

CHAPTER 14-40

LANDSCAPE BEAUTIFICATION AND CONSERVATION

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14-40.001 Roadside Development.

Rulemaking Authority 335.16(1), 339.24(4) FS. Law Implemented 335.16(1), 339.24(4) FS. History—New 5-9-70, Amended 11-20-75, Formerly 14-40.01, Repealed 9-22-92.

14-40.0011 Purpose.

Rulemaking Authority 334.044(2), 335.167 FS. Law Implemented 335.167 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.002 Definitions.

Rulemaking Authority 334.044(2), 335.167 FS. Law Implemented 335.167 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.003 Landscape Projects.

(1) Department Authorization Required. Written authorization by the Department pursuant to this rule is required for any person to alter, remove, or install landscaping on the Department's right-of-way. Whenever the construction or maintenance of utilities causes the displacement of landscaping on the Department's right-of-way, restoration will be conducted as specified in the *Utility Accommodation Manual*, incorporated by reference under rule 14-46.001, F.A.C. Requests to remove, cut, or trim, vegetation that screens outdoor advertising signs for which outdoor advertising sign permits have been issued pursuant to chapter 479, F.S., must be made in accordance with rule 14-10.057, F.A.C.

(2) Definitions.

(a) "Abutting Private Property Owner" means any person or non-governmental entity having lawful control of land which adjoins, or is contiguous to, Department non limited access right-of-way.

(b) "Department" means the Florida Department of Transportation.

(c) "Landscape Project" means any planned or actual landscape or landscaping on Department right-of-way, including construction or installation, planning, beautification, and maintenance thereof, by a local government entity, non-governmental entity, or abutting private property owner.

(d) "Landscape" or "Landscaping" means any vegetation, mulches, irrigation systems, and other landscape components, such as, street furniture, specialty paving, tree gates, walls, planters, fountains, fences, and lighting (excluding public utility street and area lighting).

(e) "Local Governmental Entity" means as defined in section 11.45(1)(e), F.S.

(f) "Non Governmental Entity" means any person or organization, other than a governmental entity, who seeks approval of a landscape project.

(g) "Screen" or "Screening" means the planting or installation of any vegetation or other landscape material which will reach a

height greater than the height of the bottom of the lowest sign face, as viewed from a height of 3.5 feet above the roadway surface at the edge of the travel lane closest to the outdoor advertising sign.

(h) "View Zone" means as defined in section 479.106(6), F.S.

(3) Approval Criteria.

(a) Approval is based on review of a complete set of landscape plans. The District Landscape Architect can be consulted during preparation of landscape plans. The following plan preparation guidelines must be used:

1. Project data must be included on sheet 1 of the plans, and must include a location map with beginning and end of project mile posts, index of plans included in the set, state road number, local government and contact information, and name and address of the person and firm who prepared the plans.

2. Plans must be drawn to scale, exhibiting an accurate and legibility representation of existing conditions (above and below ground), and all proposed work. Plans must show all dimensions necessary to demonstrate compliance with this rule. If there is a baseline survey or centerline of construction, station points are to be used for linear landscape projects. For interchange and non-linear projects, such as ponds, plazas and rest areas, dimensioning can be from a fixed point or station point. All dimensions must be noted in English system measurements (inches, feet, yards, miles, etc.). Plans must be plotted to scale on 11" x 17" multipurpose paper. Scale shall be such that clarity and legibility are preserved. Plans must contain a graphic scale and north arrow with standard orientation on each plan sheet, and reference the state road number, section number, milepost, and local street names. Plans must also include curbs, edge of pavement, edge of travel lanes, guardrails, right-of-way fence and/or right-of-way lines, sidewalks, intersections, median breaks, driveways, bike lanes, transit facilities, surveying monuments, signs, view zones of permitted outdoor advertising signs, lighting, traffic signals, other traffic control devices, drainage features, limits of clear sight, set backs and clear zone limits, existing off site features and conditions which affect or are affected by the project, easements, above and below ground utilities, and all existing vegetation. Details and text must be large enough to be legible on all plan sheets.

3. Electronic files will be accepted when requested by the Department.

4. All proposed landscaping must be identified on the plans. For all plants, give the following information in tabular form:

Common Name

Botanical Name, including variety or cultivar

Quantity

Size when installed (height, caliper, spread, container size, clear trunk, multi-trunk, or any other descriptive aspect of the desired plants)

Maximum maintained or typical mature height, spread, and trunk diameter of normal mature plant specimens measured 6 inches above the ground.

5. Landscape plans must include written specifications for materials and installation.

6. Landscape plans must include graphic installation details and demonstrate that lateral offsets and sight distances at intersections will not be adversely impacted.

