

**ORDINANCE NO. 4689-16**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE XIV (LANDSCAPING, LAND CLEARING, TREE PROTECTION, AND ARTIFICIAL TURF), TO MAKE VARIOUS AMENDMENTS TO SECTION 94-441 THROUGH SECTION 94-446, AND SECTIONS 94-448, 94-449, 94-451; TO CREATE SECTION 94-450 (LITTORAL PLANTING ZONES), SECTION 94-452 (ROADWAY BEAUTIFICATION), AND SECTION 94-453 (NONCONFORMING LANDSCAPE AREAS); AMENDING ARTICLE X (SUPPLEMENTAL DISTRICT REGULATIONS) TO CREATE SECTION 94-315 (OUTDOOR STORAGE FOR NONRESIDENTIAL AND MULTIFAMILY USES AND STORAGE AND DISPOSAL FACILITIES) AND TO RELOCATE AND AMEND THE PROVISIONS REGARDING VACANT LOT AND CONSTRUCTION SITE MAINTENANCE TO CREATE SECTION 94-316 (VACANT LOT AND CONSTRUCTION SITE MAINTENANCE); AMENDING ARTICLE XIX (DEFINITIONS); DECLARING THIS AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

\* \* \* \* \*

WHEREAS, the City's landscape requirements have not been updated in many years and an evaluation and analyses was deemed necessary; and

WHEREAS, the City's objectives of improving aspects of sustainability, aesthetics and value of properties within the city have progressed and the landscape requirements needed to be updated to reflect these objectives in the public interest; and

WHEREAS, Staff's evaluation and analysis of the current landscape requirements found deficiencies and inconsistencies requiring updates and corrections; and

WHEREAS, this Ordinance introduces a text amendment modifying and establishing regulations, standards, and guidelines for the design, construction, and maintenance of landscaping within the City; and

WHEREAS, the Planning Board recommended approval (7-0) of this request to the City Commission after a Public Hearing on October 18, 2016, and

WHEREAS, the public hearings were advertised in the Palm Beach Post, and proof of publication is housed in the Development Services Department - Planning and Zoning Division records.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:**

**SECTION 1:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-441 (Intent, application, exemptions and conflicts, Florida friendly landscape principles.) is hereby amended and shall read as follows:

**Sec. 94-441. - Intent, application, exemptions and conflicts, Florida friendly landscape principles.**

(a) *Intent.* The intent of the landscaping and tree protection requirements of this article is:

- (1) To establish standards to protect and to enhance community appearance by the installation of appropriate landscaping and screening materials within the city;
- (2) To promote the conservation of water by encouraging the preservation of native plant communities and ecosystems, the use of site specific plant materials, the utilization of Florida friendly landscape principles;
- (3) To maintain permeable land areas essential to surface water management and aquifer recharge;
- (4) To protect and expand the community wide tree canopy;
- (5) To maintain and increase the value of land by incorporating a minimum amount of landscaping into development;
- (6) To establish parameters for the use of artificial turf;
- (7) To eradicate or control certain exotic and invasive plant species which have become nuisances because of their tendency to damage public and private works, have a negative effect upon public health, or disrupt and destroy native ecosystems;
- (8) To encourage prudent and skilled workmanship for the installation and maintenance of all plant materials;
- (9) To establish procedures and standards for the administration and enforcement of this article.

(b) *Application.* The landscaping, tree protection, and screening requirements of this section shall apply to all development within the city, except those developments exempted in subsection (c) of this section regarding exemptions.

(c) *Exemptions.* The following development shall be exempt from the standards of this article:

- (1) Buildings or structures accessory to single-family or duplex development.
- (2) Renovations, repair, alteration or redevelopment which does not exceed 50 percent of the value of the structure.
- (3) Tee, fairway, putting green and other natural or manmade landscape features of a golf course development. The clubhouse, vehicular use areas and other nongreen areas however, shall conform to the requirements of this article.

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(4) Developments only when specifically noted by this chapter.

~~(5) City initiated housing projects.~~

(d) *Florida friendly landscaping.* Florida friendly landscaping is considered to be implementation of the following principles, which are described in more detail in the Florida Yards and Neighborhood Handbook, developed by the University of Florida, IFAS Extension Services and the Florida Department of Environmental Protection:

(1) The right plant in the right place by selecting plants that match the sites soil, light, water and climate conditions, with an aim for a diversity of trees, shrubs, groundcover and flowers, and plants that welcome wildlife.

(2) More efficient irrigation by grouping plants with similar watering needs together and zoning the irrigation system accordingly.

(3) Fertilize in compliance with the requirements of this code at chapter 34, article V, Florida friendly fertilizer use.

(4) Maintain landscape beds well mulched with at least two inches of space around tree trunks to prevent rot, using sustainably harvested mulch, such as melaleuca ~~malaleuca~~, pine straw or eucalyptus.

(5) Attract wildlife by selecting plants with seeds, fruit, foliage, flowers or berries that animals can eat; increasing vertical layering of vegetation; and reducing insecticide use.

(6) Utilize integrated pest management principles by selecting pest-resistant plants, spot treating pests with selective spectrum pesticide applied in accordance with label instructions.

(7) Compost and re-cycle yard waste and debris.

(8) Retain rainfall and irrigation with shallow rain gardens or swales; direct downspouts toward garden area and utilize permeable material for walkways, driveways and patios.

(9) Protect water bodies by not mowing or utilizing pesticides within ten feet of a water body.

(e) *Conflicts.* If the provisions of this article conflict with other ordinances, regulations or sections of this chapter, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

**SECTION 2:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-442 (Open space landscape requirements) is hereby amended and shall read as follows:

**Sec. 94-442. - Open space landscape requirements.**

(a) *Intent.* The intent of this section is to provide standards for landscaping open space areas when required by this chapter. ~~Landscape plans, excluding those prepared for single family dwelling units, shall be prepared by persons as authorized by F.S. ch. 481, pt. II (landscape architecture).~~

(b) *Landscape plans.*

(1) Landscape plans, excluding those prepared for single-family dwelling units, shall be prepared by persons as authorized by F.S. ch. 481, pt. II (landscape architecture).

(2) Landscape plan requirements. When required, a landscape plan ~~or aerial photograph~~ shall contain the following:

- a. Date, north arrow, and graphic scale.
- b. The location of all existing or proposed structures, improvements, and uses.
- c. The location of property lines, existing or proposed setback.
- d. The location of existing or proposed underground or overhead utility services.
- e. Location of all proposed trees, shrubs, ground covers, and other landscape materials.
- f. The common and botanical name, size, and location of all trees and vegetation on the site. A table showing the size and quantity of all proposed landscape materials. A key which identifies all landscape materials shown on the plan.
- g. Tabulation clearly displaying the relevant statistical information necessary for the evaluation of compliance with the provisions of this article. This includes gross acreage or square footage, gross open space, square footage of preservation areas, square footage of paved and landscaped areas, and such other information as the city deems appropriate.
- h. Phasing of the site including any temporary landscaping.
- i. Location and width of any proposed dedication of property for public rights-of-way.
- j. Location and screening of all garbage receptacles.
- k. Location, dimensions and screening of all proposed satellite dishes and ground mounted mechanical and utility equipment.
- l. Delineation of the existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways, terminal islands, interior islands, divider medians and similar features.

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- m. Delineation of irrigation coverage, sensors location and high, medium and low zones of water usage if taking credit for these items in Florida friendly landscaping section; and details of the cross section of root ball and staking detail.
- n. Statement that all landscaped areas, excluding those areas with native noninvasive plants, will be provided with permanent, automatic irrigation.
- o. A tabulation clearly displaying each technique and method proposed to satisfy the Florida friendly landscape point system requirement and its accompanying point allocation.
- p. Nature of adjacent land uses.
- q. Existing landscaping on adjacent properties within 10 feet of the property line.
- r. Information on protection of existing trees, relocation and removal of existing trees, and mitigation proposed.

(c) *General standards.* All open space, as required by this chapter, shall be landscaped as provided in this section.

(1) *Landscaping generally.* All open space, excluding vehicular and pedestrian circulation features and surface parking, shall be covered with natural grass, ground cover, shrubbery, or other suitable plant material, or may have paved active recreation areas, patios, terraces, pedestrian circulation areas, swimming pools, water features, and similar site components incorporated in the open space designs. Artificial turf shall only be permitted and installed in accordance with the standards of section 94-451.

(2) *General landscaping standards for single-family dwelling units and all other developments.* General landscaping standards for single-family dwelling units and all other developments shall be as follows:

a. *Single-family dwelling units.* For single-family and duplex dwelling units, at least one shade ~~or flowering or fruit~~ tree shall be planted for each ~~4,200~~ 1,000 square feet of open space or portion thereof. ~~For single-family dwelling units, a~~ At least one shrub shall be planted for each 500 square feet of open space or portion thereof. Front yards shall be landscaped to meet the requirements of section 94-482(a).

b. *All other developments.* The general landscaping standards for all other developments shall be as follows:

1. *Trees.* At least one shade tree shall be planted for each ~~4,600~~ 1,500 square feet of required open space or portion thereof. At least one flowering tree shall be planted for each ~~6,400~~ 6,000 square feet of required open space or portion thereof. ~~Fruit trees may be planted in multifamily zoning districts.~~ Required trees may be planted at uniform intervals, at random, or in groupings. The calculation of trees for this provision may include those ~~used~~ required for buffering, screening, or to improve aesthetics within the site.

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2. ~~Shrubs.~~ At least one shrub shall be planted for each 500 square feet of required open space or portion thereof. ~~Shrubs shall be planted with three-foot intervals or clustered if the effectiveness of the buffer is improved. Required trees may be substituted for shrubs where applicable. In this case, at least one tree may be substituted for no more than five shrubs. Shrubs, however shall not be substituted for trees.~~

3. ~~Hedges.~~ Hedges used for required buffering shall be planted in accordance with the most current edition of "Grades and Standards for Nursery Plants, Parts I and II" Florida #1 for each species of shrub.

(3) *Amount of plant material required.* The total open space area required shall determine the number of trees and shrubs to be planted. Required open space is established by each zoning district's regulations set forth in this code. The total amount of plant material required shall not be affected by that portion of the open space area devoted to active recreation purposes, patios, terraces, pedestrian circulation, and similar amenities.

~~(4) All landscaped areas and plant materials within or adjacent to vehicular use areas shall be protected from vehicular encroachment by wheel stops, curbs, or other similar devices. This requirement, however, shall not apply to any single family zoning districts.~~

(d) *Substitution of palm trees.* Palm trees may be substituted for not more than 35 percent of the shade or flowering trees required by this article, ~~except as specified in the comprehensive plan.~~ However, when palm trees are substituted for shade trees, ~~two~~ three palm trees shall be provided for each required shade tree. This ~~2:13:1~~ 2:13:1 substitution shall not be required for Royal Palm Trees (Roystonea spp.) and suckering palm trees such as the ~~Areca Palm, Paurotis Palm and the~~ , Senegal Date Palm (Phoenix reclinata), Medjool Date Palm (Phoenix dactylifera), Bismarck Palm (Bismarckia nobilis), and Silver Date Palm (Phoenix sylvestris).

(e) *Landscaping of ~~private land and public rights-of-way.~~* Private land and public rights-of-way between street or sidewalk surfaces or private areas that serve as an extension of public space and required buffer strips and landscaped open space areas shall be planted with groundcover approved by the city or natural grass per the requirements of section 94-445(4)(c). Grass areas shall be sodded. The planting of trees and shrubs within public rights-of-way is subject to the approval of the city.

~~(e) *Site design flexibility.* A site plan which provides at least 80 percent of the required trees or landscape area may be approved if it contains specific features which fulfill its exact intent through the use of creative and innovative techniques. All applications for site plan or other approval shall specify features intended to serve in lieu of specific requirements. This section does not apply to any city center commercial zoning districts as listed in article IV of this chapter. The developer shall provide a minimum of 80 percent of the required trees or landscape area and utilize the selection of design options indicated on the landscape plan to~~

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meet the landscape requirements. The adopted design options and the accompanying points shall be clearly tabulated on the landscape plan as required in subsection 94-448(d)(2)p. Such a landscape plan must satisfy a minimum total of 30 points from the following list of options:

Design options:	Points
(1) <del>Landscaped focal point to serve as vistas. The landscaped focal point must be visible from the entire street frontage of the site; the width of the landscaped focal point must be at least 35 feet; and the landscaped focal point may include signage, trees, shrubs and hedges.</del>	10
(2) <del>Integration of sculpture, fountains, ponds and lakes in the design. Retention ponds must be visible from the street and landscaped to be accepted as a design option.</del>	10
(3) <del>Coordination of signs, benches, trash receptacles, and lighting in the design by color, material, design, etc.</del>	5
(4) <del>Provision of pedestrian plazas. Plazas are subject to the requirements of subsection <u>94-443(a)</u>.</del>	10
(5) <del>Increased building setback of:</del>	
<del>five feet</del>	5
<del>ten feet or more</del>	10
<del>The increased building setback shall not include vehicular use areas or parking lots.</del>	
(6) <del>Utilization of berms to screen all parking areas from public thoroughfares and adjacent residential uses. Berms are subject to the requirements of subsection <u>94-445(4)h</u>.</del>	10
(7) <del>Utilization of surface materials other than concrete and asphalt to differentiate vehicular and pedestrian traffic throughout the site. These may include tile, brick, paver blocks or other types of materials equal in durability and imperviousness and approved by the engineering and public works department.</del>	10

(f) *Clear vision requirements.* Landscaping shall be installed in accordance with the clear vision requirements of subsection 94-305(e).

(g) *Florida-friendly landscape requirements.* All new developments except for those exempt pursuant to subsection 94-441(c) shall be required to apply certain Florida-friendly landscape techniques for landscaping prior to receiving a certificate of occupancy. The adopted design

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options and the accompanying points used to meet the Florida-friendly landscape requirements shall be clearly tabulated on the landscape plan ~~as required in subsection 94-448(d)(2)g.~~ Such a landscape plan must satisfy a minimum total of 15 points for a single-family dwelling unit and a minimum of ~~30-40~~ points for all other developments from the following list of options. Plants may only be counted once for credit toward drought tolerant or Florida native plant points.

Design options:		Points
(1)	Utilization of moisture sensing controller other than rainswitch, <u>alternate source of water such as a cistern, or highly efficient system that promotes water conservation.</u>	5
(2)	Plan submitted with low, moderate, and high water usage zones indicated.	5
(3)	<u>Groundcover or Grass:</u>	
a.	25—50 percent of the <u>groundcover or grass</u> areas are made up of natural drought tolerant <del>grass</del> -species from the list.*	5
b.	51 percent or more of the <u>groundcover or grass</u> areas are made up of natural drought tolerant grass species from the list.*	10
c.	<u>25—50 percent of the groundcover or grass areas are made up of Florida native plants.</u>	<u>5</u>
d.	<u>51 percent or more of the groundcover or grass areas are made up of Florida native plants.</u>	<u>10</u>
(4)	<u>Shrubs:</u>	
a.	25—50 percent of the required shrubs are made up of natural drought tolerant species from the list*.	5
b.	51 percent or more of the required shrubs are made up of natural drought tolerant species from the list*.	10
c.	<u>25—50 percent of the required shrubs are made up of Florida native plants.</u>	<u>5</u>
d.	<u>51 percent or more of the required shrubs are made up of Florida native plants.</u>	<u>10</u>
(5)	<u>Trees:</u>	
a.	25-50 percent of the required trees are made up of natural drought tolerant species	5

Language underlined added, and language ~~stricken~~ deleted.

