REGULATIONS FOR LANDSCAPING

§ 152.525 PURPOSE AND APPLICABILITY.

(A) *Purpose.* Protection of the Town of Swansboro's natural environment and enhancement of thecommunity's built environment with installation and maintenance of new landscape areas are important to the Town of Swansboro and its citizens. The regulations of this section are a tool to ensure these goals are accomplished. The purposes of this subchapter are:

(1) To enhance the visual character of the community , and preserve the economic value of property by screening objectionable views within and between uses and provide assistance in noise abatement;

(2) To encourage the proper use of land by promoting an appropriate balance between the built environment and preservation/conservation of open space ;

(3) To preserve and improve property values and protect private and public investment through preservation of open space , protection of the existing tree canopy, providing buffers between incompatible uses and along roadways, and encouraging the planting of new vegetation as deemed appropriate;

(4) To promote the aesthetic quality of property that provides important psychological, sociological, and aesthetic counterpoints to the man-made urban setting;

(5) To preserve the climatic balance while contributing to the process of air purification and oxygen regeneration and to add environmental value by reducing glare and heat, decrease wind velocity, and to promote energy conservation by maximizing the shading and cooling effects of trees;

(6) To preserve the ecological value of property by the stabilization and fertilization of soil and the prevention of soil erosion;

(7) To consider the guidelines and recommendations in Swansboro's CAMA Land Use Plan;

(8) To preserve, protect and enhance the identity, character and business economy of Swansboro, and

(9) To set forth development standards and requirements for preserving existing vegetation and installation of new landscape areas.

(10) Low impact development design shall be allowed in required buffer yards.

(B) *Application.* The requirements of this section shall apply to:

(1) All new or changed uses of land, buildings, and structures located within the Town of Swansboro Planning and Zoning Jurisdiction which are not exempted in division (C) of this section; and

(2) Any use of building or structure which sits idle more than 180 consecutive days or is abandoned, except those uses exempted in sections (C)(1) through (C)(3).

(C) None of the landscaping and screening requirements of this section shall apply to:

(1) Existing uses and buildings, including repairs, alterations , or improvements to the interiors and exteriors of existing buildings which do not result in a change of use or additions or expansions to the buildings;

(2) Expansion of existing structures where the cost of the expansion project is less than or equal to 50% of either the current tax value or appraised value of the existing structure(s). In the event the expansion of existing structures does not exceed the 50% of either the current tax value or appraised value of the existing structure, and future subsequent expansions and prior expansions occur within a five-year period that accumulatively exceeds the 50% of either current tax value or appraised value, this subchapter shall apply;

(3) Areas inside the designated right-of-way of a public or private street ;

(4) Existing single-family lots of record ; and

(5) Accessory structures constructed on the same lot and incidental to the principal structure which are less than or equal to 50% of either the current tax value or appraised value of the existing structure(s).

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013; Am. Ord. 2015-O3, passed 9-15-2015)

§ 152.526 GENERAL PROVISIONS.

(A) *Landscaping plans.* Landscaping plans shall be submitted for projects described in §152.525(B), as part of required site plan approvals for the applicable zoning permits specified in §§ 152.105 through 152.118, Permits and Final Plat Approval.

(B) *Plant species and sizes.* Recommended plant species and minimum plant sizes that meet the requirements of this Section for landscaping buffers, parking areas and other development areas are defined in §152.532 Other Landscaping Requirements.

(C) *Pre-design conference.* A 'pre-design' conference with the Town Planner is strongly encouraged to understand the requirements of this section.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.527 ALTERNATIVE METHODS OF COMPLIANCE.

