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**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 155, "ZONING CODE," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 155.2411., "TREE PERMIT," TO CLARIFY TREE PERMIT REQUIREMENTS; BY AMENDING SECTION 155.4228., "INDUSTRIAL; WAREHOUSING AND FREIGHT MOVEMENT USES," AND SECTION 155.4303., "STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES," TO SIMPLIFY SCREENING AND BUFFER REQUIREMENTS; BY AMENDING SECTION 155.5203., "LANDSCAPING." TO MODIFY LANDSCAPING AREA REQUIREMENTS BETWEEN VEHICULAR USE AREAS AND BUILDINGS; BY AMENDING SECTION 155.5204., "TREE PRESERVATION," TO EXPAND EXCEPTIONS FOR TREE PRESERVATION; BY AMENDING SECTION 155.5902., "MAINTENANCE," TO ADOPT STATE APPRAISAL METHOD FOR MAINTENANCE GUARANTEES; BY AMENDING SECTION 155.8202., "SPECIFIC VIOLATIONS," PROVIDING FOR VIOLATION OF NONCOMPLIANCE WITH APPROVED LANDSCAPE PLAN; BY AMENDING ARTICLE 9, PART 5, "DEFINITIONS AND INTERPRETATION" TO MODIFY THE DEFINITION OF "TREE ABUSE" TO PROVIDE FOR ADDITIONAL TREE PROTECTION REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has established as one of its strategic goals to further strengthen Pompano Beach as a "Preferred Place to do Business" and to enhance the City's reputation as being "business friendly"; and

WHEREAS, the City has sponsored two round-table forums to obtain developer and development community input regarding its land development codes and processes and has identified beneficial improvements, including landscape-related changes and other housekeeping measures to clarify and to reflect current policies and interpretations; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.2411., "Tree Permit," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.2411. TREE PERMIT

...

B. APPLICABILITY

Except for development exempted from the city's tree preservation requirements and standards in accordance with Section 155.5204.B.2, Exceptions, a Tree Permit approved in accordance with this subsection is required before:

1. The removal, relocation, replacement, or substantial alteration of any tree; or
2. Any land clearing ~~in an area designated as a Natural Forest Community;~~ or
3. Any ~~land disturbing, construction, or demolition activity, or any storage of materials or operation of equipment,~~ in the vicinity of an existing tree that is designated to be preserved.

...

E. EXPIRATION

A Tree Permit shall ~~remain valid until a Site Plan for the development is approved in accordance with the procedures and standards of this Code. An extension may~~

~~be granted in accordance with Section 155.2308.B.2, Extension of Expiration Time Period. automatically expire at the end of six months following the date of approval, or an extension of this time period authorized in accordance with Section 155.2308.B.2, Extension of Expiration Time Period.~~

SECTION 2. That Section 155.4228., “Industrial: Warehousing and Freight Movement Uses,” of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4228. INDUSTRIAL: WAREHOUSING AND FREIGHT MOVEMENT USES

A. OUTDOOR STORAGE (AS A PRINCIPAL USE)

1. Districts Where Permitted

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3. Standards

Outdoor storage as a principal use shall comply the following standards:

a. Perimeter buffer and screening standards

i. The area(s) used for outdoor storage shall be fully enclosed with a fence or masonry wall no less than eight feet high in accordance with Section 155.5302, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

ii. Perimeter buffers in accordance with Section 155.5203.F, Perimeter Buffers, shall be provided between the outdoor storage area(s) and the site's boundaries, with a type C buffer provided between an outdoor storage area and the front lot line, a type B buffer provided between an outdoor storage area and any side or rear lot line adjoining a street, and a type A buffer provided between an outdoor storage area and any other side or rear lot line.

iii.—(A) ~~Development Existing properties on or Before April 27, 1999. Lawfully existing outdoor storage established prior to 1999, or lawfully existing outdoor storage established prior to annexation without a landscape plan approved on record shall comply with the perimeter buffer and screening~~

standards of this section. Submission and approval of a landscape plan shall be required for compliance with this section. Upon compliance said outdoor storage facility shall be deemed a lawfully existing special exception use:

- (1) A fully-opaque fence may be substituted for the wall where required.
- (2) Any lot on public record prior to June 25, 1991, that is 100 feet or less in width may provide a five-foot wide perimeter buffer between an outdoor storage area and an interior side or street side lot line.
- (3) Buffer and screening standards shall not apply to a property line abutting an active railroad siding servicing the property.
- (4) Street trees shall be provided as required by the landscape ordinance.

