

ORDINANCE NO. 11-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH BY AMENDING CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS", SECTION 4.6.16. "LANDSCAPE REGULATIONS," SUBSECTION (E), "LANDSCAPE DESIGN STANDARDS" TO CLARIFY THE STANDARDS FOR THE DESIGN AND INSTALLATION OF PLANT MATERIALS AND TO ADOPT REGULATIONS GOVERNING THE USE OF ARTIFICIAL TURF; AMENDING SUBSECTION (H), "MINIMUM LANDSCAPE REQUIREMENTS" TO AMEND THE MINIMUM LANDSCAPE REQUIREMENTS FOR SINGLE FAMILY DETACHED RESIDENCES BY PROHIBITING THE USE OF ARTIFICIAL TURF IN THE RIGHT OF WAY; AND AMENDING APPENDIX A – "DEFINITIONS" TO PROVIDE A NEW DEFINITION FOR ARTIFICIAL TURF AND TO AMEND THE DEFINITION OF OPEN SPACE TO PROHIBIT THE USE OF ARTIFICIAL TURF IN THE CALCULATION OF OPEN SPACE AREAS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach ("City") has experienced a steady increase in requests to use artificial turf as part of proposed landscape plans; and

WHEREAS, artificial turf is a non-living material that does not emphasize the natural beauty of South Florida or meet the intent of establishing and maintaining a living plant ecosystem; and

WHEREAS, the Land Development Regulations of the City of Delray Beach Code of Ordinances ("LDR") do not specifically regulate the use of artificial turf; and

WHEREAS, clear land development regulations for the use of artificial turf will balance environmental concerns and the rights of property owners; and

WHEREAS, Ordinance No. 11-23 was presented to the Green Implementation Advancement Board on March 16, 2023, and the Board expressed general support for the proposed Ordinance; and

WHEREAS, Ordinance No. 11-23 was presented to the Historic Preservation Board on April 19, 2023, and the Board voted 5 to 0 to recommend approval of the Ordinance, with the recommendation that the same limitations be applied in Historic Districts as in other City Districts; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the Land

Development Regulations at a public hearing on May 15, 2023 and voted 7 to 0 to recommend that the proposed text amendment be approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. The City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan and in the best interests of the City.

Section 3. Chapter 4, "Zoning Regulations," Article 4.6, "Supplemental District Regulations," Section 4.6.16, "Landscape regulations," of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

(A) - (D) (These subsections shall remain in full force and effect as adopted).

(E) ***Landscape design standards.*** The following shall be considered the minimum standards for the design and installation of all plant materials ~~within the City of Delray Beach.~~

- (1) ***Design Florida-friendly landscape principles.*** Florida-friendly landscape principles shall be utilized in landscape designs and installations. ~~Principles of Florida friendly landscaping include, including planting the right tree or plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of the use of plant materials that attract wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Other Important considerations include:~~
 - (a) Appropriate planning and design ~~to include consideration of that considers~~ the size, and shape, and sun orientation of the lot, soil type, topography, intended use of area and site-specific planting to minimize irrigation waste.
 - (b) ~~Use of soil~~ Soil analysis and appropriate ~~amendments preparation~~ preparation to provide better absorption of water and ~~to provide~~ beneficial plant nutrients.
 - (c) Efficient irrigation systems ~~which that~~ that permit turf and other less drought tolerant plantings to be watered separately from more drought tolerant plantings, consideration of low volume drip, spray or bubbler emitters for trees, shrubs and ground covers.
 - (d) Reduction of turf areas, ~~utilizing less water demanding materials such as~~ and the installation of low water demand shrubs and living ground covers in conjunction with organic mulches.
 - (e) Utilization of drought tolerant plant materials and the grouping of plants with similar water requirements.