Asterisks \*\*\*\* indicate language not amended which has been omitted to save space.



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		from the list:*	
	b.	51 percent or more of the required trees are made up of natural drought tolerant species from the list:*	10
	c.	<u>25-50 percent of the required trees are made up of Florida native plants.</u>	<u>5</u>
	d.	<u>51 percent or more of the required trees are made up of Florida native plants.</u>	<u>10</u>
(6)		<i>Extra shade trees in vehicular use areas:</i>	
	a.	25 percent more than the required shade trees planted in the vehicular use areas.	5
	b.	50 percent more than the required shade trees planted in the vehicular use areas.	10
(7)		Natural sod area less than 50 percent of <u>provided</u> landscape area.	10
(8)		Utilization of compacted mulched planting beds at least three inches in depth in all planted areas except ground covers.	10

\* The list of drought tolerant natural grass, shrubs, and tree species is contained in Waterwise, the South Florida Water Management District plant and landscape practices guide, as may be amended. Additional low water use plant species may be accepted with verified documentation. These species should however, not include invasive species. A listing of these drought tolerant species may also be obtained from the planning department.

**SECTION 3:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-443 (Nonresidential and multifamily screening and buffering requirements.) is hereby amended and shall read as follows:

**Sec. 94-443. - Nonresidential and multifamily screening and buffering requirements.**

(a) *Buffering of nonresidential uses adjacent to residential property.* The owner of property used for nonresidential purposes located adjacent to a residential zoning district shall install and maintain along the entire property line a protective screen wall and a landscaped buffer. For the purposes of this provision, nonresidential uses does not include park uses. Protective screen walls and buffers are required to meet or exceed the specifications of this section. The property owner of the nonresidential property may have the required protective screen wall waived by submittal of a waiver, signed by all

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abutting property owners, with signatures notarized, waiving objection to the existence of an unwalled nonresidential use.

*(1) Protective screen walls.*

- a. Walls shall be at least five feet in height, except, when erected within 20 feet of a residential front property line, shall be reduced to 30 inches in height. ~~and Walls~~ shall be constructed of brick, decorative concrete, other decorative masonry, or comparably durable and aesthetic wood or metal, excluding metal or wood slats in chainlink fences.
- b. Walls shall not contain any openings except those gates or similar means of access that may be approved in the course of site plan review.
- c. Walls shall extend the full length of the nonresidential property adjacent to a residential district. Walls in excess of 30 inches in height shall not be erected within 20 feet of a residential front property line. The five-foot wide landscape buffer shall be installed between the required wall and the property line when an alley separates the nonresidential property and the residential district.

*(2) Landscape buffer.*

- a. All landscape buffers~~The buffer~~ shall be a minimum of five feet in width at maturity.
- b. All portions of the landscape buffer shall be covered with natural grass, ground cover, shrubbery, mulch, or other suitable live plant material.
- c. At least one shade or flowering tree shall be planted in a required buffer for each 30 linear feet or portion thereof. Required shade or flowering trees may be planted at intervals or may be clustered if clustering improves the effectiveness of the buffer. Required trees to serve as a landscape buffer adjacent to a residential zoning district must be visible from the opposite side of the wall to enhance the buffering effect. Clustering of required trees shall be subject to city approval. If there is additional landscape area adjacent to the buffer strip, required trees may be placed adjacent to the buffer strip to allow a greater area for tree development.
- d. ~~Required h~~Hedges shall be planted in a required landscape buffer at with two-foot to three-foot intervals or clustered if the effectiveness of the buffer is improved. ~~Hedges shall be planted pursuant to the requirements of subsection 94-445(4)e.~~
- e. The amount of required plant material and of required buffer length shall be measured along the centerline of the buffer.
- f. Required trees, hedges and shrubs may not be clustered when planted next to buffer parking lots.

*(b) Buffering of nonresidential uses adjacent to a public thoroughfare and nonresidential zoning district.* The owner of property used for nonresidential purposes shall install and maintain a landscaped buffer strip along the entire edge of property adjacent to a public thoroughfare and other nonresidential zoning districts. The buffer strip shall be designed and landscaped as follows:

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(1) For industrial uses and uses in industrial districts, the buffer strip shall be at least ten feet wide along the edge of property when adjacent to a public thoroughfare and at least five feet wide along the edge of property when adjacent to nonresidential zoning districts. For all other nonresidential uses, the buffer strip shall be at least five feet wide along the entire edge of property when adjacent to a public thoroughfare, and when adjacent to nonresidential zoning districts.

(2) The buffer strip may not be interrupted by more than 25 percent of its required length to provide for signs or vehicular ingress and egress. This provision may be waived by the planning and zoning administrator to accommodate normal vehicular ingress and egress for properties possessing less than 100 feet of frontage along a thoroughfare. However, not more than 50 percent of this requirement may be waived.

(3) Trees, shrubs, natural grass, ground cover, or other suitable live plant material shall be planted over the entire buffer strip area. However, paving may be used in areas of intensive pedestrian circulation.

(4) At least one shade or flowering tree shall be planted in a required buffer strip for each 30 linear feet or portion thereof. Paved areas used for pedestrian circulation and vehicular access shall be included when calculating the length of the buffer strip. Trees may be clustered or planted irregularly as deemed appropriate. Clustering of required trees shall be subject to city approval.

(5) To determine the amount of required plant material, the required buffer strip length shall be measured along the centerline of the buffer.

(c) *Screening and landscaping for vehicular use areas.* The owner of property that contains vehicular use areas shall install and maintain a landscape buffer when such uses are adjacent to or visible from a public thoroughfare. Vehicular use areas for multifamily residential uses shall provide an additional decorative wall when such uses are adjacent to a residential zoning district. Screening and landscaping shall be installed as required by the following:

(1) *A decorative wall:* Vehicular use areas shall be screened from residential uses and districts by a 36-inch high brick, decorative concrete, other decorative masonry, or comparably durable wood or metal wall around the periphery. The screen does not include metal or wood slats in chainlink fences. The wall may not be interrupted along more than 20 percent of required length to provide vehicular ingress and egress; however, this provision may be waived to accommodate normal vehicular ingress and egress for properties possessing minimal frontage.

(2) *A landscaped buffer:* Vehicular use areas shall be screened from thoroughfares and residential uses and districts by a landscape buffer of at least five feet in width. Hedges shall be planted within the landscape buffer and are subject to the requirements of subsection 94-445(4)e. Shade trees must be planted at 30-foot intervals. The requirements of this section shall not apply ~~when screening or buffering~~

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is provided pursuant to section 94-444, or when property lines are adjacent to an existing structure.

TABLE XIV-1

MINIMUM REQUIRED LANDSCAPE BUFFER FOR THE VARIOUS ZONING DISTRICTS\*

Adjoining Proposed	Multifamily	Commercial	Industrial	Public Thoroughfare
<del>Multifamily</del>	<del>5 feet</del>	<del>5 feet</del>	<del>5 feet</del>	<del>5 feet</del>
<u>Multifamily ≤ 4 units</u>		<u>0</u>	<u>0</u>	<u>Setback<del>5</del></u>
<u>Multifamily &gt; 4 units</u>	<u>5 feet</u>	<u>5 feet</u>	<u>5 feet</u>	<u>10 feet</u>
Commercial	5 feet plus 5-foot high wall	5 feet	5 feet	5 feet
Industrial	5 feet plus 5-foot high wall	5 feet	5 feet	<u>10<del>5</del> feet</u>
Vehicular use areas	5 feet plus 3-foot high wall	5 feet	5 feet	5 feet

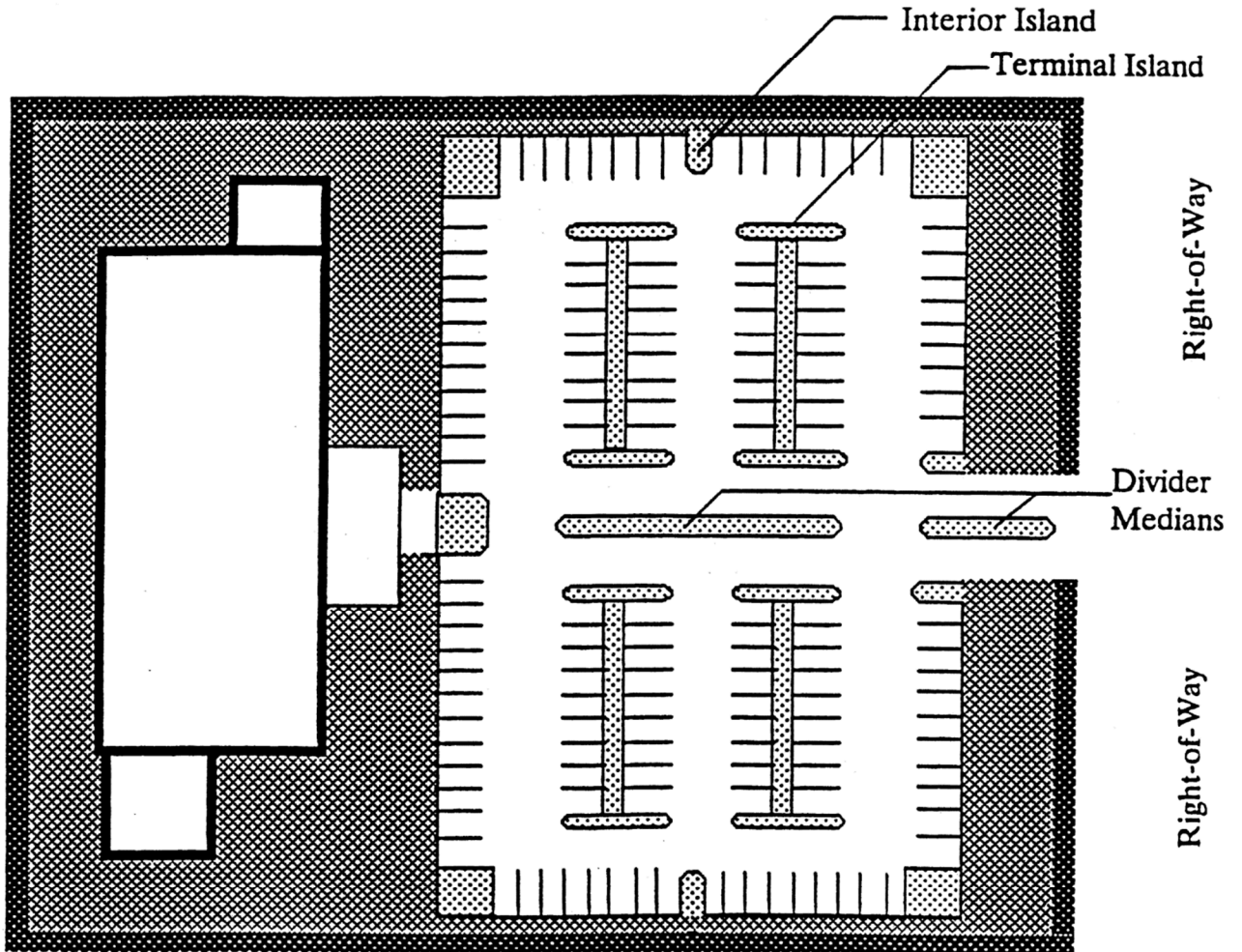
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



\* ~~Trees shall be planted at 30-foot intervals and hedges shall be planted at two-foot intervals for each required landscape buffer. Clustering of required trees shall be subject to city approval.~~

\*\* ~~The five foot wall must be lowered to 30 inches when erected within 20 feet of a residential front property line. The five foot wide landscape buffer shall be installed between the required wall and the property line when an alley separates the nonresidential property and the residential district.~~

(3) *Off-street parking lots.* Off-street parking lots containing at least 12 interior parking spaces shall contain landscape areas. The total size of such landscaped areas shall be equal to ten square feet for each parking space and shall be provided within the interior of an off-street parking area. Landscaped areas shall contain at least one shade or flowering tree for each 100 square feet of required landscaped area. A minimum of 75 percent of all trees that are required to be planted within the interior of an off-street parking area shall be shade trees. The shade trees shall be located in such a manner to produce maximum overhead canopy for the vehicles. All parking lot landscaped areas shall be planted with natural grass, ground cover, shrubbery, or other suitable live plant material. Parking lot landscaped areas shall be designed, planted, and maintained to permit clear vision between the height of two feet and eight feet above grade; however, this requirement shall not apply where the lack of clear vision is not deemed to be a safety hazard. Terminal islands, interior islands and divider medians should be designed to retain maximum water in the turf areas and are subject to the following requirements. Figure XIV-1 is an example of the location and relationship between the parking lot landscape areas and the property.

FIGURE XIV-1  
LANDSCAPE AREAS FOR PARKING LOTS



-  Exterior Landscape Provided
-  Landscape Buffer
-  Vehicular Use Area
-  Interior Landscaping for Vehicular Use Area

Language added, and language ~~stricken~~ deleted.