(A) Alternative landscaping plans, plant materials or planting methods may be used where unreasonable or impractical situations would result from strict application of landscaping requirements or where necessary to protect existing vegetation . Such situations may result from streams, natural rock formations, topography, protected riparian buffer locations, other physical conditions; or from lot configuration, utility easements or unusual site conditions. Alternative landscaping plans may propose different plant materials, methods and locations if the quality, effectiveness, durability and performance are equivalent to that required by this section. Sufficient evidence or proof shall be required with alternative landscaping plans to substantiate any claim that may be made regarding the proposed plans, materials or methods. Alternative plans shall be considered for approval as part of the normal site or subdivision plan approval process.

(B) A combination of natural vegetation , fences , walls, stones and berms may be utilized to achieve the requirements of this section provided that the following standards are met:

(1) Walls (a minimum of five feet in height), or an opaque fence (a minimum of five feet in height) may be used to reduce the width of a required buffer yard , excluding the streetscape bufferyard.

(2) Understory trees may be substituted for canopy trees if, in the opinion of the Town Planner upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.

(3) Wall planters shall be constructed of masonry, stone or pressure treated lumber and shall have a minimum height of 30 inches. The minimum height of shrubs in wall planters shall be 12 inches. The effective planting space of the wall planter shall be four feet in width. The minimum height of trees in wall planters shall be six feet. The effective planting space of the wall planter shall be seven feet in width.

(4) Any berm utilized for screening purposes shall comply with the standards and requirements of §152.530 Other Landscaping Requirements.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.528 PERIMETER AND STREETSCAPE BUFFER YARDS.

(A) *Applicability.* All land uses as defined in §152.525 Purpose and Applicability shall provide perimeter buffer yards and streetscape buffer yards , as defined herein, to separate that use from adjacent land uses.

(B) *Purpose of buffers.* Preserving existing vegetation or planting new landscaping shall be provided in order to:

(1) Shield properties from any adverse external effects of adjacent development , so as to mitigate incompatibilities between adjacent uses;

(2) Mitigate residential development from the noise and glare impacts of major collector and thoroughfare roadways;

(3) Preserve open space ;

(4) Preserve or create tree canopy and vegetation :

(5) Minimize future increases in stormwater runoff ; and

(6) Improve appearance of developments .

(C) *Landscaped or re-vegetated buffers.* If the Town Planner determines that there is not an existing buffer or it has been disturbed to the extent it does not meet the specifications herein described, then a re-vegetated buffer shall be installed pursuant to this section.

(D) *Type and width of buffer required.*

(1) Table 152.528-1 determines the type and minimum width of existing or landscaped perimeter and streetscape buffer yards that must be preserved or installed on-site for each proposed principal land use. Buffer types are defined in division (E) of this section.

(2) Any side or rear yard of any proposed principal use that abuts a residential use or residential district shall provide, in addition to the buffer requirements of Table 152.528-1, a six-foot fence with 80% opacity. The buffer required by Table 152.528-1 shall be in addition to the required building setback .

(E) *Types and required criteria for buffers.* The four types of natural and landscaped buffers that appear in Table 152.528-1 are described below along with criteria for each. Each of these buffer types may be achieved by meeting the requirements listed below or by an approved alternative method that meets the performance requirements. The preservation and use of natural vegetation is the preferred method of meeting the buffer and landscape requirements, as specified in divisions (F)(4) and (F)(7) of this section.

(1) *Type A.* For every 50 linear feet, or fraction thereof, the five foot-wide buffer yard shall contain: one canopy tree,

two under story trees or four under story trees, and six shrubs.

(2) *Type B.* For every 50 linear feet, or fraction thereof, the ten foot-wide bufferyard shall contain: two canopy trees or four under story trees, and 12 shrubs.

(3) *Type C.* For every 50 linear feet, or fraction thereof, the 15-foot wide bufferyard shall contain: two canopy trees or four under story trees, and twelve shrubs and a six-foot fence with 80% opacity.

(4) *Type D.* For every 50 linear feet offrontage, or fraction thereof, the ten-foot widestreet yard shall contain: one under story tree with sidewalks or planters built within or upon the sidewalk. Sidewalk requirements are detailed in §§ 152.353 and 152.356. Type D buffer yards are intended to be used as streetscapes in new subdivisions in addition to required buffer yards as listed in Table 152.528-1 .

