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

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- a. *Intent.* The intent of this section is to minimize the detrimental impacts to health, safety, and the general welfare resulting from vacant lots and construction activities; to ensure that each vacant lot and construction site is maintained, and each construction activity is conducted in such a manner so as to avoid unnecessary inconvenience and annoyance to the general public and the occupants of the neighboring properties; and to require maintenance practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbing construction activities.
- b. *Applicability.*
  - 1. The regulations contained in this section apply to all vacant lots and land disturbing construction and land development activities on properties within the boundaries and jurisdiction of the city.
  - 2. This section applies to all properties with an active, printed or expired building permit or demolition permit for any land disturbing construction and/or land development activities.
  - 3. All Florida Department of Transportation (FDOT) funded construction is exempt from this section. All FDOT funded or conducted construction activities shall meet the requirements as required by Florida Department of Environmental Protection regulation.
  - 4. All other land disturbing construction and land development activities exempt from local permitting authority are exempt from this section. Land disturbing construction and land development activities performed by the city within city right-of-way or on city property are exempt from this section.
  - 5. The demolition of existing buildings within the downtown master plan area shall follow the regulations established in subsection 94-102(1) of this Code.
  - 6. Where this section and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- c. *Administration.*
  - 1. A stormwater pollution prevention plan (SWPPP) pursuant to the city's stormwater management program shall be submitted along with the application for a building permit or demolition permit for any land disturbing construction activities or land development activities. It shall be unlawful to perform, or for the property owner of any construction site to allow to be performed, any construction activity prior to: (i) the issuance of a building permit, a demolition permit or a public right-of-way permit; and (ii) the city's approval of the SWPPP.
  - 2. The SWPPP shall be subject to the review and approval of the engineering services director. Such review shall be conducted to ensure that the land disturbing construction or land development activities will be conducted in compliance with the Environmental Protection Agency (EPA) federal guidelines. The engineering services director will respond and notify if any changes are required to the SWPPP. The SWPPP shall be monitored relating to the field conditions and if the measures are not effective, the SWPPP shall be revised.
  - 3. A SWPPP may be modified or amended upon the written approval of the engineering services director.
  - 4. Unless otherwise provide in this section, the development services director may, after two prior written warnings, revoke any demolition or building permit granted in accordance with this section for violation(s) of this section or any construction site maintenance regulations.
- d. *Maintenance.*
  - 1. *Job site.* Contractors, subcontractors and persons holding permits to perform land disturbing construction or land development activities, and the landowners of construction sites shall cause the construction site to be maintained in a neat and orderly condition that is free from any debris, garbage, junk, used or discarded construction materials, trash or any other foreign substance produced as a result of the land disturbing construction or land development activities, other than debris, garbage, junk, trash or other foreign substance deposited into and contained within a trash receptacle or trash dumpster.
    - a. In all instances where a building permit has not been issued within three months of the completion or abandonment of land disturbing construction activities, the job site shall, within 30 days after the expiration of such three-month period, be brought to grade, tilled, planted and maintained with ground cover to include sodding or seeding which shall have irrigation. Any temporary construction fence shall

