

ARTICLE XIV. LANDSCAPING*

***Note:** See the editor's note to ch. 18.

Sec. 18-1201. General regulations.

- (a) *Title.* This article shall be known and may be referred to as the "Landscaping Ordinance of the City of Baytown" or simply as the "Landscaping Ordinance."
- (b) *Purpose.* This article is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of the city and is intended to achieve one or more of the following:
- (1) To create an aesthetically pleasing environment that improves the quality of life for citizens;
 - (2) To enhance property values and to protect public and private investment;
 - (3) To promote the beautification of the city;
 - (4) To provide adequate light and air space;
 - (5) To prevent overcrowding of land;
 - (6) To ensure that the local stock of trees and vegetation is replenished; and/or
 - (7) To stabilize the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge, storm water runoff, and soil erosion retardation, while at the same time aiding in noise, glare and heat abatement.
- (c) *Applicability.* The provisions of this article shall apply to all nonresidential developments, as that term is defined in section 18-1202, within the city, unless specifically provided otherwise in this article.
- (1) The landscaping provisions contained in this article shall become applicable to each individual nonresidential lot at the time an application for a new commercial permit is made. When remodeling, redevelopment or reconstruction

is proposed on nonresidential property that would result in an expansion of gross floor area, parking lot area, or vehicular surface area, the following provisions apply:

a. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by less than 50 percent, only the portion of the site where the expansion is located is subject to the provisions of this article.

b. When remodeling, redevelopment, reconstruction or expansion is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by 50 percent or more, the entire property must comply with the provisions of this article. The removal of any portion of an existing building is not required for compliance with this subsection (c) (1)b.

c. If within a three-year period the impervious surface area of a nonresidential development is increased by 25 percent or more or if within a three-year period 25 percent or more of the impervious surface area of a nonresidential development is reconstructed, the requirements of section 18-1206 shall be applied only to the area where the expansion or reconstruction occurs. This provision shall apply only when such expansion or reconstruction is not a part of a structural remodeling, redevelopment or reconstruction project.

(2) All landscaping requirements under this article shall run with the land and shall apply against any owner or subsequent owner.

(3) Each phase of a phased project shall comply with the requirements of this article. If the nonresidential development is to be construed in phases, phase lines shall be drawn 20 feet or more from developed site elements (parking, buildings, ponds, etc.). The portion of the land remaining for subsequent phases shall be no less than three-fourths of an acre.

(4) This article shall have no application to nonresidential developments with parking lots of less than 5,000 square feet.

(d) *Inconsistent provisions and conflict with other regulations.* In the event that any provision of this article is inconsistent or in conflict with any other provision of this article or any other ordinance or regulation of the city, the more stringent provision shall control, unless otherwise specifically stated.

(e) *Transitional provisions.*

- (1) *Building permits.* Except as specifically provided in this article, the provisions of this article shall not affect any valid building permit issued or any valid building permit application filed prior to August 2, 1998, provided that construction pursuant to such permit, is commenced within six months of the date of issuance of the permit and diligently pursued, as determined by the chief building official, to completion in accordance with the applicable regulations of the city.
- (2) *Subdivision plats.* Except as specifically provided in this article, the provisions of this article shall not affect any preliminary plat or final plat approved pursuant to the regulations of chapter 126.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 8626, § 1, 7-8-99; Ord. No. 8737, § 1, 10-28-99; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 18-1202. Definitions.

For the purpose of interpreting and administrating the provisions of this article, the words defined in this section shall be given the meanings set forth below. All other words shall be given their common, ordinary meanings, as the context may reasonably suggest.

Caliper means the diameter of a tree at 18 inches above ground level.

Commission means the city's planning and zoning commission as presently constituted, or any successor commission.

Developed land means that portion of real property which has been altered from its natural landscape by the construction or reconstruction of any structure, parking lot, or other improvement.

Director means the director of planning, community development and inspections.

Duplex dwelling use means the use of a lot for two dwelling units within a single building or structure.

Dwelling unit means a building or portion of a building that is arranged, occupied or intended to be occupied as a residence and includes facilities for sleeping, cooking and sanitation.

Existing tree means a tree which is located on the property prior to a new construction permit being issued by the city.

Groundcover means a spreading plant including sods and grasses less than 18 inches in height that may be used for erosion control.

Impervious surface area means any surface area that prevents infiltration of water into the soil. Impervious surface may include, but not be limited to, those surfaces covered by asphalt, concrete, crushed stone, clay, bedrock, limestone and compacted soil.