Table 152.528-1

Minimum Perimeter and Streetscape Buffer Yard Widths

Buffer Type	***Proposed Principal Use Type***	***Perimeter/Streetscape Yard Width***

Table 152.528-1

Minimum Perimeter and Streetscape Buffer Yard Widths

Buffer Type	***Proposed Principal Use Type***	***Perimeter/Streetscape Yard Width***
Type A	Commercial Development 10,000 square feet or less; Includes Mixed-Use and Multi-Family Development , and parking facilities	5 feet
Type A	Office and Institutional Development (Includes Town Facilities) 10,000 square feet or less	5 feet
Type B	Commercial Development 10,000 square feet or more; Includes Mixed-Use and Multi-Family Development , and parking facilities	10 feet
Type B	Office and Institutional Development (Includes Town Facilities) 10,000 square feet or more	10 feet
Type C	M-I (Light Industrial)	10 feet
Type D	Streetscape for Residential Subdivision Development or Manufactured Housing Development	10 feet

(F) *General buffer standards.*

(1) *Coverage.* All portions of required perimeter and streetscape buffer yards not planted with trees or shrubs or covered by a wall, driveway, or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of three inches.

(2) *Placement.* New plantings comprising the buffer shall be spread across the entire span of the buffer , not planted in a row or rows, and not concentrated in a limited number of clustered locations such that the purpose of the buffer is violated (as defined in division (B) of this section).

(3) *Location.*

(a) The perimeter buffers shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line; however, the buffers may be located along shared access easements between parcels in non-residential developments . Within non-residential centers/ developments , the perimeter buffer area between outparcels may be shifted totally or in part, elsewhere on the site. For example a 10-foot buffer between like uses may be shifted elsewhere on the site preferably interior to the site as long as the total area is provided for. The intent of this section is to provide for more flexibility in designing sites and potentially save larger natural areas elsewhere on the site.

(b) Stormwater management structures may be allowed in abuffer provided that it can be landscaped to meet the intent of the buffer requirements.

(c) All perimeter buffer yards and streetscape buffer yards shall not obstruct the view of motorists using any street , private driveway , parking aisles , or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety upon any such street , driveway , parking aisle , or street intersection. Existing healthy vegetation may be removed and no new plantings shall be installed, within required sight triangles as noted in §§ 152.265 through 152.277.

(4) *Existing vegetation , fences , walls, and berms.*

(a) An existing natural buffer consists of existing vegetation , soils, surface waters and topography. Where possible, required buffers should remain in an undisturbed condition; but if the buffer is not a stream buffer or located in a floodplain, some maintenance may be necessary to prevent overgrowth or removal of noxious or poisonous species.

(b) Existing healthy and significant vegetation within the required buffer shall be preserved where possible and credited toward standards for the type of buffer required, unless otherwise approved by the Town Planner at the time of site plan approval, pursuant to division (F)(7) of this section.

(c) Existing soils within the buffers shall remain intact and undisturbed, unless otherwise approved by the Town Planner at the time of site plan approval, pursuant to division (F)(7) of this section.

(d) Existing berms, walls, or fences within the buffer, but not including chain link fencing, may be used in part to fulfill the requirements for the six-foot tall screen where required, provided that these elements are healthy and/or in a condition of good repair.

(e) Other existing site features within the required buffer area which do not otherwise function to meet the standards for the required buffer shall be screened from the view of other properties or removed, as determined during review and approval of the site plan .

(5) *New vegetation and other features.* If existing significant vegetation and other site features do not fully meet the standards for the type of buffer required, then additional vegetation and site features shall be planted or installed within the required buffer area in order to meet the criteria outlined in division (E) of this section.