- (f) ~~Utilization~~ Application of mulches to increase moisture retention, reduce weed growth and erosion and increase the organic content of soil upon degradation. Mulch should be initially applied at a three-inch depth but pulled away from direct contact with stems and trunks to avoid rotting. Mulched planting beds are an ideal replacement for turf areas.
- (g) ~~Appropriate maintenance to preserve the intended beauty of the landscape and conserve water.~~
- (2) **Installation.** All landscaping shall be installed ~~in a sound, workmanlike manner and~~ according to sound horticultural and planting procedures with the quality of plant materials herein described. ~~All elements of~~ Landscaping shall be installed so as to meet all other applicable ordinances and code requirements.
- (3) **Vehicular encroachment.** There shall be no vehicular encroachment ~~over or~~ into any required landscape area. ~~In order to prevent encroachment and maintain a neat and orderly appearance of all planting~~ All landscape areas adjacent to parking spaces, accessways, and/or vehicular use areas traffic, ~~all landscape~~ areas shall be separated from vehicular use areas by carstops or non-mountable, reinforced 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 of Florida Department of Transportation~~ roadway design manuals, or curbing of comparable durability. In the case of curbing around required landscaped islands, the width of the curbing shall be excluded from the calculation of the minimum dimensions of the required island. Landscape islands are required to be a minimum of nine feet in width exclusive of the curb width. ~~The exception to this is that in~~ In paved parking lots, that the portion of the parking space extending beyond the car stop may be sodded, and vehicles may encroach into the area ~~therefore, a vehicle would encroach into this specific landscaped area.~~
- (4) **Quality.** All plant materials ~~used in conformance with provisions of this ordinance~~ shall conform to the Standards for Florida No. 1 or better as ~~given~~ identified in "Grades and Standards for Nursery Plants" ~~Part I, 1963 and Part II, by the State of Florida Department of Agriculture and Consumer Services, Tallahassee, or the most current revised edition.~~
- (5) **Trees.** ~~Shall be a~~ All tree species having shall have an average mature spread of crown greater than 20 feet and ~~having trunks which~~ that can be maintained in a clean condition with over six feet of clear mature wood. If necessary, a grouping of tree species ~~Trees having~~ with an average mature spread of crown less than 20 feet may be substituted ~~by~~ with a grouping of the same species so as to create the equivalent of a 20-foot spread of crown. Tree species shall be a minimum of 16 feet in overall height at the time of planting, with a minimum of six feet of single straight trunk with eight feet of clear trunk, and a seven-foot spread of canopy. Tree species required for single family homes and duplexes shall be a minimum of 12 feet in overall height at the time of planting, with a minimum of four feet of single straight trunk with six feet of clear trunk, and a six-foot spread of canopy.

~~When more than ten trees are required to be planted to meet the requirements of this section, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. This species mix requirement shall not apply to areas of~~

vegetation required to be preserved by law. The minimum number of species to be planted is as follows:

REQUIRED NUMBER OF TREES	MINIMUM NUMBER OF SPECIES
11—20	2
21—30	3
31—40	4
41 +	5

(6) ***Palms.*** ~~Shall be considered trees.~~ Palms may be used for up to 50 percent of the required trees. Palms considered susceptible to lethal yellowing by the Florida Department of Agriculture shall not be used to fulfill the requirements of this article.

(a) ~~Palm species which do not have a mature spread of crown of at least 15 feet shall be grouped in threes, and three palms shall equal one shade tree.~~ Palms must have an overall height of a minimum of 16 feet and a minimum of eight feet of clear trunk at the time of planting, ~~except~~ Palms used for single family homes and duplexes, which may must have palms with an overall height of a minimum of 12 feet and a minimum of six feet of clear trunk at the time of planting.

(b) Palms with a mature spread of crown of at least 15 feet, including Canary Date Palms, Bismark Palms, Coconut Palms and Royal Palms may be credited on a one for one basis with shade trees. Coconut Palms are permitted to have a minimum of two feet of grey wood at the time of planting, providing they are located so that the fronds are not hazardous. Palm species that do not have a mature spread of crown of at least 15 feet shall be grouped in threes, and three palms shall equal one shade tree.

(c) Minimum overall palm height may be increased if the palms variety are of a nature that the has fronds that hang below an eight-foot clearance, and are further, located in an area where pedestrians may be adversely affected by the fronds. No more than 50 percent of the required trees shall be palms.

~~Coconut Palms and Royal Palms may be credited on a one for one basis with shade trees. Coconut Palms are permitted to have a minimum of two feet of grey wood at the time of planting, providing they are located so that the fronds are not hazardous.~~

(7) ***Shrubs and hedges.*** All shrubs and hedges shall be a minimum of two feet in height when measured immediately after planting. Hedges where required shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after planting.