7. The approval of landscape plans requires a work zone traffic control plan in accordance with FDOT Design Standard 600 series incorporated in the *Utility Accommodation Manual* by reference in Rule 14-46.001, F.A.C., and the *Manual on Uniform Traffic Control Devices* as incorporated by reference under Rule 14-15.010, F.A.C.

8. A comprehensive maintenance plan must accompany the plans. The intent of design elements, such as to screen a view, maintain a clear sight distance, or assist with water retention, must be included in a description of the project, accompanied by a written or graphic guide describing the performance requirements of the entity responsible for maintaining the project. The maintenance plan must include requirements necessary to maintain and manage sight distance, horizontal and vertical clearance, accessibility, plant health, form, height and spread, mulch thickness and cover, edges, weeds and litter, irrigation system(s), hardscape, lighting, benches, and landscape components, and any other requirements necessary for the design intent to be achieved. The maintenance plan must include a work zone traffic control plan, and define the limits of the mowing and litter control that will be performed as part of the landscape project. When the landscape project is to be maintained by the Department, a maintenance cost estimate based on anticipated maintenance activities must be an attachment to the plans.

9. Plans must be prepared by a person who meets the requirements of chapter 481, part II, F.S.

(b) No planting or installation of vegetation or other landscape components for landscape projects, or issuance of permits for such planting or installation, including construction and beautification projects, is allowed on Department right-of-way which screens or which, when mature, will screen an outdoor advertising sign permitted under chapter 479, F.S. This prohibition also applies to outdoor advertising signs on the state highway system, located within urban areas and not required to obtain a Department permit pursuant to section 479.07(1), F.S. This prohibition applies to all landscape, construction, and beautification projects on Department

right-of-way regardless of the source of funds for the project, except for landscape projects approved by the Department prior to the date of the original state sign permit for the sign. For purposes of this rule, a landscape, construction, or beautification project is approved when it is specifically identified in the Department's five year work program, is a permitted landscape project, is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

1. Screening is prohibited within an established view zone. The District Landscape Architect can verify the location of view zones within the project limits.

2. When a landscape project is proposed within 1,000 feet approaching legally erected and permitted outdoor advertising signs the person preparing the landscape plan will notify the sign permittee in writing at the address provided in accordance with rule subsection 14-10.011(2), F.A.C.

(c) A local governmental entity may request approval to alter, remove, or install landscaping on the Department's right-of-way through submission of a landscape plan. When public health, safety, and welfare, operation of the transportation system, or the quality of the environment may be jeopardized, the Department will require that plans be signed and sealed by a registered landscape architect. After review by the Department, and the making of any necessary revisions by the local governmental entity, the Department will prepare a written agreement requiring the local governmental entity to properly construct and maintain the landscape project, including the entire landscape irrigation system. The landscape plan will become an exhibit to the agreement. If separate, the maintenance plan as described in subparagraph (3)(a)8. will become an additional exhibit of the agreement. When the agreement is executed, and a Notice to Proceed is issued by the Department, the local governmental entity may proceed with the project.

(d) Non-governmental entities may seek approval to alter, remove, or install landscaping on the Department's right-of-way through submission of a landscape plan, and a resolution from the appropriate local government that commits the local government to execution of an agreement to properly construct and maintain the landscape project as described in paragraph (3)(c) above.

(e) An abutting private property owner is not required to comply with paragraph (3)(d) of this rule and may apply for a permit to alter or install landscape materials on the Department's non-limited access right-of-way directly abutting the owner's property between the right-of-way line and the nearest edge of pavement through submission of a Permit for Landscaping on State Road Right of Way, Form 650-050-09, Rev. 09/08, which is incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06101> and is available at: www.dot.state.fl.us/projectmanagementoffice/beauty/beauty.shtm. When public safety, operation of the transportation system, or the quality of the environment is jeopardized, the District Landscape Architect will require abutting private property owners to submit for approval a landscape plan, maintenance plan, and work zone traffic control plan.

(f) Non-governmental entities or abutting private property owners seeking approval to install landscaping on the Turnpike right-of-way shall submit a completed Form 650-050-09 to the District Landscape Architect, Florida's Turnpike Operations Center, P.O. Box 9828, Fort Lauderdale, Florida 33310. The application must be accompanied by a landscape plan, maintenance plan, and work zone traffic control plan.

(g) Approval will only be granted when it is determined that all plans meet the requirements of this rule. No permit will be issued to an abutting private property owner to provide visibility of such property through the cutting, trimming, or removal of trees, shrubs, or herbaceous plants.

(4) Installation and Maintenance.

(a) All landscape installation or maintenance activities performed by a local governmental entity, non-governmental entity, or abutting private property owner on the Department's right-of-way must be performed in conformity with approved landscape plans.

(b) If a landscape project is proposed for a median or grassed area which is maintained pursuant to an agreement between the Department and a local governmental entity, and the agreement obligates the local governmental entity to maintain the median or grassed area in accordance with an approved maintenance plan, the agreement will be applied to the maintenance of the landscape project. If the Department has previously agreed to provide funds for such maintenance, no increased compensation will be provided by the Department for maintenance of the landscape project.

