

## ARTICLE 10. LANDSCAPE AND TREE PROTECTION

### 10.1 PURPOSE

The purpose of a Landscape and Tree Protection Article is to establish minimum standards for the provisions, installation, and maintenance of landscape plantings and tree preservation in order to achieve a healthy, beautiful, and safe community by the following means:

#### 10.01.01 Aesthetics

Improve the appearance of all areas through the incorporation of open space into development in ways that harmonize and enhance the natural and built environment.

#### 10.01.02 Environmental Quality

Improve environmental quality by recognizing the numerous beneficial effects of landscaping and tree preservation upon the environment.

#### 10.01.03 Land Values

Maintain and increase the value of land by requiring landscaping and tree preservation to be incorporated in development thus becoming itself a valuable capital asset.

#### 10.01.04 Human Values

Provide direct and important physical and psychological benefits to human beings through the use of landscaping and tree preservation to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.

#### 10.01.05 Preservation of Vegetation

Preserve existing natural vegetation and the incorporation of native plants, plant communities and ecosystems into landscape design, where possible.

#### 10.01.06 Improve Design

Promote innovative and cost-conscious approaches to the design installation, and maintenance of landscaping, encouraging existing tree preservation, water and energy conservation.

#### 10.01.07 Improved Administration and Enforcement

Establish procedures and standards for the administration and enforcement of this Article.

### 10.02 DEFINITIONS

**CALIPER.** Diameter of a tree trunk. Caliper determines the minimum size of trees planted to fulfill this Ordinance. For trees less than four (4) inches in diameter, to be measured six (6) inches above the ground. For trees from (4) inches to twelve (12) inches in diameter, to be measured twelve (12) inches above the ground.

**D.B.H.** Diameter at Breast Height. Use to measure all existing trees four and one-half (4½) feet above the grade with a diameter greater than twelve (12) inches.

**LANDSCAPE PLAN.** A component of a development plan on which is shown: proposed landscaping species (such as number, spacing size at time of planting, and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

**OVERSTORY TREE.** Trees, which at maturity comprise the canopy of a natural forest. Generally greater than fifty (50) feet at mature height.

**PUBLIC/CITY TREE.** Any tree located on City or public property including City right-of-way.

**SIGNIFICANT TREE.** Any tree that has aged and grown to an impressive stature (for its species) to be considered an integral part of the City's natural heritage.

**SITE PLAN.** The development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces;

walkways; means of ingress and egress; circulating; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decisions can be made by the approving authority.

**UNDERSTORY TREE.** Trees, which at maturity comprise the sub-canopy of a natural forest. These are generally twenty to forty (20-40) feet at mature height.

### 10.03 USE AND APPLICABILITY

- 10.03.01** The provisions of this Article shall be required for all residential multi-family projects involving the construction of three (3) or more dwelling units including apartments, town homes, condominiums, Planned Unit Developments, subdivisions, all commercial structures, all industrial structures, and other uses as required by the Planning Commission.
- 10.03.02** Where a change in the following: 1) use of property, 2) occupancy, 3) ownership regardless of name change, or 4) location in any manner to any business or commercial/industrial development it shall be the responsibility of the owner to comply with the provision of this Article within 180 days.
- 10.03.03** A site or subdivision plan shall not be approved by the Planning Commission without an acceptable landscape plan, as the same is defined pursuant to the provision of this Article.
- 10.03.04** If proposed construction causes changes in the landscape plan, a revised landscape plan must be submitted to the City Planner or their designee for re-evaluation.
- 10.03.05** All properties owned by the City of Bay Minette shall be in compliance with this Article.

### 10.04 LANDSCAPE PLAN STANDARDS

A landscape plan shall be submitted in accordance with this Section as part of the site or subdivision plan to the Planning & Development Department and approved by the Planning Commission prior to commencing any site preparation or construction activities. Landscape plans shall be of a professional quality and include:

- 10.04.01** Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and landscape designer.
- 10.04.02** Location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed utility easements on or adjacent to the building site, City road rights-of-way, required setbacks, locations of proposed parking spaces, and location of existing or proposed sidewalks.
- 10.04.03** The locations, species, and D.B.H. (Diameter at Breast Height) of existing significant trees indicating those to be retained, and those significant trees to be removed, along with written justification for removal of any significant trees.
- 10.04.04** The location(s) and dimension(s) of the proposed landscape areas within the parking area(s) including a description of new trees and plant materials to be placed within landscaped area(s). Both common and botanical names shall be included.
- 10.04.05** An indication, using written or graphic information, of how the applicant plans to protect from damage during construction any existing trees and other vegetation, which are proposed to be retained.
- 10.04.06** An indication, using written or graphic information, of how the applicant intends to protect tree roots by controlling erosion or sediment loss during construction.
- 10.04.07** Locations, type and design of any proposed irrigation systems.
- 10.04.08** Location and species of buffer zone vegetation.

