

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

SECTION 17-700. INTENT

It is the intent of this Article to establish requirements for landscaping and afford protection to all trees, especially those defined as protected, specimen or landmark trees, on developed and undeveloped residential and commercial property. To this end, a zoning permit indicating approval by town staff is required before tree pruning or removal is undertaken in the town.

DIVISION 1: LANDSCAPING

SECTION 17-701. LANDSCAPING DEFINED

Landscaping shall consist of, but not be limited to, any combination of materials such as grass, ground covers, shrubs, flower beds, vines, hedges, and trees.

SECTION 17-701.1 AREA REQUIRED TO BE LANDSCAPED

Zoning District	Percentage of total lot square footage to be landscaped	Percentage of landscaping required to be located in the front yard.
R-1 (Low-Density Residential)	At least fifty (50) percent	At least twenty (20) percent
R-2 (Medium-Density Residential)	At least forty (40) percent	At least twenty (20) percent
R-3 (High-Density Residential and Accommodations)	At least twenty (20) percent	At least twenty (20) percent
MU (Mixed Use District)	At least twenty (20) percent	At least twenty (20) percent
LLI (Limited Light Industrial)	At least twenty (20) percent	At least twenty (20) percent
Commercial Districts	All commercial zoning districts shall meet the requirements of Article IX (Design Overlay District)	

SECTION 17-701.2 INSTALLATION AND MAINTENANCE OF LANDSCAPING

The installation of landscaping shall meet all requirements of other applicable ordinances of the town including Article IX for commercial projects. New construction, redevelopment or major additions: all elements of landscaping shall be installed prior to the issuance of a certificate of zoning compliance by the code enforcement official in accordance with Sec. 17-206.

SECTIONS 17-702 through 17-719. [RESERVED]

DIVISION 2: TREE PROTECTION

SECTION 17-720. REGULATIONS/CLASSIFICATIONS

The regulations of this Division are divided into three classifications:

1. Owner of existing residence;
2. Owner of commercial property;
3. Involving development of vacant property, redevelopment, pool or a major addition.

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

SECTION 17-720.1 MINIMUM NUMBER OF REQUIRED TREES AND DIAMETER BY DISTRICT; APPLICABILITY OF PROVISION

- (1) Tree and measurement requirements. The number and cumulative diameter of trees required per lot within the town’s zoning districts are provided in Table 17-720.1.

Table 17-720.1			
MINIMUM NUMBER OF REQUIRED TREES AND DIAMETER/CIRCUMFERENCE BY ZONING DISTRICT*			
Zoning District	Number of Required Trees (minimum)	Minimum Diameter (all trees)**	Minimum Circumference measured at breast height (all trees)
R-1	5 trees per lot	60 DBH inches	188 inches
R-2	5 trees per lot	40 DBH inches	125 inches
R-3	3 trees per lot	30 DBH inches	94 inches
MU	4 trees per lot	40 DBH inches	125 inches
LLI	4 trees per lot	40 DBH inches	125 inches
Commercial Districts	All commercial zoning districts shall meet the requirements of Article IX (Design Overlay District)		
All Other Districts	Twenty (20) trees per acre plus two (2) trees for each additional one-tenth (.1) acre	No Minimum Diameter	

Notes: * For the purpose of administering the requirements of this section, no tree less than seven (7) inches in diameter shall be counted in order to satisfy the minimum number of trees per lot, nor shall the diameter of such tree be counted to satisfy the cumulative DBH requirement for the lot. ** The minimum DBH is the sum of all qualifying trees on the lot. Replacement trees and trees with heights of less than ten (10) feet are measured in circumference inches.

- (2) Applicability. If at the time of this article's adoption, there exist lots that do not contain the number of trees or cumulative measurement required by this section, such sites may continue in nonconformity pursuant to section 17-505. Any change of use, new construction, or the issuance of a zoning permit affecting such a lot shall thereupon require compliance with the minimum number of trees requirement of Table 17-720.1.
- (3) Planned developments. Planned development districts shall at a minimum provide and maintain trees consistent with the requirement for "all other districts" as provided in Table 17-720.1. Where the ordinance creating the planned development district provides more restrictive standards than those contained in this article, the more restrictive standard shall govern.

SECTION 17-720.2 ZONING PERMIT REQUIREMENTS FOR PRUNING AND TREE REMOVAL

Owner of existing residence: No zoning permit is required for the removal of trees under 7 inches diameter/22 inches circumference, nor for the pruning of limbs 7 inches diameter/22 inches circumference measured 2 inches from the tree truck. All request for the removal of trees and/or the pruning of limbs *over* 7 inches in diameter/22 inches in circumference must have the approval of the code enforcement official.

