



City of Boca Raton
Affidavit for Proposed Improvements in the Swale Area

Property owners wishing to install improvements in swale areas for items not listed in Section 25-255 of the Municipal Code must complete the following affidavit and include it with their application for an Engineering Permit. Excerpts from the City's Code of Ordinance are included in Attachment A to this affidavit.

I, _____ (print name), am the property owner of the address listed below hereafter referred to as "Owner".

I make this affidavit at the request of the City of Boca Raton ("City"), Florida to obtain a permit ("Permit") to install improvements in the swale area.

Table with 2 columns and 2 rows. Row 1: Property Address: Confirm adjacent roadway is not under the jurisdiction of Palm Beach County or Florida Department of Transportation. Row 2: Proposed improvements in the swale area: Details should include quantity, size, location, etc. Size details for proposed trees should include overall height, spread, and clear trunk at installation.

The following are applicable conditions to any improvements other than materials listed in Section 25-255 of the City Code of Ordinances:

APPLICANT TO INITIAL NEXT TO EACH ITEM TO ACKNOWLEDGE COMPLIANCE

Note: All references to clearances include reference to the projected clearance at maturity.

I confirm that plans/sketches are attached and were prepared in accordance with the City's Engineering Design Standard Manual.

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_____ I understand that synthetic turf is not permitted within the City's right-of-way ("ROW") jurisdiction (Section 25-255 of the Municipal Code). Work under this Permit will not include synthetic turf.

_____ I understand that slag, rock, pea rock or other loose type of material construction shall not be used on public right of way (Section 23-188 of the Municipal Code). Work under this Permit will not include these materials.

_____ I understand that trees will not be planted closer than ten (10) feet from storm sewer, sanitary sewer, and/or water mains.

Note: The City may consent to the planting of landscaping closer than ten (10) feet to the utility pipes if approved by the utility owner in writing. A City-approved root barrier system must be installed and a minimum distance of six (6) feet clearance must be provided from the proposed improvement including its projected maturity. The measurement is taken from the edge of the utility pipe in question to the edge of the root ball. Tree root barriers shall be installed six (6) inches from the edge of the sidewalk in this circumstance.

_____ I will maintain landscaping around fire hydrants, manholes or meter boxes in a manner which provides at least 3 feet of unobstructed access to and a view of the infrastructure from the roadway and at least 5 feet of vertical clearance above the infrastructure.

_____ This application does not propose trees or landscaping exceeding 6 inches in height within the roadside clear zone and intersection/accessway clear sight triangles in accordance with the Florida Department of Transportation and the City's Engineering Design Standard's Manual standards.

_____ This application does not propose fruit trees or fruit-bearing trees/palms.

_____ I understand that all trees and palms must be staked according to FDOT Standard Plans and will be closely monitored by the Owner. All staking and guying attachment materials will be securely fastened to avoid potential roadway hazards.

_____ I understand that in the event it is necessary for the City to reconstruct or repair its water and sewer lines or other infrastructure, the City will restore the swale areas disturbed by the reconstruction or repair. I understand that the City will not be responsible for restoration of any nonstandard or nonconforming surfaces in a right-of-way, whether public or private, including, but not limited to surfaces such as bomanite, concrete block, slate, vegetation other than sod, or nonconforming pavement or other surfaces (Sec 25-254 of Municipal Code).

_____ I understand that where tree roots are causing a trip hazard because of lifting of some portions of a public sidewalk, the Owner shall be responsible for the repairs (Section 25-251 & 25-252 of the Municipal Code).

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_____ I will maintain the proposed improvements in a condition that is safe to pedestrians and vehicular traffic, free of litter and unsightly weeds, and maintained with appropriate pruning, watering, and other care as needed, and the trees and/or landscape material will be maintained (at installation and maturity) to not encroach into the accessible path of travel as described below:

- A. Trees and/or landscape material will not obstruct the sidewalk and shall not have branches that extend over the sidewalk lower than 8 feet. An 8 feet minimum vertical clearance must be always maintained.
- B. On the traffic side of the tree, the lowest branch will provide a 14.5 feet minimum clearance over the travel lane(s). At no time shall a branch(es) encroach into a bicycle lane or sidewalk.
- C. Tree or landscape material shall not obscure traffic or parking signs/signals or vehicular sightlines.
- D. Tree foliage shall be maintained to provide a minimum 6' clearance from any public streetlight.
- E. Proper watering techniques shall be provided. Even and thorough water dispersal to wet the entire root zone, but not saturate the soil or over-spray onto travel lanes and sidewalks, will be provided.