### 10.05 LANDSCAPE REQUIREMENTS

- 10.05.01** A minimum of fifteen percent (15%) of the total lot area shall be landscaped or maintained as open green space. The foregoing percentage shall include all landscape requirements for parking areas. Provided however, at least five percent (5%) of the total landscaped area or green space must be located in the front yard and side yards of the lot in areas other than parking areas.

#### 10.05.02 Plant Sizes

**10.05.02.01**All shrubs shall be installed as five (5) gallon minimum (except herbaceous perennials and woody spreading shrubs on slopes).

**10.05.02.02**All trees shall be installed as fifteen (15) gallon minimum. Exceptions for the use of smaller material for certain species which will be at the discretion of the City Official.

**10.05.03** Sufficient ground cover (grass or other type of vegetation) is required on all non-parking surfaces on the lot to minimize soil erosion. The ground cover shall be in place prior to receiving certification from the City Official.

**10.05.04** The landowner is responsible for upkeep and maintenance of the required landscaped areas of their lot. Should landscape areas, shrubs, and/or trees die or get damaged, the landowner is responsible for replacing the damaged plants and/or areas in compliance with the conditions of this Ordinance.

## 10.06 TREES

### 10.06.01 Tree Survey

A tree survey may be required by the Planning Commission. If required, the survey shall be made of the entire property and shall show all trees with a six (6)-inch or greater caliper. The landscape plan shall clearly show what existing trees, shrubbery and other vegetation will be retained; and what trees, shrubbery and other vegetation will be added to complete the final landscaping of the property.

### 10.06.02 Protection of Significant Trees

An overstory tree species is considered protected as a significant heritage tree if its D.B.H. exceeds twelve (12) inches. Likewise, an understory tree species becomes protected when its D.B.H. exceeds eight (8) inches. Hardwood trees of greater than six (6) inches at D.B.H. will be considered significant trees. Significant trees are protected under this Article and cannot be cut or intentionally harmed without the express written permission from the City Planner or their designee.

### 10.06.03 Tree Protection Zones

**10.06.03.01**All lands within one hundred (100) feet of the right-of-ways of U.S. Highway 31 South, U.S. Highway 31 North, State Highway 59, State Highway 287, McMeans Avenue, D'Olive Street and North Hand Avenue and fifty (50) feet of the right-of-ways of all other City streets are hereby declared to be tree protection zones. No tree within these zones shall be removed without first presenting justification based on the criteria noted in *Section 10.07.02* without written approval from the City Planner or their designee.

**10.06.03.02 Exception** – Landowners owning undeveloped property prior to the adoption of this Ordinance that can provide documentation that the property has been and intends to be used for future timber producing property, shall be allowed to harvest timber within these tree protection zones with the following stipulations:

- a. Significant trees shall not be removed or damaged during timber harvest.
- b. Clear cutting within these tree protection zones shall be prohibited. No tree less than six (6) inches D.B.H. shall be removed.

### 10.06.04 Greenbelt Zone

**10.06.04.01**All developments along or abutting the right-of-ways of U.S. Highway 31 South, U.S. Highway 31 North, State Highway 59, State Highway 287, McMeans Avenue, D'Olive Street and North Hand Avenue shall maintain a minimum of ten (10) feet of the required thirty (30) foot setback as a landscaped greenbelt along the entire front width of the property except where curb cuts provided ingress and egress.

**10.06.04.02**If any of the thirty (30) foot front setbacks is used for parking, said greenbelt shall be in addition to the landscape requirements for parking areas described in *Section 10.10* of this Ordinance.

**10.06.04.03**Said greenbelt shall be planted with trees, shrubs, and grass or other ground over so that an attractive appearance is presented as detailed in the developer's required landscape plan.

**10.06.04.04** The trees shall be shade or flowering trees and shall be at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height at planting.

**10.06.04.05** There shall be a minimum of one (1) tree planted for every twenty-five (25) feet or fraction thereof of lot frontage, fifty percent (50%) of which shall be shade trees having a maximum crown of seventy (70) feet.