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

- b. All construction waste and debris from new construction or major alteration or repair shall be kept in an enclosed container to minimize debris from littering adjacent properties and public rights-of-way. The permittee, contractor or property owner shall cause such waste or debris to be removed weekly in accordance with section 74-2 of this Code.
  - c. All mud or debris shall be continually removed from the public sidewalks and streets.
  - d. All weeds and grass shall be maintained in accordance with subsection 74-2(c) and section 94-446 of this Code.
  - e. Contractors, subcontractors, persons holding permits to perform land disturbing construction and land development activities and the landowners of construction sites shall, at the direction of the engineering services director, either repair, or reimburse the city for its costs incurred to repair, any damage to any public right-of-way that is caused by any construction vehicle involved in the land disturbing construction activities or land development activities.
  - f. In the event that the demolition permit or building permit expires, all materials and equipment related to the land disturbing construction or land development activities shall be removed from the job site within ten days of the permit expiration date. The job site shall, within 30 days thereafter, be brought to grade, be tilled and planted with ground cover to include sodding or seeding which shall have irrigation. Said ground cover shall be maintained in accordance with subsections 74-2(c) and section 94-446 of this Code.
2. *Temporary construction fences.* No temporary construction fence may be erected until a site plan depicting the materials, location and access gates has been approved as part of the fence permit issuance.
- a. Temporary construction fences may not be erected until a demolition permit or building permit for the land disturbing construction or land development activities has been issued, and no more than ten days prior to the commencement of land disturbing construction or land development activities. If land disturbing construction or land development activities do not commence within ten days of fence installation, then, within 15 days of the ten-day period, the fence shall be removed and the site shall be tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with sections 74-2 and 94-446 of this Code.
  - b. In the event that the demolition permit or building permit expires, all temporary construction fences shall be removed within ten days of the permit expiration date, and within 15 days of removal of the fences, the site shall be brought to grade, tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with section 74-2 and 94-446 of this Code.
  - c. Temporary construction fences shall comply with the following requirements:
    - 1. Temporary construction fences shall be installed in accordance with the Florida Building Code and Occupational Safety and Health Administration (OSHA) standards. Temporary construction fences installed pursuant to this section shall be subject to the visibility at intersections requirements of subsection 94-305(e) of this Code.
    - 2. All temporary construction fencing shall be maintained in a satisfactory manner by the permittee or landowner, during the entire period of the land disturbing construction and land development activities, to ensure adequate performance, to prevent nuisance conditions and to maintain the public health, safety and welfare.
    - 3. Gates shall be chained and locked with a lock substantial enough to ensure closure and security when workers are not on the job site.
    - 4. No temporary construction fence may encroach beyond the subject property line. No fence may encroach upon the public right-of-way without obtaining the appropriate public right-of-way permit(s).
    - 5. Screening details shall be submitted with the temporary construction fence permit application. Wind screening shall be substantial enough to avoid rips or tears due to wind or sun, and shall have no less than 85 percent opacity. Screening shall be maintained in good condition at all

times. Screening graphics shall be approved with a permit pursuant to the provisions of [Chapter 94, ARTICLE XIII](#), sign regulations, of the zoning and land development regulations of this Code.

6. All wind screening materials shall be removed upon the issuance of a hurricane warning for an area including the city. Screening materials shall be reinstalled not more than ten days after the hurricane threat has ended.
7. The development services director may grant the use of a temporary movable construction fence as part of a phased construction or phased demolition permit. Within ten days of the completion of the phase of construction or demolition, the temporary movable fence shall be removed, and may be replaced by another temporary construction fence meeting the provisions of this section.
- d. The development services director may grant, in writing, a restriction or extension to the time frames for the erection or removal of temporary construction fences when necessary to maintain the public health, safety and welfare.

### 3. *Erosion control measures* .

- a. Applicability. Erosion control measures are required for the following sites of land disturbing construction or land development activities:
  1. Sites requiring a filing of plat, involving the construction of or additions to houses, duplexes, condominiums, townhouses, apartments or construction of or additions to commercial, industrial, or institutional buildings.
  2. Sites on existing lots of record involving the construction of or additions to houses, duplexes, condominiums, townhouses, apartments or the construction of or additions to commercial, industrial, or institutional buildings.
  3. Sites involving grading, removing of protective ground cover or vegetation, excavating, land-filling or other land disturbing activities affecting a surface area of 4,500 square feet or more.
  4. Sites involving excavating or land-filling or a combination of excavating and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.
  5. Sites involving street, highway, road or bridge construction, enlargement, relocation or reconstruction excluding FDOT construction exempted by subsection 94-316(b)(3).
  6. Those sites involving the laying, repairing, replacing or enlarging of an underground pipe, utility main or similar facility for a distance of 300 feet or more.
- b. All sites for which erosion control measures are required, described in subsection (a) immediately above, shall comply with the city's stormwater management program and shall submit a stormwater pollution prevention plan (SWPPP) for approval by city.
- c. The approved stormwater pollution prevention plan (SWPPP) shall be maintained by the permittee or landowner during the entire period of the land disturbing construction or land development activities on the site in a manner satisfactory to ensure adequate performance in accordance with the SWPPP and to prevent nuisance conditions. All erosion control measures installed in accordance with the SWPPP shall be removed by the permittee or landowner upon completion of all land development or land disturbing construction activities.
- d. In the event that a building permit or demolition permit expires, within 30 days of the permit expiration date, the site shall be brought to grade, tilled and planted with ground cover to include sodding or seeding which shall have irrigation and shall be maintained in accordance with subsections 74-2(c) and subsection [94-446](#) of this Code, and upon completion, all measures installed as part of the SWPPP shall be immediately removed.