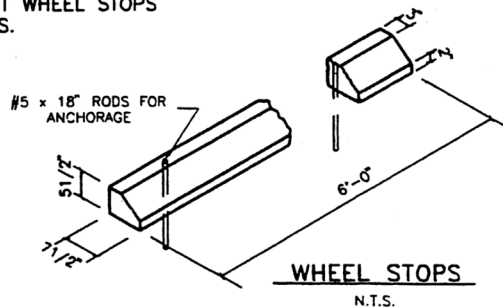
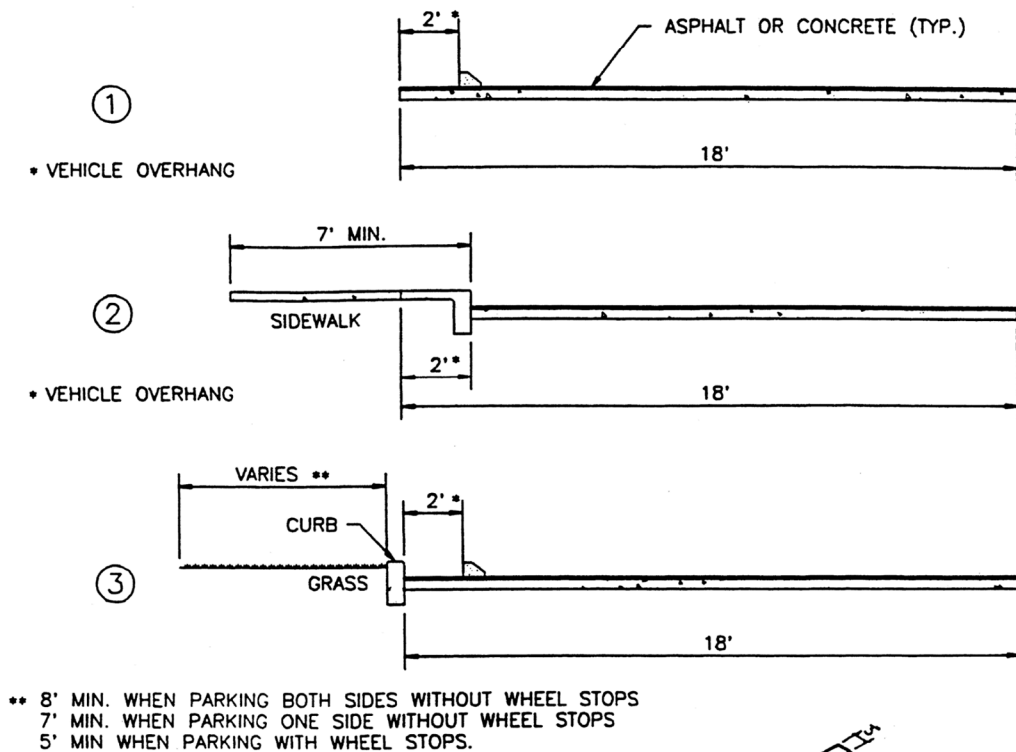
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- a. *Terminal islands.* Each row of parking spaces shall be terminated by landscaped islands of not less than five feet in width and not less than the length of the adjacent parking stall. ~~The Each~~ landscaped island shall have a minimum radius of 2½ feet at its end so as to allow car maneuvering. ~~The Each~~ landscaped island shall contain at least one shade or flowering tree per row of parking.
  - b. *Interior islands.* One interior landscape island shall be required ~~provided~~ for every ten parking spaces in a row or fraction thereof. Interior landscape islands shall be at least five feet wide measured inside the curb and shall contain at least one shade or flowering tree per row of parking.
  - c. *Divider medians.* Divider medians may be provided within the landscape area. If divider medians are used, they shall form a continuous landscaped strip between abutting rows of parking spaces. The minimum width of such a divider median shall be five feet. Shade or flowering trees within a divider median shall be planted at 30-foot intervals. The clustering of divider median trees may be approved by the planning and zoning administrator. The maximum spacing of trees however, shall not exceed 50 feet.
- (2) For other paved areas utilized by motor vehicles, including aisles, loading areas, circulation areas and drive-in service areas, additional landscaping shall be provided as follows: four square feet of landscaped area shall be required for each 100 square feet, or fraction thereof.
- (3) Landscape areas and plant materials must be protected from vehicular encroachment by curbs or wheel stops pursuant to subsection 94-442(b)(4). Parked vehicles shall not extend into a landscaped buffer area that is five or less feet wide unless two additional feet are added to the buffer. The two additional feet of landscaping shall contain no plant, irrigation device, or other object higher than six inches above the top of the curb of subsection (a) of this section. Landscape areas and sidewalks in the vehicular use area shall be designed in accordance with the minimum requirements set forth in Figure XIV-2. The usage of curbs is more preferable to wheel stops. However, wheel stops should be utilized when on-site drainage is a concern. Curbing and usage of wheel stops are subject to the following requirements:
- a. *Curbs.* Landscape areas shall be separated from vehicular use areas by non-mountable, concrete curbing of the type characterized as "Type D" in the current edition of the "Roadway and Traffic Design Standards Manual" prepared by the state department of transportation, or curbing of comparable durability. Extruded concrete curb shall not be placed on top of asphalt. Cemeteries shall not be required to provide curbing along internal roadways where such roadways directly abut areas of interment. Public parks and public utility facilities shall not be required to provide curbing along internal roadways. Curbing and wheel stops shall be required for cemeteries, public parks and public utility facilities in parking areas.

- b. *Wheel stops.* Landscape areas adjacent to off-street parking areas shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above the finished grade of the parking area. Wheel stops shall be anchored as approved by the city engineer and shall be continuously maintained in good condition. Only one wheel stop may be used for one parking stall. One-half wheel stop placed in front of a single wheel stall shall not be accepted.

**FIGURE XIV-2  
DIMENSIONAL REQUIREMENTS AND SPECIFICATIONS FOR  
CURBS AND WHEEL STOPS**



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(d) *Additional landscaping requirements for multifamily residential uses.* The owner of property used for multifamily residential uses shall install and maintain the following landscaping:

(1) A landscape buffer shall be required for multifamily residential uses adjacent to a public thoroughfare. Such a landscape buffer shall be equal to the setback at least five feet in width for properties that contain four or less multifamily dwellings, and at least ten feet in width for properties that contain five or more multifamily dwellings. A landscape buffer of at least five feet in width is also required for properties that contain five or more multifamily dwellings along the multifamily residential use and the adjacent properties. The buffer strip shall be designed and landscaped as required by the following:

- a. The buffer strip shall not be interrupted at more than ~~20~~<sup>25</sup> percent of its required length to provide vehicular ingress and egress; however, this provision may be waived to accommodate normal vehicular ingress and egress for properties possessing minimal frontage along a thoroughfare;
- b. All portions of the buffer strip shall be covered with natural grass, ground cover, shrubbery, mulch, or other suitable plant material;
- c. At least one tree shall be planted in a required buffer strip for each 30 linear feet or portion thereof. Required street trees may be clustered or planted irregularly as deemed appropriate. Clustering of all required trees shall be subject to city approval.

(2) Shade trees to be planted and landscaped on the exterior of all structures as required by the following:

- a. At least two shade or flowering trees for each dwelling unit for multifamily residential structures with two to five units per structure, and at least one shade or flowering tree for each dwelling unit for multifamily residential structures with six or more units per structure.
- b. At least 40 percent of the linear feet around the exterior of all structures shall be planted with trees, shrubs or hedges.
- c. All remaining, nonpaved areas shall be covered with natural grass, ground cover, mulch or contain beds of preserved native shrubs. Artificial turf shall only be permitted subject to the requirements of section 94-451.

(e) *Additional landscaping requirements for nonresidential uses.* The owner of property which is used for nonresidential uses shall install and maintain the following landscaping:

(1) At least 30 percent of the linear feet around the exterior of all commercial structures shall be planted with trees, shrubs or hedges;

(2) At least 20 percent of the linear feet around the exterior of all industrial structures shall be planted with trees, shrubs or hedges;



(3) All remaining, nonpaved areas shall be covered with natural grass, ground cover, mulch or contain beds of preserved native shrubs. Artificial turf shall only be permitted subject to the requirements of section 94-451.

**SECTION 4:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-444 (Miscellaneous open space standards) is hereby amended to delete subsections (b), (c) and (d) and delete Figure XIV-3, and shall now read as follows:

**Sec. 94-444. - Miscellaneous open space standards.**

(a) *Plazas.* Plazas shall be developed and landscaped as provided in this section.

(1) Plazas shall be paved, open, and landscaped areas which provide place for pedestrians to enjoy the out-of-doors.

(2) Pedestrians shall have direct access to the plaza from at least one major thoroughfare and at least 50 percent of the plaza frontage.

(3) Plazas shall be at least 900 square feet in area.

(4) Curb cuts providing motor vehicle access onto a plaza are prohibited; however, plazas may be designed to provide access for emergency vehicles.

(5) At least one tree shall be planted in required plaza for each 900 square feet or portion thereof. Shade trees shall be planted within the plaza area or along the periphery.

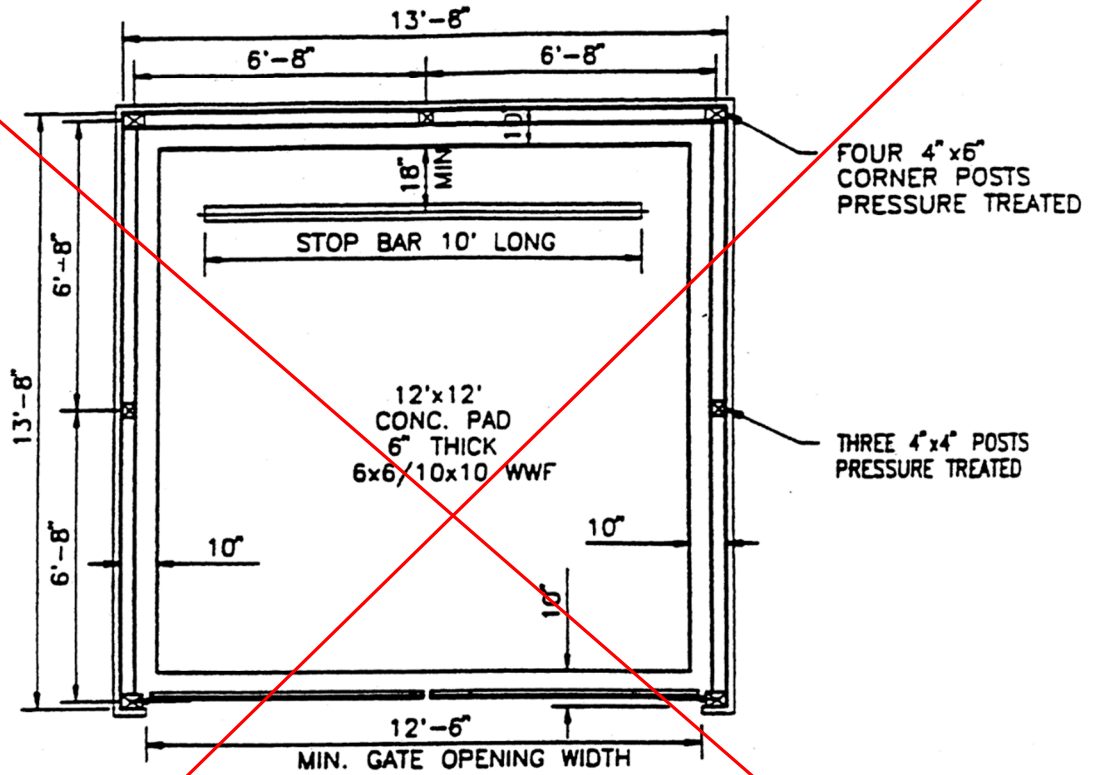
(6) At least one linear foot of seating for every 30 square feet of plaza space. Seating surfaces shall have a depth of between 16 and 20 inches.

(7) Ramps shall provide access for the handicapped to all pedestrian and seating areas and shall be in compliance with the Americans with Disabilities Act requirements.

(8) Floors and other plaza surfaces, excluding planting areas, shall be made of concrete or other equally durable impervious surface.

~~(b) *Outdoor storage for nonresidential and multifamily uses; storage and disposal facilities.* Outdoor incinerators, garbage or trash receptacles, fuel oil or propane tanks, and storage racks shall not be permitted unless appropriate screening is provided. Screening shall be constructed of brick, decorative concrete, other decorative masonry, or comparably durable wood and steel. Walls shall be landscaped with shrubs and hedges planted at two-foot intervals. A four-sided enclosure with an obscuring gate may be required as a condition for site plan approval. Plans for the layout of trash receptacles shall be in accordance with the minimum requirements set forth in Figure XIV-3. The provisions of this section shall not apply to litter containers provided for the convenience of pedestrians. All areas for the storage and disposal of trash and garbage shall be paved with concrete surface as required by the city department of engineering and public works.~~

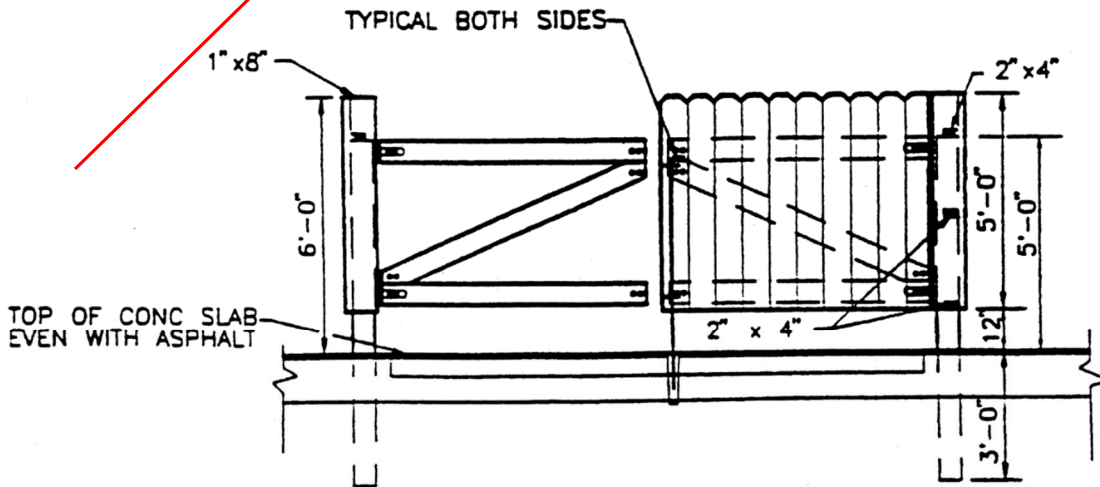
**FIGURE XIV-3  
DIMENSIONAL REQUIREMENTS AND SPECIFICATIONS FOR  
TRASH RECEPTACLES**



\* Walls must be landscaped with shrubs and hedges planted at two (2) feet intervals.

**PLAN VIEW**

N.T.S.



**FRONT VIEW**

N.T.S.

Figure XIV-3 Dimensional Requirements and Specifications for Trash Receptacles

~~(c) Outdoor storage and disposal of goods, merchandise and materials.~~

~~(1) Screening. Outdoor storage of goods, merchandise and materials shall not be permitted unless enclosed on all sides by a wall of adequate height constructed of brick, decorative concrete, other decorative masonry, or comparably durable wood or steel. Wall openings shall have obscuring gates. All areas for the storage and disposal of goods, merchandise, and materials shall be covered with either asphalt or concrete paving, or crushed rock of such specification and design as required by the engineering department.~~

~~(2) Exemptions.~~

~~a. Temporary outdoor storage of bulk garden and farming supplies, such as wood chips, peat moss, flower flats, and similar items shall not be subject to the provisions of this section.~~

~~b. Automobiles and other motor vehicles may be stored subject to the requirements of section 94-273, rather than this section. Motor vehicle sales establishments shall be permitted to display no more than five motor vehicles within landscape buffer strips established pursuant to the provisions of this section.~~

**SECTION 5:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial Turf), Section 94-445 (Plant material standards and specifications.) is hereby amended as shown, and to delete Figure XIV-4, and this section shall now read as follows:

**Sec. 94-445. – Plant material standards and specifications.**

All plant and nonplant material shall meet or exceed the standards and specifications of this section.

(1) *Maintenance free material.* To the extent practicable, all nonplant material shall be durable and maintenance-free.

(2) *Plant quality.* Plant materials used pursuant to the provisions of this ~~Section~~ article shall be equal to or better than Florida Department of Agriculture Number 1 Nursery Grade Standard.

(3) *Nonorganic plant materials prohibited.* Plastic or other nonorganic plant materials, with the exception of artificial turf, shall be prohibited from use and shall not be in compliance with the spirit or intent of this section. Artificial turf shall be subject to the requirements of section 94-451.