Owners of Commercial Property or those involving development of vacant property, redevelopment, pool or a major addition: Permits are required for the pruning and/or the removal of any tree.

With the exception of dead or diseased limbs or tree, the permit is subject to the fee schedule found in Chapter 13 of the Code of Ordinances a copy of which can also be found at the Planning, Building & Zoning Department.

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

Under the terms of this article, a zoning permit is required prior to the following activities:

ZONING PERMIT REQUIRED		
Owner of Existing Residence	Owner of Commercial Property	Involving development of vacant property, redevelopment, pool or a major addition
Pruning trees limbs greater than seven (7) inches in diameter / 22 inches circumference when measured 2 inches from the trunk.	Permit required for all pruning and/or removal of any tree to ensure compliance with Article IX of this ordinance	Permit required for all pruning and/or removal any tree. Removal of trees for development requires a tree protection plan.
The removal of trees seven (7) inches in diameter / 22" in circumference or greater measured at breast height.		

Electric utilities are exempt from the permitting process for the pruning and or removal of a tree when necessary to correct a hazardous situation or to eliminate tree/wire conflict that has the potential to interfere with power reliability upon notification and approval of the town's code enforcement official.

SECTION 17-720.3 GUIDELINES FOR PRUNING OR REMOVAL OF COMMON TREES

ZONING PERMIT REQUIRED		
Owner of Existing Residence	Owner of Commercial Property	Involving development of vacant property, redevelopment, pool or a major addition
Removal of limbs greater than seven (7) inches in diameter / 22" in circumference measured 2 inches from trunk	Permit required for all pruning and/or removal of any tree to ensure compliance with Article IX of this ordinance	A building permit must be issued prior to the removal of any trees located within the proposed footprint of the home or proposed footprint of the addition. Building Permit will include the tree removal approval as part of the permit
<p>Removal of trees greater than seven (7) inches in diameter / 22" in circumference measured at breast height meeting the following requirements:</p> <p>Trees located within or beyond the required yard setback space of the applicable zoning district shall not be removed unless the code enforcement official (or BZA in a dispute) determines:</p> <ol style="list-style-type: none"> 1. The tree poses or may pose a safety hazard to pedestrian or vehicular traffic; 2. The tree poses or most likely can be expected to pose a hazard to buildings or utilities, including to foundations or driveways in the near future; 3. The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of 	Shall obtain the required zoning permit specifying what action they may take in accordance with Article IX, Design Overlay District	<p>Trees located within or beyond the required yard setback space of the applicable zoning district shall not be removed unless the code enforcement official (or BZA in a dispute) determines:</p> <ol style="list-style-type: none"> 1. The tree poses or may pose a safety hazard to pedestrian or vehicular traffic 2. The tree poses or most likely can be expected to pose a hazard to buildings or utilities, including to foundations or driveways in the near future; 3. The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of hazard to people, buildings or other improvements on a lot. 4. The property owner wishes to thin or remove existing trees from his property to allow for the proper growth of remaining trees or to enhance the overall appearance of the landscaped area. Thinning may be authorized provided thinning is limited to twenty (20) percent of existing trees.

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hazard to people, buildings or other improvements on a lot		
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SECTION 17-720.4 GUIDELINES FOR PRUNING OR REMOVAL OF PROTECTED, SPECIMEN AND LANDMARK TREES