Landscape reserve means undeveloped property which is left in its natural state and is of sufficient size for the growth of plants and trees.

Mulch means various substances that are placed around plants to prevent evaporation, to control weeds and to control soil erosion. Mulch material includes, but is not limited to, organic substances and various forms and sizes of natural rocks.

Multi-family dwelling means the use of a lot for three or more dwelling units within a single building.

New commercial permit means a building permit required for the construction and/or development of all new nonresidential developments. Nonresidential means any use other than single-family or duplex dwelling use, and expressly includes, but is not limited to, uses associated with multi-family dwellings, manufactured home parks, mobile home parks, RV parks and commercial developments within the city.

Parking space means a space used for parking a motor vehicle and satisfying all of the applicable requirements for off-street parking contained in chapter 112.

Shade tree means any self-supporting woody plant with one well-defined trunk and a distinct definite formed crown.

Shrub means a woody perennial plant differing from a perennial herb by its woodier stem and from a tree by its low stature and habit of branching from the base.

Single-family dwelling use means the use of a lot for one dwelling unit.

Small tree means any self-supporting plant with one well-defined trunk and a distinctly defined formal crown and achieving a maximum height of twenty feet. A crepe myrtle tree will be considered a small tree if the diameter of all of its trunks combined is at least two inches. A list of small trees is available in the Planning Department.

Streetscape means the landscaping along the property adjacent to the street rights-of-way as required to be landscaped pursuant to this article.

Tree means any self-supporting woody plant with one well-defined trunk two inches in diameter or greater.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 8359, § 1, 8-13-98; Ord. No. 8626, § 2, 7-8-99; Ord. No. 8667, § 1, 8-26-99; Ord. No. 9389, §§ 1, 2, 7-25-02; Ord. No. 9621, § 5, 9-11-03)

Sec. 18-1203. Eligible trees, shrubs, and groundcover.

All forms of landscaping are suitable including flowers, ground cover, shrubs, trees and the various forms and sizes of mulch. Unless expressly stated otherwise, all trees shall be a minimum of five feet in height immediately upon planting and have a minimum two-inch caliper. All shrubs must be a minimum of 1 1/2 feet in height when planted. Plant height shall be measured from average grade after planting.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 18-1204. Landscape plan requirements.

When a new commercial permit is required, the owner shall provide the director as part of his construction documents a landscape plan containing the following information:

- (1) The location of existing boundary lines and dimensions of the tract and the square footage of the total off-street parking area;
- (2) The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities;
- (3) A description of adjacent land uses, existing developments and roadways;
- (4) The location, size and type of proposed landscaping in areas to be landscaped and the size of proposed landscaped area;
- (5) The location, species and diameter of existing trees having a caliper of two inches or larger. Landscape reserves with numerous trees may be outlined with a description of existing trees to be preserved; and
- (6) All other information necessary for verifying that the minimum landscaping requirements have been satisfied pursuant to this article.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 18-1205. Landscaping requirements.

- (a) The owner of the property on which an off-street parking area is located shall be required to provide interior landscaped open spaces for any parking lot 5,000 square feet or larger. All areas within the parking lot's perimeter are counted toward the landscape requirement, including the planting islands, curbed areas, parking spaces, and all interior driveways and aisles. The required landscape open space area shall be calculated as follows:

TABLE INSET:

Total Off-street Parking Area	Percent of the Off-street Parking Area that must be a Landscaped Open Space Area
5,000--9,999 square feet	5 percent
Over 9,999 square feet	7 percent

At least 50 percent of the required landscaped open space shall be located within the parking lot as an island or as a peninsula in order to be applied towards the landscaped requirements of this section. The remaining 50 percent of the required landscape open space may be located outside of the parking lot, but must be located forward of the rear building line of the primary structure and be visible from the public street.

- (b) A minimum of one shade tree and four shrubs shall be planted and maintained for each 350 square feet or portion thereof of landscaped open space area. Credit may be given or received for preservation of existing trees as follows; provided, that the existing trees are located near or within the parking lot's perimeter, in good form and condition and reasonably free of damage by insect, disease or other affliction, as determined by the director:

TABLE INSET:

Existing Tree Caliper	Tree Credit
2--6 inches	1
Over 6--12 inches	2
Over 12 inches	3

- (c) Groundcover or mulch is required in swales, drainage areas, parking lot islands, landscape reserves and all unpaved portions of the property that is not otherwise used for a parking lot, building site or other improvement.
- (d) All persons subject to this ordinance must replace dead landscaping or landscaping that has been removed by any means and for any reason within 45 days of receipt of written notification by the director. Failure to replace landscaping as required by this section shall constitute a violation of this article punishable as provided in section 18-1208.
- (e) That portion of any off-street parking area, not otherwise required by section 112-4 that is located at a site primarily used for the storage of vehicles is exempt from the requirements of this section. Additionally, public schools of an elementary or secondary level and recreational areas owned by such schools shall be exempt from the requirements of this section.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 18-1206. Streetscape.