(4) *Required plant material specifications.*

a. ~~Shade and flowering and fruit trees.~~ Shade and flowering ~~and fruit~~ trees planted pursuant to the provisions of this ~~section Article~~ shall be a minimum of ~~eight~~ twelve feet in height, and possess a minimum of five feet of clear trunk space. Up to ten percent of required trees may be reduced in size to a minimum of 10 feet in height based upon species and availability.

b. *Palm trees.* Palm species shall be a minimum of eight feet clear wood as defined in Florida grades and standards. ~~Planted shall be reasonably resistant to lethal yellowing disease. Whenever the clustering of palm trees is utilized, a minimum of three palm trees per cluster shall be required. Palm trees that are exempt from the substitution requirement pursuant to section subsection 94-442(c) are also exempt from the clustering requirement.~~

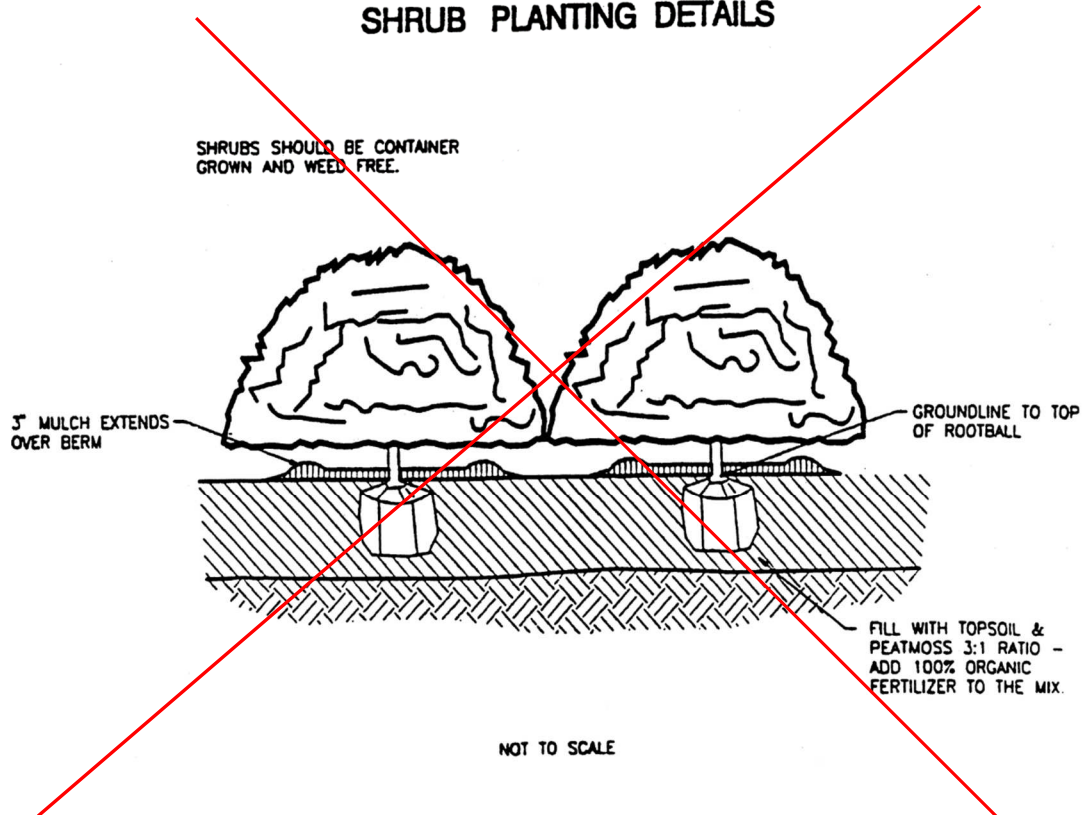
c. *Natural grass.* All natural lawn areas shall be planted with species suitable as permanent lawns in the city. Effective erosion control is mandatory in swales, rights-of-way, or other areas subject to erosion. The primary types of natural grasses used for residential, commercial, and industrial areas in South Florida are St. Augustine and Bahia cultivars. The selection of natural grass types shall be made while considering the long term economic and aesthetic effects of possible drought conditions upon the lawn areas. The following shall serve as a guide and is not meant to negate the use of other appropriate grass types for their specific site uses.

1. *St. Augustine grass.* St. Augustine grass should be used adjacent to areas that accommodate significant pedestrian traffic or where the aesthetics of the immediate area are considered an important factor.
2. *Bahia grass.* Bahia grass should be used in large, nonmanicured, turf areas such as open fields, recreation areas, road rights-of-way or other areas that are generally viewed from a distance or from a moving automobile.

d. *Shrubs.* Shrubs for general landscape purposes planted pursuant to the provisions of this section shall be a minimum plant container size of ~~two~~ three gallons. Container sizes for woody or herbaceous plant material, when utilized for ground cover, may vary. ~~The planting of shrubs shall be in accordance with the requirements set forth in Figure XIV-4.~~

Remove graphic

**FIGURE XIV-4  
SHRUB PLANTING DETAILS**



e. *Hedges*. Hedges shall be planted ~~at least~~ at a minimum of 24 inches in height with and a maximum spacing of two ~~to three-foot intervals at on~~ center. The hedge shall reach a maturity height of at least 4036 inches within two years of planting in the form of a solid continuous visual screen. Exceptions and substitutions from this provision may be approved by the planning and zoning administrator in order to promote the use of slow growing or native plant materials or specification of larger size plants at installation.

f. *Root systems*. Plant materials shall be selected to minimize potential root system damage or interference with public utilities.

g. *Irrigation systems*. Irrigation systems can be beneficial in efficiently adding water to cultivated landscape. The following guidelines shall be implemented for developing and maintaining irrigation systems.

1. *Irrigation of existing native noninvasive plant communities*. Existing native noninvasive plant communities and ecosystems maintained in a natural state may not require any additional irrigation water.

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2. *Reestablished native noninvasive plant area.* Native noninvasive plant areas that are supplements to an existing plant community or newly installed by the developer may initially require additional water to become established. Where newly planted native noninvasive areas have been installed in soils appropriate to the proposed native system, additional irrigation water after the period of establishment may not be necessary.
3. *Cultivated landscape areas.* Automatic irrigation systems shall be used for the cultivated landscape areas for all properties. Application of water through a properly maintained and regulated irrigation system can be the most efficient method of watering the landscape.
  - i. *Irrigation systems.* When irrigated, cultivated areas shall be irrigated by the use of an automatic irrigation system with controllers set to apply water as noted in this section. Irrigation controllers shall be switched to manual operation during periods of increased rainfall. Rainfall or moisture sensing devices are strongly encouraged to be used to avoid operation of the system during periods of increased rainfall.
  - ii. *Coverage requirements.* In all areas that are to be planted in a cultivated landscape, irrigation systems shall be designed to have ~~100~~<sup>200</sup> percent coverage- and eliminate water overthrow onto nonpervious areas.
4. *Zoning of irrigation systems.* Wherever feasible, sprinkler heads irrigating lawns or other high water demand landscape areas shall be circuited so that they are on a separate zone or zones from those irrigating trees, shrubbery or other reduced water requirement areas.
  - h. *Berm specifications.* All berms shall be landscaped with trees, shrubs, ground cover, grass or hedges. Berms shall be installed subject to approval by the city engineer.
  - i. *Prohibited trees.* The following tree species are considered invasive and will overtake other plant habitats. The following tree species are therefore considered unacceptable for use as landscape trees and shall not be planted within the city and shall be removed as required for maintenance and development:
    1. Casuarina species (Australian pine tree)
    2. Schinus terebinthifolius (Brazilian pepper tree)
    3. Melaleuca quinquenervia (Melaleuca tree)
    4. Bischofia javanica (Bishopwood)
    5. ~~Rhodomyrtus tomentosa (Downy Rose Myrtle)~~
    5. Acacia auriculaeformis (Earleaf Acacia)

6. Schefflera actinophylla (Schefflera)

7. Albizia lebeck (Woman's Tongue)

8. Cupianopsis anacardioides (Carrotwood)

9. Plants listed in Rule 5B-57.007 F.A.C, Noxious Weed List from the Florida Department of Agriculture and Consumer Services as revised from time to time.

j. *Limited use trees and plant materials.* ~~The following trees or plant materials~~ characterized by large fleshy fruit, surface or buttress roots, poisonous properties, or possible interruption of visibility shall not be planted in any parkway area, in any landscaped strip, or buffer adjacent to a public right-of-way. Trees that may cause injurious harm or toxic reactions should also be of limited use.

- ~~1. Khaya ryasica (African Mahogany)~~
- ~~2. Pithecellobium dulce (Apes Earring Tree)~~
- ~~3. Thuja orientalis (Arbovitae Tree)~~
- ~~4. \*Dypsis lutescens (Areca Palm)~~
- ~~5. Persea Americana (Avocado Tree)~~
- ~~6. Bambusa species (Bamboo)~~
- ~~7. Adansonia digitata (Baobab)~~
- ~~8. \*Strelitzia nicolai (White Bird of Paradise)~~
- ~~9. Averrhoa carambola (Carambola)~~
- ~~10. \*Agave and Furcraea species (Century Plant types)~~
- ~~11. Citrus species (Citrus Trees)~~
- ~~12. Enterolobium cyclocarpa (Ear Pod Tree)~~
- ~~13. Eucalyptus species (Eucalyptus Tree)~~
- ~~14. \*Cycas circinalis (Fern Palm)~~
- ~~15. \*Caryota mitis (Fishtail Palm)~~
- ~~16. Ceiba pentandra (Kapok Tree)~~
- ~~17. Mangifera indica (Mango Tree)~~
- ~~18. Calophyllum (Mast wood)~~
- ~~19. Morus species (Mulberry Tree)~~
- ~~20. Chorisia species (Floss Silk Tree)~~
- ~~21. Bombax malabaricum (Red Silk Cotton Tree)~~
- ~~22. Ficus species (Rubber Tree)~~
- ~~23. Hura crepitans (Sandbox Tree)~~
- ~~24. Manilkara zapota (Sapodilla Tree)~~
- ~~25. Kigelia pinnata (Sausage Tree)~~
- ~~26. \*Acoelorrhaphe wrightii (Paurotis Palm)~~
- ~~27. \*Pandanus utilis (Screw Pine)~~
- ~~28. \*Phoenix reclinata (Senegal Date Palm)~~
- ~~29. Yucca aloifolia (Spanish Bayonet)~~
- ~~30. Ravenala madagascariensis (Travelers Tree)~~

~~31. Casimiroa edulis (White Sapote Tree)~~

~~32. Terminalia species (Wild Tropical Almond)~~

~~\* Plant material permitted on private property adjacent to public property or rights-of-way.~~

k. *Use of Ficus species.* Ficus species may be planted as individual trees provided that they are no closer than 15 feet of any structure or utility. Ficus species planted within 15 feet of any structure or utility shall be permitted only if they are contained in a planter or maintained as a hedge which is constantly cultivated and does not exceed the height limitations as provided in section 94-302.

**SECTION 6:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-446 (Plant material installation and maintenance.) is hereby amended and shall read as follows:

**Sec. 94-446. – Plant material installation and maintenance.**

Plant material shall be installed and maintained as provided in this section.

(1) *Installation.*

a. Landscaping shall be installed showing skilled workmanship and according to accepted planting procedures.

b. Plant materials shall be located and installed to provide proper growing conditions and good drainage of root systems.

c. Soil in landscaped areas shall be free of debris, including paving base or fill material, and calcareous materials such as shell, lime rock, concrete, plaster, and stucco. Soil in landscaped areas shall consist of sand, peat, muck, and similar materials to produce a plastic and friable state. Such soils shall be at a minimum depth of six inches below the root ball and at least ten inches on all sides of the root ball. Planting areas are to be totally excavated whenever plant materials are installed 24 or less inches apart. Planting areas containing excessive calcareous materials shall be excavated to a minimum depth of two feet.

d. A minimum of three inches of compacted, sustainably harvested, non-cypress organic mulch shall be placed around all newly installed trees, shrubs and ground cover planting areas. The use of melaleuca mulch is encouraged. Mulch consisting of any exotic invasive species must be certified seed-free by the producer.

e. The planting of shade, flowering or fruit trees shall be installed in a sound workmanship like manner according to accepted and proper planting procedures. All trees shall be properly guyed and staked at the time of planting. Trees shall be re-staked in the event of blow-overs or other failure of the staking and guying. All



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guy wire and staking material should be removed as soon as the tree will stand on its own but no more than one year after planting.

f. Verification required. Written verification of proper landscaping installation by the landscape architect of record shall be provided to the city and shall include the following:

(1) Species, including quality, type, quantity, and any other original plant specifications;

(2) Design or location;

(3) Irrigation; and

(4) All other landscape structures and material used or installed in accordance with the site plan.

g. Review. The city will inspect and review the project for compliance after the verification has been received from the landscape architect.

h. Deviation. Any deviation from the approved landscape plan will be relayed to the planning and zoning administrator for further review prior to the issuance of the certificate of occupancy.

(2) Maintenance. All landscape areas shall be maintained on a regular basis, to include weeding, watering, fertilizing, pruning, mowing, edging, mulching, replacement of dead or missing landscaping, removal of prohibited plants, and other horticultural practices that are needed to keep landscaping in good condition, free from disease, insect pests, weeds, refuse, and debris. Landscape maintenance shall be carried out in a manner that will not disrupt, inconvenience or endanger any member of the public, or pedestrian, or motor vehicles. Landscaping shall be maintained in good condition, shall present a healthy, neat, and orderly appearance, and shall be free from refuse and debris. All unhealthy or dead material shall be replaced within ~~six~~ three months. All landscaped areas, excluding reestablished native noninvasive plant areas and areas of artificial turf installed in accordance with the provisions of section 94-451, shall be provided with a permanent automatic irrigation system.

a. Mulching. In order to preserve soil moisture, at least three inches of compacted, clean, weed free, sustainably harvested, non-cypress mulch shall be maintained over all appropriate planting areas at all times.

b. Tree trimming. Standards for trimming shall be performed in accordance with the latest Ppruning Sstandards for Sshade Ttrees ~~published recommended~~ by the National Arborist Association or other professional arborist association, a copy of which is on file in the planning, zoning and building department. Trees in the swales and parkways shall be trimmed by the adjacent property owner to prevent impedance ~~of~~ or interference with traffic or travel on sidewalk, street, or creates a danger to traffic by impeding or obstructing the view of intersections. Trees shall only be trimmed in the following manner:

1. All cuts shall be clean, flush with the branch collar and made at junctions, laterals or crotches. For overhead utility lines, the drop crotch trimming method shall be followed.

2. Removal of dead wood, overlapping branches, weak or insignificant branches and suckers shall be done simultaneously with any crown reduction.

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3. Tree topping or hatracking is prohibited. The severe cutting back of limbs to stub larger than three inches in diameter within the tree's crown to such an extent so as to remove the canopy and disfigure the tree shall not be done on any tree. Trees severely damaged by natural causes or under utility wires or other obstructions where other pruning practices are not possible may be exempted from this ordinance at the determination of the planning and zoning administrator or designee.

c. *Tree abuse.* Tree abuse shall not be permitted. The following shall be considered tree abuse:

1. Damage inflicted upon any part of a tree including the root system by machinery, storage materials, excavation and chemical application.
2. Damage inflicted by cutting a tree which permits infection or pest infestation.
3. Improper cutting ~~of~~ a tree, permanently reducing the function of the tree, or causing it to go into shock; cutting which destroys the natural shape; hatracking; tears and splitting of limb ends or peeling, stripping of the bark.
4. Girdling a tree with use of wires, weed eaters or mower damage.
5. Removal of the bark more than one-tenth of the tree.
6. Improper staking techniques resulting in damage to the tree or the use of nails directly into the trunk.

d. *Mowing.* Natural grass shall be mowed as required in order to encourage deep root growth and therefore the preservation of irrigation water.

e. *Edging.* All roadways, curbs and sidewalks shall be edged when necessary in order to prevent encroachment from the adjacent grassed areas. The use of weed-eaters to trim lawn grasses around a tree will be done so as not to remove bark causing the deterioration and eventual death of the tree.

f. *Watering.* Watering of planted areas should be managed so as to maintain healthy flora, make plant material more drought tolerant, avoid excessive turf growth, minimize fungus growth, stimulate deep root growth, minimize leaching of fertilizer, and minimize cold damage.

