



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, August 01, 2022 at 6:00 PM

City Hall Council Chambers | 5800 Melaleuca Lane

AGENDA

Mayor and City Council

Joel Flores, Mayor

John Tharp, Deputy Mayor

Peter A. Noble, Councilmember, District II

Judith Dugo, Councilmember District III

Susy Diaz, Councilmember, District IV

Paula Bousquet, Councilmember, District V

Administration

Andrea McCue, City Manager

Glen J. Torcivia, City Attorney

Quintella Moorer, City Clerk

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

SPECIAL BUSINESS

1. **Proclamation:** Light it up Green. - Nadine Kirby, President, Light it up Green for MD, Inc.

CONSENT AGENDA

2. **Official Minutes:** City Council Meeting Minutes, July 18, 2022. - Quintella Moorer, City Clerk.
3. **Resolution 2022-38:** Authorizing the execution of the Fiscal Year 2022-2023 Community Development Block Grant (CDBG) Agreement for Phase 1 Lift Station Original Section Sewer Project; and providing for an effective date. - Teri L. Beiriger, Director of Finance.

REGULAR AGENDA

4. **PUBLIC HEARING: Ordinance 2022-11: Second Reading:** Amending Chapter 12, Subdivisions and Land Development Regulations, Article 2, Plats, Division 1, Generally, and Division 2, Application procedure, to create a two-step plat approval process with requirements; amending Chapter 16, Zoning Regulations, Article 2, Administration, Division 1, Generally, Section 16-33, Public Hearing, Table 16-33, to reflect the new plat process; providing for repeal of conflicting ordinances, severability, inclusion in code, and an effective date.- Caryn Gardner-Young, Zoning Administrator.
5. **PUBLIC HEARING: Ordinance 2022-17: Second Reading:** Amending Chapter 11, "Streets, Sidewalks and other Public Places", Article 1, "in General", by adding Section 11-6, Right-of-Way Permits; providing for repeal of conflicting ordinances, severability,

inclusion in the code, and an effective date. - Caryn Gardner-Young, Zoning Administrator.

6. Ordinance 2022-19: First Reading: Amending Chapter 12, Subdivisions and Land Development Regulations, Article 1, in General, by adding Section 12-12, Engineering Permits, providing for repeal of conflicting ordinances, severability, inclusion in code, and an effective date. - Caryn Gardner-Young, Zoning Administrator.

7. Ordinance 2022-24: First Reading: Amending Chapter 10, "Personnel", Article 10, "In General", to create a new Section 10-1 to be entitled, "State and National Criminal History checks for certain Municipal Employees"; to codify requirements for Criminal History records checks for personnel in the Department of Fire Rescue which the governing body of the municipality finds are critical to security or safety; to codify the requirement for Criminal History records checks for certain municipal employees and appointees which the City Council of Greenacres, Florida, finds is critical to security or safety; providing for severability, codification, repeal of conflicting ordinances, and an effective date. - Suzanne Skidmore, Director of Human Resources.

DISCUSSION ITEM - None.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

MAYOR AND CITY COUNCIL REPORT

ADJOURNMENT

Upcoming City Council Meetings:

August 15, 2022

September 14, 2022 - Budget

September 28, 2022 - Budget

Meeting Records Request

Any person requesting the appeal of a decision of the City Council will require a verbatim record of the proceedings and for that purpose will need to ensure that such verbatim record is made. Pursuant to FS. 286.0105, the record must include the testimony and evidence upon which the appeal is to be based. The City of Greenacres does not prepare or provide such verbatim record.

Notice of Council Meetings and Agendas

The first and third Monday of each month are regular meeting dates for the City Council; special or workshop meetings may be called, whenever necessary. Council Agendas are posted on the City's website on the Friday prior to each Council meeting. A copy of the meeting audio and the complete agenda may be requested at CityClerk@greenacresfl.gov or 561-642-2006.

Americans with Disabilities Act

In accordance with the provisions of the Americans with Disabilities Act (ADA), this document can be made available in an alternate format upon request. Special accommodations can be provided upon request with three (3) days advance notice of any meeting, by contacting City Clerk Quintella Moorner at Greenacres City Hall, 5800 Melaleuca Lane, Greenacres, Florida. Phone No. 561-642-2006. Hearing Assistance: If any person wishes to use a Listen Aid Hearing Device, please contact the City Clerk prior to any meeting held in the Council Chambers.



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, July 18, 2022, at 6:00 PM

City Hall Council Chambers | 5800 Melaleuca Lane

MINUTES

Mayor and City Council

Joel Flores, Mayor

John Tharp, Deputy Mayor

Peter A. Noble, Councilmember, District II

Judith Dugo, Councilmember District III

Susy Diaz, Councilmember, District IV

Paula Bousquet, Councilmember, District V

Administration

Andrea McCue, City Manager

Glen J. Torcivia, City Attorney

Quintella Moorer, City Clerk

CALL TO ORDER AND ROLL CALL

Mayor Flores called the meeting to order at 6PM and City Clerk Moorer called the Roll.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Motion made by Councilmember Bousquet, Seconded by Councilmember Noble to approve the agenda. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

1. Jim Harrington said he and the Association agreed with the Shutter Code. He asked Staff to define the term occupied as it related to the Code. Mr. Harrington felt snowbirds should be excluded from Shutter Code.
2. Michele Steinberg said she drafted an amendment to the Code for the Council to consider which was forwarded to the City Manager. She suggested leaving a door or window unlocked instead of removing the shutters for safety. Ms. Steinberg stated the shutters could be an insurance liability hazard.
3. Emily Robarts suggested the Shutter Code be modified for practicality. She also questioned the citation process.
4. Luba Wagner agreed with the previous speakers and mentioned residents were experiencing hardship and suggested modifying the Shutter Code.

SPECIAL BUSINESS**1. Proclamation:** Kidsfit Jamathon. - Wil Romulus, Digital Vibez.

City Clerk Moorer read the proclamation by title. Mr. Romulus thanked the City of Greenacres for their support and recognition. Photos were taken.

2. Presentation: Lobbyist Legislative Update. - Joseph Salzverg, Gray Robinson.

Mr. Salzverg thanked the Council for allowing him to present. He highlighted the State passed the highest amount of bills in history and also vetoed the most bills in history. He highlighted various projects and studies currently happening. He also suggested the City enter into vulnerability studies to find out where the City was as it related to sea levels and climate change. The study would make the City eligible for the Resilient Florida Trust Fund. He said he was working to have the application in by September. Mr. Salzverg suggested the Council stay active in the Palm Beach League of Cities.

Finally, he spoke on the newly revised public notice policies which now allowed electronic notices.

He thanked the Council and stated he would return in the Fall of 2022.

3. Presentation: Community Showcase Video. - Andrea McCue, City Manager.

Ms. McCue presented videos showcasing the City's Live, Work and Play theme partnered with CGI. Ms. McCue thanked Austin Lee, Public Information Officer for his hard work with constructing the video clips.

CONSENT AGENDA**4. Official Minutes:** City Council Meeting Minutes, June 6, 2022 and City Council Special Meeting Minutes, June 6, 2022. - Quintella Moorer, City Clerk.**5. Resolution 2022-31:** Authorizing Fire Rescue to administer a Pilot Program using patient positioning cardiopulmonary resuscitation health service devices and to collect data; authorizing the City Manager or designee to execute all program documents; and providing for an effective date. - Teri Beiriger, Director of Finance.**6. Resolution 2022-32:** Authorizing the submittal of the FY2022 Justice Assistance Grant (JAG) program application to the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice assistance, and authorizing the City Manager to sign all grant documents and accept award of the grant and authorizing the city Manager with signature authority responsible for implementation equipment and technology to be used by Law Enforcement; and providing for effective date. - Teri Beiriger, Finance Director.**7. Resolution 2022-33:** Relating to the provision of residential Solid Waste Collection Services in the City of Greenacres, Florida; approving the Assessment rate for residential Solid Waste Collection Services for the fiscal year beginning on October 1, 2022; imposing a Residential Solid Waste Collection Services Assessment against assessed property located within the City of Greenacres for the fiscal year beginning on October 1, 2022; providing for severability; providing for conflicts; and providing an effective date. - Teri Beiriger, Director of Finance.