~~Outdoor storage facilities existing on or before April 27, 1999 shall comply with the following standards by April 27, 2001. Upon compliance said outdoor storage facility shall be deemed a lawfully existing special exception use.~~

- ~~(A) A 25-foot wide landscaped area shall be provided between the front lot line and any outdoor storage area. Street trees shall be provided as required by the landscape ordinance. Screening shall consist of a combination of walls or fences, berms, shrubs, trees and ground cover. Chain link fencing shall not be allowed in the front landscape strip.~~
- ~~(B) A 15-foot wide landscaped area shall be provided between the street side lot line and any outdoor storage area. Street trees shall be provided as required by the landscape ordinance. Screening shall consist of a combination of walls or fences, berms, shrubs, trees and ground cover. If a property owner elects to construct a six-foot high solid fence or wall the width of the landscape strip may be reduced to 7.5 feet.~~

~~(C) — A ten-foot wide landscaped area shall be provided between the side and rear lot lines and any outdoor storage area provided, however, that any lot on public record prior to June 25, 1991 is 100 feet or less in width shall be required to provide a five-foot wide landscaped area. One ornamental tree shall be provided for each 25 feet of lot length and width. This requirement shall not apply to a property line abutting an active railroad siding servicing the property.~~

~~(D) — All repairs of equipment shall be done on a paved surface.~~

b. Any repair of equipment shall be conducted on a paved surface or within an enclosed building.

~~e. — Customers and vehicles shall be allowed to circulate through the area used for outdoor storage.~~

~~d. c.~~ All areas used for outdoor storage shall have a surface that avoids dust and safeguard groundwater.

d. If the outdoor storage area is covered, the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

e. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

f. Materials shall not be stored higher than the height of the screening.

...

SECTION 3. That Section 155.4303., “Standards for Specific Accessory Uses and Structures,” of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

A. ACCESSORY DWELLING UNIT

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W. OUTDOOR STORAGE (AS AN ACCESSORY USE)

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3. Standards

Outdoor storage may be allowed as an accessory use to any commercial or industrial use, subject to the following standards:

a. Perimeter buffer and screening standards

i. A Type B perimeter buffer in accordance with Section 155.5203.F, Perimeter Buffers, shall be provided between the outdoor storage area(s) and all property lines.

(A) Existing properties. Lawfully existing outdoor storage established prior to 1999, or lawfully existing outdoor storage established prior to annexation without a Landscape Plan approved on record shall comply with the perimeter buffer and screening standards of this section. Submission and approval of a landscape plan shall be required for compliance with this section.

(1) The modifications permitted in section 155.4228.A.3.a.ii.(A) may be permitted.

a b. The total area of outdoor storage areas shall not exceed 35 percent of the total gross floor area of the building(s) containing the principal use(s) of the lot.

b c. Each outdoor storage area shall be incorporated into the overall design of the principal structure on the site, and shall be located to the side or rear of the principal structure, and not on the roof of a structure.

e d. Goods stored in an outdoor storage area intended for sale or resale shall be limited to those sold on the premises in conjunction with the principal use.

d. ~~Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way as follows:~~

e. Properties whose outdoor storage consists solely of building materials for sale by the principal business and are located within the Heavy Business (B-4) Zoning District may, as an alternative to the requirements in subsection i. above, provide a six foot high solid concrete wall and solid gate.