1. All landscaped areas, excluding reestablished native noninvasive plant areas and areas of artificial turf installed in accordance with the provisions of section 94-451, shall be provided with a permanent automatic irrigation system.
2. *Watering of plants and trees.* Watering of plants and trees should always be in a sufficient amount to thoroughly soak the root ball of the plant and the surrounding area, there by promoting deep root growth and drought tolerance.
3. *Operation of automatic irrigation systems.* Operation of automatic irrigation systems should be in accordance with section 90-93.
4. *Maintenance of irrigation systems.* Irrigation systems shall be constantly maintained to eliminate waste of water due to loss of heads, broken pipes, misadjusted nozzles or other causes.

g. *Removal of debris.* Fruit and debris, other than leaves from installed plant materials, shall not constitute a nuisance within public rights-of-way.

**SECTION 7:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-448 (Protection of trees and other vegetation.) is hereby amended and shall read as follows:

**Sec. 94-448. – Protection of trees and other vegetation.**

(a) *Intent.* The intent of this section is to protect trees and vegetative cover within the limits of the city.

(b) *Removal of trees from median, parkway, park or city owned property.* No person other than the city shall remove any tree from the median, parkway, park or city owned property without first obtaining a permit from the ~~planning and zoning administrator~~ city.

(c) *Application.* The terms and provisions of this section shall apply to real property as follows:

(1) All real property upon which any designated specimen or historic tree is located. A tree may be designated a specimen or historic tree by the following criteria:

a. *Historic tree.* A tree may be determined to be of notable historic interest to the city due to its age, type, size, or historic association with the community; and designated as such by the city commission. A registry of historic trees shall be maintained by the planning division.

b. *Specimen tree.* A tree may be determined, in the judgment of a professional forester, landscape architect, arborist, horticulturist, or similar expert, to be of high value of the community, because of its type, size, age, or other professional criteria; and designated as such by the city commission. Specimen trees may be protected by conditions of approval of development orders.

(2) All vacant and undeveloped property, and property containing no permanent buildings.

(3) All property containing permanent structures, ~~excluding property which contains four or fewer dwelling units and~~ upon which no designated specimen or historic tree is located.

(4) All redeveloped property.

(d) *Permits required.*

(1) *Tree alteration permit.* Historic trees, specimen trees, and any other trees or vegetation located on property subject to the provisions of this section shall not be removed, relocated, or replaced unless a tree alteration permit is obtained. Tree

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alteration permit applications shall be provided by the planning and zoning administrator. The application shall include a written statement that specifies the location of the property, expected use of the property, and reasons for removal, relocation, or replacement. The planning and zoning administrator may require submission of a landscape plan or aerial photograph when a permit is requested.

~~(2) *Landscape plan requirements.* When required, a landscape plan or aerial photograph shall contain the following:~~

- ~~a. Date, north arrow, and graphic scale.~~
- ~~b. The location of all existing or proposed structures, improvements, and uses.~~
- ~~c. The location of property lines, existing or proposed setback, and yard requirements.~~
- ~~d. The location of existing or proposed underground or overhead utility services.~~
- ~~e. Location of all proposed trees, shrubs, ground covers, and other landscape materials.~~
- ~~f. The common and botanical name, size, and location of all trees and vegetation on the site. A table showing the size and quantity of all proposed landscape materials. A key which identifies all landscape materials shown on the plan. Groups of trees or vegetation in close proximity may be designated as "clumps," with an identification of the predominate species, estimated number, average diameter, and approximate size.~~
- ~~g. Tabulation clearly displaying the relevant statistical information necessary for the evaluation of compliance with the provisions of this article. This includes gross acreage or square footage, gross open space, square footage of preservation areas, square footage of paved and landscaped areas, and such other information as the city deems appropriate.~~
- ~~h. Phasing of the site including any temporary landscaping.~~
- ~~i. Location and width of any proposed dedication of property for public rights-of-way.~~
- ~~j. Location and screening of all garbage receptacles.~~
- ~~k. Location, dimensions and screening of all proposed satellite dishes.~~
- ~~l. Delineation of the existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways, terminal islands, interior islands, divider medians and similar features.~~
- ~~m. Delineation of irrigation coverage, sensors location and high, medium and low zones of water usage; and details of the cross section of root ball and staking detail.~~
- ~~n. Statement that all landscaped areas, excluding those areas with native noninvasive plants, will be provided with permanent, automatic irrigation.~~
- ~~o. A tabulation clearly displaying each technique and method proposed to satisfy the Florida friendly landscape point system requirement and its accompanying point allocation.~~
- ~~p. If applicable, include a tabulation clearly displaying each design option proposed to satisfy the flexible design option point system and its accompanying point allocation.~~
- ~~q. Nature of adjacent land uses.~~

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~~r. Landscape plans, excluding those prepared for single family dwelling units, must be signed and sealed by persons as authorized by F.S. ch. 481, pt. II (landscape architecture).~~

~~(3)(2)~~ *Removal of trees and shrubs.* A permit to remove trees and vegetation shall not be issued unless one or more of the following conditions exists:

- a. The tree is not a designated historic or specimen tree per Section 94-448(c)(1)b.
- b. The tree cannot be relocated on or off the site because of its age, type, or size.
- c. The trees or shrubs constitute an unreasonable impediment to development of a permitted use of the property by virtue of their location in a buildable area or yard area where structures or improvements are to be placed.
- d. The trees or shrubs are diseased, injured, in danger of falling, too close to existing or proposed structures, interfere with existing or proposed utility services, create unsafe visual conditions affecting vehicular traffic, conflict with requirements of other ordinances of this chapter, or are a threat to the public health, safety, and welfare.
- e. The trees that are prohibited trees as specified in subsection 94-445(4)i.
- f. The planning and zoning administrator's decision for removal will be in the public interest.

~~(4)(3)~~ *Tree relocation and replacement.* The applicant for a tree removal permit shall be required to relocate or replace trees to be removed or provide payment in lieu thereof into the landscape trust account for trees that cannot be relocated, replaced or installed due to preexisting site development constraints as determined by the planning and zoning administrator. Relocated trees shall be installed in a sound and skilled manner according to accepted planting practices and shall be in accordance with the following:

- a. If the tree is transplanted, it shall be moved by the property owner in accordance with the National Arborist Association Standards to another location within the city and maintained by the new property owner.
- b. If a tree on public property is willfully destroyed by anyone except the city forester/arborist, the tree must be substituted with an equivalent replacement that is approved by the forester/arborist or designer on the site from which the destroyed tree was removed.
- c. No permit shall be required for the removal of trees that are dead, severely diseased, or destroyed by natural causes. This includes trees that are planted in a certified nursery or botanical garden.

(e) *Tree replacement.*

(1) *Characteristics.* Replacement trees shall have shade and screening potential equal to or superior to that of the trees they replace at the time of the initial installation, except as provided as follows:

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a. Trees that are ~~3520~~ 3520 feet or more in canopy size shall be mitigated based upon the size of the existing tree canopy, not the number of trees (i.e., if 100 square feet of existing canopy is removed, 100 square feet of canopy shall be planted).

b. Palms trees shall be mitigated on a one for one basis. When palm trees are substituted for shade trees, the equivalent canopy shall be replaced according to the category of the replacement species. ~~two palm trees shall be provided for each required shade tree. In accordance with subsection 94-442(4)(c), this 2:1 substitution shall not be required for Royal Palm Trees and suckering palm trees such as the Areca Palm, Paurotis Palm and the Senegal Date Palm.~~

(2) *Payment in lieu.* If it is determined by the planning and zoning administrator that the application for tree removal meets the permit requirements of subsections (d)(1) and (d)(3) above, but replacement, relocation or installation of trees and shrubs is not feasible due to site constraints, the following shall apply:

a. The applicant/owner shall make payment to the city's landscape trust account in lieu of actual tree or shrub replacement or installation. Funds collected pursuant to this section shall be expended for the purchase of trees for placement on public properties within the city.

b. The payment due shall be calculated based upon the costs for the number and type of tree(s) and/or shrubs required to be replaced or installed based upon the current edition of the Plant Finder catalog, plus installation costs ~~as established by resolution of the city commission.~~ equal to one times the cost. ~~based upon the current edition of the Plant Finder catalog.~~

(3) *Minimum standards.* All replacement trees shall be equal to or better than Florida Department of Agriculture Number 1 Nursery Grade Standard. All trees replaced or relocated pursuant to this section must be in a healthy, living condition one year from the date of planting. Replacements that are not established, have failed to a degree that survival is not probable, or have died must be replaced with healthy specimens. Such replacements must continue until a tree is established at the approved location.

(4) *Waivers of replacement standards.* Minimum standards may be waived if the applicant can demonstrate that current market conditions result in a shortage of appropriate replacement trees.

(f) *Tree protection.*

(1) *Land clearing and construction.* During land altering and construction, protective barriers specified by the planning and zoning administrator shall be erected and maintained around all trees or groups of trees to be protected. The movement of equipment or the storage of equipment, materials, and placement of debris or fill within protective barriers is prohibited.

(2) *Toxic substances.* During land alteration and construction, the cleaning of equipment or materials and the disposal of waste material such as paint, oil, solvents, asphalt, concrete, or mortar within the dripline of any tree or groups of trees is prohibited. Contaminated earth must be replaced.

(3) *Attachments and wires.* Attachments or wires, except those of a protective nature, shall not be attached to any tree.

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(4) *Alternate means of protection.* Trees located within portions of a development site where land clearing and construction activities will not occur or where heavy machinery will not operate shall not require protective barriers. Such areas shall be staked and roped, ribboned, or otherwise designated.

(5) *Removal of dangerous trees.* A tree alteration permit for the removal of a tree determined by competent authority to be in a hazardous or dangerous condition so as to endanger the public health, welfare, or safety, and require immediate removal without delay, may be issued after such tree has been removed.

(6) *Suspension.* Following an emergency such as a hurricane, tropical storm, tornado, or flood, and other natural causes such as drought conditions and freeze damage, the requirements of this section may be suspended by the planning and zoning administrator for a period of 30 days. Such a suspension shall apply only to trees which have been damaged beyond saving or are a hazard, provided that the planning and zoning administrator is notified of the intended removal at least 24 hours prior to removal.

(7) *Exemptions.* All licensed plant or tree nurseries and tree farms shall be exempt from the provisions of this section. However, this exemption shall apply only to those trees planted and growing on the premises of the licensee and intended for sale to the general public in the ordinary course of business.

(8) *Exempt trees.* The following trees and species listed in section 94-445(h)i. shall be exempt from the provisions of this section:.

a. ~~Schinus terebinthifolius (Brazilian Pepper Tree)~~

b. ~~Melaleuca leucadendron (Melaleuca)~~

c. ~~Casuarina species (Australian Pine)~~

d. ~~Bischofia javanica (Bishopwood)~~

e. ~~Redomyrtus tomentosa (Downy Rose Myrtle)~~

f. ~~Acacia auriculaeformis (Earleaf Acacia)~~

(9) *Removal and disposal of diseased trees.* Trees which are determined by the planning and zoning administrator to be diseased and to be a potential source for contaminating other trees, or for spreading tree infection or disease, shall be removed and disposed of without undue delay on an emergency basis, as the circumstances may require. The lethal yellowing disease of coconut trees shall be considered an emergency tree infection or disease.

(10) *Trees on city property.* Trees on city property shall not be removed by any firm, corporation, or individual unless prior approval is granted by the city. ~~manager~~

(11) *Removal and disposal of prohibited trees.* Trees which are included as prohibited trees pursuant to subsection 94-445(4)i shall be removed and disposed of from the entire site before a certificate of occupancy can be obtained.

(g) *Penalty for violation of protected trees.* In addition to penalties provided in section 94-9, the city shall have the option of pursuing civil actions in a court of competent jurisdiction for violation of any provision of this section or any special condition which may be imposed in a permit or other development order. The court or special magistrate may order a combination of tree replacement and fines for violations of this section. Funds

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~~collected as fines for violation of this section shall be expended for the purchase of trees for replacement on public property within the city. Replacement of illegally removed trees may be required as restitution in lieu of fines. Any person who removes trees in violation of this section shall pay to the city a civil penalty equal to the total value of trees illegally removed or damaged. Value shall be determined by utilizing the current International Society of Arboriculture shade tree value formula. This sum may be recovered in civil action brought by the city.~~

**SECTION 8:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-449 (Land clearing permit) is hereby amended and shall read as follows:

**Sec. 94-449. – Land clearing permit.**

(a) *Permit required.* Land clearing, land removing, or land filling activities shall not occur unless a land clearing permit has been issued.

(b) *Permit application procedures.* Application for a permit required by this section shall be obtained from the planning and zoning administrator. The application shall include a written statement specifying the location of the property and the reasons necessitating the land alteration.

(c) *Requirement for ~~the~~ tree alteration permits.* Tree alteration permits shall be approved for the removal or relocation of trees only as provided in 94-448.

(d) *Permit requirements.* A land clearing permit shall not be issued unless one of the following conditions exist:

- (1) The proposed land clearing, including removal of vegetation and trees, grading, removal and disposal of all prohibited trees, filling, contouring, and similar actions, is necessary to allow the permitted use of property.
- (2) A tree removal permit, if necessary, has been issued.
- (3) Appropriate measures, pursuant to this section, have been completed to protect existing native noninvasive trees and vegetation.

**SECTION 9:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf) Section 94-450 (Vacant lot and construction site maintenance.) shall be relocated to Section 94-316 of the Code and amended, as set forth in Section 15 of this Ordinance.



**SECTION 10:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV Landscaping, Land clearing, Tree protection, and Artificial turf) Section 94-450 (Vacant lot and construction site maintenance.) is hereby deleted in its entirety and replaced with Section 94-450 (Littoral planting zones) which shall read as follows:

**94-450- Littoral planting zones.**

(a) Required. Littoral planting is required on lakes whose water surface is larger than one half acre in size. The littoral planting zone is, at a minimum, an area that extends ten feet into a lake from the shoreline and extends a maximum of five feet upland from the shoreline.

- (1) Minimum planting area. At least 50 percent of the shoreline shall be planted with wetland trees and/or aquatic plants at ten square feet of littoral zone for every one linear foot of shoreline.
- (2) Minimum planting standards. There shall be a minimum of one tree for every 80 square linear feet, and plants shall be on a minimum of three-foot centers.
- (3) Slope. Shelf slope and size shall be noted on the landscape plan in the form of a cross section drawing and respective specifications based on actual plant and tree requirements.