(6) *No development within required buffers.* With the exceptions noted in this division (F) and below, the required buffer shall not contain any development , impervious surfaces , or site features that do not function to meet the standards of this section or that require removal of existing vegetation. Grading, development , or land-disturbing activities shall not occur within the buffer or within the tree protection fence area unless approved by the Town Planner.

(a) Sidewalks and trails may be placed in buffers provided that damage to existing vegetation is minimized.

(b) Utilities are not permitted in buffers unless no reasonable alternative exists. If utilities are placed in a buffer, they shall be located and installed in a way that minimizes disturbance of the buffer area (for example, installed not parallel but perpendicular or not less than at a 75 degree angle).

(c) Streets may not be placed within a buffer except to cross the buffer where necessary to connect to adjoining properties.

(7) *Natural area buffer credits.* The Town Planner may grant credit for the preservation of existing natural vegetation (pursuant to § 152.536) and apply this credit toward meeting perimeter buffer requirements, provided the caliper and quantity of the vegetation is equal to or exceeds the specifications herein described. If an existing natural area is to be preserved and used as a required perimeter, but it does not meet the required buffer type as specified in Table 152.528-1 , it must be enhanced to meet the specifications. The final buffer shall have the width, amount of vegetation, and other features to properly mitigate negative effects of contiguous land uses.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013; Am. Ord. 2015-O3, passed 9-15-2015)

§ 152.529 LANDSCAPING FOR PARKING AREAS.

(A) *Minimum standards.*

(1) At least 8% of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square.

(2) Plantings shall be distributed evenly throughout the parking facility.

(3) All interior plantings shall be physically protected. Non-mountable concrete curbing shall be provided to prevent vehicles from encroaching onto and overhanging required plantings unless otherwise approved.

(4) Consecutive parking spaces shall incorporate landscaped peninsulas no more than 15 spaces apart and at the ends of all parking rows. Peninsulas shall contain at least 100 square feet in area and at least eight feet in width, measured from back of curb/barrier to back of curb/barrier.

(B) *Existing vegetation .*

(1) Existing healthy, well-formed, canopy trees that are preserved on site according to §152.536 may be counted toward the requirements of this section, provided that these trees are protected, in accordance with sections §§ 152.531 and 152.536, before and during development of the site and maintained after development in a healthy growing condition.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013; Am. Ord. 2015-O3, passed 9-15-2015)

§ 152.530 TREES AND SHRUBBERY IN OR ALONG STREETS AND SIDEWALKS.

(A) Citizens may plant trees in front of their lots and along the sidewalks adjacent to their property under the supervision of the Town Planner, but no trees or other plantings shall be planted in the streets , gutters, or ditches of the town. The Town Planner shall notify all persons having trees in front of their lots to have them properly trimmed either by a company engaged in the business of tree trimming or by the property owners themselves following published pruning standards. During normal street right-of-way maintenance by the Public Works Department, all town employees involved in trimming of trees shall operate under the direction of the Town Planner and in accordance with published pruning standards. In addition, all other public service or utility companies shall also follow published pruning standards and shall notify the town prior to maintenance within the jurisdiction.

(B) The cutting, trimming, destruction, lopping of branches of any manner of trees or shrubbery standing along, in or extending over the street right-of-way of any municipal or state maintained street by any person is hereby prohibited, except when done under the supervision and according to the direction of the Administrator .

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.531 TREE PLANTING ON PUBLIC PROPERTY.

The town encourages the planting of trees and other approved vegetation by private individuals, groups, and businesses on public property and along street rights-of-way . However, to obtain maximum benefit from those efforts, all plantings on public rights-of-way or public property owned by the town, its agents, boards, or commissions shall be done in accordance with predetermined guidelines set forth in this Article and approved by the Town Planner utilizing such professional criteria and technical assistance as deemed necessary.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.532 OTHER LANDSCAPING REQUIREMENTS.

(A) *Applicability.* The following requirements apply to all landscaping and buffers installed under this subchapter.