ZONING PERMIT REQUIRED		
Owner of Existing Residence	Owner of Commercial Property	Involving development of vacant property, redevelopment, pool or a major addition
<p>Pruning of larger limbs (over 7 inches in diameter /22 inches in circumference measured 2 inches from trunk) or the removal of trees requires the Code Enforcement Official (or the BZA in a dispute) determine in writing:</p> <ol style="list-style-type: none"> 1. The tree or limb poses a hazard to structure or it is clear that roots within 10 feet of the foundation can most likely be expected to cause foundation damage in the near future. 2. The tree or limb is diseased, dead, or weakened by age, storm, fire, or other injury, which creates a hazard to people, buildings or other improvements on a lot. 3. Prior to the removal of a Landmark Tree. (Regardless of location on lot) an application requesting removal must be presented to the Board of Zoning Appeals for consideration. A letter from an ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer must be submitted with the request for removal. The letter must state reason the tree requires removal. (Submittal of a BZA appeal request does not guarantee approval). The Planning, Building and Zoning department will expedite the appeal process as much as state law allows. 	<p>Permit required for all pruning and/or removal of any tree to ensure compliance with Article IX of this ordinance</p> <p>The Code Enforcement Official (or the BZA in a dispute) determines must in writing:</p> <ol style="list-style-type: none"> 1. The tree or limb poses a hazard to the foundation of a structure or it is clear that roots within 10 feet of the foundation can most likely be expected to cause foundation damage in the near future. 2. The tree or limb is diseased, dead, or weakened by age, storm, fire, or other injury, which creates a hazard to people, buildings or other improvements on a lot. 3. Prior to the removal of a Landmark Tree (regardless of location on lot) an application requesting removal must be presented to the Board of Zoning Appeals for consideration. A letter from an ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer must be submitted with the request for removal. The letter must state reason the tree requires removal. (Submittal of a BZA appeal request does not guarantee approval). The Planning, Building and Zoning department will expedite the appeal process as much as state law allows. 	<p>Trees of any measurement may not be pruned or removed unless the Code Enforcement Official (or the BZA in a dispute) has determined in writing:</p> <ol style="list-style-type: none"> 1. The tree or limb is diseased, dead, or weakened by age, storm, fire, or other injury, which creates a hazard to people, buildings or other improvements on a lot. 2. Pruning or removal of a tree is essential for development (Landmark trees or limbs located within the footprint of the proposed building). An application requesting removal must be presented to the Board of Zoning Appeals for consideration. A letter from an ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer must be submitted with the request for removal. The letter must state reason(s) the tree requires removal. (Submittal of a BZA appeal request does not guarantee approval). The Planning, Building and Zoning department will expedite the appeal process as much as state law allows.

SECTION 17-721 TREE REPLACEMENT FOR PERMITTED TREE REMOVAL

- (1) Except as provided by section 17-726, only trees in table 17-721(1) shall be planted in order to replace existing protected trees, specimen trees, landmark trees and any trees when the number or cumulative diameter (DBH) of trees on a parcel falls below the minimum required for the district in which the lot is located.

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- (2) When replacement trees are required, the tree circumference inches will be calculated as specified below:
 - (a) The total circumference inches of a replacement tree required to be planted must be a minimum of 22” in circumference measured at breast height.
 - (b) Once building site meets the minimum number of trees required, the remaining replacement to meet the circumference inch requirement may be satisfied by paying into the tree mitigation fund as established in section 17-726 of this article.
 - (c) *Retained trees.* Existing residence: A minimum of 3 trees 2 inches in diameter/6 inches in circumference or greater retained on the property can count toward any required replacement. New Construction: must meet minimum diameter of 7 inches/22 inches in circumference. To avoid a monoculture there shall be diversity in the plantings required.
- (3) The following, Table 17-722(1), is a list of approved trees and includes all trees on the list of protected specimen and landmark trees as well as others noted in italics:

Table 17-721(1)	
Trees Approved for Planting as Replacements for Protected, Specimen and Landmark Trees	
Beech (American)	Magnolia (Southern)
Birch (River)	Maple
Cedar	Oak
Cypress (Bald or Leyland)	Poplar (Yellow)
Dogwood (Flowering)	Sycamore
Elm	Tupelo
Hickory (Mockernut, pignut or Shagbark)	Weeping Willow
Holly (American)	Yaupon
Thornless Locust (Honey)	Zelkova
Loquat	

- (4) Replacement trees must be planted within six (6) months from the date of removal of the existing trees. In the case of new construction, replacement plantings shall be required prior to the final inspection of the project.
 - (a) Only those trees on the list of approved trees shall be authorized for planting to replace protected, specimen or landmark trees. Replacement trees for common trees may be replaced with another common tree.
 - (b) Each required tree (not including specimen and landmark trees) inspected by the code enforcement official and determined to be damaged by development activity or lot filling shall be removed and replaced with two (2) trees capable of obtaining equal or greater height over time.

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SECTION 17-722 TREE PROTECTION DURING CLEARING, GRUBBING, AND DEVELOPMENT

During development, there shall be erected and maintained suitable protective barriers around all trees to be retained so to prevent damage thereto. The code enforcement official shall be consulted regarding the specific type(s) of barrier(s) to be used. Protective measures may not be removed until construction is complete. No other types of disturbance or construction shall be allowed under the drip line.

SECTION 17-723 PUBLIC TREE CARE

The Town of Surfside Beach shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, boulevards, drives, public rights-of-way, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The code enforcement official or the public works director may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or which is infected with any injurious fungus, insect, or other pest.

The installation of trees and/or landscaping shall meet all requirements of other applicable ordinances of the town.