**Sec. 94-450. – Vacant lot and construction site maintenance.**

~~(a) Intent. The intent of this section is to minimize the detrimental health, safety, general welfare and impacts of vacant lots and construction activities on the residents of the City of West Palm Beach; to ensure that each vacant lot and construction site is maintained, and each construction activity is conducted in such a manner so as to avoid unnecessary inconvenience and annoyance to the general public and the occupants of the neighboring properties; and to require maintenance practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbing construction activities.~~

~~(b) Applicability.~~

~~(1) The regulations contained in this section apply to all vacant lots and land disturbing construction and land development activities on properties within the boundaries and jurisdiction of the City of West Palm Beach.~~

~~(2) This section applies to all properties within the jurisdiction of the City of West Palm Beach with an active, printed or expired building permit or demolition permit for any land disturbing construction and/or land development activities as defined in this section.~~

~~(3) All Florida Department of Transportation (FDOT) funded construction is exempt from this section. All FDOT funded or conducted construction activities shall meet the requirements as required by Florida Department of Environmental Protection regulation.~~

~~(4) All other land disturbing construction and land development activities exempt from local permitting authority are exempt from this section. Land disturbing construction and land development activities performed by the city within city right-of-way or on city property are exempt from this section.~~

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~~(5) The demolition of existing buildings within the Downtown Master Plan Area shall follow the regulations established in subsection 94-102(1) of this Code.~~

~~(6) Where this section and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~

~~(c) *Definitions.* The following words, terms and phrases when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Erosion.* The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.~~

~~*Erosion control measure.* A practice or combination of practices to control erosion and attendant pollution.~~

~~*Irrigation.* The methods of supply and application of water other than natural rainfall to foster plant growth. Methods shall include an automated irrigation system or hand watering.~~

~~*Land development activities.* The construction of buildings, roads, parking lots, paved storage areas, demolition of structures, installation of utilities, or other similar facilities.~~

~~*Land disturbing construction activities.* Any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading landscaping modifications, and demolition.~~

~~*Land stabilization.* The restoration of a construction site to grade, tilling, planting of sod with provision for irrigation. Land stabilization does not include the removal of structures except temporary construction fences.~~

~~*Landowner.* Any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter. The term shall include the landowner's duly authorized agent, a purchaser, devisee, fiduciary, property holder as any other person, firm, corporation or legal entity having a vested or contingent interest or, in the case of a leased premises, the legal holder of the lease or his legal representative. It is intended that this term shall be construed as applicable to the person, firm, corporation or legal entity responsible for the construction, maintenance and operation of the building, facilities or premises involved.~~

~~*Seeding.* The planting of vegetative cover, such as grasses or legumes, over disturbed areas.~~

~~*Site.* The entire area included in the legal description of the land on which the land disturbing construction or land development activities are proposed in the permit application.~~

~~*Sodding.* The placement of permanent vegetative cover over disturbed areas as a method of permanent stabilization.~~

~~*Stormwater Pollution Prevention Plan (SWPPP).* A plan prepared in accordance with good engineering practices with a written description of the number, location and sizes of control measures designed to reduce pollutants in stormwater discharge associated with construction activity.~~

~~*Vacant lot.* Any parcel of land not containing a structure excluding a fence.~~

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~~*Vertical construction commencement.* Approved inspections of tie-beams, columns, or similar vertical construction, as applicable.~~

### ~~(d) Administration.~~

~~(1) A stormwater pollution prevention plan (SWPPP) pursuant to the city's stormwater management program shall be submitted along with the application for a building permit or demolition permit for any land disturbing construction or land development activities. It shall be unlawful to perform, or for the landowner of any construction site to allow to be performed, any construction activity prior to: (i) the issuance of a building permit, a demolition permit or a public right of way permit; and (ii) the city's approval of the SWPPP.~~

~~(2) The SWPPP shall be subject to the review and approval of the engineering services director or designee. Such review shall be conducted to ensure that the land disturbing construction or land development activities will be conducted in compliance with the Environmental Protection Agency (EPA) Federal Guidelines. The engineering services director or designee will respond and notify if any changes are required to the SWPPP. The SWPPP shall be monitored relating to the field conditions and if the measures are not effective, the SWPPP shall be revised.~~

~~(3) A SWPPP may be modified or amended upon the written approval of the engineering services director or designee.~~

~~(4) Unless otherwise provide in this section, the construction services director may, after two prior written warnings, revoke any demolition or building permit granted in accordance with this section for violation(s) of this section or any construction site maintenance regulations.~~

### ~~(e) Maintenance.~~

~~(1) *Job site.* Contractors, subcontractors and persons holding permits to perform land disturbing construction or land development activities, and the landowners of construction sites shall cause the construction site to be maintained in a neat and orderly condition that is free from any debris, garbage, junk, used or discarded construction materials, trash or any other foreign substance produced as a result of the land disturbing construction or land development activities, other than debris, garbage, junk, trash or other foreign substance deposited into and contained within a trash receptacle or trash dumpster.~~

~~a. In all instances where a building permit has not been issued within three months of the completion or abandonment of land disturbing construction activities, the job site shall, within 30 days after the expiration of such three month period, be brought to grade, tilled, planted and maintained with ground cover to include sodding or seeding which shall have irrigation. Any temporary construction fence shall also be removed. The construction services director or designee, with input from the planning director or designee, may grant, in writing, an extension to the time frame for the issuance of a building permit, under this paragraph, when the landowner has demonstrated a good faith effort in pursuing the building permit but that circumstances beyond the control of the contractor and/or permittee have occurred.~~

~~b. All construction waste and debris from new construction or major alteration or repair shall be kept in an enclosed container to minimize debris from littering adjacent properties and public rights of way. The permittee, contractor or~~

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~~landowner shall cause such waste or debris to be removed weekly in accordance with section 74-2 of this Code.~~

~~c. All mud or debris shall be continually removed from the public sidewalks and streets.~~

~~d. All weeds and grass shall be maintained in accordance with subsection 74-2(c) and section 94-446 of this Code.~~

~~e. Contractors, subcontractors, persons holding permits to perform land disturbing construction and land development activities and the landowners of construction sites shall, at the direction of the engineering services director or designee, either repair, or reimburse the city for its costs incurred to repair, any damage to any public right of way that is caused by any construction vehicle involved in the land disturbing construction or land development activities.~~

~~f. In the event that the demolition permit or building permit expires, all materials and equipment related to the land disturbing construction or land development activities shall be removed from the job site within ten days of the permit expiration date. The job site shall, within 30 days thereafter, be brought to grade, be tilled and planted with ground cover to include sodding or seeding which shall have irrigation. Said ground cover shall be maintained in accordance with subsections 74-2(c) and section 94-446 of this Code.~~

~~(2) *Temporary construction fences.* No temporary construction fence may be erected until a site plan depicting the materials, location and access gates has been approved as part of the fence permit issuance.~~

~~a. Temporary construction fences may not be erected until a demolition permit or building permit for the land disturbing construction or land development activities has been issued, and no more than ten days prior to the commencement of land disturbing construction or land development activities. If land disturbing construction or land development activities do not commence within ten days of fence installation, then, within 15 days of the ten-day period, the fence shall be removed and the site shall be tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with sections 74-2 and 94-446 of this Code.~~

~~b. In the event that the demolition permit or building permit expires, all temporary construction fences shall be removed within ten days of the permit expiration date, and within 15 days of removal of the fences, the site shall be brought to grade, tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with section 74-2 and 94-446 of this Code.~~

~~c. Temporary construction fences shall comply with the following requirements:~~

~~1. Temporary construction fences shall be installed in accordance with the Florida Building Code and Occupational Safety and Health Administration (OSHA) standards. Temporary construction fences installed pursuant to this section shall be subject to the visibility at intersections requirements of subsection 94-305(e) of this Code.~~

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~~2. All temporary construction fencing shall be maintained in a satisfactory manner by the permittee or landowner, during the entire period of the land disturbing construction and land development activities, to ensure adequate performance, to prevent nuisance conditions and to maintain the public health, safety and welfare.~~

~~3. Gates shall be chained and locked with a lock substantial enough to ensure closure and security when workers are not on the job site.~~

~~4. No temporary construction fence may encroach beyond the subject property line. No fence may encroach upon the public right-of-way without obtaining the appropriate public right-of-way permit(s).~~

~~5. Screening details shall be submitted with the temporary construction fence permit application. Wind screening shall be substantial enough to avoid rips or tears due to wind or sun, and shall have no less than 85 percent opacity. Screening shall be maintained in good condition at all times. Screening graphics shall be approved with a permit pursuant to the provisions of Chapter 94, Article 13, sign regulations, of the zoning and land development regulations of this Code.~~

~~6. All wind screening materials shall be removed upon the issuance of a hurricane warning for an area including the city. Screening materials shall be reinstalled not more than ten days after the hurricane threat has ended.~~

~~7. The construction services director or designee may grant the use of a temporary movable construction fence as part of a phased construction or phased demolition permit. Within ten days of the completion of the phase of construction or demolition, the temporary movable fence shall be removed, and may be replaced by another temporary construction fence meeting the provisions of this section.~~

~~d. The construction services director or designee may grant, in writing, a restriction or extension to the time frames for the erection or removal of temporary construction fences when necessary to maintain the public health, safety and welfare.~~

### ~~(3) Erosion control measures.~~

~~a. Applicability. Erosion control measures are required for the following sites of land disturbing construction or land development activities:~~

~~1. Sites requiring a filing of plat, involving the construction of or additions to houses, duplexes, condominiums, townhouses, apartments or construction of or additions to commercial, industrial, or institutional buildings.~~

~~2. Sites on existing lots of record involving the construction of or additions to houses, duplexes, condominiums, townhouses, apartments or the construction of or additions to commercial, industrial, or institutional buildings.~~

~~3. Sites involving grading, removing of protective ground cover or vegetation, excavating, land filling or other land disturbing activities affecting a surface area of 4,500 square feet or more.~~

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~~4. Sites involving excavating or land-filling or a combination of excavating and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.~~

~~5. Sites involving street, highway, road or bridge construction, enlargement, relocation or reconstruction excluding FDOT construction exempted by subsection 94-450(b)(3).~~

~~6. Those sites involving the laying, repairing, replacing or enlarging of an underground pipe, utility main or similar facility for a distance of 300 feet or more.~~

~~b. All sites for which erosion control measures are required, described in subsection (a) immediately above, shall comply with the city's stormwater management program and shall submit a stormwater pollution prevention plan (SWPPP) for approval by city.~~

~~c. The approved stormwater pollution prevention plan (SWPPP) shall be maintained by the permittee or landowner during the entire period of the land disturbing construction or land development activities on the site in a manner satisfactory to ensure adequate performance in accordance with the SWPPP and to prevent nuisance conditions. All erosion control measures installed in accordance with the SWPPP shall be removed by the permittee or landowner upon completion of all land development or land disturbing construction activities.~~

~~d. In the event that a building permit or demolition permit expires, within 30 days of the permit expiration date, the site shall be brought to grade, tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with subsections 74-2(c) and subsection 94-446 of this Code, and upon completion, all measures installed as part of the SWPPP shall be immediately removed.~~

### ~~(4) Waiver of erosion control requirements.~~

~~a. The engineering services director or designee shall have the authority, on a case-by-case basis, to grant a written waiver of any requirements of the stormwater management program or requirement for an SWPPP for small sites, for land disturbing construction or land development activities covering less than one acre, or individual single-family home sites in a previously platted subdivision or land division.~~

~~b. Any waiver of the stormwater management program requirements or for an SWPPP does not invalidate any other requirements set forth in this section.~~

### ~~(f) Erosion control and land stabilization bonds or deposits.~~

~~(1) Erosion control – Contractors, subcontractors and persons applying for a demolition and/or building permit to perform land disturbing construction or land development activities shall post an erosion control bond or deposit for the erosion control measures approved by the stormwater pollution prevention plan (SWPPP), in an amount established by resolution and satisfactory to the city to fully cover the costs associated with compliance with the SWPPP and other necessary erosion control of the site, should the permit expire. An erosion control bond shall not be required for the construction of~~

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~~single family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single family dwelling, existing duplex, or existing accessory apartment.~~

~~(2) Land stabilization — Contractors, subcontractors and persons applying for a demolition and/or building permit to perform land disturbing construction or land development activities shall, in addition to the erosion control bond, post a land stabilization bond or deposit, in an amount established by resolution and satisfactory to the city, to cover the costs associated with land stabilization of the site, should the permit expire. A land stabilization bond shall not be required for the construction of single family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single family dwelling, existing duplex, or existing accessory apartment.~~

~~(3) The erosion control and land stabilization bonds or deposits may be combined and posted together, combined with any performance bonds posted in favor of the city, or posted separately. The erosion control or land stabilization bonds or deposits shall be posted for the entire permitted site or project.~~

~~(4) Only the following types of bonds or deposits will be accepted: (i) bond issued by a surety company authorized to do business in Florida, (ii) deposit of a cashier check or bank draft of any national bank or state bank, (iii) deposit of a certified check drawn on a financial institution acceptable to the city, as determined by the finance department, (iv) letter of credit drawn on a financial institution acceptable to the city, as determined by the finance department, or (v) deposit of a U.S. postal money order.~~

~~(5) Upon vertical construction commencement, payment in full of all applicable fees, and compliance with all terms and conditions of any posted bond, the contractor, subcontractor or permit applicant who posted the bond or bonds or deposit may request release of same. The city shall provide the permittee with an approval to release bonds/deposits and the city shall issue a check in the amount of any unused deposit or a release of any bond and release of any other security given for the erosion control and/or land stabilization requirements.~~

~~(6) This section shall not apply to any federal government entity and shall not apply to any state, regional, county, local or municipal government entity of this state; or any public school, community college or state university.~~

### ~~(g) Enforcement; appeals.~~

~~(1) The construction services director, or designee, or engineering services director, or designee, are authorized to inspect construction sites for compliance with the requirements of this section.~~

~~(2) Stop-work orders. The construction services director may post a stop-work order for a building permit if any land disturbing construction activities or land development activities regulated under this section are being undertaken in violation of this section. The engineering services director may post a stop-work order if any land disturbing construction activities or land development activities regulated under this section are being undertaken for violations of this section occurring in the right-of-way or related to the SWPPP and erosion control measures.~~

~~(3) Stop-work order retraction. The construction services director or engineering services director who issued a stop-work order may retract that stop-work order once the violation of this section is cured.~~

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~~(4) Notice of intent. Not less than ten days after the posting a stop-work order as provided above, the engineering services director may issue a written notice to the permittee or landowner of the city's intent to perform work necessary to cure existing violations and comply with this section. Said notice shall be sent certified and regular mail. If, after 14 days from issuance of the notice of intent, the site is not in compliance with the requirements of this section, the city may enter the site and commence all work necessary to comply with this section. The city's costs for the work performed by the city shall be subtracted from the deposit or bond posted with the city and any additional costs shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due to fully reimburse the city, the city shall file a lien against the property for all unreimbursed costs, plus interest and administrative expenses, and may take all available actions to collect the sums due.~~

~~(5) Compliance with the provisions of this section may also be enforced in accordance with F.S. Ch. 162, or by injunction, uniform citation procedure, code enforcement procedure, fine, lien forfeiture or any other appropriate and available remedy.~~

~~(6) Decisions of the construction services director may be appealed to the construction board of adjustment and appeals. Decisions of the engineering services director regarding erosion control measures or SWPPP may be appealed to the stormwater utility board.~~

**SECTION 11:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-451 (Artificial Turf.) is hereby amended and shall read as follows:

### **Sec. 94-451. – Artificial turf**

(a) The use and location of artificial turf shall be limited to the following:

- (1) The construction of non-city-owned athletic fields and playgrounds associated with a non-city-owned community center, park, school, or university;
- (2) As part of the construction of any nonresidential development; or
- (3) On roof top terraces.

