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3 ORDINANCE NO. 2013-51 OF THE CITY OF LAKE WORTH, FLORIDA,  
4 AMENDING PART II, CHAPTER 12, HEALTH AND SANITATION, BY ADDING  
5 AN ENTIRELY NEW ARTICLE TO BE ENTITLED "ARTICLE VIII."  
6 "FERTILIZER FRIENDLY USE REGULATIONS" TO PROVIDE FOR NEW  
7 FERTILIZER USE AND APPLICATION REGULATIONS FOCUSING ON  
8 EXCESSIVE NUTRIENT LEVELS IN PALM BEACH COUNTY WATER  
9 BODIES; PROVIDING FOR TITLE, PROVIDING DEFINITIONS; PROVIDING  
10 FINDINGS; PROVIDING A PURPOSE AND INTENT; PROVIDING FOR  
11 TIMING OF FERTILIZER APPLICATIONS; PROVIDING FOR FERTILIZER  
12 FREE ZONES; PROVIDING FOR FERTILIZER CONTENT AND  
13 APPLICATION RATES; PROVIDING FOR FERTILIZER APPLICATION  
14 PRACTICES; PROVIDING FOR MANAGEMENT OF GRASS CLIPPINGS AND  
15 VEGETATIVE MATTER; PROVIDING FOR EXEMPTIONS; PROVIDING FOR  
16 TRAINING; PROVIDING FOR LICENSING OF COMMERCIAL  
17 APPLICATORS; PROVIDING FOR ENFORCEMENT, PENALTIES, APPEALS;  
18 AMENDING PART II, CHAPTER 14, BUSINESS TAX RECEIPTS AND  
19 BUSINESS REGULATIONS, ARTICLE I, IN GENERAL, SECTION 14-6 TO  
20 INCLUDE PREREQUISITES NECESSARY TO OBTAINING A BUSINESS TAX  
21 RECEIPT; AMENDING PART II, CHAPTER 23, LAND DEVELOPMENT  
22 REGULATIONS, ARTICLE XXI, SUPPLEMENTAL REGULATIONS, SECTION  
23 23.21.08.11, MINIMUM MAINTENANCE REQUIREMENTS, CHAPTER 2,  
24 ADMINISTRATION, ARTICLE VII, ABATEMENT OF NUISANCES, SECTION  
25 2-75.9, LANDSCAPING, AND CHAPTER 23, LAND DEVELOPMENT  
26 REGULATIONS, ARTICLE XX, SITE PLAN REVIEW PROCEDURES AND  
27 REGULATIONS, SECTION 23.20.02.03, SITE DESIGN QUALITATIVE  
28 DEVELOPMENT STANDARDS, TO INCLUDE APPROPRIATE  
29 REFERENCES; PROVIDING A CODIFICATION CLAUSE, A CONFLICTS  
30 CLAUSE, and SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE;  
31 AND FOR OTHER PURPOSES

32 WHEREAS, pursuant to Section 303(d) of the federal Clean Water Act  
33 and the resulting Florida Impaired Waters Rule (Chapter 62-303, Florida  
34 Administrative Code), the Florida Department of Environmental Protection  
35 (FDEP) has classified specific water bodies in Palm Beach County as  
36 "impaired" as a result of the presence of excessive nutrients; and  
37

38 WHEREAS, Florida Statute, Section 403.9337 requires local  
39 governments located within the watershed of a water body or water segment  
40 that is listed as impaired by nutrients pursuant to Florida Statute, Section  
41 403.067, adopt an ordinance for Florida-Friendly™ fertilizer use on urban  
42 landscapes; and  
43

44 WHEREAS, FDEP on the 2<sup>nd</sup> day of March 2011, issued its Palm Beach  
45 County Municipal Separate Storm Sewer System Permit No. FLS 000018-003  
46 (hereinafter referred to as the "MS4 Permit") to forty-one (41) governmental  
47 entities including the City of Lake Worth; and