Motion made by Councilmember Diaz, Seconded by Deputy Mayor Tharp to approve the Consent Agenda. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

REGULAR AGENDA

- 8. PUBLIC HEARING: Ordinance 2022-14: Second Reading:** Amending Chapter 8, Licenses and Business Regulations, Article 3, Business Taxes, Section 8-46 through 8-736, to correct the applicable department names, to clarify Business Inspections, to create criteria for denying, suspending and revoking Business Tax Receipts, providing for appeals to the Special Magistrate, and for other purposes; providing for repeal of conflicting ordinances, severability, inclusion in Code, and an effective date. - Caryn Gardner-Young, Zoning Administrator.

Ms. Moorer read the ordinance by title.

Ms. Gardner-Young stated the ordinance was needed for clarification and updates. She said no changes had been made since the First Reading. Staff recommended approval.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Noble to approve Ordinance 2022-14 on Second Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

- 9. PUBLIC HEARING: Ordinance 2022-18: Second Reading:** Amending Chapter 9 "Miscellaneous Offenses" by adopting Article 3, "Landlord/Tenant Notice Requirements," Section 9-30 "Notice of Termination of Monthly Residential Tenancy Without Specific Duration" and Section 9-31 "Written Notification Requirements related to Rental payment increases for Rental Tenancies," to require 60 days written notice for termination of certain tenancies and increases in rental rates; providing for severability, preservation, conflicts, codification, and an effective date. - Glen Torcivia, City Attorney.

Ms. Moorer read the ordinance by title.

Ms. Christy Goddeau, City Attorney explained the changes and highlighted the requirements and timelines. She said no changes had been made since the First Reading. Staff recommended approval.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Bousquet to approve Ordinance 2022-18 on Second Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

- 10. PUBLIC HEARING: Ordinance 2022-01: First Reading:** Authorizing the City of Greenacres to execute an Interlocal Service Boundary and Joint Planning Agreement between the City of Greenacres and Palm Beach County to coordinate future land use, public facilities and services in advance of annexation, pursuant to Chapter 171, Part 2, Florida Statutes; providing for repeal of conflicting ordinances, severability, and an effective date. - Kara Ferris, Director of Development and Neighborhood Services.

Ms. Moorer read the ordinance by title.

Ms. Irwin-Ferris mentioned an application was accepted for a volunteer annexation and due to certain issues as enclave the City entered into a Joint Planning Agreement with the County. She stated negotiations have taken place and some revisions were regarded due to Fire Rescue. She said the agreement presented worked out all of the issues to cover Police, Fire and level of service.

Councilmember Noble congratulated the Staff on a job well done. Mayor Flores and Deputy Mayor Tharp mirrored the same sentiment.

Motion made by Councilmember Diaz, Seconded by Councilmember Noble to approve Ordinance 2022-01 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

11. PUBLIC HEARING: Ordinance 2022-02: First Reading: Annexing one parcel of land totaling approximately 20.1183 acres, located at the southeast corner of Lake Worth Road and south Jog Road at 4180 south Jog Road, as requested by the petitioner, Matthew Scott of Dunay, Miskel, Backman, LLP, agent for the owner, LW Jog SC Ltd.; providing for redefining the boundary lines of the City of Greenacres to include the subject property in the City's official boundary map; providing for repeal of conflicting ordinances; providing for severability, and providing for an effective date. - Kara Ferris-Irwin, Director of Development and Neighborhood Services.

Ms. Moorer read the ordinance by title.

Mayor Flores recessed the meeting at 6:54PM due to technical difficulties.

Mayor Flores reconvened the meeting at 7:00PM.

Ms. Irwin- Ferris said the ordinance was a companion to Ordinance 2022-01 and was a volunteer annexation. She mentioned the annexation process to include the County's agreement, ISBA completion, with an adoption date of September 14, 2022. Staff recommended approval.

Matthew Scott, Attorney for applicant stated his client was very excited about the annexation.

Motion made by Councilmember Bousquet, Seconded by Councilmember Diaz to approve Ordinance 2022-02 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

12. Ordinance 2022-11: First Reading: Amending Chapter 12, Subdivisions and Land Development Regulations, Article 2, Plats, Division 1, generally, and Division 2, Application Procedure, to create a two- step Plat Approval Process with requirements; amending Chapter 16, Zoning Regulations, Article 2, Administration, Division 1, generally, Section 16-33, Public Hearing, Table 16-33, to reflect the new plat process; providing for repeal of conflicting ordinances, severability, inclusion in code, and an effective date.- Caryn Gardner-Young, Zoning Administrator.

Ms. Moorer read the ordinance by title.

Ms. Gardner-Young explained the ordinance was to improve the plat process. She described a plat with various types. She highlighted a few changes in the process that created checks and balances, approvals and styles. Staff recommended approval.

Motion made by Councilmember Noble, Seconded by Deputy Mayor Tharp to approve Ordinance 2022-11 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

13. Ordinance 2022-17: First Reading: Amending Chapter 11, "Streets, sidewalks and other Public Places", Article 1, "in general", by adding Section 11-6, Right-of-Way Permits; providing for repeal of conflicting ordinances, severability, inclusion in the code, and an effective date. - Caryn Gardner-Young, Zoning Administrator.

Ms. Moorer read the ordinance by title.

Ms. Gardner-Young defined a right-a-way, what was allowed, what required a permit and what does not. She mentioned enforcement regulations and stated Staff recommended approval.

Ms. Diaz asked about driveway permits requirements for clarification.

Motion made by Councilmember Noble, Seconded by Deputy Mayor Tharp to approve Ordinance 2022-17 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet.

14. PUBLIC HEARING: Ordinance 2022-22: First Reading: Establishing the Blossom Trail Community Development District pursuant to Chapter 190, Florida Statutes; providing for the establishment and naming of the district; providing for the legal description of the external boundaries of the district; providing for the description of the functions and powers of the district; providing for the designation of the initial members of the district's board of supervisors; providing for notice requirements and for compliance with all remaining sections of Chapter 190, Florida Statutes, and all other applicable laws and ordinances; providing for severability; and providing for an effective date. – Kara Irwin-Ferris, Director of Development and Neighborhood Services.

Ms. Moorer read the ordinance by title.

Mr. Jere Earlywine, KE Law Group explained the proposed Blossom Trail community was planned for 230 plus residents near Haverhill Road and Nash Trail. He stated the CDD would help with over \$8 million in public improvements. He further explained the advantages such as higher quality project and cost savings. Mr. Earlywine said there were over 27 CDD's in Palm Beach County. He continued to explain legal requirements and frequently asked questions.

Ms. Irwin-Ferris reiterated the CDD project and requirements and the approval process.

Councilmember Diaz questioned full disclosure of the bond, tax bill and quality.

Deputy Mayor Tharp asked what the true benefit to the resident was. Mr. Earlywine stated more savings with the market and a quality project.

Councilmember Bousquet was concerned with the lot price ranges.

Ms. Maria Camporeale and West Forestar stated the price of homes were expected to be \$399 - \$400 hundred thousand.

Councilmember Diaz asked about the homeowner association fee, reserve fee, foreclosure costs and bond holder data. Mr. Earlywine stated it was based on the developers and projects.

Mayor Flores voiced his concerns with clarification and cost to the residents. He was not in support of the CDD.

Council continued discussion with Mr. Earlywine and Ms. Goddeau.

Deputy Mayor Tharp desired more information on price amounts and timelines, he preferred to Table the item to a future date, the Council denied the motion.

Motion made by Councilmember Bousquet, Seconded by Councilmember Noble to deny Ordinance 2022-22 on First Reading. Voting Yea: Councilmember Noble, Councilmember Diaz, and Councilmember Bousquet. Voting Nay: Deputy Mayor Tharp.