(1) *Plant materials.*

(a) All tree and plant material selections shall be native or adaptable to the Swansboro region and its climate.

(b) The town recognizes Crape Myrtle as a widely planted species. The practice of topping such species is discouraged. Topping of this species can contribute to a decline in tree cover canopy and is in direct conflict with the goals of this section. Minimum pruning to develop the crape myrtle’s natural tree form is encouraged.

(c) A recommended plant materials list is provided in Appendix I.

(2) *Plant size.* The following are the minimum required sizes at planting:

(a) Shrubs: minimum of three gallons and 12 inches in height.

(b) Understory trees: six feet in height.

(c) Canopy trees: three inch in caliper, 12 feet in height.

(3) *Berms.* All berms used in a perimeter buffer , streetscape buffer or other landscape area shall meet all of the following design standards:

(a) The slope of all berms shall not exceed a 2:1 ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe (top) of the berm. The Town Planner shall approve all berms. Berms proposed to be greater than four feet in height may be permitted if deemed appropriate by the Town Planner.

(b) Proposed berms to be placed over an existing or proposed utility easement (s) shall be approved by the Town Planner;

(c) Berms shall be vegetated as required by this section. Berms must be stabilized with ground cover to prevent erosion and sedimentation. It is strongly discouraged to use berms as a substitute for existing healthy vegetation . However, if berms are allowed to replace existing vegetation which already meets the standards in this section then they must also meet the buffer standards and must be approved by the Town Planner; and

(d) Berms shall in no case damage the roots of existing healthy vegetation designated to be preserved.

(4) *Installation standards.*

(a) All required landscaping shall be installed in a manner that insures the availability of sufficient soil and water for healthy growth and that is not intrusive to aboveground and underground utilities.

(b) In order to reduce the damage to root systems of existing vegetation within streetscapes, buffers or any other tree save areas, designation of planned utility connection corridors is required to be shown on all development plans to coordinate the location of electrical, telephone, cable and other similar utilities.

(c) Understory trees are required to be substituted for canopy trees whenever located within 25 feet of an overhead

utility line.

(d) Nothing shall be planted or installed within an underground or overhead utility easement or a drainage easement without the consent of the Town and the easement holder at the time of site plan approval.

(e) Tree planting in or about sidewalks and pavement areas with inappropriate tree species and inadequate soil volume may create damage to sidewalks and pavement and block light penetration to the pavement, preventing rapid evaporation of precipitation. To avoid potential damage to sidewalks and pavement and pooling of precipitation from such situations, a minimum soil volume of two cubic feet shall be reserved per one square foot of crown spread for every tree proposed for planting near sidewalks and pavement areas. The circumference of the tree planting area shall be protected with either mulch mounds or tree grates that will prevent root damage. Detail of this ratio must be included on the landscape plan.

(f) A minimum of 300 square feet of pervious ground area per canopy tree shall be provided (understory trees may be allowed in less area but no less than 240 square feet). Any planting area bounded by an impervious surface should be at least ten feet wide. No canopy tree should be planted closer than five feet to a sidewalk, paved areas or other impervious surfaces (other types of trees may be closer).

(g) Culverts, rip rap structures, holding ponds, and other stormwater- related devices must be landscaped to reduce their visual impacts. This landscape screening must consist of evergreen plantings and be part of the approved landscape plan.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.533 TREE PROTECTION DURING CONSTRUCTION.

(A) *Minimum standards.* The following minimum standards apply during construction, in addition to applicable standards from § 152.536.

(1) *Responsibility.* During development of the property, the owner shall be responsible for the erection of barriers necessary to protect any existing or installed vegetation located within the preservation or undisturbed buffer areas from damage both during and after construction.