## 10.07 TREE REMOVAL

**10.07.01** All tree removals will be at the property owner's expense except for:

- a. Trees in the City right-of-way which are diseased, injured, in danger of falling close to existing structures as determined by the City or create unsafe vision clearance, the removal of which shall be funded by the City or;
- b. Trees beneath utility lines which threaten to damage utility lines, the removal of which is the duty of the utility company.

### 10.07.02 Tree Removal Permit

Any person wishing to remove or relocate a significant tree or any tree with a six (6)-inch or greater caliper shall submit written application to the City Planner or their designee accompanied with a Site Plan. The following criteria must be established in order for the permit to be issued:

**10.07.02.01** That the tree is located in an area where a structure or improvement may be placed according to a proposed Site Plan.

**10.07.02.02** That the tree is diseased, injured in danger of falling too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance or conflicts with other Ordinances, Articles or Regulations.

**10.07.02.03** That the tree is, or will be after construction, in violation of Federal, State, Local laws or regulations, or causes the construction of violate Federal, State or Local laws or regulations, regulations pertaining to government programs financing the construction.

**10.07.02.04** No tree greater than six (6) inches in diameter shall be removed unless it can be shown that the tree is a safety hazard to pedestrians, property or vehicular traffic; that it is diseased or weakened by age, storm, fire or other injury; that it is absolutely necessary to construct proposed improvements without incurring significant additional costs; or that it is necessary for the installation of solar energy equipment. In such case, the developer shall be required to plant replacement trees at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height at planting and the landscaping plan shall show the placement of the proper number of required new trees. The plan shall include complete, concise and clear renderings and any other documentation required by the Planning Commission.

**10.07.02.05** A permit may be denied if the tree is considered to have aged or grown to an impressive stature for its species or to be considered an integral part of the natural heritage of the City of Bay Minette and the City Planner or their designee determines that reasonable alternatives are available to cutting the tree.

## 10.08 REPLACEMENT TREES

**10.08.01** In such cases as described in *Section 10.06*, the developer shall be required to plant two (2) replacement trees, purchased from a licensed source for each tree removed. The trees shall be shade or flowering trees and shall be at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height in planting. The landscape plan shall show the placement and species of the proper number of required new trees. The plan shall include complete, concise and clear renderings or any other documentation required by the Zoning Administrator or selected designee and/or the Planning Commission.

## 10.09 PLANTING REQUIREMENTS

Trees that are planted in accordance with this Article must be a minimum of three (3) different species per site and meet the following requirements:

- 10.09.01 At least one (1) species must be a medium (understory) tree in order to promote species richness. Medium (understory) trees must have at least three (3) inches in caliper and eight (8) feet in height at planting.
- 10.09.02 At least one (1) shall be a large (overstory) tree must have at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height in planting.
- 10.09.03 At least one (1) shall be a multi-stemmed understory trees must be a minimum of eight (8) feet in height and must have at least three (3) stems; each with a minimum caliper of three-fourths (3/4) inches.
- 10.09.04 Shrubs that can be pruned into tree form variations will not be approved toward tree planting requirements. These include but are not limited to tree forms of the following: Ligustrum; Indian Hawthorn; Tree Yaupon; and Camelia.
- 10.09.05 It is recommended that trees be obtained from a licensed source. On site relocated trees may be acceptable.
- 10.09.06 Maintenance of new plantings is the responsibility of the property owner. Any vegetation of trees planted or retained to fulfill this Article which dies, becomes damaged or diseased must be replaced by the property owner by the beginning of the optimum planting season of the following year. The property owner must notify the City Planner or their designee in writing when the replacement tree(s)/vegetation has been planted.

## 10.10 OFF STREET PARKING FACILITIES

The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas accommodating six (6) or more parking spaces:

- 10.10.01 Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding placement. Protective curbing around landscaped areas will leave openings for the flow of water onto unpaved areas.
- 10.10.02 At least ten (10) percent of the total interior area intended for off-street parking shall be suitably landscaped.
- 10.10.03 A maximum of twelve (12) parking spaces in a row will be permitted without a landscaped island.
- 10.10.04 Interior portions of the parking area shall be broken by provision of landscaped islands. Such landscaped area shall include the placement of shade or flowering trees at intervals of twelve (12) parking spaces; such trees shall be at least three and one half (3 ½) inches or greater in caliper and twelve (12) feet in height in planting.
- 10.10.05 Each separate landscaped area must be a minimum of ninety (90) square feet if it is to be counted toward the minimum landscaped area requirements.
- 10.10.06 Landscaped area shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- 10.10.07 The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
- 10.10.08 A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the City Planner. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors in interest, heirs, and their assigns.
  - 10.10.08.01 Innovative landscape designs using “natural cluster of trees” rather than the required one (1) tree for every twelve (12) parking spaces may be approved by the Planning Commission if it is compatible with the character of the community and shown not to be a safety hazard.