DISCUSSION ITEM

15. Campaign Free Zone - Councilmember Paula Bousquet.

Councilmember Bousquet suggested a campaign free zone which would not allow campaigning in the chambers such as not wearing political items such as shirts, hats, buttons and or making election announcements. The majority of Council disagreed with creating a campaign free zone.

16. Limited Income Senior Citizen Exemption Program. - Andrea McCue, City Manager.

Ms. McCue explained the exemption and the reduction of the tax bill. She said seniors would need to qualify for the exemption and there were currently over 500 residents that would qualify. Mayor Flores suggested a \$500,000 threshold. Councilmember Bousquet suggested \$25,000.

Council agreed to move forward with creating a program and stated an amount would be established later.

17. Hurricane Shutter Code requirements. - Brian Fuller, Fire Rescue Chief.

Chief Fuller mentioned the NFPA 101 Life Safety Code 2018 and Florida Building Code, he stated they did not mention when to remove shutters. He continued to highlight NFPA sections and safety features.

The 2019 Property Maintenance Code required removal of shutters fourteen days after a hurricane/storm event.

Chief Fuller showed a video detailing safety measures and possible inquiries.

Chief Fuller stated keeping shutters on caused harm to neighbors, flashfires, injuries to firefighters and the home.

Council agreed to not make any changes to the Shutter Code.

Ms. Steinberg stated hurricane season comes with dangers. She stated she was concerned with hurricane requirements regarding hurricane safety.

Mr. Jim Herring thanked the Chief for the presentation.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

None.

CITY MANAGER'S REPORT

No report.

18. Community & Recreation Service Report.

19. Development and Neighborhood Services Report.

20. Finance Report.

- 21. Fire Rescue Report.
- 22. Information Technology Report.
- 23. Palm Beach Sheriff Office District 16 Report.
- 24. Public Works Report.
- 25. Purchasing Report.
- 26. Youth Development Report.

CITY ATTORNEY'S REPORT

No report.

MAYOR AND CITY COUNCIL REPORT

Deputy Mayor Tharp thanked Captain Moore for his efforts during the event.

Councilmember Diaz thanked CRS for a great event and PBSO for supporting the lemonade stand.

Councilmember Bousquet thanked Chief Fuller for a great presentation.

Mayor Flores thanked Captain Moore for his service to the community. He planned to continue with Basketball with Mayor as it was a success.

ADJOURNMENT

9:19PM

Joel Flores
Mayor

Quintella Moorer, CMC
City Clerk

Date Approved: _____



ITEM SUMMARY

MEETING DATE: August 1, 2022

FROM: Teri Lea Beiriger, Finance Director, Finance Department

SUBJECT: **Resolution 2022-38**

**Interlocal Agreement with Palm Beach County - Phase I Lift Station
Original Section Sewer - Execution of CDBG Grant Agreement**

BACKGROUND

On March 8, 2022, the City of Greenacres applied to the Palm Beach County Department of Housing and Economic Development (DHED) for a Community Development Block Grant (CDBG) for Fiscal Year 2022-2023. The project will construct north area lift station that has gravity sewer line with a septic system currently serving 1,170 residential units. The first phase will include the construction of the north area lift station that will serve the gravity sewer line between 10th Avenue North and Biscayne Boulevard, and eventually the gravity sewer pipes in the northern half of the Original Section. The current estimated project cost is \$1,358,920. The PBC FY 2022-2023 Action anticipates that City's CDBG application will be approved with funding amount of \$198,947.

ANALYSIS

To proceed with the project, the attached Agreement between Palm Beach County, and the City of Greenacres needs to be approved by the Council. This agreement is similar to the previous CDBG agreements between Palm Beach County and the City of Greenacres. Palm Beach County has informed the City that may be some language changes to the contract. Due to time constraint, the current contract is being submitted. The agreement will become effective October 1, 2022.

FINANCIAL INFORMATION

The CDBG Agreement provides approximately \$198,947 of the \$1,358,920 estimated construction cost of the project. The remaining portion of funds needed to complete the project has been budgeted in the FY 2022-23 budget.

LEGAL

The Resolution has been prepared in accord with applicable City Code requirements.

STAFF RECOMMENDATION

Approval of the FY 2022-2023 CDBG Agreement through the adoption of Resolution 2022-38.

RESOLUTION NO. 2022-38**A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AUTHORIZING THE EXECUTION OF THE FISCAL YEAR 2022-2023 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR PHASE 1 LIFT STATION ORIGINAL SECTION SEWER PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City council entered into an Interlock Agreement with Palm Beach County on June 5, 2017, for the Community Development Block Grant (CDBG) program to qualify for appropriations in Federal Fiscal Years 2021, 2022, and 2023; and

WHEREAS, on March 8, 2022, the City of Greenacres applied to the Palm Beach County Department of Housing and Economic Development (DHED) for a Community Development Block Grant for fiscal Year 2022-2023. The project will construct north area lift station that has gravity sewer line with a septic system currently serving 1,170 residential units from 10th Avenue North to the south by Lake Worth Road, to the east by Haverhill Road, and to the west by the LWDD E-3 Canal. ton to South ; and

WHEREAS, it was determined there is a need for the following project to be undertaken: Phase 1 of the sewer project lift station in the Original Section of the City of Greenacres. The Phase 1 improvements will be located between 10th Ave North and Biscayne Boulevard, in the City of Greenacres. The project will provide sanitary sewer service to properties within the City's Original Section and enhance water quality standards to the city residents.

WHEREAS, funding for this project has been approved in the amount of \$198,947, and will result in greatly needed improvements to Greenacres' Original Section; and

WHEREAS, these improvements will benefit the residents of the established Community Development Block Grant "Target Area", as well as the residents of surrounding areas of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The City Council grants authorization for the execution of the FY 2022-2023 Community Development Block Grant (CDBG) Funding Agreement for Phase 1 of the Lift Station to the Original Section sewer improvements of the City of Greenacres attached hereto as Exhibit A.

SECTION 2. That the appropriate City officials are hereby authorized to execute all necessary documents required to effectuate the terms of the agreement.

SECTION 3. All resolutions in conflict herewith are hereby repealed.

SECTION 4. This resolution shall be effective October 1, 2022.

RESOLVED AND ADOPTED this 1st of day of August 2022

Voted:

Joel Flores, Mayor

John Tharp, Deputy Mayor

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Susy Diaz, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: August 1, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-11, ZTA-22-07**
Plat Process

BACKGROUND

A City-initiated request for a text amendment which proposes to amend Chapter 12, Article II, Divisions 1 and 2 regarding plats; and to amend Chapter 16, Articles II, Division 1, Section 16-33, Table 16-33, of the City of Greenacres Code of Ordinances to create a two (2) step plat approval process and to reflect the new plat process in Table 16-33.

The Planning and Zoning Board of Appeals voted four (4) to zero (0) to recommend approval of Zoning Text Amendment ZTA-22-07 as presented by staff on June 9, 2022. The City Council voted four (4) to zero (0) to recommend approval of Zoning Text Amendment ZTA-22-07 as presented by staff on July 18, 2022.

ANALYSIS

A plat is a guide to a tract of surveyed land created and maintained by licensed surveyors. It is a blueprint containing detailed property information used by a variety of interested parties. Plats are used for the following reasons:

- Plats provide an accurate description of a section of land, accessways, easements and items located on the tract.
- They are meant to prevent trespassing of private property by unauthorized persons.
- They ensure land for public use remains public.
- Plats ensure lots comply with zoning rules and restrictions.
- They ensures all property owners have access to utilities.

Plats are currently reviewed by City Staff and the City Council. That process is not proposed to be changed. Instead, this Zoning Text Amendment will create the two-step plat approval process to allow the development process to move quicker. The first step is the preliminary plat review which is where the full-blown plat review is accomplished and City Council approval is obtained. If the proposed final plat is not significantly different than the preliminary plat then City staff compares the plats and approves the final plat administratively. This process will allow a developer to submit for an obtain outside agency permits which can take over six months to obtain. To implement the new process, Table 16-33, which addresses notice and approval requirements must also be amended.