(5) As-built plans, or a summary of changes are required for all landscape projects, and must be submitted to the District Office within 30 days of the project completion.

(6) Donation of Landscape Projects. The Department will accept donations of plants, materials, installation, and maintenance for landscape projects on the State Highway System that meet the requirements of this rule. The donated landscape projects must substantially improve the appearance or manageability of the median or roadside. An agreement must be on file with the Department

before installation of plants, materials, or signs. The agreement must stipulate that the sign and the landscape project may be removed by the Department for failure to meet the requirements of this rule chapter or the agreement.

(a) Signs acknowledging donated landscape projects by an individual or entity may be erected on the right-of-way, when the donation includes installation and maintenance or solely maintenance pursuant to an executed agreement. Such signs will remain in place for a term of five years, unless otherwise specified in the agreement. Signs recognizing donated landscape projects are a feature of the landscape project, not a traffic control device. Signs within the same local governmental jurisdiction should have a unifying theme represented through the sign appearance, design, fabrication, and installation and can include the local governmental jurisdiction logo as part of the sign design. The sign face must be non-retroreflective, have no moving parts, not be illuminated, and not contain commercial logos, business slogans, tag lines, telephone numbers, web addresses, or trademarks, or give the impression of promotional advertising. Color combinations or shapes that are similar to warning and regulatory signs are prohibited. Signs cannot interfere with any official traffic control device. Signs will be placed at each end of the landscape project. Any sign acknowledging donated landscape projects not meeting the requirement of this rule will be removed by the Department.

(b) Interstate Highways: The sign acknowledging donation of landscape projects on the Interstate Highway System will be provided by the Department. The text will state "Landscape by" and the name of the contributor. The signs shall be installed and maintained by the Department.

(c) Arterial Highways: The sign acknowledging donation of landscape projects on arterial highways will be rectangular and no larger than 18 inches tall and 24 inches wide. The text shall state only "Landscape by" and the name of the contributor. The sign must be mounted on break away posts. The top of signs will be a maximum of no more than 2 feet above grade. Installation of signs is contingent upon an agreement with the appropriate local governmental entity. The approved sign panel(s) must be provided and replaced by the local governmental entity. Signs will be placed according to the approved landscape plan.

Rulemaking Authority 334.044(2), 337.2505, 337.405 FS. Law Implemented 334.044(26), 335.167, 337.2505, 337.405, 339.24, 479.106 FS. History—New 9-22-92, Amended 1-19-99, 4-2-02, 5-22-05, 2-8-06, 12-24-08, 12-2-15, 6-21-18.

14-40.004 Plant Material Selection.

Rulemaking Authority 334.044(2), 335.167 FS. Law Implemented 335.167 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.005 Specific Location Criteria.

Rulemaking Authority 334.044(2), 335.167 FS. Law Implemented 335.167 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.006 Irrigation and Water-Conserving Landscaping.

Rulemaking Authority 334.044(2), (24), 335.167 FS. Law Implemented 335.167 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.007 Maintenance of Landscaping Projects.

Rulemaking Authority 334.044(2), 335.167 FS. Law Implemented 335.167 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.008 Donations of Materials and Services.

Rulemaking Authority 334.044(2), 335.2505 FS. Law Implemented 336.0445(6), 337.2505 FS. History—New 9-22-92, Repealed 1-19-99.

14-40.020 Beautification Grant Application and Award Process.

(1) Purpose. The Department may provide grant assistance for beautification projects in accordance with section 339.2405, F.S., to a local governmental entity or a local beautification council.

(2) Definitions.

(a) "Agreement" means the contract between the Applicant and the Department setting forth the terms of the grant.

(b) "Applicant" means a local governmental entity, as defined in section 11.45(1), F.S., or a local beautification council as established in accordance with section 339.2405(9), F.S.

(c) "Department" means the Florida Department of Transportation.

(d) "Grant" means funds provided by the Department to Applicants, pursuant to this rule chapter.

(e) "Grant Application" means the Beautification Grant Application, Form 650-050-10, Part I and Part II, Rev. 7/17,

incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-09523> and available on the Department's website at <https://fdot.gov>.

(f) "Grant Coordinator" means the Department District employee responsible for the Beautification grant program.

(g) "Beautification Project" means landscapes intended to enhance the attractiveness of facilities on the State Transportation System. Landscapes are installed on state highway right-of-way and may include property owned by a local governmental entity that abuts Department right-of-way, if the property is visible to the state highway system.

(3) Grant Application.

(a) Applicants must submit a grant application to the Grant Coordinator having jurisdiction over the state transportation right-of-way on which the beautification project is proposed.