48 WHEREAS, the MS4 permit requires local governments within the  
49 watershed of an nutrient impaired water body to adopt FDEP's Model  
50 Ordinance for Florida Friendly Fertilizer Use on Urban Landscapes or an  
51 Ordinance that includes all the requirements set forth in the Model Ordinance;  
52 and

53  
54 WHEREAS, surface water runoff and base flow runoff leaves residential  
55 neighborhoods, commercial centers, industrial areas, and other lands of Palm  
56 Beach County and enters into natural and artificial stormwater and drainage  
57 conveyances and natural water bodies in Palm Beach County; and

58  
59 WHEREAS, phosphorus and nitrogen, the primary nutrients associated  
60 with the degradation of surface water, are commonly the primary components of  
61 fertilizer for turf and landscape application; and

62  
63 WHEREAS, the quality of streams, lakes, and wetlands is important to  
64 environmental, economic, and recreational prosperity and to the health, safety,  
65 and welfare of the residents of Palm Beach County; and

66  
67 WHEREAS, algae blooms and accelerated growth of aquatic weeds in  
68 Palm Beach County's water bodies have heightened community concerns  
69 about water quality and eutrophication of surrounding waters; and

70  
71 WHEREAS, it is generally recognized that Eastern Palm Beach County  
72 soils naturally have adequate phosphorus content for most vegetative needs  
73 and that additional phosphorus is therefore only occasionally needed to create  
74 or maintain a vibrant landscape; and

75  
76 WHEREAS, it has been recognized that proper application of slow-  
77 release nitrogen sources is more efficiently used by plants and less likely to  
78 leach or runoff; and

79  
80 WHEREAS, this Ordinance is part of a regulatory program to address  
81 nonpoint sources of nutrient pollution which is scientifically based, and  
82 economically and technically feasible; and

83  
84 WHEREAS, in the process of adoption of this Ordinance, the City of  
85 Lake Worth has considered scientific information, including input from the  
86 FDEP, the Department of Agriculture and Consumer Services, and the  
87 University of Florida Institute of Food and Agricultural Sciences; and

88  
89 WHEREAS, the City of Lake Worth City Commission has determined  
90 that the approval of the Fertilizer Friendly Use Regulations contained herein  
91 serve a valid public purpose.  
92

93 NOW, THEREFORE, BE IT ORDAINED BY THE, THE CITY OF LAKE  
94 WORTH FLORIDA, that:

95  
96 SECTION 1. The foregoing "WHEREAS" clauses are true and correct  
97 and are hereby ratified and confirmed by the City Commission.

98  
99 SECTION 2. Part II, Chapter 12, Health and Sanitation, is hereby  
100 amended by adding a new Article VIII to read as follows:

101  
102 CHAPTER 12  
103 HEALTH AND SANITATION  
104 ARTICLE VIII. – FERTILIZER FRIENDLY USE REGULATIONS.

105 \*\*\*

106  
107  
108 Sec. 12-100. Title.  
109 This shall be known as the Fertilizer Friendly Use Regulations  
110 Ordinance.

111  
112  
113 Sec. 12-101. Definitions.  
114 For this article, the following terms shall have the meanings set forth in  
115 this section unless the context clearly indicates otherwise.

116 *Application* or *Apply* shall mean the actual physical deposition of  
117 fertilizer to turf or landscape plants.

118 *Applicator* shall mean any person who applies fertilizer on turf  
119 and/or landscape plants in the City of Lake Worth.

120 *Approved Test* shall mean a soil test from the University of  
121 Florida, government, or other commercial licensed laboratory that  
122 regularly performs soil testing and recommendations.

123 *Best Management Practices (BMP's)* shall mean turf and  
124 landscape practices or combination of practices based on research, field-  
125 testing, and expert review, determined to be the most effective and  
126 practical site-specific means, including economic and technological  
127 considerations, for improving water quality, conserving water supplies  
128 and protecting natural resources.

129 *Code Compliance Officer, Official, or Inspector* shall mean any  
130 designated employee or agent of the City of Lake Worth whose duty it is  
131 to enforce codes and ordinances enacted by the City of Lake Worth.