(2) *Tree protection fencing.* All existing vegetation that is to be preserved, including buffers, shall be fenced with a sturdy and visible fence before grading begins. Fencing of these areas adjacentto existing and proposed roadways is also required. Fencing is required on all Town and NCDOT road projects that are adjacent to protected streetscapes or buffers. The fencing must be a minimum four feet high and of durable construction and must be placed outside of the drip line of the tree to be protected. Passive forms of tree protection, such as continuous rope or flagging, may be used to delineate tree save areas that are remote from the area of land disturbance. Both applicant and the Town Planner, in determining the exact location of any tree protection fencing, will consider the existing site conditions. The fence shall be maintained on the site until all site work is completed. It shall be removed before final site inspection for the certificate of occupancy.

(3) *Tree protection zone signs.* Tree Protection Zone signs must be installed on the tree protectionfence visible on all sides of the fenced in area (minimum one on each side and/or every 300 linear feet).

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.534 TIME LIMIT, INSTALLATION GUARANTEES, INSPECTIONS AND CERTIFICATE OF OCCUPANCY.

(A) *Time limit.*

(1) *Installation guarantee.* All landscaping, including mulching and seeding shall be completed in accordance with the approved development plan before a permanent certificate of occupancy for the site is issued unless the Town Planner grants an exception pursuant to § 152.532(A)(2). If an exception is granted, an installation guarantee shall be required that includes:

(a) A cost estimate provided by a landscape contractor and/or engineer.

(b) Cash, surety/performance bond or letter of credit that ensures the required landscaping will be completed at a predetermined later date, normally the next planting season but not to exceed one year from date of exception.

(c) The amount of the bond/letter of credit shall be for the cost of the plant materials plus the cost of labor to install the plants, plus 10%.

(2) *Extensions and exceptions.* Extensions and exceptions to the above time limit may only be granted under one of the following conditions:

(a) Unusual environmental conditions, such as drought, ice, over-saturated soil, or inappropriate planting season for the plant species (plantings between June through August are strongly discouraged);

(b) Substitution or unavailability of plant species or acceptable plant size as specified on the site plan; or

(c) Circumstances beyond the developer’s or property owner ’s control, such as incomplete construction or utility work to occur in a proposed landscaped area within 30 days after expected site completion.

(3) *Inspections.* The Town Planner shall inspect the site before the issuance of a permanent certificate of occupancy for the development , unless exempted under § 152.532(2), and shall not issue the permanent certificate of occupancy if the landscaping required under this section is not living or healthy or is not installed in accordance with the standards set forth in this section and in accordance with the approved site plan.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.535 MAINTENANCE RESPONSIBILITY.

(A) In order for any landscaping and screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property where screening is required will be jointly responsible for the maintenance of all landscaping and screening materials required under this UDO. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris.

(B) All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening.

(C) Any dead, unhealthy, or missing vegetation , or vegetation disfigured by severe or excessive pruning, shall be replaced with locally adopted vegetation that conforms to the standards of this UDO and the approved site and/or subdivision plan. In the case of removal of existing original vegetation from required vegetation protection areas, the replacement requirements of§ 152.535 shall apply.

(D) In the event that any vegetation or physical element functioning to meet the standards of this UDO is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner may be required to replant if the buffer standards are not being met. The owner shall have one growing season to replace or replant after reconstruction is complete. The Town Planner shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural revegetation in making a determination on the extent of replanting requirements.

(E) Any appeals of the Town Planner’s decision relating to the amount of required revegetation shall be made to the Board of Adjustment within ten days following the notice of decision, and the Board of Adjustment shall consider reduction requests at the next available regular meeting.

(F) All required buffers, streetscapes, vehicular use areas, and other landscaped areas shall be free of refuse and debris, shall be treated for pest/diseases in accordance with the approved site and/or subdivision plan, and shall be maintained so as to prevent mulch, straw, dirt, grass clippings, or other materials from washing onto streets and sidewalks.

