

Section 300.05 Beautification of the Right-of-Way (BROW)

Property owners immediately adjacent to a City drainage right-of-way that may be suitable for recreational purposes may apply for a Beautification of the Right-of-Way (BROW) permit to maintain the upland area for purposes of passive recreation and access to the waterbody. The permit grants passive access within the public right-of-way and does not convey any right of ownership.

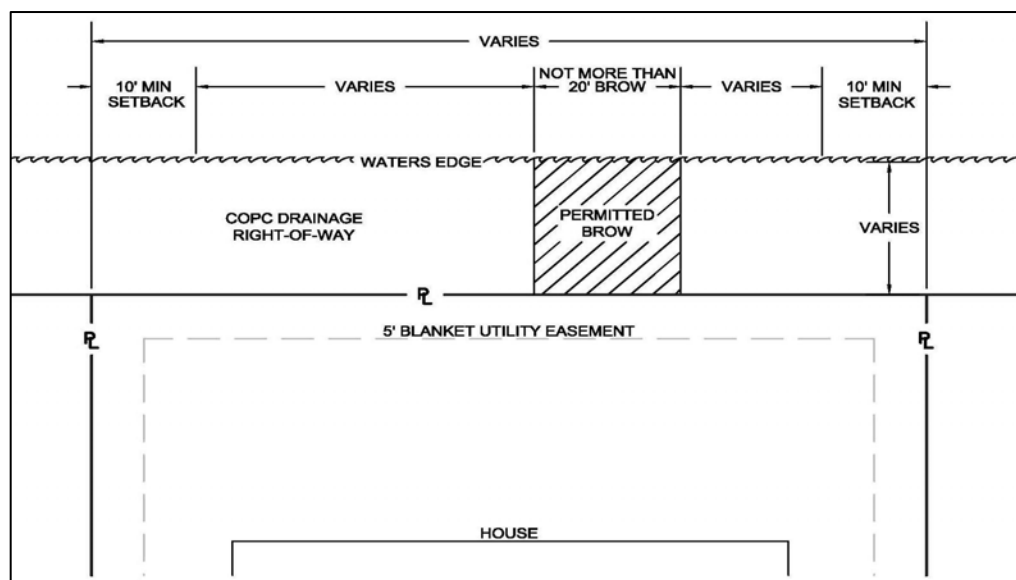
A. Initial Permit Application

1. Right-of-Way Application.
2. Two (2) site plans indicating the measurements from both sides of the rear property line to the waters' edge, measurements from both side property lines to the limits of the proposed BROW. The site plan needs to indicate the quantity and type of trees proposed to be removed from the BROW.

B. General Requirements

1. The BROW must be set back a minimum of 10' from each side property line, but may be located anywhere within the setbacks.
2. The maximum width of the BROW is 20'.
3. All work within the BROW must be done by hand with nothing more than hand tools (HEAVY EQUIPMENT IS **NOT** ALLOWED).
4. Any excavation or grading, including disturbing existing root systems, within the BROW is not permitted.
5. Any and all disturbed areas must be stabilized immediately to prevent soil erosion.
6. All areas outside the approved BROW must remain in their natural condition.
7. Other than the placing of stepping stones or mulched walkways, construction activities are not permitted within the BROW. This includes, but is not limited to, paver installation, concrete slab walkways, retaining walls, etc. within the City right-of-way.
8. A stormwater final inspection must be conducted by a stormwater inspector.

Drawing # 300.A – Sample of Beautification of the Right-of-Way Plan





Prepared by and Return to:
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

Tax Id: _____
[LICENSEE'S PROPERTY]

LICENSE AGREEMENT

BEAUTIFICATION OF CITY PROPERTY

THIS LICENSE AGREEMENT, entered into this _____ day of _____, 20____, by and between the **City of Palm Coast, Florida**, a Florida municipal corporation, ("Licensor" or "City") whose mailing address is 160 Lake Avenue, Palm Coast, Florida 32164, and _____ ("Licensee")

(Print all property owners as shown on the deed)

whose property address is _____.

