign, advertisement, sticker, or other printed material upon any tree in a public right of way by any means, including but not limited to stapling, nailing, screwing, or piercing the tree by any method.
- B. There is a rebuttable presumption that the person whose name, telephone number, or other identifying information appears on any handbill, poster, notice, sign, advertisement, sticker, or other printed material on any item or structure is in violation of this section.
- C. In addition to the General Penalty provisions set forth in Chapter 1, Article III, anyone found to have violated this provision shall also be responsible for the cost of the removal of the unauthorized postings. Every handbill, poster, notice, sign, advertisement, sticker, or other printed material found to be in violation of this section and of the same source shall be deemed a separate violation.

**Section 2.** Section 525-60(I) of the City Code shall be amended as follows (with ~~strikethrough~~ indicating deleted language and **bold/underlined** indicating new language):

I. Landscaping.

- (1) Any part or portion of the site which is not used for buildings, or other structures, loading or parking space and aisles, sidewalks and designated storage areas shall be landscaped. Landscaping shall be integrated into the building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative and aesthetic manner.
- (2) Regulations.
  - (a) Natural topography and vegetation. The applicant shall use natural topography and vegetation where possible. Large parking areas are not to be stripped of vegetation without requiring reseeding or replanting of all unpaved areas.
  - (b) Saving of trees. Every attempt shall be made by the applicant to save existing trees even at the loss of parking spaces. Clumps of trees shall be saved over single trees. Care shall be taken by the approving authority to properly evaluate site clearing proposals recognizing that wild trees often do not survive when their habitat is drastically altered. Where loss of trees is suggested, replacement shall be required.
  - (c) Slopes. Slopes in excess of 3:1 shall be avoided unless necessitated by unusual site limitations. All slopes shall be stabilized in a manner acceptable to the approving authority engineer.
  - (d) Parking areas in front of buildings. Parking lots located in front of buildings shall be landscaped to separate them from adjacent roadways.
  - (e) Screen areas and buffers. Tall dense screens are required along Nonpenetrable side lines, rear property lines and where commercial or industrial parking areas abut residences or residential zones. Evergreens such as, but not limited to, white pine, Austrian pine, Canadian hemlock, Servian spruce, Arborvitae, and upright yews may be used, provided they meet specified height requirements.
  - (f) Driveways. The areas adjacent to the driveways shall be planted with low plants or grass. Appropriate low plants include, but are not limited to, butterfly bush, Sargent juniper, inkberry, Japanese barberry or shrubby cinquefoil.
  - (g) Other required landscaping areas. Where a development plan indicates raised walkways between opposing rows of cars, areas at the end of bays, or where proposed or required by the approving authority, specific planting islands are indicated, these areas shall be landscaped. Planting strips may be as narrow as five feet, with a fifteen- to twenty-foot width most desirable.

All shall be raised and protected by permanent concrete curbing. The applicant shall landscape 5% to 10% of the parking areas provided.

- (h) Natural setting. In proposing a landscaping plan, an applicant shall take care, and the approving authority in reviewing shall require, that a natural setting consistent with prevailing community standards be preserved. Recognizing that a major community asset lies in the preservation of the natural condition of property, all efforts in the area of landscaping shall be exercised to provide consistent landscaping proposals with existing foliage.
- (3) Landscaping and vegetation plan.
- (a) Prior to the issuance of any construction permit for additions to any existing structure which increases the lot coverage in excess of 10% or the construction of a new dwelling unit or the removal of more than 40% of the vegetation covering of a lot, a landscaping and vegetation plan for the parcel in question must be submitted to and approved by the City of Cape May Construction/Zoning Official to ensure substantial compliance with the criteria and requirements set forth in this section, which landscaping and vegetation plan shall constitute the total of the unimproved site area, as regulated by the existing bulk regulations and incorporating the parameters of Subsection I (3)(d) hereafter.
  - (b) The landscaping and vegetation plan must be either left in its natural state or covered in vegetation. The utilization of natural indigenous vegetation is encouraged.
  - (c) The Construction/Zoning Official may require such information as is reasonably necessary to enable him to make the determination required under the provision of this chapter. **Any Landscaping or Vegetation plan proposing removal of any tree shall be referred to the Shade Tree Commission (STC) for review and recommendation. In the case of the Landscaping and Vegetation plan being reviewed as part of a Zoning Board or Planning Board application, the recommendation of the Shade Tree Commission shall be considered advisory and any final decision on removal and replacement may be made by the Zoning Board or Planning Board as part of the application to either board. In any other case (for example, applications for development that require only Zoning Officer or HPC review), the determination of the STC to grant or deny tree removal shall be binding.**
  - (d) Trees. **Removal and replacement of any trees shall conform to replacement obligations set forth in Section 482 of the City Code.**

[1] — ~~All existing trees outside a building footprint having a three inch diameter trunk measured from three feet above the ground shall remain if said trees are in excess of six feet from the outside of the exterior wall of the proposed structure. In the event that an applicant~~

wishes to remove a tree or trees as above described, that applicant shall then be required to plant two trees for each tree removed, which such replacement trees shall be of at least two inches in diameter at three feet above the ground at a location on the property to be chosen by applicant.