~~i. Between the front lot line and each outdoor storage area~~

~~(A) A 25-foot wide landscaped area which includes any combination of an opaque fence, wall, and landscaped berm at least six feet in height; or~~

~~(B) Type C buffer per Section 155.5203.F.~~

~~ii. Between a side or rear lot line adjoining a street and each outdoor storage area~~

~~(A) A 15-foot wide landscaped area which includes any combination of an opaque fence, wall, and landscaped berm at least six feet in height; or~~

~~(B) Type B buffer per Section 155.5203.F.~~

~~iii. Between a side or rear lot line not adjoining a street and each outdoor storage area~~

~~(A) A 10-foot wide landscaped area which includes any combination of an opaque fence, wall, and landscaped berm at least six feet in height.~~

~~iv. Materials shall not be stored higher than the height of the screening.~~

~~v. Properties whose outdoor storage consists solely of building materials for sale by the principal business and are located within the Heavy Business (B-4) Zoning District may, as an alternative to the requirements in subsections i, ii and iii above, provide a 6-foot high solid concrete wall and solid gate.~~

~~vi. Development Existing on or Before April 27, 1999~~

~~Outdoor storage facilities existing on or before April 27, 1999 shall comply with the following standards by April 27, 2001. Upon compliance said outdoor storage facility shall be deemed a lawfully existing special exception use.~~

~~(A) A 25-foot wide landscaped area shall be provided between the front lot line and any outdoor storage area. Street trees shall be provided as required by the landscape ordinance. Screening shall consist of~~

~~a combination of walls or fences, berms, shrubs, trees and ground cover. Chain link fencing shall not be allowed in the front landscape strip.~~

~~(B) — A 15-foot wide landscaped area shall be provided between the street side lot line and any outdoor storage area. Street trees shall be provided as required by the landscape ordinance. Screening shall consist of a combination of walls or fences, berms, shrubs, trees and ground cover. If a property owner elects to construct a six-foot high solid fence or wall the width of the landscape strip may be reduced to 7.5 feet.~~

~~(C) — A ten-foot wide landscaped area shall be provided between the side and rear lot lines and any outdoor storage area provided, however, that any lot on public record prior to June 25, 1991 is 100 feet or less in width shall be required to provide a five-foot wide landscaped area. One ornamental tree shall be provided for each 25 feet of lot length and width. This requirement shall not apply to a property line abutting an active railroad siding servicing the property.~~

~~(D) — All repairs of equipment shall be done on a paved surface.~~

~~e. — If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.~~

~~f. — Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.~~

~~g. — No materials may be stored in those parts of an outdoor storage area intended for vehicular or pedestrian circulation.~~

~~h. — All areas used for outdoor storage shall have a surface that avoids dust and safeguard groundwater.~~

...

SECTION 4. That Section 155.5203., "Landscaping," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.5203. LANDSCAPING

A. APPLICABILITY

1. New Development

Except where expressly provided otherwise in this Code, the requirements in this section shall apply to all new development in the city.

2. Existing Development

a. Development Without a Prior Landscape Plan Approved on Record, or Existing Prior to 1974

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b. All Existing Development

Irrespective of the special requirements applicable to development existing before October 30, 1973, the landscaping requirements in this section may apply to existing development in accordance with the following.

~~i.~~ **Change in Use**

~~Changes in use of an existing development where an existing use is replaced with a use in a more intense use classification (e.g., from a residential use to an institutional use, or from an institutional use to a commercial use, or from a commercial use to an industrial use), shall be subject to these landscaping standards to the maximum extent practical.~~

~~ii~~ **i. Expansion**

Except as otherwise provided in subsection ~~iii~~-below, if an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, seating capacity, or other size unit), additional landscaping shall be provided in accordance with the requirements of this section to serve the expanded or enlarged part of the structure or use.

iii ii. Upgrading of Nonconforming Landscaping

Nonconforming landscaping on the site of a remodeled structure or expanded structure or use area shall comply with the requirements of this section in accordance with the standards of Part 5 (Nonconforming Site Features) of Article 7: Nonconformities.

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D. VEHICULAR USE AREA LANDSCAPING

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1. Applicability

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5. Landscaping Between Vehicular Use Areas and Buildings

A landscaped area shall be provided between a vehicular use area and an abutting building in accordance with the following standards. No landscaped area is required along those parts of an abutting building facade containing building entrances, driveways into garages or carports, or loading docks.