(b) Artificial turf proposed under the provision of subsection (a)(1) above shall only be installed upon approval of a class A special use permit, pursuant to the procedures and standards set forth in this chapter.

(c) In all areas of installation, artificial turf shall be treated as impervious surface area. The quantity of artificial turf to be incorporated into a project shall be limited by the maximum percentage of impervious surface for the subject property within the applicable zoning district.

(d) With the exception of those circumstances in which artificial turf is installed pursuant to subsection (a)(1) above, artificial turf shall not be:

- (1) A part of any landscape buffers required by this article;



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- (2) Visible from the public thoroughfare;
- (3) Installed within permanent drainage features (e.g., ponds, swales);
- (4) Installed in any residential zoning district.

(e) *Minimum material standards.* All artificial turf shall comply with the following minimum standards:

- (1) Artificial turf shall consist of green lifelike individual blades of grass that emulate natural turf in look and color and shall have a minimum pile height of 1.5 inches and shall have a minimum tufted weight of 56 ounces per square yard.
- (2) Where artificial turf is utilized for institutional recreational uses (e.g., playgrounds, athletic fields), the artificial turf product installed shall be designed for the intended use and meet the appropriate additional standards.
- (3) Artificial turf installations shall have a minimum permeability of 30 inches per hour per square yard.
- (4) All artificial turf shall have a minimum eight year manufacturer's warranty that protects against color fading and a decrease in pile height.
- (5) Artificial turf shall be lead free.
- (6) All materials must include test documentation which declares that the artificial turf yarn and backing materials are disposable under normal conditions, at any US landfill station (Total Content Leach Protocol (TCLP) test).
- (7) The use of indoor or outdoor plastic or nylon carpeting as a replacement for artificial turf or natural turf shall be prohibited.

(f) *Installation, maintenance and repair.*

- (1) All artificial turf shall, at a minimum, be installed according to the manufacturer's specifications.
- (2) All artificial turf installations shall be anchored to ensure that the turf will withstand the effects of wind.
- (3) All seams shall be nailed and glued, not sewn, and edges shall be trimmed to fit against all regular and irregular edges to resemble a natural look.
- (4) If artificial turf is planned to be installed immediately adjacent to a seawall, the artificial turf shall be pinned or staked behind the seawall. No artificial turf or installation mechanism shall be attached directly to or placed on a seawall or seawall cap.
- (5) Proper drainage shall be provided for all artificial turf installations to prevent excess runoff or pooling of water.
- (6) Artificial turf shall be visually level, with the grain pointing in a single direction.
- (7) An appropriate solid barrier device (e.g., concrete mow strip, bender board) is required to separate artificial turf from soil and live vegetation.
- (8) Precautions for installation around existing trees shall be monitored and may be restricted to ensure tree roots are not damaged with the installation of the base material and that the overall health of the tree will not be compromised

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(9) All artificial turf shall be maintained in a green fadeless condition and shall be maintained free of dirt, mud, stains, weeds, debris, tears, holes, and impressions. Maintenance shall include, but not be limited to cleaning, brushing, debris removal; repairing of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matted areas, weeds, and ~~evasive~~-invasive roots; and all edges of the artificial turf shall not be loose and must be maintained with appropriate edging or stakes.

(10) All artificial turf must be replaced if it falls into disrepair with fading or holes or loose areas. Replacement and/or repairs shall be done with like for like materials from the same manufacturer and done so in a manner that results in a repair that blends in with the existing artificial turf.

(g) An owner or applicant shall obtain a duly-authorized building permit from the city's development services department prior to the installation of any artificial turf.

**SECTION 12:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), Section 94-452 (Roadway beautification.) is hereby created and shall read as follows:

### **Sec. 94-452. – Roadway beautification**

(a) Intent. The intent of this section is to beautify public roads and keep the public roads aesthetically pleasing with landscaping and other enhancements.

(b) Applicability.

(1) The standards contained in this section shall apply to all public rights-of-way which are adjacent, contiguous or internal to existing and proposed residential and nonresidential developments. Landscaping and irrigation are required within roadway medians and road shoulders. All approved planned developments that are subject to major amendments, shall be required to landscape, irrigate and maintain improvements within adjacent and/or contiguous public rights-of-way. If a development order requires road improvements not adjacent and/or contiguous to the development, the petitioner of the development shall landscape and irrigate said road. Unless otherwise approved through a development order or other agreement, developers and their successors or assigns shall be responsible for the installation and maintenance of roadway landscaping, including irrigation. Where roads have been landscaped and enhanced, but become nonconforming due to safety standards implemented by this section, nonconformities may be rectified during future road improvements by the person or entity making the improvements.

(2) As new developments are approved, property owners on both sides of the road shall be required to share the cost of landscape and irrigation maintenance for medians and/or road shoulders based on the linear frontage of each development or by the square footage of the area to be maintained.

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(b) *Landscape plans.* Landscape plans for rights-of-way shall be submitted by the applicant and approved with each development approval.

(c) *Installation.*

(1) Landscaping installation shall be in accordance with applicable state and/or county engineering standards and this code. All landscaping and irrigation within the right-of-way shall be installed and completed within six months from the issuance of the clearing permit for said project or as otherwise approved by the city commission. The preparation of the soil within the road right-of-way shall include excavation of material detrimental to plant growth. Best management practices shall be used for proper soil preparation and drainage of the site. The water source for the roadway landscaping shall originate from the developer's project.

(2) The developer shall be responsible for obtaining all permits through the appropriate agencies.

(d) *Maintenance.* The developer and its successors, or assigns shall be responsible for the maintenance of the roadway landscaping. Landscaping maintenance shall be performed in accordance with applicable state and/or county engineering standards and city code requirements. The roadway shall be maintained to the same standard as the adjacent development landscaping. As new developments or major amendments to approved developments occur adjacent to existing roadway beautification projects, the cost to maintain the common median shall be equally shared between the property owners on both sides of the roadway, and each owner shall be jointly and severally liable for such maintenance, unless otherwise specified in the conditions of development approval or separate agreements. The city shall disclose to all parties any maintenance agreements between developments upon request, but it shall be the property owner's responsibility to coordinate the maintenance and the shared cost thereof.

(e) *Enforcement.* Failure to install and maintain roadway landscaping, including plant replacement, shall be a violation of this section as well as development order conditions, if applicable.

**SECTION 13:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIV (Landscaping, Land clearing, Tree protection, and Artificial turf), is hereby amended to create Section 94-453 (Nonconforming landscape areas) which shall read as follows:

**Sec. 94-453 Nonconforming landscape areas.**

(a) *Legal nonconformities established.* With the exception of sites that have been modified without city approval, any parcel of land which is the subject of a current valid development order or upon which a structure has been erected prior to April 1, 2017, and does not meet all or part of the minimum landscape requirements in this division shall be considered a legal nonconformity.

(1) Requirements for existing sites.

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a. The city shall use approved landscape plans or development orders as the minimum landscape installation standard and requirement for a developed site.

b. If an approved landscape plan is not on file with the city, the existing landscaping becomes a living plan of record and as such has the same standards and protection as allowed under provisions set forth in this article, similar to a landscape filed with and approved by the city.

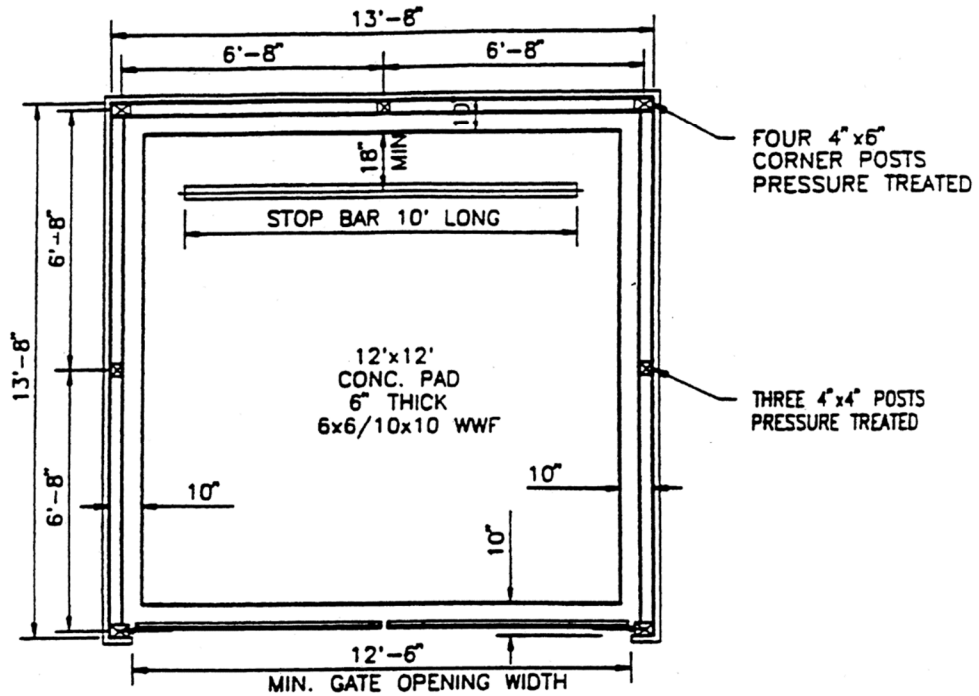
(b) Maintenance. Nonconforming areas are not exempt from minimum maintenance standards.

**SECTION 14:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article X (Supplemental District Regulations) Section 94-315 (Outdoor storage for nonresidential and multifamily uses; storage and disposal facilities.) is hereby created and shall read as follows:

**Sec. 94-315. – Outdoor storage for nonresidential and multifamily uses; storage and disposal facilities.**

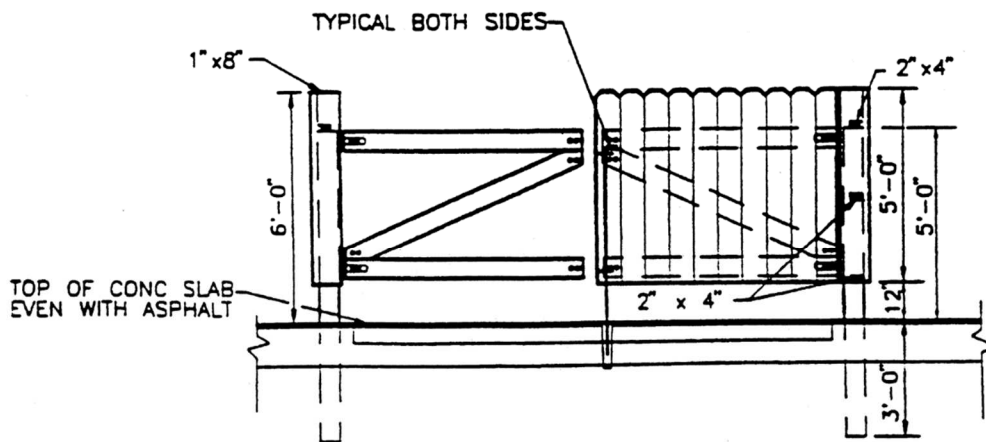
(a) Outdoor incinerators, garbage or trash receptacles, fuel oil or propane tanks, and storage racks shall not be permitted unless appropriate screening is provided. Screening shall be constructed of brick, decorative concrete, other decorative masonry, or comparably durable wood and steel. Walls shall be landscaped with shrubs and hedges planted at two-foot intervals. A four-sided enclosure with an obscuring gate may be required as a condition for site plan approval. Plans for the layout of trash receptacles shall be in accordance with the minimum requirements set forth in Figure XIV-3. The provisions of this section shall not apply to litter containers provided for the convenience of pedestrians. All areas for the storage and disposal of trash and garbage shall be paved with concrete surface as required by city engineering department.

**FIGURE XIV-3  
DIMENSIONAL REQUIREMENTS AND SPECIFICATIONS FOR  
TRASH RECEPTACLES**



\* Walls must be landscaped with shrubs and hedges planted at two (2) feet intervals.

**PLAN VIEW**  
N.T.S.



**FRONT VIEW**  
N.T.S.

*Figure X-6 Dimensional Requirements and Specifications for Trash Receptacles*

Language added, and language ~~stricken~~ deleted.

Asterisks \*\*\*\* indicate language not amended which has been omitted to save space.

(b) Outdoor storage and disposal of goods, merchandise and materials.

(1) Screening. Outdoor storage of goods, merchandise and materials shall not be permitted unless enclosed on all sides by a wall of adequate height constructed of brick, decorative concrete, other decorative masonry, or comparably durable wood or steel. Wall openings shall have obscuring gates. All areas for the storage and disposal of goods, merchandise, and materials shall be covered with either asphalt or concrete paving, or crushed rock of such specification and design as required by the city engineering department.

(2) Exemptions.

a. Temporary outdoor storage of bulk garden and farming supplies, such as wood chips, peat moss, flower flats, and similar items shall not be subject to the provisions of this section.

b. Automobiles and other motor vehicles may be stored subject to the requirements of section 94-273, rather than this section.

**SECTION 15:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article X (Supplemental District Regulations), Section 94-316 (Vacant lot and construction site maintenance.) is hereby created to amend and restate these regulations in this section, which shall read as follows:

**Sec. 94-316. – Vacant lot and construction site maintenance.**

(a) Intent. The intent of this section is to minimize the detrimental impacts to health, safety, and the general welfare resulting from vacant lots and construction activities; to ensure that each vacant lot and construction site is maintained, and each construction activity is conducted in such a manner so as to avoid unnecessary inconvenience and annoyance to the general public and the occupants of the neighboring properties; and to require maintenance practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbing construction activities.

(b) Applicability.

(1) The regulations contained in this section apply to all vacant lots and land disturbing construction and land development activities on properties within the boundaries and jurisdiction of the city.

(2) This section applies to all properties with an active, printed or expired building permit or demolition permit for any land disturbing construction and/or land development activities.

(3) All Florida Department of Transportation (FDOT) funded construction is exempt from this section. All FDOT funded or conducted construction activities shall meet the requirements as required by Florida Department of Environmental Protection regulation.

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- (4) All other land disturbing construction and land development activities exempt from local permitting authority are exempt from this section. Land disturbing construction and land development activities performed by the city within city right-of-way or on city property are exempt from this section.
- (5) The demolition of existing buildings within the Downtown Master Plan Area shall follow the regulations established in subsection 94-102(1) of this code.
- (6) Where this section and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(c) Administration.