132 *Commercial Fertilizer Applicator* except as provided in section  
133 482.1562(9), F.S., shall mean any person who applies fertilizer for  
134 payment or other consideration to property not owned by the person or  
135 firm applying the fertilizer or the employer of the applicators.

136 *Fertilizing* or *Fertilization* shall mean the act of applying fertilizer to  
137 turf, specialized turf, or landscape plants.

138 *Fertilizer* shall mean any substance or mixture of substances that  
139 contains one or more recognized plant nutrients and promotes plant

140 growth, or controls soil acidity or alkalinity, or provides other soil  
141 enrichment, or provides other corrective measures to the soil.

142 *Institutional Applicator* shall mean any person, other than a  
143 private, non-commercial or a Commercial Applicator (unless such  
144 definitions also apply under the circumstances), that applies fertilizer for  
145 the purpose of maintaining turf and/or landscape plants. Institutional  
146 Applicators shall include, but shall not be limited to, owners, managers,  
147 or employees of public lands, schools, parks, religious institutions,  
148 utilities, industrial or business sites and any residential properties  
149 maintained in condominium and/or common ownership.

150 *Landscape Plant* shall mean any native or non-native tree, shrub,  
151 or groundcover (excluding turf).

152 *Pasture* shall mean land managed for livestock grazing.

153 *Person* shall mean any natural person, business, corporation,  
154 limited liability company, partnership, limited partnership, association,  
155 club, organization, and/or any group of people acting as an organized  
156 entity.

157 *Prohibited Application Period* shall mean the time period during  
158 which a Flood Watch or Warning, a Tropical Storm Watch or Warning, or  
159 a Hurricane Watch or Warning is in effect for any portion of the City of  
160 Lake Worth, issued by the National Weather Service, or if heavy rain (2  
161 inches or more within a twenty-four (24) hour period) is likely.

162 *Saturated Soil* shall mean a soil in which the voids are filled with  
163 water. Saturation does not require flow. For the purposes of this article,  
164 soils shall be considered saturated if standing water is present or the  
165 pressure of a person standing on the soil causes the release of free  
166 water.

167 *Slow-Release, Controlled Release, Timed Release, Slowly-*  
168 *Available, or Water Insoluble Nitrogen* shall mean nitrogen in a form  
169 which delays its availability for vegetative uptake and use after  
170 application, or which extends its availability to the vegetation longer than  
171 a reference rapid or quick release product.

172 *Turf, Sod, or Lawn* shall mean an area of grass-covered soil held  
173 together by the roots of the grass.

174 *Urban Landscape* shall mean pervious areas on residential,  
175 commercial, industrial, institutional, highway rights-of-way, or other  
176 nonagricultural lands that are planted with turf or landscape plants. For  
177 the purposes of this section, agriculture has the same meaning as  
178 provided in section 570.02, Florida Statutes.

179  
180 Sec. 12-102. Findings.

181 As a result of the Florida Department of Environmental Protection's  
182 determination that certain water bodies within Palm Beach County are  
183 impaired for excessive nutrient levels, the city finds that the best  
184 management practices contained in the most recent edition of the

185 "Florida-Friendly Best Management Practices for Protection of Water  
186 Resources by the Green Industries", are required in this article.

187  
188 Sec. 12-103. Purpose and Intent.

189 It is the purpose and intent of this article to regulate the proper use of  
190 fertilizers by any applicator; require proper training of commercial and  
191 institutional fertilizer applicators; establish training and licensing  
192 requirements; establish a Prohibited Application Period; and specify  
193 allowable fertilizer application rates and methods, fertilizer-free zones,  
194 and exemptions. This article requires the use of Best Management  
195 Practices to minimize negative environmental effects associated with  
196 excessive nutrients in our water bodies. These environmental effects  
197 have been observed in and on Palm Beach County's natural and  
198 constructed stormwater conveyances, rivers, creeks, canals, lakes,  
199 estuaries and other water bodies. Collectively, these water bodies are  
200 an asset important to the environmental, recreational, cultural and  
201 economic well-being of Palm Beach County residents and the health of  
202 the public. Overgrowth of algae and vegetation hinder the effectiveness  
203 of flood attenuation provided by natural and constructed stormwater  
204 conveyances. Regulation of nutrients, including both phosphorus and  
205 nitrogen contained in fertilizer, is anticipated to help improve and  
206 maintain water and habitat quality.