- (a) In addition to the landscaping requirements of section 18-1205, the owner of nonresidential property subject to this article shall be required to provide streetscape. Streetscape shall be required along the entire length of the property which is adjacent to a street right-of-way and on which developed land is located. Nothing in this subsection shall be construed as to require streetscape on undeveloped land. Streetscapes shall be no less than six feet wide.
- (b) For every 30 linear feet of frontage on a street right-of-way, the owner of developed land must plant at least one small tree on such land at a location which is adjacent to a street right-of-way where overhead utility lines are present. Any tree species may be planted where overhead utility lines are not present.
- (c) Streetscape shall be required along the entire length of the street right-of-way, except that streetscape shall not be required across driveways or within eight feet of a driveway. All eligible forms of landscaping may be planted within the streetscape area. For every 30 linear feet of frontage, excluding driveways, on a street right-of-way, the owner of developed land shall provide a minimum of eight shrubs, no less than 1 1/2 feet high. Shrubs and trees may be planted anywhere within the required streetscape, clustered or dispersed, provided that planting density is consistent with adequate room for future plant growth. Landscaping no less than 1 1/2 feet high comprised of a minimum of eight shrubs for every 30 feet of frontage on a street right-of-way, excluding any driveways shall be required along the entire length of the street right-of-way. The landscaping shall not be required across driveways, or within eight feet of a driveway.
- (d) The owner of the property shall place and maintain the trees, shrubs, and other landscaping so as not to cause a visual obstruction and so as not to violate section 122-3.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 8359, § 2, 8-13-98; Ord. No. 8626, § 3, 7-8-99; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 18-1207. Variance.

- (a) Appeals from the denial of a new commercial permit for non-compliance with this article shall be made in the following manner:
 - (1) An applicant for a new commercial permit may make written application to the director for a variance from the requirements of this article. A completed application for a variance shall be submitted on a form supplied by the director. This application package shall be reviewed by the director in order to determine whether the application is complete.

- (2) After the application is deemed complete, the director shall file his report and recommendations regarding the proposed variance with the secretary of the commission. A copy of the director's report shall be provided to the applicant and to the commission at least five days prior to the meeting at which the variance will be considered.
 - (3) The commission is authorized to consider and to grant variances from the provisions of this article by majority vote of the members present at the meeting at which a variance is being considered, when the commission determines that the following conditions exist:
 - a. The imposition of the terms, rules, conditions, policies and standards of this article would deprive the owner or applicant of the property of reasonable use of the land or building;
 - b. The circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant, and the general purposes of this article are observed and maintained;
 - c. The intent of this article is preserved; and
 - d. The granting of such a variance will not be injurious to the public health, safety or welfare.
- (b) Any variance granted under the provisions of this section will apply only to the specific property and use upon which the commission was requested to grant a variance by the applicant. All variances granted shall be in writing, signed by the chairman of the commission and attested to by the secretary of the same, and maintained as a permanent record of the commission.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 18-1208. Penalty.

A person who violates any provision of this article, upon conviction, is punishable as provided in section 1-14.

(Ord. No. 8345, § 1, 7-23-98; Ord. No. 9389, §§ 1, 2, 7-25-02)

Sec. 122-3. Obstruction of view; visibility triangle.

- (a) An owner or occupant of any premises shall not intentionally or knowingly build, construct, place, keep, allow, permit or maintain any object, structure, building, tree, plant, vegetation or fence so as to obstruct or interfere with the view of a driver of a motor vehicle at the point of approaching, merging, emerging or

intersecting traffic from any street or driveway with another street or so as to prevent any traveler on any street or driveway from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street between the sidewalk and the curb on any public street or highway in the city at a lesser distance than 25 feet from the corner of any block on such public street or highway, such measurements to be computed at the point of intersection of two lines extended parallel with the curb line of the streets or avenues intersection and causing such corners.