FINANCIAL INFORMATION

The proposed revisions to the Plat provisions may result in additional revenue being received depending on the number of plat petitions received.

LEGAL

Ordinance 2022-11 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the City Attorney.

STAFF RECOMMENDATION

Approval of ZTA-22-07 through the adoption of Ordinance 2022-11.

ORDINANCE NO. 2022-11

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 12, SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS, ARTICLE II, PLATS, DIVISION 1, GENERALLY, AND DIVISION 2, APPLICATION PROCEDURE, TO CREATE A TWO STEP PLAT APPROVAL PROCESS WITH REQUIREMENTS; AMENDING CHAPTER 16, ZONING REGULATIONS, ARTICLE II, ADMINISTRATION, DIVISION 1, GENERALLY, SECTION 16-33, PUBLIC HEARING, TABLE 16-33, TO REFLECT THE NEW PLAT PROCESS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, INCLUSION IN CODE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres, Florida (the “City”) is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Development and Neighborhood Services Department has submitted a request for a Code of Ordinance amendment to revise Chapter 12 and Chapter 16 to implement a new plat process and procedure; and

WHEREAS, it has been determined, in accordance with the Development Review Committee Staff Report and Recommendation, attached hereto as Exhibit “A” (dated April 11, 2022) that certain amendments to the City’s plat process are appropriate; and

WHEREAS, the proposed amendments will streamline the plat process and make it more user friendly while better protecting the interests of the City; and

WHEREAS, the City Council deems approval of this Ordinance to be in the best interest of the residents and citizens of the City of Greenacres and serves a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The foregoing recitals are incorporated into this Ordinance as true and

Ordinance No. 2022-11 | Plats

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correct findings of the City Council.

SECTION 2. Chapter 12, Article II, Division 1, Sections 12-21 through 12-29 of the City of Greenacres Code of Ordinances is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

DIVISION 1. GENERALLY**Sec. 12-21. Plat submission.**

Any person proposing to subdivide land within the City of Greenacres shall submit a plat of the proposed subdivision to the city's development and neighborhood services~~planning and engineering~~ department along with all required supporting documents. The plat shall conform to all of the requirements set forth in these regulations.

Sec. 12-22. Prior to construction.

No subdivider shall proceed with any construction work on a proposed subdivision before obtaining plat approval from the city council with the exception of clearing or demolition permits, no building or engineering permits shall be issued until the final plat has been recorded with the Clerk of the Circuit Court of Palm Beach County.

Sec. 12-23. City acceptance.

No required improvement shall be accepted as part of the city street system, nor shall it be maintained by the city unless such improvement is constructed and inspected in accordance with the specifications contained herein.

Sec. 12-24. Required legal access.

No building permit shall be issued for, and no building or other structure shall be erected on any lot within the city, unless such lot has access to a street as defined herein, or which corresponds in its location and lines with a street shown on the official map adopted by the city.

Sec. 12-25. Permits.

No permits or licenses as may be required by the City of Greenacres, ~~Florida~~, for any construction, shall be issued on any lot in a subdivision until a plat has been approved by the city council and recorded in the Public Records of Palm Beach County.

Sec. 12-26. Layout and inspection.

The subdivider's engineer and/or surveyor shall provide all layout and field inspection work. Periodic inspections shall be performed by the engineer of record during the course of the work as necessary for the final certification and as required by city policy. The subdivider's engineer and/or surveyor~~He~~ shall also certify all improvements as having been completed in accordance

Ordinance No. 2022-11 | Plats

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with approved plans and specifications and shall provide reproducible "as-built" plans and copies of all applicable test reports.

Sec. 12-27. Certification.

The engineering of record shall also certify all improvements as having been completed in accordance with approved plans and specifications and shall provide reproducible "as-built" plans and copies of all applicable test reports.

Sec. 12-28. Completion.

No temporary or final certificate of occupancy shall be issued until all required improvements have been installed and accepted, or an irrevocable letter of credit bond is in full force and effect.

Sec. 12-29. Maintenance guarantee.

Upon completion of the improvements, the subdivider shall provide, at his or her expense, an irrevocable letter of credit ~~one (1) year maintenance bond~~ on all required improvements in a form acceptable to the city. The irrevocable letter shall be for a minimum term of eighteen (18) months and issued by a nationally recognized and licensed bank with a local branch office in Palm Beach County, Florida. The amount of the irrevocable letter of credit bond shall be ten (10) percent of the original letter of credit submitted by the subdivider for the improvements. ~~construction guarantee amount.~~ After one (1) year, the site shall be inspected and noted deficiencies of the ~~civil engineering~~ improvements shall be repaired at the subdivider/developer's expense within sixty (60) days, which time may be extended up to a total of one hundred twenty (120) days by the development and neighborhood services director or designee for good cause shown along with a renewed irrevocable letter of credit for a minimum term of six (6) months. In the event the deficiencies are not timely and correctly repaired, ~~of the developer's default,~~ the city without further notice or obligation to the subdivider shall utilize the irrevocable letter of credit bond to have the repairs made and any additional amounts owed for such repairs shall be grounds for the city to place a lien on the property until the city is paid in full for all repair costs.

SECTION 3. Chapter 12, Article II, Division 2, Sections 12-41 through 12-44 of the City of Greenacres Code of Ordinances is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

DIVISION 2. APPLICATION PROCEDURE**Sec. 12-41. General procedure.**

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the construction of paving and drainage or structures in such proposed subdivision shall be granted, the subdividing owner, or ~~his~~ authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure:

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- (a) Site plan.
- (b) ~~Presubmission conference~~ Preliminary subdivision plat.
- (c) Final subdivision plat.

Sec. 12-42. Site plan.

Prior to the preparation of the final plat, the subdivider shall receive site and development plan approval in accordance with Chapter 16, Article II, Division 9 of the City Code.

Sec. 12-43 ~~Optional presubmission conference.~~ Preliminary subdivision plat procedures.

The subdivider ~~shall~~ may have a ~~presubmission-pre-application meeting-conference~~ with the development and neighborhood services department-city staff to review the sketch plan and to discuss different aspects of the subdivision regulations to assure that the desires of the ~~subdivider-developer~~ and the needs of the city are best served.

(a) A Pre-Application Meeting Request Form along with ~~The~~ sketch plan shall be accompanied by the legal description and a land survey of the area being subdivided.

~~(b) The sketch plan shall~~ and shall contain the following information, which shall be filed with the development and neighborhood services department:

- (1) A scaled map with subdivision name, north point, graphic scale, and date. The map shall not be smaller than two hundred (200) feet to the inch.
- (2) The name of the owner and all adjoining property owners.
- (3) The boundaries of the area which are to be subdivided and the distance to the nearest existing street intersection.
- (4) All roads, utilities, and watercourses on and within one hundred (100) feet of the proposed subdivision.
- (5) All significant land features, existing structures, and wooded areas.
- (6) Low, swampy areas and areas subject to flooding within the proposed subdivision.
- (7) All existing restrictions on the use of the land, including easements and zoning district lines.
- (8) Proposed layout of streets, blocks, and lots.
- (9) Number of lots, proposed lot width and depth, building type, indication of utilities to be provided, and any proposed easements or deed restrictions.

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(10) Location and size of proposed water, sewer, and drainage facilities, fire hydrants, and other utilities on the land to be subdivided and on land within one hundred (100) feet. This information is to be prepared by an engineer and/ or surveyor registered in the State of Florida.

(11) Proposed parks, playgrounds, and other common areas.

(b) Once, the pre-application meeting has been held, an application for preliminary plat may be submitted to the development and neighborhood services department along with the required documentation and fees.