207  
208 Sec. 12-104. Applicability.

209 This article shall be applicable to and shall regulate any and all  
210 applicators of fertilizer and areas of application of fertilizer to urban  
211 landscapes within the city, unless such application is specifically  
212 exempted by section 12-111 of this article. This article shall be  
213 prospective only, and shall not impair any existing contracts.

214  
215 Sec. 12-105. Timing of Fertilizer Applications.

216 (a) No applicator shall apply fertilizers containing nitrogen and/or  
217 phosphorus to turf and/or landscape plants during the Prohibited  
218 Application Period or to saturated soils.

219 (b) Fertilizer containing nitrogen and/or phosphorus shall not be  
220 applied before seeding or sodding a site, and shall not be applied for the  
221 first thirty (30) days after seeding or sodding, except when hydro-seeding  
222 for temporary or permanent erosion control in an emergency situation  
223 (wildfire, etc), or in accordance with the Stormwater Pollution Prevent  
224 Plan for that site.

225  
226 Sec. 12-106. Fertilizer Free Zones.

227 Fertilizer shall not be applied within ten (10) feet, or three (3) feet if a  
228 deflector shield or drop spreader is used, of any pond, stream, water  
229 body, lake, canal, or wetland as defined by the Florida Department of  
230 Environmental Protection (Chapter 62-340), Florida Administrative Code  
231 or from the top of a seawall or lake bulkhead. Newly planted turf or

232 landscape plants may be fertilized in this zone only for a sixty (60) day  
233 period beginning thirty (30) days after planting if needed to allow the  
234 vegetation to become well established. Caution shall be used to prevent  
235 direct deposition of nutrients, chemicals & fertilizer into the water.

236  
237 Sec. 12-107. Fertilizer Content and Application Rates.

238 (a) Fertilizers applied to turf within the city shall be formulated and  
239 applied in accordance with requirements and directions provided  
240 by Rule 5E-1.003(2), Florida Administrative Code, *Labeling*  
241 *Requirements for Urban Turf Fertilizers*. Under Rule 5E-1.003(2),  
242 Florida Administrative Code, required application rate and  
243 frequency maximums, which vary by plant and turf types, are  
244 found on the labeled fertilizer bag or container.

245  
246 (b) Nitrogen or phosphorus fertilizer shall not be applied to turf or  
247 landscape plants except as provided in section (1) above for turf,  
248 or in UF/IFAS recommendations for landscape plants, vegetable  
249 gardens, and fruit trees and shrubs, unless a soil or tissue  
250 deficiency has been verified by an approved test.

251  
252 (c) Fertilizer used for sports turf at golf courses shall be applied in  
253 accordance with the recommendations in "Best Management  
254 Practices for the Enhancement of Environmental Quality on  
255 Florida Golf Courses", published by the Florida Department of  
256 Environmental Protection, dated January 2007, as may be  
257 amended. Fertilizer used at park or athletic fields shall be applied  
258 in accordance with Rule 5E-1.003(2), Florida Administrative Code.

259  
260 Sec. 12-108. Fertilizer Application Practices.

261 (a) As required in Section 12-106 of this article, spreader deflector  
262 shields shall be used when fertilizing via rotary (broadcast)  
263 spreaders. Deflectors must be positioned such that fertilizer  
264 granules are deflected away from all impervious surfaces,  
265 fertilizer-free zones and water bodies, including wetlands. Any  
266 fertilizer applied, spilled, or deposited, either intentionally or  
267 accidentally, on any impervious surface shall be immediately and  
268 completely removed to the greatest extent practicable.

269  
270 (b) Fertilizer released on an impervious surface must be immediately  
271 contained and either legally applied to turf or any other legal site,  
272 or returned to the original or other appropriate container.