(G) The owner should take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants must be maintained in a way that does not obstruct sight distances at roadway and drive intersection, obstruct traffic signs or devices, and/or interfere with the use of sidewalks or pedestrian trails. Viable plants shall not be removed, damaged, cut or severely pruned so that their natural form is impaired (shrubs within existing vehicle use areas and streetscapes may be pruned, but must maintain the minimum required height).

(H) In the event that existing required vegetation located within any required buffers, streetscapes, vehicular use or other landscape areas poses an immediate or imminent threat to improved structures on private or public property, severe pruning and/or removal of the vegetation is allowable provided prior approval from the Town Planner is obtained, and the performance standard of the landscape area is maintained consistent with this UDO.

(I) Unapproved removal of vegetation and/or severe or excessive pruning in non-emergency situations will result in a violation of this UDO.

(J) The owner of the property on which a required fence or wall is located shall maintain the fence or wall in a safe and attractive condition. This shall mean the following:

(1) No fence or wall shall have more than 20% of its surface area with disfigured, cracked, ripped or peeling paint or other material;

(2) A fence or wall shall not stand with bent or broken supports, including loose or missing appendages; and

(3) Fences and walls shall be plumb (vertical) to the ground.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.536 REPLACEMENT OF DISTURBED AND DAMAGED VEGETATION.

(A) The disturbance or damage of vegetation within any required buffers, streetscapes, vehicular use areas, or other landscape areas required by this section, or by zoning condition, shall constitute a violation of the UDO.

(B) The natural death of existing vegetation within any required landscape area does not constitute a violation and would not require revegetation to replace the plant material unless the required landscape area no longer achieves the required performance standards of this section.

(C) All disturbed or damaged landscaped areas and natural vegetation shall be replanted so as to meet the standards of this section, as well as the approved site and/or subdivision plat , if applicable. A replacement planting plan shall be

submitted for review and approval by the Town Planner prior to replacement. This plan will ensure proper replacements are made.

(D) In situations where existing required vegetation on a developed site or vacant site with an approved site and/or subdivision plat has been removed or damaged in violation of this section, the Town Planner may require that the entire site be reviewed and revegetated consistent with the current provisions of this section.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.537 COMPLIANCE.

The property owner shall be held responsible for compliance with the provisions of this subchapter and shall cooperate with the town in its efforts to administer and enforce these requirements. Any act constituting a violation of this subchapter that results in destruction, removal, or damage of trees, shrubs and any other regulated vegetation without a permit, shall subject the property owner to enforcement proceedings as cited in §§ 152.130 through 152.135.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.538 TREE PRESERVATION AND REPLACEMENT.

(A) Existing vegetation on all development sites should be preserved to the greatest extent possible and incorporated in the project landscape plan in order to promote the preservation of existing natural areas. A land improvement permit issued by the Town Manager or his/her designee is required prior to the alteration or improvement of any commercial or residential (excluding single-family) development site. The permit application must include a site plan identifying the location of temporary tree protection zones (TPZ) to protect trees and their roots during construction. Temporary protection fences shall be erected and encroachment prohibited in the TPZ area. For the purpose of achieving the objectives outlined in § 152.525 and § 152.538, all new commercial or residential developments shall provide for the preservation or replacement of regulated trees using the following minimum standards:

(1) The total number of regulated trees to be retained should be at least 15 trees per acre (less impervious surface area (ex. parking, building)).

(2) If there are less than 15 regulated trees per acre on the site, then the difference shall be replaced with new trees, to a total of 15 trees per acre equaling at least three caliper inches per tree planted or retained.

(3) If there are no regulated trees on the site, then at least 15 new or existing trees per acre (less impervious surface area) equaling at least three caliper inches per tree shall be planted or retained.

(4) In the event a developer clear-cuts a lot or tract and has failed to provide a site plan to the Planning and Code Enforcement office, the developer shall be required to plant 23 trees per acre (less impervious surface area), each with a minimum caliper of three inches, and is responsible for paying a penalty fee as established by the town's schedule of fees. The money collected shall be deposited into the Stormwater Enterprise Fund to aid in stormwater compliance, drainage problem identification and prioritization and proactive maintenance of town owned and operated drainage facilities.