~~(c) Twenty (20) days prior to presubmission conference, the subdivider shall submit to the planning and engineering department seven (7) copies of the sketch plan for review of streets, drainage, and utilities consideration. The planning and engineering department will coordinate the review process with other city departments as applicable and schedule the presubmission conference. After the presubmission conference the subdivider may proceed to prepare a final plat in accordance with the requirements hereinafter contained. If it has been determined that the preliminary plat application meets the submittal requirements and requirements of F.S. Ch. 177, the application shall be reviewed by the Development Review Committee (DRC) at its next available meeting. After review and approval by the DRC and the development and neighborhood services director or designee, the application for preliminary plat approval shall be forwarded to city council.~~

(d) The city council shall either approve, approve with modifications or conditions, or deny the preliminary subdivision plat after considering the recommendation of city staff and all aspects of the plat necessary to meet all applicable requirements of applicable law, the City Code, and the City's Comprehensive Plan. The city council may also defer or table its decision to a time certain if the city council needs further information to render a decision. The preliminary plat submitted for city council review and approval shall have incorporated all changes or modifications, as required by the development and neighborhood services director or designee and the DRC, to make the preliminary plat conform to the requirements of applicable law, the City Code, the City's Comprehensive Plan, and to the conditions of final plat approval.

(e) If approved by the city council, the approved preliminary plat is a preliminary development order. It shall not constitute acceptance of a final plat but shall be deemed an expression of approval of the layout submitted as a guide to the preparation of the final plat. The preliminary development order and the associated preliminary plat shall expire and be of no further effect twelve (12) months from the date of approval unless either a timely final plat is approved or a timely request to extend the twelve (12) months is submitted to the development and neighborhood services director or designee prior to expiration of the twelve (12) months. The twelve (12) months timeframe may be extended by development and neighborhood services director or designee for good cause shown. The development and neighborhood services director or designee may only extend the twelve (12) months for a maximum period of one hundred eighty (180) days; thereafter, the preliminary plat approval shall expire unless the final plat is approved within the extended timeframe. If the preliminary plat approval expires, the subdivider shall reapply for preliminary plat approval in accordance with the provisions of this chapter (as may be amended from time to time). This provision regarding the effect of approval and expiration of a preliminary plat shall not be subject to a variance. Further, the approval of

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the preliminary plat in no way reserves capacity for purposes of concurrency and approval of the final plat. Subdividers are highly encouraged to pursue final plat approval as soon as possible to avoid substantial revisions to the final plat necessary to comply with changes in the law and local conditions which may arise between preliminary plat approval and final plat approval.

Sec. 12-44. Procedure for final plat and final plat approval.

~~(a) Qualification of person preparing plat: Every subdivision of lands made through these provisions shall be made under the responsible direction and supervision of a land surveyor, registered in the State of Florida, who shall certify on the plat that the plat is a true and correct representation of the lands surveyed, that the survey was made under his responsible direction and supervision, and that the survey data complies with all of the requirements of these regulations. The certification shall bear the signature, registration number and the official seal of the land surveyor.~~ General procedure: If the preliminary plat application is approved by the city council, a final plat application shall be submitted to the development and neighborhood services department along with all fees as are prescribed in a resolution adopted by the city council (as amended from time to time). The original final plat application shall be submitted with one (1) copy of the application and three (3) full-size copies and fifteen (15) reduced-sized copies of the final plat, or as may be otherwise required in the development and neighborhood services department's application submittal checklist.

~~(b) General requirements:Bonds: Prior to the time the final plat of a subdivision is executed on behalf of the city, the subdivider shall post surety as follows:~~

~~(1) A contract, executed in three (3) copies, between the city and the subdivider for construction of required improvements. The contract shall be for a term of two (2) years, shall provide that the city may use the surety to complete the required improvements in the event of the developer's default, and shall be in a form approved by the city attorney. The city council, on recommendation of the planning and engineering department, may extend the period of performance for additional one (1) year periods. Said extension shall not be unreasonably withheld and construction is to be completed within five (5) years.~~

~~(2) Guarantees of one hundred ten (110) percent of the cost of the grading, drainage, paving and sidewalk components of the required improvements as defined in Article III of this chapter shall be given to the city. Said guarantee may be in the form of a performance bond issued by a recognized surety company licensed to do business in Florida, in cash, or as a bank letter of credit approved by the city.~~

The final plat and all related plans shall conform to the approved site and development plan, the approved preliminary plat, the City Code, and the City's Comprehensive Plan. The final plat shall also conform to any requirements under federal, state, and local law and any local conditions which may have changed after the approval of the preliminary plat including, but not limited to, concurrency requirements. The approval of the preliminary plat in no way reserves capacity for the purposes of concurrency and approval of the final plat. At the option of the subdivider, the final plat may constitute only that portion or phase of the approved site and development plan which the subdivider proposes to record and/or develop at the time; provided, however, that such portion or phase shall conform to all requirements set forth herein. The development and

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neighborhood services department shall review the final plat for conformance with the foregoing and all applicable federal, state, and local law and any local conditions which may have changed after the approval of the preliminary plat including, but not limited to, concurrency requirements. The development and neighborhood services department shall also review the final plat for conformance with the following requirements:

(1) The final plat shall conform with F.S. ch. 177, and shall be clearly and legibly drawn, on mylar, to a scale no smaller than one hundred (100) feet to the inch provided, however; that a scale of two hundred (200) feet to the inch may be used for large areas upon written approval of the city engineer. Individual sheets, their size, marginal lines, and other drafting considerations shall comply with accepted standards for the recording of plats. Where the final plat of a proposed subdivision requires more than one (1) sheet, each sheet shall be keyed to a master map with appropriate marks of identification.

(2) A construction cost estimate shall be submitted providing the estimated cost of installing all improvements. Such estimates shall be prepared by the project engineer and shall be based upon recent bid information. As an alternative, bids of two (2) licensed contractors or a copy of an executed contract for the installation of the improvements may be submitted.

(3) Land dedication or acceptable payment in lieu in accordance with Article IV of this chapter shall be executed or collected in a form acceptable to the city prior to the scheduled city council hearing.

(4) When the final plat is approved ~~by the city council~~, it shall be signed in the spaces provided by the city engineer, the city manager, and the mayor and be attested to by the city clerk and affixed with the city's seal.

(5) The subdivider shall file a true copy of the plat, as approved, with the Clerk of the Circuit Court of Palm Beach County, Florida. One copy of the recorded final plat shall be provided to the City of Greenacres on mylar and shall be maintained as permanent record.

(6) Any change in a recorded plat shall be made in accordance with F.S. ch. 177.

(7) The vacation of any recorded plat shall be made in accordance with F.S. ch. 177.

~~General procedure: Whenever the provisions of this chapter have been complied with, while the approval of the site and development plan is in effect, and after all city engineering approvals and any required outside agency permits have been issued, the applicant shall submit seven (7) copies of the final plat and plans to the planning and engineering department for approval. The final plat and plans shall conform to the approved site and development plan, and, at the option of the subdivider, may constitute only that portion or phase of the approved site and development plan which the subdivider proposes to record and/or develop at the time provided, however, that such portion conforms to all requirements of this chapter. The planning and engineering department shall review the final plat for conformance with the approved site and development plan, the zoning code, the provisions of this chapter, and street numbering, naming, and~~

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~~addressing. The review shall be completed and comments resolved prior to the plat being sent to the city council for approval. (d)~~

(c)(d) Submittal requirements: The final plat shall be drawn to a scale no smaller than one hundred (100) feet to the inch; provided, however, that a scale of two hundred (200) feet to the inch may be used for large areas upon written approval of the city engineer. Size of sheets shall be twenty-four (24) inches by thirty-six (36) inches and shall contain or be accompanied by the following:

(1) Name of proposed subdivision. The name shall not duplicate or closely approximate the name of any other subdivision recorded in the Public Records of Palm Beach County.

(2) Location sketch, showing the plat in relation to nearby streets and to city limits.

(3) Date, north arrow, and scale.

(4) Legal description of the property being platted.

(5) A copy of the title documentation that was used to create the plat. The title documentation may be either a title certificate, title commitment, title insurance, or an attorney's opinion of title, and shall include a legal description that matches the plat; the date through which the public records were searched; the names of all owners of record; the names of all mortgage holders of record and if there are no mortgages, it shall so state; a listing of all easements and rights-of-way lying within the plat boundaries and if there are none, it shall so state; a listing of all easements and rights-of-way of record which abut the plat boundaries and are necessary for legal access to the plat and if there are none, it shall so state.