273  
274 (c) In no case shall fertilizer be washed, swept, or blown off  
275 impervious surfaces into stormwater drains, ditches,  
276 conveyances, or water bodies.

- 278           (d) Property owners and managers are encouraged to use an  
279           Integrated Pest Management (IPM) strategy as currently  
280           recommended by the University of Florida Cooperative Extension  
281           Service publications.

282  
283           Sec. 12-109. Management of Grass Clippings and Vegetative Matter.  
284           In no case shall grass clippings, vegetative material, and/or vegetative  
285           debris intentionally be washed, swept, or blown on to or into stormwater  
286           drains, ditches, conveyances, water bodies, wetlands, sidewalks or  
287           roadways. Any material that is accidently so deposited shall be  
288           immediately removed to the maximum extent practicable.

289  
290           Sec. 12-111. Exemptions.

291           The provisions set forth above in this article shall not apply to:

- 292  
293           (a) Bona fide farm operations as defined in the Florida Right-to-Farm  
294           Act, Section 823.14, Florida Statutes.  
295  
296           (b) Other properties not subject to or covered under the Florida Right-  
297           to-Farm Act that have pastures used for grazing livestock.  
298  
299           (c) Any lands used for bona fide scientific research, including, but not  
300           limited to, research on the effects of fertilizer use on urban  
301           stormwater, water quality, agronomics, or horticulture.

302  
303           Sec. 12-112. Training.

- 304           (a) All commercial and institutional applicators of fertilizer within Palm  
305           Beach County applying fertilizer to turf or landscape plants  
306           (including, but not limited to, residential lawns, golf courses,  
307           commercial properties, and multi-family and condominium  
308           properties) within the city shall abide by and successfully complete  
309           the six-hour training program in the “Florida-Friendly Best  
310           Management Practices for Protection of Water Resources by the  
311           Green Industries” offered by the Florida Department of  
312           Environmental Protection through the University of Florida/Palm  
313           Beach County Cooperative Extension Service “Florida-Friendly  
314           Landscapes” program or an approved equivalent program.  
315  
316           (b) Non-commercial and non-institutional applicators applying  
317           fertilizer to turf or landscape plants (including, but not limited to,  
318           residential lawns, golf courses, commercial properties, and  
319           multi-family and condominium properties) within the city which are  
320           not otherwise required to be certified, such as private citizens on  
321           their own residential property, are encouraged to follow the  
322           recommendations of the University of Florida/IFAS “Florida-  
323           Friendly Landscape Program” and label instructions when  
324           applying fertilizers.

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Sec. 12-113. Licensing of Commercial Applicators.

(a) All businesses applying fertilizer to turf or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, and multi-family and condominium properties) within the city must ensure that the business owner or his/her designee holds the appropriate "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a Local Business Tax Receipt. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the City of Lake Worth Business Tax Receipt/Use and Occupancy Division. It is the responsibility of the business owner to maintain the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" certificate to receive their Business Tax Receipt annually.

(b) After December 31, 2013, all commercial applicators of fertilizer within the city, shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18), Florida Administrative Code.

(c) All businesses applying fertilizer to turf and/or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties and multi-family and condominium properties) within the city must ensure that at least one (1) employee has an appropriate "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a Local Business Tax Certificate. Standard Business Tax Receipt (BTR) and transaction fees shall apply.

Sec. 12-114. Enforcement, Penalties, Appeals.

(a) Enforcement. The provisions of this article shall be enforced by the special magistrate pursuant to the authority granted by Section 162.01 et. seq., Florida Statutes, as may be amended, and the city through its authority to enjoin and fine any person violating its Code of Ordinances as provided at Article VI of Chapter 2, Administration. The city public services director, or designee, may pursue these or any other enforcement remedies available to and applicable to the city under applicable law.