SECTION 17-724 TREE TOPPING

It shall be unlawful for any person, firm, or town department to top any tree on public or private property. "Topping" is defined as the severe cutting back of limbs to the stubs larger than three (3) inches in diameter within the trees crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the code enforcement official or public works director. Crepe Myrtles shall be exempt from this section of the ordinance.

SECTION 17-725 TREE PROTECTION PLAN

All applications for building permits shall be accompanied by a tree protection plan. All plans must be approved by the code enforcement official prior to the issuance of a permit. The plan(s) shall be drawn to include all pertinent dimensions and indicate clearly proposed parking, driveways and other vehicular use areas, all proposed buildings and structures, all existing trees four (4) inches and over in diameter (DBH) and locations of proposed landscaped areas and materials to be used in landscaping. Where more than six (6) inches of soil fill is to be used to bring up lot elevations, the tree protection plan must indicate how existing required trees will be protected.

SECTION 17-726 TOWN OF SURFSIDE BEACH TREE MITIGATION FUND

(1) Establishment. It is recognized that the replacement of trees on a site, under certain circumstances, may be impractical for a property owner. In order to ensure that the intent of this article is maintained while providing flexibility to affected property owners, a fund, to be known as the Town of Surfside Beach Tree Mitigation Fund, is hereby established. All mitigation fees and other appropriations, as directed by the town council, are to be deposited into this fund.

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(2) Eligibility to participate and computation of mitigation fees. A property owner, replacing trees under the provisions of section 17-721(1), must replant trees on the affected site to meet the minimum number of trees required within the applicable zoning district. Once the required number of trees has been met, the remaining replacements needed to meet the circumference inch requirement may be satisfied by paying into the tree mitigation fund. The election to pay a mitigation fee, in lieu of onsite plantings, is voluntary to the property owner. The fee is to be determined by the town's applicable cost schedule based on the current nursery market value plus installation costs.

(3) Fund maintenance. The finance director shall collect all mitigation fees under this article. Such fees shall be recorded and maintained in a special account separate from the general fund and shall accrue interest at the short term rates prevailing in the market.

(4) Eligible expenditures and disbursements. Mitigation funds shall be used for purchasing trees or tree care products, planting activities, purchasing irrigation equipment and supplies, preservation and the care of trees, and education about trees in the town. Funds shall be dispersed for eligible expenditures by the town administrator with the approval of town council.

SECTION 17-727 CODE ENFORCEMENT OFFICIAL TO AUTHORIZE REDUCTION

(1) Reduction authorized. The code enforcement official may, consistent with the requirements of this section, authorize a reduction in the number of required trees from the terms of sections 17-721(1) and 17-728. This reduction is limited to one (1) tree or 20% of the number of trees required for a lot, whichever is greater. In no instance shall the code enforcement official reduce the cumulative diameter of trees required on a lot or reduce any mitigation fee.

(2) Conditions required for reduction. Reduction by the code enforcement official may be authorized in the following circumstances:

- (a) The lot is nonconforming in area and the reduction in the number of trees is proportional to the degree of nonconformity;
- (b) The lot contains a specimen tree(s) and, based on supporting documentation from a licensed ISA arborist, South Carolina registered forester, landscape architect, architect, or engineer, the placement of the required tree(s) would interfere with the healthy growth of the specimen tree or the replacement tree(s) could not reach maturity due to existing canopy cover; or,
- (c) The replacement tree(s) would interfere with a public street, sidewalk, drainage or utility easement and alternate placement is not possible.

(3) Appeals and further reductions. Appeals from grants or refusals of the code enforcement official under subsections (a) or (b), above, are made to the board of zoning appeals pursuant to section 17-223. The board of zoning appeals may grant a variance to provide additional relief from the terms of this article, subject to the requirements imposed by section 17-222.

SECTION 17-728 through 17-729 [RESERVED]

DIVISION THREE: ENFORCEMENT

SECTION 17-730 PENALTIES

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

Any person or entity who violates any provision of this Article shall have committed a misdemeanor. The code enforcement officer shall institute appropriate legal action including imposition of the fines set forth herein.

Fine for removing limbs over 7” in diameter and 22” in circumference without approval \$500.00 per tree

Fine for removing unprotected trees without a permit \$500.00 per tree

Fine for removing protected or specimen trees without a permit \$500.00 per four-inch diameter for each tree

Fine for removing Landmark trees without approval shall be \$10,000.00 per tree

In addition to the fines, violators shall be subject to all of the provisions established in Section 1-16 General Penalty; continuing violations, of the Town’s Code of Ordinances. Issuance of a fine or penalty does not relieve any party of complying with the mitigation requirements set forth in Section 17-726.