- (b) It shall be an affirmative defense to prosecution of the violation of this section if the obstruction is a building in existence prior to June 28, 1984. However, any such tree or shrub that was planted prior to December 13, 1951, may remain, but it shall have a clearance of at least ten feet between its lowest limb measured downward to the street or sidewalk.
- (c) In any prosecution authorized by this section, it shall be presumed that the premises owner or occupant intentionally or knowingly committed the offense if the director personally serves him with notice of the obstruction or if ten days elapse after the director mails to him notice of the obstruction by regular U.S. mail without the condition being corrected.
- (d) Any offense under this section shall upon conviction be punished as provided in section 1-14.

(Ord. No. 132, § 4, 12-13-51; Code 1967, § 26-7; Ord. No. 3888, § 1, 6-28-84)

Sec. 122-4. Trees and similar obstructions in vicinity of fire hydrant.

- (a) It shall be unlawful for any tree, shrub, vine, palm, hedge or similar plant of any description or kind to be planted, cultivated, grown or permitted to be planted, cultivated or grown between the sidewalk and the curb or ditch line on any street or highway at a lesser distance than 7 1/2 feet from any fire hydrant.
- (b) However, any shade tree growing on December 13, 1951, that is between the sidewalk and the curb on any public street or highway that is less than 7 1/2 feet from any such fireplug shall not be affected by this section.

(Ord. No. 132, § 3, 12-13-51; Code 1967, § 26-6)

Cross references: Fire prevention and protection, ch. 38.

Secs. 122-5--122-30. Reserved.

Sec. 130-642. Designation.

- (a) *Criteria for designation.* A designation for a planned unit development overlay district may be made if:
- (1) The PUD overlay district project would result in a greater benefit to the city than would development under the base zoning district regulations; and
 - (2) The site of the proposed PUD overlay district contains at least ten acres of contiguous land, unless council finds that the property of less than ten acres is suitable by virtue of its unique historical character, topography or other natural features or unique design layout of proposed subdivision; and
 - (3) The PUD overlay district project satisfies all other provisions of this article and is consistent with the city's comprehensive plan.
- (b) *Process for designation* . The initiation, application and procedure to establish a PUD overlay district shall be in accordance with division 1 hereof. Additionally the master development plan must include:
- (1) The existing and proposed use of the structure;
 - (2) Any planned rehabilitation by the property owner; and
 - (3) The nature and degree of endangerment to the structure.
- (c) *Removing a designation.* A designation for a PUD overlay district may be removed in the same manner and by the same process by which it was enacted.

(Ord. No. 10,287, § 11, 3-23-06)

Sec. 130-643. Property development standards.

- (a) *Lot.* The minimum lot area, width, frontage and yard requirements for single-family residences may be altered as approved by city council.
- (b) *Streets* . Minimum street widths or alleys proposed within a PUD overlay district shall be flexible in order to promote innovative design.
- (c) *Off-street parking* . A minimum of two off-street parking spaces shall be provided for each single-family unit. The required off-street parking spaces must be located on the lot of the single-family unit or be provided elsewhere within the proposed development. The single-family dwelling unit garage does not count toward satisfying this requirement. No portion of a street may be used in calculating the required off-street parking spaces. All non-residential parking shall comply with chapter 18 of this Code and all codes adopted therein.

- (d) *Building height* . Height limitations shall be the same as imposed in this chapter for the underlying zoning district.
- (e) *Open space* . At least 30 percent of the open space required in section 130-630 shall be converted to common areas used for recreation or parks.
- (f) *Landscaping* . Landscaping shall be provided for residential and non-residential developments. A minimum of two trees and eight shrubs shall be provided for each single-family residential unit on each single-family residential lot. Fifty percent of the required trees may be located in an open space as defined in section 130-1. The specific placement, forward of the rear building line, shall be left to the discretion of the developer. Whenever practicable, the preservation of existing trees is encouraged. All developments other than single-family and duplex developments, shall comply with chapter 18, article XIV.
- (g) *Buffering and screening* . Open space buffers and screening, as described in section 130-310, shall be required to separate land uses within the PUD overlay district. No parking lot, structures, or equipment pads shall be placed in an open space buffer. The minimum size of an open space buffer shall be 20 feet measured from the exterior property line that is adjacent to the single-family or duplex use. Screening, as described in section 130-310, shall be provided along the property line adjacent to the single-family or duplex use..
- (h) *Engineering and construction standards* . With the exception of subsection 126-641(c), engineering and construction standards shall be the same as imposed in article V of chapter 126.

(Ord. No. 10,287, § 11, 3-23-06)