## 10.11 BUFFER ZONES

Except as otherwise provided herein, buffer zone requirements shall be based on the proposed developing use and the existing abutting use, regardless of current zoning districts. For this Section, "abutting" property includes property adjoining, facing or across a roadway.

**10.11.01** All districts shall comply with the following minimum standards:

- a. Where a business district or use abuts any part of a residential district or use, a buffer zone 10 (ten) feet wide shall be required;
- b. Where an industrial district or use abuts any part of a business district or use, a public or semi-public use, mixed-use or multi-family residential district or use, a buffer zone of 20 (twenty) feet shall be required.
- c. where an industrial district or use abuts any part of a two-family or single-family residential district or use, a buffer zone 30 (thirty) feet wide shall be required.
- d. Where a public or semi-public use, mixed-use or multi-family residential district or use, abuts any part of a single-family residential district or use, a buffer zone 10 (ten) feet wide shall be required.
- e. The buffer shall run the entire length of the abutting lot line(s) and shall be maintained in such a manner as to accomplish its purpose continually. Under no circumstances shall this buffer impair vehicular flow and shall be part of the yard requirements.
- f. Buildings, dumpsters, and outdoor storage are prohibited within required buffers.

### 10.11.02 Buffer Requirements

Buffers shall be constructed of at least one of the following three (3) designs.

- a. **Wall or Fence.** If a wall or fence is provided as a protection buffer, it shall be six (6) feet high and of a construction and a design approved by the Planning Commission. Said wall or fence shall be maintained in good repair by the owners of the property.
- b. **Screen planting strip.** If a screen planting strip is provided as a protection buffer, it shall be at least ten (10) feet in width, shall be planted with materials in sufficient density and of sufficient height (but in no case less than six (6) feet high at the time of planting) to afford protection to the residential or business district from the glare of lights, from blowing papers, dust and debris, from visual encroachment, and to effectively reduce the transmission of noise. Screen planting shall be maintained in a clean and neat condition and in such manner as to accomplish its purpose continually.
- c. **Natural Forest.** Natural undisturbed forest which provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the width of the buffer shall be twenty-five (25) feet in width and shall be included on the Site Plan. The Bay Minette City Planner shall determine whether the barrier is satisfactory via site inspection prior to landscape approval. Said buffer strip shall maintain its healthy condition as to accomplish its purpose continuously.

## 10.12 MODIFICATIONS

Buffer requirements may be modified by the Planning Commission as follows:

- 10.12.01** More stringent design and landscape standards may be required in any district if it is determined that the design would be more compatible with the development and more beneficial to the aesthetics of the City of Bay Minette.
- 10.12.02** If the developing use abuts an existing nonconforming use on a property that is designated for a different use within the Comprehensive Plan and when the abutting property is zoned in accordance with the Comprehensive Plan, a required buffer may be modified for consistency with the projected use of the abutting property.
- 10.12.03** If a buffer is required along a public alley, up to one-half ( $\frac{1}{2}$ ) of the alley width may be considered as a portion of the required buffer width, but the buffer height and density shall not be reduced.
- 10.12.04** Where appropriate, pedestrian access may be permitted through a required buffer.
- 10.12.05 Vacant Land.** If a buffer is required along vacant land, the requirements shall be based on the zoning of the

abutting property or the use projected by the Comprehensive Plan, whichever is lesser.

- a. When determining buffer requirements based on the zoning or projected use of abutting vacant land, the range of possible future uses shall be considered, and requirements based on the use(s) that require a lesser buffer.
- b. When the proposed use and abutting vacant land both lie in the same zoning district and such district permits uses of greater intensity or density than the proposed use, the proposed development shall provide half the width of the required buffer that would normally be required between the proposed use and the projected use of the vacant land.

**10.12.06** Where an abutting use is discontinued, altered or modified so that the required buffer is reduced, the width of the previously required buffer may be proportionately reduced.