### 4. *Waiver of erosion control requirements* .

- a. The engineering services director shall have the authority, on a case-by-case basis, to grant a written waiver of any requirements of the stormwater management program or requirement for an SWPPP for small sites, for land disturbing construction or land development activities covering less than one acre, or individual single-family home sites in a previously platted subdivision or land division.
- b. Any waiver of the stormwater management program requirements or for an SWPPP does not invalidate any other requirements set forth in this section.

### e. *Erosion control and land stabilization bonds or deposits* .

1. Erosion control. Contractors, subcontractors and persons applying for a demolition and/or building permit to perform land disturbing construction or land development activities shall post an erosion control bond or

deposit for the erosion control measures approved by the stormwater pollution prevention plan (SWPPP), in an amount established by resolution and satisfactory to the city to fully cover the costs associated with compliance with the SWPPP and other necessary erosion control of the site, should the permit expire. An erosion control bond shall not be required for the construction of single-family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single-family dwelling, existing duplex, or existing accessory apartment.

2. Land stabilization. Contractors, subcontractors and persons applying for a demolition and/or building permit to perform land disturbing construction or land development activities shall, in addition to the erosion control bond, post a land stabilization bond or deposit, in an amount established by resolution and satisfactory to the city, to cover the costs associated with land stabilization of the site, should the permit expire. A land stabilization bond shall not be required for the construction of single-family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single-family dwelling, existing duplex, or existing accessory apartment.
3. The erosion control and land stabilization bonds or deposits may be combined and posted together, combined with other performance bonds posted in favor of the city (other than the public construction bond posted by city contractors for city projects), or posted separately. The erosion control or land stabilization bonds or deposits shall be posted for the entire permitted site or project.
4. Only the following types of bonds or deposits will be accepted: (i) bond issued by a surety company authorized to do business in Florida, (ii) deposit of a cashier check or bank draft of any national bank or state bank, (iii) deposit of a certified check drawn on a financial institution acceptable to the city, as determined by the finance department, (iv) letter of credit drawn on a financial institution acceptable to the city, as determined by the finance department, or (v) deposit of a U.S. postal money order.
5. Upon commencement of construction, payment in full of all applicable fees, and compliance with all terms and conditions of any posted bond, the contractor, subcontractor or permit applicant who posted the bond or bonds or deposit may request release of same. The city shall provide the permittee with an approval to release bonds/deposits and the city shall issue a check in the amount of any unused deposit or a release of any bond and release of any other security given for the erosion control and/or land stabilization requirements.
6. This section shall not apply to any federal government entity and shall not apply to any state, regional, county, local or municipal government entity of this state; or any public school, community college or state university.

f. *Enforcement; appeals .*

1. The development services director and engineering services director are authorized to inspect construction sites for compliance with the requirements of this section.
2. Stop-work orders. The development services director may post a stop-work order for a building permit if any land disturbing construction activities or land development activities regulated under this section are being undertaken in violation of this section. The engineering services director may post a stop-work order if any land disturbing construction activities or land development activities regulated under this section are being undertaken for violations of this section occurring in the right-of-way or related to the SWPPP and erosion control measures.
3. Stop-work order retraction. The development services director or engineering services director who issued a stop-work order may retract that stop-work order once the violation of this section is cured.
4. Notice of intent. Not less than ten days after the posting a stop-work order as provided above, the engineering services director may issue a written notice to the permittee or property owner of the city's intent to perform work necessary to cure existing violations and comply with this section. Said notice shall be sent certified and regular mail. If, after 14 days from issuance of the notice of intent, the site is not in compliance with the requirements of this section, the city may enter the site and commence all work necessary to comply with this section. The city's costs for the work performed by the city shall be subtracted from the deposit or bond posted with the city and any additional costs shall be billed to the permittee or the landowner. In the event a permittee or property owner fails to pay the amount due to fully reimburse the city, the city shall file a lien against the property for all unreimbursed costs, plus interest and administrative expenses, and may take all available actions to collect the sums due.
5. Compliance with the provisions of this section may also be enforced in accordance with F.S. Ch. 162, or by injunction, uniform citation procedure, code enforcement procedure, fine, lien forfeiture or any other appropriate and available remedy.

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

(Ord. No. 4689-16, §§ 9, 15, 4-11-2017)

**Note**— Formerly § 94-450.