

Habitat Conservation Ordinance

[HISTORY: Adopted by the City Council of the City of Cape May by Ord. No. 600; amended in its entirety 12-2-2004 by Ord. No. 10-2004 (Ch. XXXII of the 1997 Revised General Ordinances)]

525-59. Design standards.

The following design standards are applicable to any plan for development:

A. Physical setting and building location.

- (1) The natural terrain and existing attractive features of the site shall be incorporated into the development when possible.
- (2) Buildings shall not be physically located to unnecessarily concentrate activity in one portion of the lot creating traffic congestion, stormwater drainage, or other possible problems in supplying necessary utilities.
- (3) Except as otherwise specifically permitted pursuant to § 525-20, RC Residential Cluster, § 525-28, HO Harbor Overlay, or Subsection A(4), Average percent of front yard setbacks, and except for permitted accessory buildings, each building shall comply with all area and bulk requirements for the district in which it is located. Buildings must be designed as one structure.⁵

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) **[Amended 6-21-2005 by Ord. No. 37-2005; 6-16-2009 by Ord. No. 183-2009]** Average percent of front yard setbacks. In a block where 50 percent of all lots that front on the same street as the subject lot have been developed and have nonconforming front yard setbacks, a new or existing structure may be constructed or expanded so as to provide a front yard equal in depth to the average front yard of the existing buildings of four lots that are contiguous to the property. The new setback is to be no greater than 10 feet past the front of any adjacent structures. Computation of the average front yards of contiguous lots shall be performed in accordance with the following requirements:
 - (a) Computation shall be based upon the arithmetic mean distance calculated for the four properties that are contiguous with the property, on the same side of the street and in the same block as the property.
 - (b) Porches and steps shall be included in the calculation of the front yard setback.
 - (c) Certification of the average front yard setback shall be provided by a New Jersey licensed land surveyor.
- B. Access and traffic control. Driveways and street servicing uses permitted by this chapter are subject to approval of the design as part of the review by the Planning Board. No design may be approved which is likely to create substantial traffic hazards endangering the public safety. Safety requirements which may be imposed in such a review shall include traffic control devices, acceleration or deceleration lanes, turning lanes, traffic and land markings, and signs.
- C. Interior circulation. The interior circulation of traffic shall be subject to design review as in Subsection B, so that driveways or streets providing parking spaces shall be consistent with the flow of traffic. No driveway or street used for interior circulation shall have traffic lanes less than 10 feet in width. Areas for loading shall be separate from parking areas.

- D. Parking and paved areas. All pedestrian walks and parking areas shall be paved with an all-weather surface in accordance with City building regulations. Curbing shall be provided to separate parking areas, streets and driveways. A parking lot which is accessory to a permitted use and has a capacity of less than five vehicles may be allowed to provide one of the following pavement surfaces: concrete strips with stone or grass infill between the strips, concrete checker block, brick pavers or crushed stone.
- E. Off-street parking design standards.
- (1) Parking spaces shall be clearly delineated by painted lines or markers.
 - (2) Stalls shall be provided with bumper guards or wheel stops when necessary for safety or protection to adjacent structures or landscaped area.
 - (3) Surface drainage will be connected to the City's stormwater drainage system.
 - (4) All vehicular entrances and exits to parking areas shall be clearly designated for all conditions.
 - (5) Short-term visitor parking spaces shall be differentiated from long-term employee spaces by suitable markings.
 - (6) If spaces are used during evening hours, appropriate lighting shall be provided.
 - (7) All parking shall be located behind required building lines, except in the case of one- and two-family dwellings where driveways may be used for parking within the setback line.
 - (8) Curb cuts required for off-street parking shall be limited to those necessary for entrances and exits. In no instance may the curb cut extend the full length of the parking area.
 - (9) Off-street parking shall be limited to approved areas. See §§ 525-49 and 525-56B.
 - (10) Landscaping in parking and loading areas shall be shown on the landscaping plan. Trees shall be staggered and/or spaced so as not to interfere with driver vision, have branches no lower than six feet, and placed at the rate of at least one tree for every 20 parking spaces. All areas between the parking area and the building shall be landscaped with trees, shrubs and ground cover. Any plantings which do not live shall be replaced within two years or two growing seasons. A majority of the parking areas shall be obscured from streets by buildings, landscaped berms, natural ground elevations, or plantings, singularly or in combination.
- F. Lighting of parking area. All parking areas, driveways, and loading areas shall be provided with a lighting system which shall furnish a minimum of 1 1/2 footcandles at any point during hours of operation, with lighting standards in parking areas being located not farther than 100 feet apart, provided that, in residential zones and for residential uses, a lighting system which shall furnish 0.05 footcandle shall be utilized. All lighting shall be completely shielded from traffic on any public right-of-way and from any residential district.
- G. Outdoor storage.
- (1) Outdoor storage of any type, including, without limitation, trash dumpsters or similar containers for the collection of trash, garbage or refuse, shall not be permitted unless storage is a part of the normal operations conducted on the premises subject to design and performance standards for the prevailing zoning district.
 - (2) Any article or material stored temporarily outside an enclosed building as an incidental part of the primary operation shall be so screened by opaque ornamental fencing, walls, or evergreen

planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on the ground level. All organic rubbish or storage shall be contained in airtight, verminproof containers which shall also be screened from public view. All such storage shall be located behind the building setback line.

- (3) Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide definite areas within the required parking space areas for storage of carts. Each designed storage area shall be clearly marked for storage of shopping carts.

H. Screening.

- (1) A planted visual barrier, or landscape screen, shall be provided and maintained by the owner or lessee of a property between any district and contiguous residentially zoned district, except where natural or physical manmade barriers exist or where separated by a public right-of-way. This screen shall be composed of plants and trees arranged to form both a low level and a high level screen. The high level screen shall consist of trees planted with specimens no younger than three years in age, and planted at intervals of not more than 10. feet. The low level screen shall consist of shrubs or hedges planted at an initial height of not less than two feet and spaced at intervals of not more than five feet. The low level screen shall be placed in alternating rows to produce a more effective barrier. All plants not surviving three years after planting must be replaced.
- (2) Any existing business affected by these regulations at the time of passage of this chapter shall not be required to comply with the above screening requirements except in case of enlargement or major alteration of such business.

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 Austrial, pine, Canadian hemlock, Servianspruce, 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 indigenious 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.
 - (d) Trees.
 - [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. [Added 6-20-2006 by Ord. No. 68-2006]

- (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.