370 (b) Penalties. Failure to comply with the requirements of this article shall  
371 constitute a violation of this article by either the applicable land owner  
372 or the Applicator. Each application which violates this article shall  
373 constitute a separate and distinct violation.  
374

375 (c) Disposition of Penalty Funds. Funds generated by penalties imposed  
376 under this article shall be used by the city for the administration and  
377 enforcement of Section 403.9337, Florida Statutes (2011), and the  
378 corresponding sections of this article, and to further water  
379 conservation and nonpoint pollution prevention activities.  
380

381 (d) Appeals. Appeals of administrative order of the special magistrate  
382 shall be as provided under state law, Section 162.11, Florida  
383 Statutes.  
384

385 SECTION 3. Part II, Chapter 14, Business Tax Receipts and Business  
386 Regulations, Article I, In General, Section 14-6 is hereby amended to read as  
387 follows:  
388

389 Sec. 14-6. - How local business tax construed as to specified professions.

390 (a) The local business tax provided in section 14-20 for architects,  
391 auctioneers, accountants, dentists, civil engineers, layers, osteopaths,  
392 chiropractors, physicians, real estate salesmen or other professions  
393 regulated by the department of business and professional regulation  
394 shall be construed to mean that each individual shall pay the local  
395 business tax herein provided, whether practicing by himself or in  
396 partnership, except in the case of pharmacist practicing the profession of  
397 pharmacy. (F.S. 205.196).  
398

399 (b) Pharmacies and pharmacists. The business tax officer shall not  
400 issue local business tax receipts to operate a pharmacy unless the  
401 applicant exhibits a current permit issued by the board of pharmacy;  
402 however, no such local business tax receipt shall be required in order to  
403 practice the profession of pharmacy.  
404

405 (d) The business tax officer shall not issue local business tax receipts to  
406 commercial fertilizer applicators unless the applicant meets the  
407 prerequisites contained in section 12-113.  
408

409 SECTION 4. Part II, Chapter 23, Land Development Regulations, Article  
410 6, Environmental Regulations, Section 23.6-1 subsection i) is hereby amended  
411 to read as follows:  
412

413 23.6-1. Landscape Regulations

- 415 i) *Minimum maintenance requirements.*
- 416 1. *General.* The landowner, or successors in interest, or agent, if  
417 any, shall be jointly and severally responsible for the following:
- 418
- 419 (a) All landscaping shall be maintained free from disease,  
420 pests, weeds and litter. This maintenance shall include  
421 weeding, watering, fertilizing, pruning, mowing, edging,  
422 mulching or other maintenance, as needed, and in  
423 accordance with acceptable horticultural practices and  
424 meet applicable City code requirements. Any fertilizing  
425 performed by a commercial fertilizer applicator shall be  
426 performed in compliance with section 12-113 of the city  
427 code.
- 428
- 429 (b) The repair or replacement of required landscape structures  
430 (e.g., walls, fences) to a structurally sound condition.
- 431
- 432 (c) The regular maintenance, repair or replacement, where  
433 necessary, of any screening or buffering required by this  
434 section.
- 435
- 436 (d) Perpetual maintenance to prohibit the re-establishment of  
437 prohibited controlled species as referenced in paragraph j  
438 within landscaping and preservation areas.
- 439
- 440 (e) Continuous maintenance of the site.

441 \* \* \*

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443

444 SECTION 5. Part II, Chapter 2, Administration, Article VII, Abatement of  
445 Nuisances, Section 2-75.9 is hereby amended to read as follows:

446

447 Sec. 2-75.9. - Landscaping.

- 448 (a) No more than twenty-five (25) percent of the area between the  
449 building and a street or fifty (50) percent of the remaining area  
450 shall be constructed with stone, concrete, asphalt or mulch except  
451 necessary walks and vehicular use area.
- 452
- 453 (b) Installation: All landscaping shall be installed in a sound,  
454 workmanlike manner and according to accepted good planting  
455 procedures.
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- 457 (c) Landscape material; general provisions:
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- (1) Plant material used in conformance with provisions of this article shall conform to the standards for Florida No. 1 or better, as given in "Grades and Standards for Nursery Plants," part 1, 1963, and part II, State of Florida, Department of Agriculture, Tallahassee, or equal thereto. Grass sod shall be clean, free of weeds and noxious pests or diseases. Grass seed shall be delivered to the job site in bags with state department of agriculture tags attached, indicating the seed grower's compliance with the department's quality control program.
  - (2) Grass areas shall be sodded with a species of grass that will survive as a permanent lawn in the city (assuming adequate watering and fertilizing). Any fertilizing performed by a commercial fertilizer applicator shall be performed in compliance with section 12-113 of the code.