NOW, THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, the parties agree as follows:

1. City grants to Licensee the right to enter upon and use the City's real property described in **Exhibit "A"** (the "Property"), for the purpose of maintenance and beautification of the Property as further described below:

Hand clearing of vegetation and maintenance to remove invasive species as identified in Florida Exotic Pest Plant Council's Invasive Plant Lists is permissible. All other vegetation removal is strictly prohibited. **No heavy equipment is allowed and no excavation, grading or removal of any trees, including disturbing existing root systems.** No installation or placement of permanent impervious material is allowed. The shoreline shall be maintained in a natural state to improve water quality and sustain wildlife habitat functions. Landscape littoral zone plantings may be permitted if a landscape plan is submitted and reviewed and approved by the City. Licensee agrees to maintain all approved landscape littoral zone plantings.

2. Licensee is the owner of the property described in **Exhibit "B"** attached hereto and incorporated herein ("Licensee's Property").

3. Nothing in this License Agreement shall be construed to grant the Licensee any interest, ownership, or otherwise in the Property. Licensee represents that Licensee has no ownership or other rights or interest in or to the Property and Licensee further agrees should any ownership, rights, or interest arise by virtue of any reason whatsoever, Licensee shall waive such rights in and to the Property or any improvements located thereon.

4. This License Agreement may not be assigned by the Licensee except by sale of Licensee's Property.

5. Licensee understands and agrees that should any modifications on the Property, or any failure to maintain the same, in the sole judgment of City, result in the Property becoming an eyesore, hazard, or otherwise in violation of the policies of the City, City will have the right, upon reasonable notice, to revoke this License Agreement and require the Licensee to immediately remedy the violation. If Licensee fails to remedy the violation, the City may take corrective action, and Licensee must immediately thereafter reimburse City for said cost and expense.

6. In the event Licensee fails to reimburse City as provided in Paragraph 5 above, a lien shall be imposed on the Licensee's Property, in the amount of such costs, and City may foreclose the lien in the same manner as is provided for the foreclosure of a mortgage encumbering real property or by other lawful means.

7. Licensee shall indemnify and hold harmless City, its agents, successors, and assigns, from any claim whatsoever, including but not limited to, costs and attorney's fees arising as a result of any action taken by the Licensee on the Property or its use. Licensee agrees to release City from and against any and all claims, of whatsoever nature or form, arising out of or pertaining to any damages arising from the City's maintenance work or dredging on or about the Property.

8. Licensee agrees to assume all risks in its use and be solely responsible for security of or loss to any personal property of Licensee brought onto the Property.

9. Licensee expressly acknowledges and agrees that the Property is to be accepted by Licensee in an "AS IS WHERE-IS" condition. Licensee, as its sole cost and expense, shall be responsible for all maintenance and upkeep of the Property. Other than the proposed beautification as described above, Licensee shall make no additions to the Property or any structural improvements on the Property. Licensee shall keep the Property free and clear of any liens or encumbrances which may arise as a result of actions by the Licensee.

10. City makes no warranty or representation whatsoever as to the condition of the Property or any improvements which may be located thereon. Licensee's entry upon the Property shall be at Licensee's sole risk and expense. Licensee shall protect, defend, indemnify, and hold harmless City, its employees, and agents from and against all actions, causes of action, losses, costs, damages, claims, and liabilities (whether arising out of injury or death to persons, guests, invitees, or damage to the Property or otherwise) of any nature whatsoever, including, but not limited to, mechanic's and material men's liens and attorneys' fees, proximately arising out of or in connection with Licensee's entry upon the Property under this License. In addition, Licensee shall make any and all repairs to the Property deemed reasonably necessary by City proximately arising out of or in connection with Licensee's entry upon the Property under this License. The provisions of this section shall survive termination or expiration of this License.