[2]—~~In addition to the replacement of removed trees above described, the applicant shall replace, at a location of his or her choice on the property, any trees located within the footprint of the proposed structure if said trees have a trunk at least three inches in diameter measured at three feet above the ground according to the same formula above. Therefore, in addition to the above required replacement of removed trees outside the proposed footprint, plus six feet, the applicant shall plant one tree along the side yard and rear yard, which tree shall be of the same size as the replacement tree above described excepting that the applicant shall be permitted to plant two bushes in lieu of a tree if said bushes are a minimum of two feet in diameter and are classified by the Backyard Habitat for Birds, a Guide for Landowners and Communities in New Jersey, published by the New Jersey Audubon Society. This requirement is to make up for the replacement of shrubs and is in addition to the requirement for replacement trees above described where said trees are to replace removed trees from outside the building envelope. However, the applicant shall not be required to plant trees closer than 10 feet between the two, said distance measured from center trunk to center trunk. The replacement trees need not be of the same species as the trees removed; however, they shall be of the same height classifications as the tree removed. The guide to height classifications contained in the Backyard Habitat for Birds shall be considered as sufficient evidence of compliance.~~

[3]—Landscaping and vegetation plan.

- (e) Except as otherwise herein provided, the landscaping and vegetation plan shall retain as much of the natural vegetation as is possible.
- (f) Nothing herein is to be interpreted as indication that an applicant is prohibited from planting additional trees, bushes, grasses or flowers.
- (g) Any existing improved lots with structures shall be allowed to exist in their current state together with routine maintenance, expansion, trimming, planting and replanting of vegetation.
- (h) In lieu of replacing bushes, vines and grasses, the applicant shall plant or leave in place one tree at approximately twenty-foot intervals along the side yard and rear yard, which trees shall be at least two inches in diameter, or the applicant shall plant two bushes of a minimum of two feet in diameter

in lieu of every second replacement tree. The requirements of this subsection are in addition to other tree requirements.

- (i) In the case of the issuance of a construction permit for alteration or construction, the property owner shall be required to plant any new vegetation provided for by the landscaping and vegetation plan within six months of the issuance of a certificate of occupancy for such structure. In the case of the issuance of a permit only for the removal of natural vegetation, the property owners will be required to plant any new vegetation provided for by the landscaping and vegetation plan within six months of the issuance of said permit.
- (j) Any property owner or person aggrieved by a determination of the Construction/Zoning Official under the provisions of this chapter may appeal to the City of Cape May Zoning Board of Adjustment; provided, however, that said appeal is filed, in writing, within 45 days after said property owner or person receives notice of the decision by the Zoning/Construction Official.

**Section 3.** Section 525-78 of the City Code shall be amended as follows (with ~~strikethrough~~ indicating deleted language and **bold/underlined** indicating new language):

§ 525-78 Building permit.

- A. Scope. A building permit shall be required prior to any activity regulated by the scope of this chapter as stated by §§ 525-8 through 525-11. A building permit shall be required in each of the following instances:
  - (1) The construction of any building or permanent structure.
  - (2) Any exterior addition to any building or structure which expands its bulk.
  - (3) Any interior renovation involving alteration of structural members.
  - (4) Any conversion which increases the number of dwelling units or creates additional activity accessory to the primary use.
  - (5) The construction, erection or establishment of signs.
  - (6) Any other activity as regulated by the NJ State Uniform Construction Code.
- B. Application procedures. Applications shall be made in writing to the Construction Official on a form specified for such purpose and shall contain the following:
  - (1) Map of the lot showing all dimensions and the exact locations on the lot of all proposed buildings, structures, or alterations.

- (2) Statement indicating the existing use, the proposed use, and the number of families the building is designed to accommodate.
- (3) Description of any proposed building or addition.
- (4) Statement explaining any proposed external alterations which increase the height or area of any existing building.
- (5) Statement indicating whether the application proposes the removal of any tree(s). If so, the applicant shall be required to comply with Section 482 of the City Code.**

- C. Review procedure. Permits shall be granted or denied within 45 days from the date of application except where applicable review procedures require alteration of this time. All approved permits, together with the accompanying information, shall be a public record. No permit shall be granted unless the applicant has received all approvals required by federal, state or local law.
- D. Effect of a plan approval. If a site plan approval has been granted in accordance with Chapter 417, Site Plan Review, a building permit may be issued immediately following review of specific construction plans assuming all conditions of the site approval have been satisfied, and all required approvals are obtained.
- E. Denial. No building permit shall be granted unless the application conforms to the requirements of this chapter and to the requirements of the State of New Jersey, Uniform Construction Code, Chapter 23, Title 5, New Jersey Administrative Code. If the denial is based upon an interpretation of this chapter, the applicant shall be informed of his rights of appeal to the Zoning Board of Adjustment. If the denial is based upon a violation of this chapter, then the applicant shall be informed of his right to request a revision of the chapter by an amendment, or to apply for a variance.
- F. Duration of permit. All building permits granted shall remain valid for a period of one year. If the applicant has not undertaken 25% of the work required, the permit shall become invalid.

**Section 4.** All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. Should any portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.

**Section 5.** This ordinance shall take effect 20 days after passage and publication, according to law.

ATTEST:

CITY OF CAPE MAY, a municipal corporation of  
the State of New Jersey

\_\_\_\_\_  
Erin C. Burke, City Clerk

BY: \_\_\_\_\_  
Zachary M. Mullock, Mayor

**NOTICE**

Ordinance 525-2024 was introduced at a Regular meeting of the City Council of the City of Cape May, held on January 16, 2024 and will be further considered for final passage during a Work Session Meeting of the City Council, held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on February 20, 2024 at 5:00 P.M. at which time a Public Hearing will be held.

\_\_\_\_\_  
Erin C. Burke, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Yeager						
Meier						
McDade						
Baldwin						
Mullock						

Introduced: January 16, 2024  
 1<sup>st</sup> Publication: January 25, 2024  
 2<sup>nd</sup> Reading & Adoption: February 20, 2024  
 Final Publication: February 28, 2024  
 Effective Date: March 19, 2024