(6) Boundary line of the parcel to be subdivided, drawn accurately to scale, labeled as "limit of plat", and with accurate linear and angular dimensions, in conformance with the legal description of the parcel.

(7) Location and name of adjacent subdivisions, including plat book and page, the depiction of adjacent parcels, lots, easements and rights-of-way and the instrument of record labeled.

(8) All existing streets and alleys on or adjacent to the tract, including name, classification, and right-of-way width. Existing streets shall be dimensioned to tract boundaries.

(9) Name of subdivider and address.

(10) Name, address, and seal of registered surveyor responsible for the plat and accepted data.

(11) All existing property lines, easements, and rights-of-way within the plat, the purpose for which the easements or rights-of-way have been established and the instrument of record labeled.

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(12) Location, width and dimensions of all proposed streets, alleys, rights-of-way, and easements, indicating purpose of easements, including an indication of the purpose of each easement.

(13) Proposed lot lines or parcels with dimensions.

(14) The developer shall indicate vacation of existing right-of-way within the subdivision if vacation of existing right-of-way within the subdivision is necessary for recording of new plat.

(15) Parcels, if any, to be reserved or dedicated for parks, playgrounds, or other public uses with dimensions.

(16) Parcels, if any, for multiple-family dwelling, shopping center, house of worship, industry, or other nonpublic use exclusive of single-family residential uses, with dimensions.

(17) Parcel data, in tabular form, including total area of the plat, number/letter designations and areas of residential lots, parcels, areas in parks, right-of-way dedications and other uses. These areas will be depicted in square feet (rounded to the nearest foot) and acreage (rounded to the nearest thousandth of an acre).

(18) Dedications. The purpose of all reserved areas shown on the plat shall be defined in the dedication on the plat. All areas reserved for use by the residents of the subdivision shall be so dedicated and all areas reserved for public use, such as parks, rights-of-way for roads, streets, or alleys, however the same may be designated shall be dedicated to a particular public agency. Easements for utilities, rights-of-way and easements for drainage purposes and any other area, however designated, shall be dedicated by the owner of the land at the time the plat is recorded.

(19) Mortgagee's consent and approval. All mortgages along with the mortgagee's consent and approval of the dedication shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee or mortgagees, as the case may be, must be witnessed and the execution must be acknowledged. In case the mortgagee is a corporation, the consent and approval shall be signed on behalf of the corporation by the president or vice president and the secretary or an assistant secretary, respectively, by and with the authority of the board of directors as evidenced by a resolution adopted thereby.

(20) Certification of surveyor. The plat shall contain the signature, registration number and official seal of the land surveyor, certifying that the plat is a true and correct representation of the land surveyed under his responsible direction and supervision and that the survey data compiled and shown on the plat complies with all the requirements of F.S. ch. 177, as amended, and this chapter. The certification shall also state that Permanent Reference Monuments (PRMs) have been set in compliance with F.S. ch. 177, as amended, and this chapter, and the Permanent Control Points (PCPs) will be set under the direction and supervision of the surveyor within one year from the date the plat was recorded. When plats are recorded and improvements are to be accomplished under surety posted as provided for by this chapter, the required improvements and surety shall include PCPs.

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(21) Certification of title. Title certification shall be contained on the face or first page of the plat. The title certificate shall state:

- a. That the lands as described and shown on the plat are in the name, and apparent record-title is held by the person, persons, or organizations executing the dedication;
- b. That all taxes and city special assessments, fees, fines, and liens have been paid on said lands ~~as required by F.S. § 197.051, as amended~~; and,
- c. All mortgages on the land and their official record book and page number. The title certification must be an opinion of an attorney-at-law licensed in Florida, or the certification of an abstractor or a title insurance company licensed in Florida.

(22) Instrument prepared by. The name and address of the natural person who prepared the plat shall be contained on the plat ~~as required by F.S. § 695.24, as amended~~. The name and address shall be in statement form consisting of the words,

"This instrument was prepared by

_____ Name

_____ Address"

(23) Survey submittal. F.S. § 177.041(1), requires a boundary survey to accompany the plat at time of submittal. In addition to the boundary, this survey shall depict the following:

- a. All existing watercourses, drainage ditches, canals, and bodies of water on or adjacent to the proposed subdivision.
- b. All existing improvements on the proposed subdivision and all existing sewers, water mains, culverts, fire hydrants, underground or aboveground utilities on or adjacent to the proposed subdivision.
- c. All easements and rights-of-way within the site as shown in the title documentation and all adjacent improvements.

(24) Plat review. In accordance with F.S. § 177.081(1), the plat will be reviewed for conformity with said Chapter 177 by a professional surveyor or mapper either employed by or under contract to the City of Greenacres. The following certification shall be placed on the first page of the plat:

It is hereby certified that the undersigned Professional Surveyor for the City of Greenacres and duly licensed in the State of Florida has reviewed the Plat for conformity with the requirements of Chapter 177, Florida Statutes.

Date: _____

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By: _____

(d) A final plat application shall be reviewed and approved administratively if there are no changes from the preliminary plat to the final plat. If changes have been made or are required to be made subsequent to preliminary plat approval, the development and neighborhood services director or designee shall determine whether the final plat must be considered by city council or the changes are minor in nature. If the changes are minor in nature, the development and neighborhood services director or designee may approve the final plat. Minor changes may include but are not limited to the following:

- (1) Realignment of an internal roadway or curb cut to improve traffic flow, turn movements or other safety considerations.
- (2) Relocate parking or retention areas within the site to increase percolation or reduce runoff from the site (over and above the approved site plan).
- (3) Add or delete less than five (5) percent of the square footage of any lot for the project or add or delete less than five (5) percent of street frontage or lot width for any lot of the project as long as other code requirements are met.
- (4) Decrease density, height, intensity, or permeable surface coverage.
- (5) Relocate easements or utilities to provide more effective service levels.
- (6) Any other changes as determined by the development and neighborhood director or designee to be minor in nature.

The development and neighborhood services director or designee reserves the right to require a final plat to be reviewed by city council if the changes made to the final plat are of such a nature that further city council review is deemed necessary in the director's or designee's sole discretion.

(e) Qualification of person preparing plat: Every subdivision of lands made through these provisions shall be made under the responsible direction and supervision of a land surveyor, registered in the State of Florida, who shall certify on the plat that the plat is a true and correct representation of the lands surveyed, that the survey was made under his responsible direction and supervision, and that the survey data complies with all of the requirements of these regulations. The certification shall bear the signature, registration number and the official seal of the land surveyor.

(f) ~~Bonds~~Irrevocable Letter of Credit: Prior to the time the final plat of a subdivision is executed on behalf of the city, the subdivider shall provide the development and neighborhood services department with an executed subdivision contract and irrevocable letter of credit as follows:

- (1) A subdivision contract, executed in three (3) copies, between the city and the subdivider for construction of required improvements. The contract shall be for a term of two (2) years, shall provide that the city may use the irrevocable letter of credit surety to complete the required improvements in the event of the developer's default, and shall be in a form approved by the city attorney. The contract shall also provide that the city has a right to place a lien on the property for the cost of any repairs which are not covered by the letter of credit. The city council, on the

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recommendation of the development and neighborhood services planning and engineering director or designee, may extend the period of construction performance for up to an additional two one(1)(2) year period for good cause shown along with extensions of the subdivision contract and irrevocable letter of credit which cover the extension timeframe plus six (6) months. Said extension shall not be unreasonably withheld and construction is to be completed within four five (5)-(4) years. If construction is not completed within four (4) years, the city without notice and any obligation to the subdivider may use the letter of credit to pay for the removal of any and all improvements and lien the property if additional costs are incurred by the city in removing any and all improvements.