- a. The minimum width of the landscaped area shall be a minimum of eight feet for each story in 15 feet of height of the abutting building facade up to 24 feet. For structures taller than 15 feet, the landscaped area shall be a minimum of one additional foot for every two feet (or major fraction thereof) of height, up to a maximum of 24 feet of landscaped area.
- b. The landscaped area shall include landscaping meeting the foundation planting standards in Section 155.5203.E.3.

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F. PERIMETER BUFFERS

1. Purpose and Intent

Perimeter buffers are intended to help mitigate potential negative effects of proposed developments on abutting property and abutting rights-of-way.

2. Applicability

- a. Development required to obtain Major Site Plan or Minor Site Plan approval shall provide a perimeter buffer to separate it from abutting property zoned for a less intensive or inconsistent zoning district, including developed and vacant property, in accordance with Table 155.5203.F.3, Required Buffer Types and Standards.

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- e. The Development Services Director may modify or waive all or part of the standards in this subsection, 155.5203.F., if it is demonstrated that the implementation of the standards results in a conflict with the city's adopted CPTED guidelines, or if there are conflicts with adjacent property conditions.

...

SECTION 5. That Section 155.5204., “Tree Preservation,” of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.5204. TREE PRESERVATION

A. INTENT TO MAINTAIN MUNICIPAL CERTIFICATION BY BROWARD COUNTY

The standards in this section, when combined with the Tree Permit provisions in Section 155.2411 and enforcement provisions in Article 8: Enforcement, are intended to qualify for certification by Broward County as containing requirements and standards that are as stringent as those in Article XIV (Tree Preservation and Abuse Ordinance) of the Broward County Code of Ordinances , and thus allow delegation to the city of the county's authority to ~~regulate~~ maintain tree preservation and regulate tree abuse within Pompano Beach. The provisions in this section shall be interpreted in accordance with that purpose.

B. Applicability

1. General

- a. Except where expressly provided otherwise in this Code, the requirements and standards in this section shall apply throughout the city.

- b. Issuance of a Tree Permit in accordance with Section 155.2411, Tree Permit, is required before any removal, relocation, replacement, or substantial alteration of any tree, ~~or any land clearing in an area designated as a Natural Forest Community, or any land disturbing, construction, or demolition activity, storage of materials, or operation of heavy equipment in the vicinity of a tree,~~ unless exempted from the requirements and standards in this Part in accordance with subsection 2 below.

2. Exceptions

- a. The requirements and standards ~~in this Part of Sections 155.5204.C. through 155.5204.E.~~ shall not apply to the following, ~~which shall remain subject to the Broward County Tree Preservation and Abuse Ordinance:~~

- i. Properties owned or controlled by Broward County, including but not limited to county facilities, road rights-of-way, and parks.

...

- b. ~~In accordance with the Broward County Tree Preservation and Abuse Ordinance,~~ ~~†~~The requirements and standards of Sections 155.5204.C. ~~Tree Removal~~ through 155.5204.E., including the requirement to obtain a Tree Permit, shall not apply to the removal of any tree other than a Specimen or Historical Tree as defined herein, on owner-occupied residential properties of one (1) acre or less developed for detached single-family and duplex usage, when the height and minimum number of trees required by Sections 155.5203.B.2.g.ii. and 155.5203.C. are maintained on the property, except the following:

- i. ~~Previously preserved, relocated or replaced trees that were preserved, relocated or replaced pursuant to a tree removal license; or,~~

- ii. ~~Historical trees or Specimen trees.~~

- c. During emergency conditions caused by a hurricane or other natural disaster, the Development Services Director may suspend application of the provisions of this section, with submitted photographic evidence—provided, however, that Tree Permits authorizing tree removals occurring during the emergency conditions shall be obtained within six months, and the

replacement of the trees shall be ~~obtained~~ completed within two years after the end of the emergency condition.