11. Nothing contained in this License Agreement shall create or be deemed to create any partnership or joint venture relationship between City and Licensee, and Licensee shall have no power or right to obligate or bind City in any manner whatsoever.

12. City shall have the right to enter upon the Property at all times for any official City related purpose, including, without limitation, inspecting the Property or making improvements or repairs. City is permitted to inspect the Property at any time. City shall provide reasonable advance notice before performing maintenance work or repair on the Property, except in the event of an emergency, as determined by the City.

13. Licensee shall not permit any activity to be conducted on the Property involving the generation, storage, use, or discharge of hazardous substances, as defined under any federal, state or local law, ordinance, rule or regulation, nor permit any hazardous substance to be brought onto or used on, about, or in connection with the Property. Licensee agrees to defend, indemnify and hold City harmless from any and all claims, damages, costs, expenses and liabilities arising out of the violation of this provision or any law regulating the use of hazardous substances. Licensee hereby agrees that Licensee shall report promptly in writing to City any incident which would require the filing of a notice under the environmental laws, and that Licensee shall provide City with copies of any notices or other correspondence which Licensee receives from any government agency with respect to hazardous substances at the Property.

14. In the event Licensee shall fail to perform any of the terms or conditions of this License Agreement, City shall have all equitable and legal rights and remedies permitted by law, including, without limitation, the right to terminate this License Agreement effective immediately. No waiver by City of any default or breach of this License Agreement shall be considered a waiver of any other or subsequent default or breach.

15. This License Agreement shall be interpreted and enforced under the laws of the State of Florida.

16. This License Agreement constitutes the entire understanding between City and Licensee. Neither this License Agreement nor any provision hereof may be changed, modified, waived, discharged or terminated except by an instrument in writing signed by the party against whom the enforcement of any such change, modification, or amendment is sought.

17. In the event of any dispute hereunder or of any action to interpret or enforce this License Agreement, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney's fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not. This provision shall survive the termination or expiration of this License Agreement.

18. Any notices which may be permitted or required shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically (i.e., telecopier device) or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

To Licensee at the following address:

_____	Street Address/Alternate Name
_____	Street Address
_____	City, State, Zip Code

To City at the following address:

City of Palm Coast
Attn: City Manager
160 Lake Avenue
Palm Coast, Florida 32164

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided.

19. If any provision of this License Agreement or the application thereof to any person or circumstances shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this License Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

20. City has the right to terminate this License immediately for any reason. Upon the termination of this License Agreement, the Licensee shall immediately surrender the Property to the City.

21. Covenants Running with the Land. All the provisions, agreements, rights, powers, covenants, conditions and obligation contained in this License Agreement shall be binding upon the parties, their successors and assigns, lessees and all other persons acquiring any interest in the Licensee's Property, whether by operation of law or in any manner whatsoever, including without limitation future owners of the Licensee's Property, and shall inure to the benefit of the owners and the respective parcels and their heirs, successors and assigns. All of the provisions in this License Agreement shall constitute covenants running with the land pursuant to Florida law.

IN WITNESS WHEREOF, the parties have executed this License Agreement on the date(s) indicated below.

WITNESSES:

(print)

(print)

WITNESSES:

(print)

(print)

LICENSEE:

By:_____

Print name:_____

Address:

LICENSEE:

By:_____

Print name:_____

Address:

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20__, by _____ (check one) ☐ who is personally known to me or ☐ who produced _____ as identification.

Notary Public – State of Florida

Print Name:_____

My Commission expires:

APPROVED BY CITY OF PALM COAST:

By: _____
*

Date: _____

*Upon delegation from City Manager on file with the City Clerk of the City of Palm Coast.

EXHIBIT "A"
[CITY'S PROPERTY] PAGE 1 OF 2

EXHIBIT “B”
[LICENSEE’S PROPERTY]