(5) Regulated trees that are retained may be used to fulfill some of the planting requirements of street yard, parking facilities, or buffering, provided they are not damaged by construction activities or the intended use of the property.

(Ord. 2005-O3, passed 3-15-2005; (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013; Am. Ord. 2021-O4, passed 6-28-2021)

§ 152.539 TRASH CONTAINMENT AREAS.

(A) All site plan s shall show method of garbage collection as well as appropriate details to demonstrate compliance with this subchapter.

(B) All trash containment devices, including compactors and dumpsters, shall be screened on all four sides.

(C) All trash containment devices shall meet the following standards.

(1) All trash containment areas shall be enclosed with walls and gates designed to contain windblown litter.

(2) The enclosure shall be at least eight feet tall or two feet taller than (whichever is greater) the highest point of the compactor or dumpster.

(3) The enclosure shall be made of a material that is at least 80% opaque and compatible with the design and materials of the principal building . The preferable material is masonry with solid metal gates ; however, wood or other similar material may be used as long as the material used protects the enclosure from damage caused by unloading the trash container.

(4) The screening enclosure must be surrounded with a continuous landscapedbuffer composed of shrubs, ground cover and trees that further visually hide the compactor or dumpster from view. Mulch and ground cover used with the vegetative buffer shall be composed of organic materials.

(5) Because of the environmental risk from spills, dumpster pads cannot be in a drainage flow area and must be designed to prevent the leaching of waste.

(6) The enclosure shall contain gates to allow for access and security. Gates must be maintained in good working order, and remain closed and secured during inactivity.

(D) All driveways and turnarounds leading to the enclosure for use by trash collection vehicles shall be paved with concrete or asphalt.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.540 MAINTENANCE.

(A) All planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the occurrence of such condition. If, in the opinion of the Administrator , there are seasonal conditions which will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting), this requirement may be administratively waived until a time certain.

(B) Nonliving screening buffers and enclosures shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers and enclosures shall be kept free of litter and advertising.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.541 TREES/SHRUBS CAUSING PROBLEMS WITH SAFE TRAFFIC MOVEMENT OR PEDESTRIAN MOVEMENT.

The Administrator may order corrective action to prevent any unsafe condition over public right-of-ways from the overgrowth of trees or other types of plantings, this shall also apply to shrubs, bushes, or trees which block visibility from driveway egress, parking lots , or at intersections and no foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of eight feet above the grade of the sidewalk at the property line.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.542 PRUNING REQUIREMENTS.

A permit is not required for the pruning of trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance to the tree, compliance with approved pruning standards is required, and failure to meet these standards is a violation of this section. The Administrator shall maintain on file at all times a copy of the current edition of Pruning Standards by the American Society of Consulting Arborists and shall make copies of such standards available for the cost of reproduction upon request.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)

§ 152.543 RECOMMENDED TYPES OF VEGETATION/PLANTING.

See Appendix I for recommended vegetation /plantings and consult with the Tree Protection and Landscaping Advisory Committee with questions on appropriate vegetation or trees within the Town of Swansboro jurisdictional area.

(Ord. 2005-O3, passed 3-15-2005)

§ 152.544 APPEAL PROCESS.

The Town Board of Commissioners shall be the reviewing authority for all appeals under the provisions of these regulations. Notice of intent to appeal an administrative decision and request for a hearing shall be addressed to the Town Manager in writing and shall detail the nature of the appeal. A date for the hearing shall be set by the Town Board of Commissioners and the appellant promptly notified in writing and letter sent by certified mail. The decision of the Town Board of Commissioners after the hearing shall be final and inclusive and shall be conveyed to the appellant in writing and sent by certified mail.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2005-O8, passed 7-19-2005; Am. Ord. 2013-O15, passed 7-16-2013)