- (1) A stormwater pollution prevention plan (SWPPP) pursuant to the city's stormwater management program shall be submitted along with the application for a building permit or demolition permit for any land disturbing construction activities or land development activities. It shall be unlawful to perform, or for the property owner of any construction site to allow to be performed, any construction activity prior to: (i) the issuance of a building permit, a demolition permit or a public right-of-way permit; and (ii) the city's approval of the SWPPP.
- (2) The SWPPP shall be subject to the review and approval of the engineering services director. Such review shall be conducted to ensure that the land disturbing construction or land development activities will be conducted in compliance with the Environmental Protection Agency (EPA) federal guidelines. The engineering services director will respond and notify if any changes are required to the SWPPP. The SWPPP shall be monitored relating to the field conditions and if the measures are not effective, the SWPPP shall be revised.
- (3) A SWPPP may be modified or amended upon the written approval of the engineering services director.
- (4) Unless otherwise provide in this section, the development services director may, after two prior written warnings, revoke any demolition or building permit granted in accordance with this section for violation(s) of this section or any construction site maintenance regulations.

(d) Maintenance.

- (1) Job site. Contractors, subcontractors and persons holding permits to perform land disturbing construction or land development activities, and the landowners of construction sites shall cause the construction site to be maintained in a neat and orderly condition that is free from any debris, garbage, junk, used or discarded construction materials, trash or any other foreign substance produced as a result of the land disturbing construction or land development activities, other than debris, garbage, junk, trash or other foreign substance deposited into and contained within a trash receptacle or trash dumpster.
  - a. In all instances where a building permit has not been issued within three months of the completion or abandonment of land disturbing construction activities, the job site shall, within 30 days after the expiration of such three-month period, be brought to grade, tilled, planted and maintained with ground

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cover to include sodding or seeding which shall have irrigation. Any temporary construction fence shall also be removed. The development services director may grant, in writing, an extension to the time frame for the issuance of a building permit, under this paragraph, when the property owner has demonstrated a good faith effort in pursuing the building permit but that circumstances beyond the control of the contractor and/or permittee have occurred.

b. All construction waste and debris from new construction or major alteration or repair shall be kept in an enclosed container to minimize debris from littering adjacent properties and public rights-of-way. The permittee, contractor or property owner shall cause such waste or debris to be removed weekly in accordance with section 74-2 of this code.

c. All mud or debris shall be continually removed from the public sidewalks and streets.

d. All weeds and grass shall be maintained in accordance with subsection 74-2(c) and section 94-446 of this code.

e. Contractors, subcontractors, persons holding permits to perform land disturbing construction and land development activities and the landowners of construction sites shall, at the direction of the engineering services director, either repair, or reimburse the city for its costs incurred to repair, any damage to any public right-of-way that is caused by any construction vehicle involved in the land disturbing construction activities or land development activities.

f. In the event that the demolition permit or building permit expires, all materials and equipment related to the land disturbing construction or land development activities shall be removed from the job site within ten days of the permit expiration date. The job site shall, within 30 days thereafter, be brought to grade, be tilled and planted with ground cover to include sodding or seeding which shall have irrigation. Said ground cover shall be maintained in accordance with subsections 74-2(c) and section 94-446 of this code.

(2) Temporary construction fences. No temporary construction fence may be erected until a site plan depicting the materials, location and access gates has been approved as part of the fence permit issuance.

a. Temporary construction fences may not be erected until a demolition permit or building permit for the land disturbing construction or land development activities has been issued, and no more than ten days prior to the commencement of land disturbing construction or land development activities. If land disturbing construction or land development activities do not commence within ten days of fence installation, then, within 15 days of the ten-day period, the fence shall be removed and the site shall be tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with sections 74-2 and 94-446 of this code.

b. In the event that the demolition permit or building permit expires, all temporary construction fences shall be removed within ten days of the permit expiration date, and within 15 days of removal of the fences, the site shall be brought to grade, tilled and planted with ground cover to include sodding or



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seeding which shall have irrigation and shall be maintained in accordance with section 74-2 and 94-446 of this code.

c. Temporary construction fences shall comply with the following requirements:

1. Temporary construction fences shall be installed in accordance with the Florida Building Code and Occupational Safety and Health Administration (OSHA) standards. Temporary construction fences installed pursuant to this section shall be subject to the visibility at intersections requirements of subsection 94-305(e) of this Code.

2. All temporary construction fencing shall be maintained in a satisfactory manner by the permittee or landowner, during the entire period of the land disturbing construction and land development activities, to ensure adequate performance, to prevent nuisance conditions and to maintain the public health, safety and welfare.

3. Gates shall be chained and locked with a lock substantial enough to ensure closure and security when workers are not on the job site.

4. No temporary construction fence may encroach beyond the subject property line. No fence may encroach upon the public right-of-way without obtaining the appropriate public right-of-way permit(s).

5. Screening details shall be submitted with the temporary construction fence permit application. Wind screening shall be substantial enough to avoid rips or tears due to wind or sun, and shall have no less than 85 percent opacity. Screening shall be maintained in good condition at all times. Screening graphics shall be approved with a permit pursuant to the provisions of chapter 94, article 13, sign regulations, of the zoning and land development regulations of this code.

6. All wind screening materials shall be removed upon the issuance of a hurricane warning for an area including the city. Screening materials shall be reinstalled not more than ten days after the hurricane threat has ended.

7. The development services director may grant the use of a temporary movable construction fence as part of a phased construction or phased demolition permit. Within ten days of the completion of the phase of construction or demolition, the temporary movable fence shall be removed, and may be replaced by another temporary construction fence meeting the provisions of this section.

d. The development services director may grant, in writing, a restriction or extension to the time frames for the erection or removal of temporary construction fences when necessary to maintain the public health, safety and welfare.

(3) Erosion control measures.

a. Applicability. Erosion control measures are required for the following sites of land disturbing construction or land development activities:

1. Sites requiring a filing of plat, involving the construction of or additions to houses, duplexes, condominiums, townhouses, apartments or construction of or additions to commercial, industrial, or institutional buildings.

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2. Sites on existing lots of record involving the construction of or additions to houses, duplexes, condominiums, townhouses, apartments or the construction of or additions to commercial, industrial, or institutional buildings.

3. Sites involving grading, removing of protective ground cover or vegetation, excavating, land-filling or other land disturbing activities affecting a surface area of 4,500 square feet or more.

4. Sites involving excavating or land-filling or a combination of excavating and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.

5. Sites involving street, highway, road or bridge construction, enlargement, relocation or reconstruction excluding FDOT construction exempted by subsection 94-316(b)(3).

6. Those sites involving the laying, repairing, replacing or enlarging of an underground pipe, utility main or similar facility for a distance of 300 feet or more.

b. All sites for which erosion control measures are required, described in subsection (a) immediately above, shall comply with the city's stormwater management program and shall submit a stormwater pollution prevention plan (SWPPP) for approval by city.

c. The approved stormwater pollution prevention plan (SWPPP) shall be maintained by the permittee or landowner during the entire period of the land disturbing construction or land development activities on the site in a manner satisfactory to ensure adequate performance in accordance with the SWPPP and to prevent nuisance conditions. All erosion control measures installed in accordance with the SWPPP shall be removed by the permittee or landowner upon completion of all land development or land disturbing construction activities.

d. In the event that a building permit or demolition permit expires, within 30 days of the permit expiration date, the site shall be brought to grade, tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with subsections 74-2(c) and subsection 94-446 of this code, and upon completion, all measures installed as part of the SWPPP shall be immediately removed.

(4) Waiver of erosion control requirements.

a. The engineering services director shall have the authority, on a case-by-case basis, to grant a written waiver of any requirements of the stormwater management program or requirement for an SWPPP for small sites, for land disturbing construction or land development activities covering less than one acre, or individual single-family home sites in a previously platted subdivision or land division.

b. Any waiver of the stormwater management program requirements or for an SWPPP does not invalidate any other requirements set forth in this section.

(e) Erosion control and land stabilization bonds or deposits.

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(1) Erosion control - Contractors, subcontractors and persons applying for a demolition and/or building permit to perform land disturbing construction or land development activities shall post an erosion control bond or deposit for the erosion control measures approved by the stormwater pollution prevention plan (SWPPP), in an amount established by resolution and satisfactory to the city to fully cover the costs associated with compliance with the SWPPP and other necessary erosion control of the site, should the permit expire. An erosion control bond shall not be required for the construction of single-family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single-family dwelling, existing duplex, or existing accessory apartment.

(2) Land stabilization - Contractors, subcontractors and persons applying for a demolition and/or building permit to perform land disturbing construction or land development activities shall, in addition to the erosion control bond, post a land stabilization bond or deposit, in an amount established by resolution and satisfactory to the city, to cover the costs associated with land stabilization of the site, should the permit expire. A land stabilization bond shall not be required for the construction of single-family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single-family dwelling, existing duplex, or existing accessory apartment.

(3) The erosion control and land stabilization bonds or deposits may be combined and posted together, combined with other performance bonds posted in favor of the city (other than the public construction bond posted by city contractors for city projects), or posted separately. The erosion control or land stabilization bonds or deposits shall be posted for the entire permitted site or project.

(4) Only the following types of bonds or deposits will be accepted: (i) bond issued by a surety company authorized to do business in Florida, (ii) deposit of a cashier check or bank draft of any national bank or state bank, (iii) deposit of a certified check drawn on a financial institution acceptable to the city, as determined by the finance department, (iv) letter of credit drawn on a financial institution acceptable to the city, as determined by the finance department, or (v) deposit of a U.S. postal money order.

(5) Upon commencement of construction, payment in full of all applicable fees, and compliance with all terms and conditions of any posted bond, the contractor, subcontractor or permit applicant who posted the bond or bonds or deposit may request release of same. The city shall provide the permittee with an approval to release bonds/deposits and the city shall issue a check in the amount of any unused deposit or a release of any bond and release of any other security given for the erosion control and/or land stabilization requirements.

(6) This section shall not apply to any federal government entity and shall not apply to any state, regional, county, local or municipal government entity of this state; or any public school, community college or state university.

(f) Enforcement; appeals.

(1) The development services director and engineering services director are authorized to inspect construction sites for compliance with the requirements of this section.

(2) Stop-work orders. The development services director may post a stop-work order for a building permit if any land disturbing construction activities or land development activities regulated under this section are being undertaken in violation of this section. The engineering services director may post a stop-work order if any land disturbing construction activities or land development activities regulated under this section are being undertaken for violations of this section occurring in the right-of-way or related to the SWPPP and erosion control measures.

(3) Stop-work order retraction. The development services director or engineering services director who issued a stop-work order may retract that stop-work order once the violation of this section is cured.

(4) Notice of intent. Not less than ten days after the posting a stop-work order as provided above, the engineering services director may issue a written notice to the permittee or property owner of the city's intent to perform work necessary to cure existing violations and comply with this section. Said notice shall be sent certified and regular mail. If, after 14 days from issuance of the notice of intent, the site is not in compliance with the requirements of this section, the city may enter the site and commence all work necessary to comply with this section. The city's costs for the work performed by the city shall be subtracted from the deposit or bond posted with the city and any additional costs shall be billed to the permittee or the landowner. In the event a permittee or property owner fails to pay the amount due to fully reimburse the city, the city shall file a lien against the property for all unreimbursed costs, plus interest and administrative expenses, and may take all available actions to collect the sums due.

(5) Compliance with the provisions of this section may also be enforced in accordance with F.S. Ch. 162, or by injunction, uniform citation procedure, code enforcement procedure, fine, lien forfeiture or any other appropriate and available remedy.

(6) Decisions of the development services director may be appealed to the construction board of adjustment and appeals. Decisions of the engineering services director regarding erosion control measures or SWPPP may be appealed to the stormwater utility board.

**SECTION 16:** The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article XIX (Definitions), Section 94-611 (Definitions) is hereby amended to add or amend the following definitions which shall read as follows. All other definitions in this section shall remain unchanged.

\*\*\*\*\*

Commencement of construction or start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction or a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, vertical construction, construction of columns, tie-beams, or any work beyond the stage of excavation or of the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

\*\*\*\*\*

Erosion means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

Erosion control measure means a practice or combination of practices to control erosion and attendant pollution.

\*\*\*\*\*

Florida native plant means a species occurring within the state boundaries prior to European contact, according to the best available scientific and historical documentation. Florida native plants include those species understood as indigenous, occurring in natural associations in habitats that existed prior to significant human impacts and alterations of the landscape.

Flowering tree means a tree reaching a minimum mature size of at least 15 feet tall and 15 feet in canopy spread at maturity that has ornamental value because of its production of flowers at some time during the year.

\*\*\*\*\*

Irrigation means the methods of supply and application of water other than natural rainfall to foster plant growth. Methods shall include an automated irrigation system or hand watering.

\*\*\*\*\*

Land development activities means the construction of buildings, roads, parking lots, paved storage areas, demolition of structures, installation of utilities, or other similar facilities.

Land disturbing construction activities means any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading landscaping modifications, and demolition.

Land stabilization Means the restoration of a construction site to grade, tilling, planting of sod with provision for irrigation. Land stabilization does not include the removal of structures except temporary construction fences.

\*\*\*\*\*

Seeding- means the planting of vegetative cover, such as grasses or legumes, over disturbed areas.

\*\*\*\*\*

Site means the entire area included in the legal description of the land on which the land disturbing construction or land development activities are proposed in the permit application or are occurring.

\*\*\*\*\*

Sodding. The placement of permanent vegetative cover over disturbed areas as a method of permanent stabilization.

\*\*\*\*\*

Start of construction. See, commencement of construction.

\*\*\*\*\*

Stormwater Pollution Prevention Plan (SWPPP). A plan prepared in accordance with good engineering practices with a written description of the number, location and sizes of control measures designed to reduce pollutants in stormwater discharge associated with construction activity.

\*\*\*\*\*

Vacant lot. Any parcel of land not containing a structure excluding a fence.

\*\*\*\*\*

Vertical construction approved inspections of tie-beams, columns, or similar vertical construction, as applicable.

**SECTION 17:** The City Commission of the City of West Palm Beach hereby finds and determines that the amendment described in this Ordinance are consistent with the standards set forth in Section 94-32 of the Zoning and Land Development Regulations, as follows:

- A. *Changed Conditions.* The revisions to the landscape code are necessary to bring the Code into conformance with current environmental and economic conditions.
- B. *Code Compliance.* The text amendments conform with all portions of the Zoning and Land Development Regulations.
- C. *Compatibility.* The text amendments do not create any incompatibilities.
- D. *Public Utilities.* The text amendments encourage water conservation, reducing demand to the water supply and has positive effects on drainage. There will not be any negative affects to capacities for other public facilities.
- E. *Natural Environment.* The text amendments encourage water conservation and preservation and expansion of the tree canopy, resulting in positive impacts on the natural environment.
- G. *Property Values.* The text amendments encourage the addition of landscaping and trees, and the maintenance of same, to add value to properties.
- H. *Orderly and Logical Development.* The text amendments will not affect the development pattern in a negative way, and will provide a positive result when applied to new and existing development.

**SECTION 18:** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

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**SECTION 19:** Should any section or provision of this Ordinance or any portion, paragraph, sentence or word thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 20:** Authority is hereby granted to codify the amendments set forth in this Ordinance.

**SECTION 21:** This Ordinance shall take effect in accordance with law.

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**FIRST READING THIS 30TH DAY OF JANUARY, 2017.  
SECOND READING AND PASSAGE THIS 11TH DAY OF APRIL, 2017.**



**ATTEST:**

X  
CITY CLERK

**CITY OF WEST PALM BEACH BY  
ITS CITY COMMISSION:**

X  
PRESIDING OFFICER

**APPROVED AS TO FORM AND  
LEGALITY:**

X  
CITY ATTORNEY