_____ By submitting this affidavit, I agree to indemnify the City for the proposed improvements as follows:

- A. Except as provided in (B) below, as a condition of the issuance of this Permit and in consideration for the City's authorization of the Owner to enter into the City's right-of-way and perform the work and/or construction described in this Permit application (the "Work"), the Owner shall, and hereby does, indemnify, hold harmless and defend the City, its officers, employees, and agents, from and against any and all claims, liabilities, suits, actions, administrative proceedings, litigation, appeals, judgments, costs, or expenses, including attorney fees, for loss, damage or injury to persons or property:
 - i. in any manner directly or indirectly connected with, or arising out of this Permit application, the Work, and/or any activity in connection with the Work; and
 - ii. occurring prior to issuance of a letter of acceptance by the City for the Work (regardless of whether such claim is asserted prior to or following: the issuance of such letter of acceptance by the City in the form of a final inspection or the expiration or termination of this Permit); provided, however, the Owner expressly does not indemnify the City for any claims arising out of the willful or intentional acts or omissions of the City.
- B. In the event the Owner is a governmental entity or agency (Governmental Entity), as a condition of the issuance of this Permit, and in consideration for the City's authorization of the Governmental Entity to enter into the City's right-of-way and perform Work, the Governmental Entity shall, and hereby does, indemnify, hold harmless and defend the City, its officers, employees and agents, from and against any and all claims, liabilities, suits, actions,

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administrative proceedings, litigation, appeals, judgments, costs or expenses, including attorney fees, for loss, damage or injury to persons or property:

- i. in any manner directly or indirectly connected with, or arising out of the Governmental Entity's negligence, the Governmental Entity's performance of the Work, and/or any activity in connection with the Governmental Entity's performance of the Work; and
 - ii. occurring prior to issuance of a letter of acceptance by the City for the Work (regardless of whether such claim is asserted prior to or following the issuance of such letter of acceptance by the City in the form of a final inspection or the expiration or termination of this Permit). The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute an agreement by the Governmental Entity to indemnify the City for the City's negligence or an agreement by the City to indemnify the Governmental Entity for Governmental Entity's negligence.
- C. Notwithstanding anything in this Permit to the contrary, the indemnity obligations set forth herein shall survive the expiration or termination of this Permit.

By my signature below and initials above, I, _____ (print name),
Owner of _____ (print address), agree to
comply with provisions of the City of Boca Raton Code of Ordinances as it pertains to
proposed improvements in swale areas.

Owner Signature

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____,
20____ by _____ (Name of Person Making Statement).

(Seal)

Signature of Notary Public

Print, Type or Stamp Name of Notary

Personally Known: ____ OR Produced Identification: ____

Type of Identification Produced: _____

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Attachment A
References to City of Boca Raton Code of Ordinances

Excerpts below are applicable as of June 2023. Any future updates to the City's Code of Ordinances would supersede the excerpts that follow.

Sec. 25-203. – Definitions.

"Rights-of-way" means the surface and space above and below any real property in which the city has an interest in law or equity, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, swale, river, tunnel, viaduct, bridge, park, or any other place, area, or real property other than real property owned in fee by the city. "Rights-of-way" shall not mean roads under the control of the state, the county, or any private roads.

"Swale area" means the portion of the rights-of-way located between a private property line and the street curb or the edge of a paved road, including, but not limited to, sidewalks, bikeways, and driveways.

Sec. 25-251. - Maintenance of swale area.

The owner and/or occupant of private property shall maintain abutting swale areas, including sidewalks, pathways, or driveways as provided in the Engineering Design Standards Manual, including, but not limited to, keeping the area free of trip hazards, holes, and obstructions.

Sec. 25-252. - Maintenance.

(1)The owner of private property abutting the rights-of-way shall maintain all trees and other vegetation upon the private property and adjacent rights-of-way as provided in the Engineering Design Standards Manual.(2)No roots from any vegetation located upon private property or adjacent rights-of-way shall be permitted to grow in such a manner that causes damage to paved rights-of-way, water, or sewer lines, or other elements of the city's infrastructure.

Sec. 25-254. - Reconstruction or repair by city.

(1)In the event it is necessary for the city to reconstruct or repair its water and sewer lines or other infrastructure, the city shall restore the swale areas disturbed by the reconstruction or repair. The city shall not be responsible for restoration of any nonstandard or nonconforming surfaces in a rights-of-way, whether public or private, including, but not limited to surfaces such as bomanite, concrete block, slate, vegetation other than sod, or nonconforming pavement or other surfaces.

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Sec. 25-255. - Personal property permitted in swale areas; standards for placement.

(1) No personal property except those specifically enumerated below shall be placed or maintained upon the swale area:

- (a) Underground sprinkler systems with flush or pop-up heads;
- (b) Dome shaped concrete buttons, no more than 4 inches in height, with a diameter no greater than 6 inches, without metal stakes, and placed no closer to each other than 4 feet;
- (c) Mailboxes installed according to the requirements of the rights-of-way use and maintenance standards;
- (d) Sod or herbaceous ground cover installed according to the requirements of the rights-of-way use and maintenance standards and maintained in such a manner as not to exceed 6 inches in height;
- (e) Directional signs and traffic control devices, and other such similar structures, as approved by the city; and
- (f) Sidewalks, bikeways, combination sidewalk/bikeways, and driveways, constructed in accordance with the swale area permit requirements set forth below.

Sec. 25-256. - Swale area permit required.

(1) No person shall undertake to improve, alter or place personal property other than those specifically permitted by section 25-255, within a swale area without first obtaining a swale area permit.

(2) The acceptance of a swale area permit by the person requesting a permit shall constitute acceptance of all obligations pertaining thereto, and the person requesting a permit shall be held responsible for fulfilling all of the requirements thereof.

(3) The application for permit, together with the required fees and other charges, shall be filed with the city manager on a form prescribed and furnished for the purpose. The application shall describe the nature of the proposed construction or placement of personal property, the swale area location, and such other information as is required by the form or may be required by the city manager.