(b) The grant application deadline is October 1 for each fiscal year. When preparing a grant application, applicants should meet and work with the Grant coordinator beginning three months or more in advance of the deadline, to give adequate time for review and revisions. Any incomplete or late filed applications will not be accepted. Because addendums, corrections, and edits will not be accepted after the application deadline, applicants are strongly encouraged to submit a draft application to the Grant Coordinator by September 1.

(c) Applications are to submit applications online. Applicants must contact the Grant Coordinator at least a week before the October 1 deadline for submission to gain access to the online system.

(d) Applicants may submit an unlimited number of grant applications, for any number of project sites.

(e) The applicant's governing body must have passed a resolution approving the grant application and authorizing the individual who signs the grant application for the applicant to execute agreements and documents associated with the grant. A copy of such fully executed resolution or resolutions must be included with the application.

(f) Applicants are encouraged to either identify themselves as supporting a Rural Economic Development Initiative (REDI) community under section 288.0656, F.S. or indicate that the project is supported with matching funds or in kind contributions from other sources.

(g) For a beautification grant application to be eligible, the application must be accompanied by a letter of authorization from the appropriate Department District verifying that the proposed landscape project will not be in conflict with the Department's five year work program or other Department program or activity. To request a letter of authorization, contact the appropriate Department District Landscape Architect on or before August 1 and provide precise location and written conceptual description of the proposed project.

(h) The Department will evaluate grant applications based on the following attributes: aesthetic value, cost effectiveness, feasibility of installation and maintenance, compliance with state and federal regulations, litter prevention, level of local support, context appropriateness, low maintenance, level of impact, and plant palette.

(i) The Department Landscape Architect with input from the Districts, will provide the Department Secretary with a list of prioritized grant applications, with recommended funding levels, and conditions for grant awards.

Rulemaking Authority 339.2405 FS. Law Implemented 339.24, 339.2405 FS. History—New 1-19-99, Amended 11-22-01, 3-20-03, 8-10-03, 12-23-03, 2-8-06, 12-24-08, 12-2-15, 6-21-18.

14-40.021 Funding, Construction, and Maintenance of Beautification Projects.

Rulemaking Authority 334.044(2), 337.2505(1) FS. Law Implemented 335.167, 337.405, 339.2405 FS. History—New 1-19-99, Amended 11-22-01, Repealed 3-20-03.

14-40.022 Florida Highway Beautification Council Grant Award Process.

Rulemaking Authority 339.2405 FS. Law Implemented 339.2405 FS. History—New 3-9-99, Amended 11-22-01, 3-20-03, 8-10-03, 12-23-03, 12-24-08, Repealed 6-21-18.

14-40.023 Funding, Construction, and Maintenance of Beautification Projects.

(1) Award of Grants.

(a) The Secretary will award grants in the order they appear on the prioritized list and in accordance with available funding. Each grant will be limited to a maximum of 10% of the total Department's beautification grants budget.

(b) Official notice of each grant award will be made by the Department by email to the applicant named in the grant application.

(c) To accept a grant, an applicant must send a letter of acceptance by email to the Grant Coordinator within 15 days from the date of receipt of the offer of the award.

(d) Funds will be released by the Department when agreements are executed, the project is constructed as per plans approved by the Department (see Part I of this rule chapter), there is written final acceptance by the Department, and receipts for grant expenses are reviewed and approved by the Department.

(e) All funding of grants is contingent upon legislative appropriations.

(2) Execution of Agreements.

(a) Agreements associated with the grant must be executed within one year from date of the letter of acceptance, and meet the requirements of paragraph 14-40.003(3)(c), F.A.C. Failure to execute the required agreements will result in the grant award being withdrawn. Future grant applications from an applicant who fails to comply with this subsection will not be accepted for a period of two fiscal years.

(b) The agreement(s) between the applicant and the Department must state:

1. The intended use of the grant, as described in the grant application.
2. The payment terms for the grant (e.g., lump sum reimbursement or progress payments for long term work).
3. Any actions which the Department will take in the event of noncompliance by the applicant.
4. The methods to be used by the Department to determine compliance with the terms of the agreement.

(c) The individual(s) who sign the agreements on behalf of the grant applicant, or the grant applicant's designee, shall certify that the project is implemented as specified in the agreements, and shall provide a certification of completion before the final invoices are submitted for the project.

Rulemaking Authority 339.2405 FS. Law Implemented 339.24, 339.2405 FS. History—New 3-20-03, Amended 8-10-03, 12-24-08, 6-21-18.

14-40.030 Application and Permit Issuance.

Rulemaking Authority 334.044(2), 337.2505(1), 479.02(7), 479.106(8) FS. Law Implemented 334.044(26), 335.167, 337.405, 479.106 FS. History—New 1-19-99, Amended 2-7-02, 2-8-06, 12-24-08, Transferred to 14-10.057.