E. TREE REPLACEMENT

1. Tree Replacement Required

a. General

If the Development Services Director determines that a removed tree is an invasive tree as defined herein, or cannot be successfully relocated, the tree shall be replaced in accordance with the following standards.

b. Required Number of Replacement Trees

i. ~~The minimum number of replacement trees required to compensate for removed non-Specimen trees that cannot be successfully relocated shall be the number of trees whose combined purchase price, as determined by the Development Services Director, equal the dollar value of the removed trees, as determined by an appraisal prepared by an ISA Certified Arborist in accordance with *Guide for Plant Appraisal* (Council of Tree and Landscape Appraisers), as amended, one (1) caliper inch for each one (1) DBH inch removed to the extent that the combined DBH of the replacement trees equals the combined caliper of all the trees removed. Replacement trees shall be canopy trees and meet the minimum height requirements of Section 155.5203.B.2.g.ii. Removal and replanting shall be done at the full expense of the applicant, and submitted as part of the an application for a Tree Permit.~~

ii. Replacement of a Specimen Tree shall be the number of trees whose combined purchase price, as determined by the Development Services Director, equal the dollar value of the removed trees, as determined by an appraisal prepared by an ISA Certified Arborist in accordance with Rule 14-40.030, Florida Administrative Code, as amended, and submitted as part of the an application for a Tree Permit.

iii. In lieu of replacement on site due to a lack of planting space, funds may be deposited into the Tree Canopy Trust Fund as detailed in Section 36.033. Funds must be derived

based on the average of current market value for same-species of trees removed, at Florida Grade #1 or greater quality, plus a 2.5 multiplier for installation.

- ii. iv. If trees are removed before obtaining authorization for removal through a Tree Permit Application, and the value of the removed trees(s) cannot be determined from any remnants, such value shall be determined by using aerial photography; on-site inspection; and/or review of a tree survey. The number of required replacement trees shall be based upon the size of canopy impacted and the type of replacement trees selected by the applicant and approved by Development Services Director. The canopy of the replacement trees at maturity shall at least equal the canopy removed. The following table shall be used to determine the number of required replacement trees:

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F. TREE PROTECTION DURING DEVELOPMENT OR DEMOLITION ACTIVITY

1. Responsibility

During any development or demolition activity, the property owner or developer shall be responsible for protecting existing trees that are designated to be preserved (as identified by a Tree Permit ~~required for the land disturbing activities associated with the development or demolition activity~~) as well as and installed trees.

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SECTION 6. That Section 155.5902., "Maintenance," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.5902. MAINTENANCE

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B. MAINTENANCE GUARANTEES

1. General

A maintenance guarantee in accordance with the standards in this section is required in the following circumstances:

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4. Amount of Maintenance Guarantees

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- b. Maintenance guarantees for tree relocation, tree replacement, or corrective action for abused or damaged trees shall be in an amount determined based on Guide for Plant Appraisal (Council of Tree and Landscape Appraisers) Rule 14-40.030, Florida Administrative Code, as amended.

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SECTION 7. That Section 155.8202., “Specific Violations”, of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.8202. SPECIFIC VIOLATIONS

It shall be a violation of this Code to undertake any activity contrary to the provisions of this Code, including but not limited to any of the following:

- A. Develop land or a structure without first obtaining all appropriate development permits, and complying with their terms and conditions.
- ...
- L. Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Code.
- M. Remove, reduce, diminish, or alter any landscape requirement standard below the minimum required by a prior landscape plan approved on record.

SECTION 8. That Article 9, “Definitions and Interpretation,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 9: DEFINITIONS AND INTERPRETATION

PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

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Tree

Any living, self-supporting, dicotyledonous or monocotyledonous woody perennial plant that has been existing for over one year.

Tree Abuse

Any or all of the following:

- Hatracking a tree—i.e., severing the leader or leaders of a tree, or pruning a tree by stubbing of mature wood;

...

- Improper guying, bracing, or staking of newly planted trees by nailing or other methods that cause cosmetic or biological damage.

- Storage of materials or operation of heavy equipment in the vicinity of a tree without proper tree protection.

...


SECTION 9. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 10. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

SECTION 11. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 9th day of April, 2019.

PASSED SECOND READING this 23rd day of April, 2019.



REX HARDIN, MAYOR

ATTEST:



ASCELETA HAMMOND, CITY CLERK