Sod provided must be viable, reasonably free of weeds and capable of growth development. In general, sod strips shall be aligned with tightly-fitted joints and no overlap of butts or sides. Sub-grade of lawn areas shall be reasonably free of all stones, sticks, roots and other matter prior to the placement of sod.
  - (3) Ground covers used shall be planted in such a manner as to present a finished appearance and complete coverage.
  - (4) Maintenance: The owner, designated agent and/or tenant shall be responsible for the maintenance of all landscaping in accordance with the following standards:
    - a. Keep landscaping reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to be in a healthy growing condition.
    - b. Mow or trim landscaping in a manner and at a frequency appropriate to the use made of the material and species on the site so as not to detract from the appearance of the general area. Growth of plant material at maturity shall be considered where future conflicts such as views, signage, street lighting, utilities and circulation might arise.
    - c. Maintain all landscaping to minimize property damage and public safety hazards, including

506 removal of dead or decaying plant material, removal  
507 of low hanging branches next to sidewalks and  
508 walkways obstructing street lighting and removal of  
509 root systems which show evidence of destroying  
510 public or private property, and maintenance of sight  
511 distance standards as set forth herein. Any dead  
512 vegetation shall be promptly replaced with healthy  
513 living plantings of a like plant material as that  
514 originally installed.

515  
516 d. Pruning is to be performed strictly adhering to the  
517 standards established by the National Arborist  
518 Association.

519  
520 e. Hatracking as defined herein is strictly prohibited.

521  
522 (5) On existing properties that have poured concrete or asphalt  
523 which is maintained in a safe and aesthetic manner or  
524 properties covered with decorative stone (excluding  
525 drainfield rock) which are maintained free from weeds and  
526 maintained in an aesthetic manner, the property owner in  
527 lieu of removing the concrete, asphalt or stones shall  
528 provide the following:

529  
530 a. A two-foot wide planting strip around the perimeter  
531 of the property adjacent to the property line. Such  
532 strip shall be planted with an approved hedging  
533 material which shall be planted and maintained so  
534 as to form a continuous visual screen. Shrubs used  
535 as hedges shall be state department of agriculture  
536 grade no. 1 or better with a minimum height of  
537 twenty-four (24) inches and with a minimum spread  
538 of eighteen (18) inches, when measured  
539 immediately after planting and shall be capable of  
540 reaching a minimum of three (3) feet in height within  
541 two (2) years from the date of planting. Hedges shall  
542 be planted with branches touching so as to create a  
543 solid screen with no visual spaces between plants at  
544 time of installation. Plant spacing shall be adjusted  
545 according to plant sizes so long as a solid screen is  
546 achieved, but no further than eighteen (18) inches  
547 apart.

548  
549 b. Two (2) cut outs in the front yard. Such cut outs shall  
550 be at least six (6) feet in diameter and two (2)  
551 canopy trees with a minimum height of eight (8) feet

552 shall be planted surrounded by ground cover. On  
553 corner lots, two (2) additional trees shall be planted  
554 in the side yard adjacent to the street. Groups of  
555 three (3) palms may be substituted for canopy trees.  
556

557 c. A three-foot planting strip adjacent to the main  
558 structure, consisting of shrubs and ground cover.  
559

560 d. A plot plan shall be submitted to the building  
561 planning and zoning department for approval. The  
562 plan shall show the cut out areas with all  
563 measurements and common names of all trees,  
564 shrubs and ground cover. Once the plan is  
565 approved, it will be stamped approved and the  
566 property owner will receive a copy and the original  
567 will be placed in the property file.  
568

569 Anyone aggrieved by this section may, for a fee of fifty dollars (\$50.00),  
570 apply to the housing board of adjustments and appeals, when it would  
571 appear to cause undue hardship on an owner or when it is claimed that  
572 the true intent and meaning of this code or any of the regulations therein  
573 have been misconstrued or wrongly interpreted.  
574