All fines collected as a result of the enforcement of this article shall be placed in the Tree Mitigation Fund and used by the Town for tree-related activities including but not limited to: the purchase of trees or tree care products, planting activities, irrigation equipment and supplies, preservation and care of trees, and education about trees in the Town of Surfside Beach.

SECTION 17-731 MITIGATION REQUIRED FOR REMOVAL OF TREES WITHOUT A PERMIT

Any tree removed without a permit must be replaced with twice the total inches removed and shall be replaced with species listed in Table 17-721(1) of the Town’s Code of Ordinances.

SECTIONS 17-732 through 17-739 [RESERVED]

DIVISION FOUR: DEFINITIONS

In addition to the definitions set forth in section 17-007, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section. All other words, terms, and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Circumference the distance around the tree at breast height or limb 2” from trunk.

Common Tree shall mean any tree not listed in Table 17-740 of this ordinance as a Protected, Specimen or Landmark tree.

Diameter at Breast Height (DBH) shall mean the diameter, in inches, of a tree trunk as measured four and one-half (4 1/2) feet above the ground. If the tree splits into multiple trunks below four and one-half feet, the trunk is measured at its narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for all trees, excluding replacement trees and trees less than ten (10) feet in height.

Major Addition shall mean any addition, the cost of which equals or exceeds forty eight (48) percent of the tax or certified appraised value of the structure before the start of construction of the improvement.

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Protected, specimen and landmark trees. The following trees are designated by the Town of Surfside Beach as either protected, specimen or landmark trees when the diameter and circumference is attained as indicated in Table 17-740 below:

Table 17-740 Protect, Specimen and Landmark Trees			
Tree Name	Protected @	Specimen Tree @	Landmark Tree @
Beech (American)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Birch (River)	6 inches in diameter/ 19" in circumference but less than	18 inches in diameter/57" in circumference	
Cedar (Eastern Red)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Cypress (Bald)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	Greater than 24 inches in diameter/75" in circumference
Dogwood (Flowering)	4 inches in diameter/12" in circumference but less than	12 inches in diameter/38" in circumference	
Elm	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Hickory	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Holly (American)	6 inches in diameter/ 19" in circumference but less than	12 inches in diameter/ 38" in circumference	
Magnolia (Southern)	8 inches in diameter/ 25" in circumference but less than	16 inches in diameter/ 50" in circumference	
Maple (Red)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Oak (Live Oak)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	Greater than 24 inches in diameter/75" in circumference
Oak (Laurel)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	Greater than 24 inches in diameter/75" in circumference
Oak (all other types)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Pine (Long Leaf)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Poplar (Yellow)	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Sycamore	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	
Tupelo	8 inches in diameter/ 25" in circumference but less than	24 inches in diameter/ 75" in circumference	

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Prune shall mean to lop or cut off any parts, branches, or shoots; to clear trees of useless material; to shape or smooth by trimming; or to trim to maintain the plant's health or the safety of persons or property. Pruning of a tree must not result in permanent or long-term disfigurement of that tree unless required in other sections of this article.

Regulated tree shall mean a protected tree, specimen tree, Landmark tree, and/or any other tree whose removal is restricted under the terms of this article.

Replacement tree shall mean a tree with a diameter of not less than two (2) diameter inches that is planted on a site to replace a tree that was removed, damaged, or destroyed as a result of construction and/or non-construction activities.

Required tree shall mean any tree, regardless of regulated status, whose retention or planting is needed to satisfy the tree count, minimum diameter, or replacement provisions of this article.

Topping shall mean the severe cutting back of limbs to the stubs larger than three (3) inches in diameter within the trees crown to such a degree so as to remove the normal canopy and result in the disfigurement of the tree.

Tree shall mean any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter of greater than three (3) inches at any point and a height of over ten (10) feet.

Tree mitigation fund shall mean a fund established by this article to be used for tree-related activities including, but not limited to: the purchase of trees or tree care products, planting activities, irrigation equipment and supplies, preservation and the care of trees, and education about trees in the Town of Surfside Beach. This fund is to receive monies from tree mitigation fees and may receive other funds as appropriated by the town council.

Tree protection plan shall mean a plan that identifies the location, size, and species of existing trees and trees targeted for removal including the identification of any tree protection areas and the means of such protection. When new plantings are proposed or required by this article, the tree protection plan shall denote the location, size, and species of all trees to be planted on the site.

SECTIONS 17-741 through 17-799 [RESERVED]