(2) An irrevocable letter of credit Guarantees of one hundred ten (110) percent of the cost of the grading, drainage, paving and sidewalk components of the required improvements as defined in Article III of this chapter shall be given to the city. Said guarantee letter of credit must be in the form acceptable to the city attorney and issued by a nationally recognized and licensed bank with a local branch office in Palm Beach County, Florida. may be in the form of a performance bond issued by a recognized surety company licensed to do business in Florida, in cash, or as a bank letter of credit approved by the city.

(g) Outside agency approvals and city engineering permit: Prior to the time the final plat of a subdivision is executed on behalf of the city, the subdivider shall provide proof of all outside agency approvals, which shall be reviewed and approved by the city engineer or designee. In addition, a city engineering permit shall be prepared and ready for issuance within thirty (30) days of execution of the final plat on behalf of the city.

SECTION 4. Chapter 16, Article II, Division 1, Section 16-33, table 16-33 of the City of Greenacres Code of Ordinance is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

Sec. 16-33. - Public hearing.

TABLE 16-33: SUMMARY TABLE OF DEVELOPMENT APPLICATION APPROVALS AND NOTICE REQUIREMENTS D-Decision R-Recommendation S-Staff Review #-Mandatory Pre-application Conference					
Review Procedure	City Council	Planning and Zoning Board of Appeals (PZAB)	DNS Director	DRC	NOTICE REQUIREMENTS
Petitions					
Abandonment of Easement or ROW-# (Cross Access, Drainage and LAE do not require newspaper notice and only require first class mail)	D			S	Newspaper Mail Posting City Hall
Annexation, voluntary and involuntary - #	D 2 meetings	R		S	Newspaper Mail Posting City

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					Hall
Comprehensive Plan Amendment (text) - #	D 2 meetings	R		S	Newspaper Posting City Hall
Comprehensive Plan Amendment small scale - #	D 2 meetings	R		S	Newspaper Mail Posting City Hall
Comprehensive Plan Amendment large scale - #	D 2 meetings	R		S	Newspaper Mail Posting City Hall
Master Plan - #	D	R		S	Posting City Hall
Master Plan Amendment - #	D	R		S	Posting City Hall
Master Sign Plan Program - #	D	R		S	Posting City Hall
Plat – Preliminary- #	<u>D</u>		<u>S</u>	<u>S</u>	
Plat -Final	D		<u>D</u>	S	
<u>Plat Exemption - #</u>			<u>D</u>	<u>S</u>	
Site and Development Plan - #	D	R		S	Posting City Hall
Site and Development Plan Amendment (Minor) - #			D	S	
Site and Development Plan Amendment (Major) - #	D	R		S	Posting City Hall
Special Exception (Developed) - #	D	R		S	Newspaper Mail Posting City Hall
Special Exception (Undeveloped) - #	D	R		S	Newspaper Mail Posting City Hall
Special Exception Amendment (Minor) - #			D	S	
Special Exception Amendment (Major) - #	D	R		S	Newspaper Mail Posting City Hall
Unity of Title - #				S	
Variance (Administrative) - #			D	S	
Variance (single family) - #		D		S	Newspaper Mail Posting City Hall
Variance (residential but single family) - #		D		S	Newspaper Mail

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					Posting City Hall
Variance (non-residential) - #		D		S	Newspaper Mail Posting City Hall
Zoning Map Amendment - #	D 2 meetings	R		S	Newspaper Mail Posting City Hall
Zoning Text Amendment (general) - #	D 2 meetings	R		S	Newspaper Posting City Hall

SECTION 5. Repeal of Conflicting Ordinances.

All ordinances and resolutions or parts thereof, which conflict with or are inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 6. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

SECTION 7. Inclusion in Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 8. Effective Date

The provisions of this Ordinance shall become effective 10 days after adoption.

(Remaining page is intentionally left blank)

Passed on the first reading this 18th day of July, 2022.

PASSED AND ADOPTED on the second reading this _____ day of _____ 2022.

Joel Flores, Mayor

Voted:
John Tharp, Deputy Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Susy Diaz, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: August 1, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-11, ZTA-22-07**
Plat Process

BACKGROUND

A City-initiated request for a text amendment which proposes to amend Chapter 12, Article II, Divisions 1 and 2 regarding plats; and to amend Chapter 16, Articles II, Division 1, Section 16-33, Table 16-33, of the City of Greenacres Code of Ordinances to create a two (2) step plat approval process and to reflect the new plat process in Table 16-33.

The Planning and Zoning Board of Appeals voted four (4) to zero (0) to recommend approval of Zoning Text Amendment ZTA-22-07 as presented by staff on June 9, 2022. The City Council voted four (4) to zero (0) to recommend approval of Zoning Text Amendment ZTA-22-07 as presented by staff on July 18, 2022.

ANALYSIS

A plat is a guide to a tract of surveyed land created and maintained by licensed surveyors. It is a blueprint containing detailed property information used by a variety of interested parties. Plats are used for the following reasons:

- Plats provide an accurate description of a section of land, accessways, easements and items located on the tract.
- They are meant to prevent trespassing of private property by unauthorized persons.
- They ensure land for public use remains public.
- Plats ensure lots comply with zoning rules and restrictions.
- They ensures all property owners have access to utilities.

Plats are currently reviewed by City Staff and the City Council. That process is not proposed to be changed. Instead, this Zoning Text Amendment will create the two-step plat approval process to allow the development process to move quicker. The first step is the preliminary plat review which is where the full-blown plat review is accomplished and City Council approval is obtained. If the proposed final plat is not significantly different than the preliminary plat then City staff compares the plats and approves the final plat administratively. This process will allow a developer to submit for an obtain outside agency permits which can take over six months to obtain. To implement the new process, Table 16-33, which addresses notice and approval requirements must also be amended.

FINANCIAL INFORMATION

The proposed revisions to the Plat provisions may result in additional revenue being received depending on the number of plat petitions received.

LEGAL

Ordinance 2022-11 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the City Attorney.

STAFF RECOMMENDATION

Approval of ZTA-22-07 through the adoption of Ordinance 2022-11.

ORDINANCE NO. 2022-17**AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 11, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES", ARTICLE I, "IN GENERAL", BY ADDING SECTION 11-6, RIGHT OF WAY PERMITS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE**

WHEREAS, the City of Greenacres, Florida (the "City") is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City owns and maintains certain rights-of-way within the City's municipal limits; and

WHEREAS, from time-to-time various residents, agencies or entities require the need to take action within the City's rights-of-way; and

WHEREAS, the intent and purpose of the code amendments is to provide a safe, efficient, and economical method of approving construction activity, temporary use or closure of the rights-of-way and the removal, placement, installation or location of structures, facilities, or landscaping in or above the city owned rights -of-way; and,

WHEREAS, the rights-of-way permit will be used to evaluate in detail the proposed plans for use of the rights-of-way, to ensure that use of the rights-of-way is performed in a safe manner that is consistent with City code and that the rights-of-way are restored after it use; and

WHEREAS, it has been determined, in accordance with the Development Review Committee Staff Report and Recommendation, "Exhibit A" dated June 1, 2022 (attached) that the addition of a right-of-way process to the City's Code of Ordinance as set forth herein is necessary for the protection of life, health and safety; and

WHEREAS, the City Council deems approval of this Ordinance to be in the best interest of the residents and citizens of the City of Greenacres and serve a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. Chapter 11 of the City of Greenacres Code of Ordinance, entitled “Streets, Sidewalks and Other Public Places”, is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

Chapter 11 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Sec. 11-6 Right-of-Way Use Permit

(a) Intent and Purpose

It is the intent and purpose of this section to provide a safe, efficient, and economical method of approving of construction activity; temporary use or closure of the right-of-way; and the removal, placement, installation, or location of structures, facilities, or landscaping in or above city owned rights-of-way.

The Right-of-Way Use Permit is used to:

(1) Evaluate in detail the proposed plans for use of the right-of-way;

(2) Ensure that, if approved, use of the right-of-way is performed in a safe manner that is consistent with the requirements of this Code and the health, safety, and welfare of the city and its citizens; and

(3) Ensure that the right-of-way is restored after use.