575 SECTION 6. Part II, Chapter 23, Land Development Regulations, Article  
576 2, Administration, Division 3, Permits, Section 23.2-31, Site design qualitative  
577 standards, subsection c) is hereby amended to read as follows:  
578

579 23.2-31. *Site design qualitative standards.*

580 \* \* \*

581 c) *Qualitative development standards.*

582 1. *Harmonious and efficient organization.* All elements of the  
583 site plan shall be harmoniously and efficiently organized in  
584 relation to topography, the size and type of plot, the  
585 character of adjoining property and the type and size of  
586 buildings. The site shall be developed so as to not impede  
587 the normal and orderly development or improvement of  
588 surrounding property for uses permitted in these LDRs.  
589

590 2. *Preservation of natural conditions.* The natural (refer to  
591 landscape code, Article 6 of these LDRs) landscape shall  
592 be preserved in its natural state, insofar as practical, by  
593 minimizing tree and soil removal and by such other site  
594 planning approaches as are appropriate. Terrain and  
595  
596

597 vegetation shall not be disturbed in a manner likely to  
 598 significantly increase either wind or water erosion within or  
 599 adjacent to a development site. Natural detention areas  
 600 and other means of natural vegetative filtration of  
 601 stormwater runoff shall be used to minimize ground and  
 602 surface water pollution, particularly adjacent to major  
 603 waterbodies, as specified in Part II, Chapter 12, Health and  
 604 Sanitation, Article VIII, Fertilizer Friendly Use Regulations.  
 605 Fertilizer/pesticide conditions may be attached to  
 606 development adjacent to waterbodies. Marinas shall be  
 607 permitted only in water with a mean low tide depth of four  
 608 (4) feet or more.

609 \* \* \*

610  
 611  
 612 SECTION 7. CODIFICATION: The provisions of Sections 2 through 6 of this  
 613 Ordinance shall be made a part of the Code. The sections of this Ordinance  
 614 may be renumbered or reentered to accomplish such, and the word “ordinance”  
 615 may be changed to “section”, “article”, or other appropriate word.

616  
 617 SECTION 8. REPEAL OF LAWS IN CONFLICT: All ordinances or parts of  
 618 ordinances in conflict herewith are hereby repealed.

619  
 620 SECTION 9. SEVERABILITY: If any section, paragraph, sentence, clause,  
 621 phrase, or word of this Ordinance is for any reason held by a Court of  
 622 competent jurisdiction to be unconstitutional, inoperative, or void, such holding  
 623 shall not affect the remainder of this Ordinance.

624  
 625 SECTION 10. EFFECTIVE DATE: This ordinance shall take effect ten  
 626 (10) days after adoption.

627  
 628 The passage of this Ordinance on first reading was moved by  
 629 \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a  
 630 vote, the vote was as follows:

- 631  
 632 Mayor Pam Triolo  
 633 Vice Mayor Scott Maxwell  
 634 Commissioner Christopher McVoy  
 635 Commissioner Andy Amoroso  
 636 Commissioner John Szerdi

637  
 638 The Mayor thereupon declared this Ordinance duly passed on first  
 639 reading on the 15<sup>th</sup> day of October, 2013.

640

641 The passage of this Ordinance on second reading was moved by  
642 \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to  
643 a vote, the vote was as follows:

- 644
- 645 Mayor Pam Triolo
- 646 Vice Mayor Scott Maxwell
- 647 Commissioner Christopher McVoy
- 648 Commissioner Andy Amoroso
- 649 Commissioner John Szerdi
- 650

651 The Mayor thereupon declared this Ordinance duly passed and enacted  
652 on the 5<sup>th</sup> day of November, 2013.

653 LAKE WORTH CITY COMMISSION

654

655

656

657 By: \_\_\_\_\_

658 Pam Triolo, Mayor

659 ATTEST:

660 \_\_\_\_\_

661 Pamela J. Lopez, City Clerk

662

663

664

665