- (a) ~~To this end, s~~ Shrubs shall be spaced a maximum of two feet, center to center, unless plants are exceptionally full, in which case the shrubs shall be permitted to be planted up to a maximum of 30 inches, center to center, provided the branches are touching at the time of planting.
- (b) Hedges must be allowed to attain height of 36 inches except where providing adequate and safe sight distance requires them to be maintained at a 30-inch height.
- (c) ~~Hedges that are required for screening purposes shall have their height specified as follows shall meet the following specifications: Hedges shall fully screen equipment that is five feet above grade or less. Equipment five to 16 feet above grade shall be screened with hedges that are half of the height of the item to be screened. In such instances, the required hedge shall not be any less than five feet in height. Anything higher than 16 feet shall be screened with shrubbery that is a minimum of eight feet in height.~~

<u>Height of Equipment</u>	<u>Landscaping Required Height</u>
<u>Less than 5 feet above grade</u>	<u>Full screening</u>
<u>5-16 feet above grade</u>	<u>Hedge, half the height of the equipment, no less than 5 feet</u>
<u>Greater than 16 feet above grade</u>	<u>Shrubbery, 8 feet minimum</u>

- (8) **Lawn grass.** ~~(Turf or Sod) The irrigation of turf or sod lawn areas is A a major portion source of water demand used for landscape purposes is required for the irrigation of lawn areas. Therefore, the use of lawn areas is regulated as follows:~~
 - (a) Maximum Coverage. Portions of landscaped areas that have been customarily designed as lawns shall be: (a) Preserved as natural plant communities; ~~(b) P~~ planted as redeveloped native areas; ~~or (c) P~~ planted in traditional mixes of trees, shrubs, and ground covers. ~~Property managed non-grass landscape developments of site specific plantings will typically be able to survive on reduced water requirement and survive drought conditions better than lawn areas.~~
 - (i) ~~For e~~ Commercial, industrial and multi-family developments, ~~n~~ No more than 70 percent of the combination of the required interior greenspace and the required perimeter landscape buffers, shall be planted in lawn grass. The balance shall be planted in a mix of shrubs and ground covers.
 - (ii) ~~For the development of s~~ Single family and duplex residences, ~~n~~ No more than 80 percent of the pervious lot area shall be planted in lawn grass. A minimum of 20 percent of the pervious lot area shall be planted in shrubs and ground covers.

- (b) Maintenance. ~~When used,~~ Lawn grass shall be clean and reasonably free of weeds and noxious pests or diseases. When grass areas are to be seeded, sprigged or plugged, specifications must be submitted to and approved by the City Horticulturist. One hundred percent coverage must be achieved within 90 days. ~~Nurse grass must be sown for immediate effect and protection against soil erosion until coverage is otherwise achieved.~~
- (c) Mandatory Sod Usage. Solid sod must be used in swales, canal banks, rights-of-way and other areas subject to erosion.
- (9) **Ground covers:** Ground covers used in lieu of grass, in whole or part, shall be planted at such spacing to present a finished appearance and reasonably complete coverage within six months after planting. All ground cover areas must be kept free from weeds.
- (10) **Vines:** Vines shall be a minimum of 30 inches in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified.
- (11) **Organic Mulches:** Organic mulches may be used in combination with living plants as part of a landscape design ~~as provided in this section.~~ However, organic mulches shall not by themselves constitute landscaping. No more than 25 percent of a front or side street setback may be comprised of mulch independent of living plant materials.
- (12) **Artificial turf.** Artificial turf is allowed on both residential and non-residential properties, subject to the following requirements:
- (a) General.
- (i) The installation of artificial turf requires a landscape permit.
- (ii) Artificial turf areas may not be included in open space calculations.
- (iii) Artificial turf is considered pervious but cannot be used within permanent drainage features, including ponds and swales.
- (iv) Artificial turf shall not be installed closer than 5 feet to the property line
- (v) Artificial turf shall not be installed in or be visible from a public or private right-of-way.
- (vi) Artificial turf may be used in combination with living plants as part of a landscape design, but artificial turf shall not by itself constitute landscaping.
- (b) Locational criteria.
- (i) Residential and commercial uses. Residential and commercial properties are subject to the following additional criteria:

1. After building coverage, hardscaping areas, and minimum open space requirement areas are subtracted from the total lot area, no more than 15 percent of the remaining lot area may be comprised of artificial turf.
 2. Artificial turf is allowed in rear and interior side yards, and in side street yards when shielded from view. Artificial turf may also be used in conjunction with driveway pavers.
- (ii) Recreational uses. Artificial turf is allowed in recreational use areas, and is not required to be shielded from view.
 - (iii) Historic. On properties located within a Historic District or on Individually Designated Sites, as listed on the Local Register of Historic Places, artificial turf is only allowed in rear and side yards and must be shielded from view.
- (c) Materials and installation. All artificial turf must comply with the following minimum standards for materials and installation:
- (i) The artificial turf system shall be lead-free, and use recycled or organic plant-derived materials and natural infill components, including, but not limited to, cork, coconut, corn husk, rice husk, and sand. The use of crumb rubber and other synthetic materials shall be prohibited in all applications except for sports fields. Documentation must be provided that identifies all recyclable or natural components of the artificial turf system.
 - (ii) Permit applications shall include Total Content Leach Protocol (TCLP) test documentation demonstrating that the artificial turf yarn and backing materials are disposable under normal conditions at any U.S. landfill station.
 - (iii) A minimum 8-year manufacturer's warranty is required.
 - (iv) All artificial turf shall be installed over a subgrade that provides positive drainage and an evenly graded mass of compacted, porous crushed rock aggregate material. Bases may not be comprised of sand only. Proper drainage shall be provided for all artificial turf installations to prevent runoff or pooling of water.
 - (v) Artificial turf must be designed and permitted with a minimum permeability of 30 inches per hour per square yard.
 - (vi) Artificial turf must have lifelike individual blades of grass that emulate natural turf or sod lawn areas with the grain pointing in a single direction, and no visible seams.
 - (vii) Artificial turf shall not be installed directly against the trunk of trees or palms. A 3-foot mulch bed measured from the base of the tree or palm must be maintained. Installation

around existing trees shall be monitored and may be restricted to ensure that the overall health of the tree will not be compromised.

(viii) An in-progress inspection shall be required to ensure that the appropriate base material has been installed to manufacturer specifications. A final inspection shall also be required.

(d) Maintenance. Artificial turf shall be maintained free of dirt, mud, stains, weeds, debris, tears, holes, impressions, and fading. Maintenance shall include, but not be limited to cleaning, brushing, debris removal, repairs of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matted areas, weeds, and invasive roots, and maintenance of edges.

(F) - (G) (These subsections shall remain in full force and effect as adopted.)

(H) ***Minimum landscape requirements.***

(1) New-s*Single family detached residences.* For single family residences for which a building permit has not been applied for prior to October 1, 1990, ~~the~~ following minimum standards for landscaping shall apply:

- (a) One shade tree shall be planted for every 2,500 square feet of lot area. Shade trees for single family residences shall be a minimum of 12 feet in height with a five-foot spread at the time of installation. Existing trees preserved on the site with the same specifications as above, may be credited toward this tree requirement.
- (b) Shrubs shall be installed along the foundation of the side of the residence that faces any street.
- (c) Air-conditioning units ~~whose height is~~ five feet or less in height shall be screened with shrubbery or wood fencing ~~that is tall enough to fully screen the units from view.~~ Units higher than five feet above grade shall be screened with hedges that are half of the height of the unit item to be screened. ~~In such instances, the required hedge shall not be any, but no~~ less than five feet in height.
- (d) All other lot areas not covered by driveways or structures shall be planted with lawn grass or approved ground cover. ~~or other approved landscape materials.~~
- (e) The area between the property line and the edge of pavement of the abutting right-of-way shall be sodded. ~~Rock or, gravel, mulch, or artificial turf~~ is expressly prohibited from being used in the right-of-way.
- (f) All refuse container storage areas visible from an adjacent street must be screened with ~~vision obscuring~~ fencing, ~~or hedging.~~ A vision obscuring, and an opaque gate must be used in conjunction with hedging.

(g) All landscaped areas shall be provided with an irrigation system, automatically operated, to provide complete coverage of all plant materials and grass to be maintained. The source of water may be either from City water or non-potable water. The use of recycled water is encouraged.

(2)-(8) (This subsection shall be in full force and effect as adopted).

(I) (This subsection shall be in full force and effect as adopted.)

Section 4. Appendix A – “Definitions,” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

ARTIFICIAL TURF OR SYNTHETIC GRASS. An artificial grass mat manufactured with natural materials or man-made materials such as polypropylene, polyethylene, and/or other materials, which is intended to replicate the appearance of natural grass.

OPEN SPACE. All areas of natural plant communities or areas replanted with vegetation after construction, such as: revegetated natural areas; tree, shrub, hedge or ground cover planting areas; and lawns. Water bodies and artificial turf areas cannot be used to calculate open space areas.

Section 5. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Specific authority is hereby given to codify this Ordinance.

Section 8. This Ordinance shall become effective immediately upon its adoption on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this 5th day of September, 2023.

ATTEST:

Katerri Johnson
Katerri Johnson, City Clerk

Shelly Petrolia
Shelly Petrolia, Mayor

First Reading: 6/13/2023
Second Reading: 9/5/2023

Approved as to form and legal sufficiency:





Lynn Gelin, City Attorney