(b) Applicability

This section shall apply to all construction activity; temporary use or closure of the right-of-way, such as for a sporting event; and the removal, placement, installation, or location of structures, facilities, or landscaping in or above (overhead facilities or structures) city owned rights-of-way.

(c) Exemptions

The following activities, structures, facilities, and landscaping are exempt from the requirements of a Right-of-Way Use Permit:

- (1) Mailboxes installed in accordance with United States Postal Service regulations and Florida Department of Transportation (FDOT) design standards, including those published in the "Manual on Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways."
- (2) Sod ground covering installed in right of way in front of residential dwelling units. Stones, boulders, pavers, mulch, astro turf, faux landscape or other materials that are not considered acceptable sod are not permitted within the city's right of way.
- (3) Use of the right-of-way for temporary moving oversize or overweight loads
- (4) Approved driveway building permits where there are alterations or modifications to the driveway apron in the right of way.
- (5) Routine maintenance where the subject area is being restored to its current condition.
- (6) Emergency – None of the above permit procedures shall apply to emergency repair work. Emergency repair work is work which must be done immediately upon discovery, in order to safeguard the public from immediate danger to life or limb, to safeguard public health, safety or welfare, to repair or replace traffic signals or to restore interrupted utility services. In the event of an emergency as defined above, repair work may be started without a permit upon verbal notification being given to the development and neighborhood services department. If the development and neighborhood services offices are closed, then notification must be given as early as possible on the next regular workday. After the emergency repair is completed, a record drawing must be submitted to the development and neighborhood services department, unless otherwise provided hereinafter, within ten (10) working days. Work that can be scheduled ahead of time will not be considered emergency work.

In addition to the above, in the event that an emergency does arise, the owner/registrant shall provide the following:

1. A public relations/customer service representative shall be contacted immediately for all emergencies and shall be available to handle all homeowner questions and issues as well as media information. Such activities shall be coordinated with the city's public information officer.

2. The name, address and telephone number of the company retained, if any, by the owner/registrant to handle all emergency matters, including but not limited to, immediate repair of any of the facilities and/or property affected by the emergency situation.

(d) Application Requirements

Applications for Rights-of-Way Use Permits shall include:

(1) Applicant Information

(i) Name, Address, E-mail of Applicant

(ii) Engineer of Record If Any

(iii) Application Fee

(2) General Information

(i) Road Name

(ii) Road Location

(iii) Publicly or Privately Maintained Road

(iv) Road Type: Collector, Arterial, Residential

(3) Narrative. A description of the overall proposed activities including the scope, the location, and the nature of the proposed work. The narrative shall include an estimated duration of any construction activity during which the right-of-way will be affected.

(4) Detailed Drawing(s): The application shall include a detailed drawing(s) showing the details and location of the proposed use, including:

(i) Location map. An aerial or survey shall be required for proposed uses involving the installation or removal of structures.

(ii) Proposed work to be done in the right-of-way (to scale or accurately dimensioned).

(iii) Location of any proposed open cuts shall be clearly marked on the plans.

(iv) Evidence of a Sunshine 8-1-1 completed underground utility locate ticket and photographs of any markings found on-site.

(v) Location of any tree(s) five (5) inches dbh that is/are proposed for removal from the right-of-way and if permittee shall be responsible for any damages occurring to the asphalt and/or concrete surfaces caused by roots and/or branches that may impeded or cause a hazard to pedestrians, cyclists, motorists, and overhead powerlines.

(vi) Traffic Signing and Marking Plans where applicable

- (1) Signing and marking plans shall be prepared in accordance with the current versions of the Federal Manual on Uniform Traffic Control Devices and FDOT standards.
- (2) Signing and marking plans shall be provided on separate sheets of the plan set.
- (3) Signing and marking notes shall comply with the M.U.T.C.D. (latest edition), the City of Greenacres Code of Ordinances, and Palm Beach County Typicals (latest edition) and FDOT standards, if applicable.
- (4) Plans shall be scaled at no less than one (1) inch to twenty (20) or thirty (30) feet.
- (5) Centerline curve radius data for all turns and curves shall be placed on the signing and marking plans to verify proper warning signs.
- (6) A quantity sheet or tabulation of quantities shall be included
- (7) All signs shall be identified by the Federal Manual on Uniform Traffic Control Devices designation number; for example, a stop sign is R1-1. A graphic of the sign shall be included.
- (8) All pavement markings shall be identified by size and

color.

- (9) All street names shall be shown on the plans by size and colors.
- (10) If the streets are a combination of publicly and privately maintained, each street shall be identified as publicly or privately maintained.

(5) Other Required Approvals

The following approvals also may be required to be obtained in addition to a Right-of-Way Use Permit:

(i) Uses where dewatering into the right-of-way is proposed must be accompanied by a plan to insure there is no sediment transfer and that pumped water is uncontaminated, and which is approved by the city manager or designee.

(ii) Any proposed work requiring interruption of vehicular or pedestrian traffic shall require a maintenance of traffic plan approved through the building permit process.

(iii) Proposed work requiring a road closure shall approval through the building permit process with notices sent to the PBSO District 16 Captain, Fire Department Chief, Public Information Officer, Public Works Director and the Development and Neighborhood Services Director.

(iv) License and Maintenance Agreements in an approved form may be required for installation of signage, landscaping, irrigation or other facilities or structures within the right-of-way.

(v) Tree location survey and tree plan for projects larger than one single-family dwelling where trees are located within the right of way.

(vi) Traffic Impact Study and substandard Roadway Analysis or, if completed, the applicable approval statement.

(vii) An indemnity agreement in an approved form may be required.

(viii) An insurance policy in an approved form may be required.

(e) Application Processing

(1) An application for a Right-of-Way Use Permit shall be reviewed by all appropriate review agencies as determined by the city manager or designee.

(2) The city manager or designee shall evaluate the request for a Right-of-Way Use Permit and shall:

(i) Approve the application as proposed;

(ii) Approve the application with conditions; or

(iii) Deny the application.

The approval of a Right-of-Way Use Permit may be subject to specific conditions deemed necessary by the city manager or designee and appropriate for the fulfillment of the purposes of this Code. The Conditions of Approval shall be stated on the face of the permit or may be incorporated by reference into any document which shall be attached to the permit.

(f) Terms of Permit and Effect of Permit Approval

(1) The permittee is liable for any damage that results from the permit holder's operations and the city shall be relieved of all responsibility from damage of any nature arising from the permit.

(2) The permit is a license for permissive use only and use of or installation of facilities in the right-of-way pursuant to the permit does not operate to create or to vest any property right in the permittee.

(3) Whenever the city decides to further utilize or perform maintenance in the right-of-way or when an approved route or bus stop is deleted by the county, any installations authorized by the permit shall be removed from the right-of-way or relocated within the right-of-way upon notice by the city manager or designee. Removal or relocation shall be at the expense of the holder of the permit, unless one of the specific exceptions in Section 337.403, Florida Statutes applies. Failure to timely relocate the installations will relieve the city of all liability for damage to the facilities, and/or the city may remove or relocate the installations and charge the holder of the permit for all costs incurred in removing or relocating the installations.

If maintenance of the drainage system is involved then the permit holder must relocate underground installations within fifteen (15) days of notification by the city manager or designee.

(4) The permittee shall have up to 180 days to complete the work authorized by the permit and to complete all required restoration, unless a different time period is authorized by the city on the face of the permit or an extension has been requested for good cause shown. Upon expiration of a permit, the permit is void and further use of the right-of-way requires a new Right-of-Way Use Permit application.

(5) In the event the proposed use and the restoration of the right-of-way is not completed upon the expiration date of the permit, the city may remove or complete such work and charge the holder of the permit for all costs incurred in removing or completing the work.

(g) Prior to Construction Activity

(1) Permittee shall notify all other utility and underground users in the area covered by the permit, so that those users may safeguard their interests through the 8-1-1 Sunshine One Call System.

(2) Permittee shall notify the building division at least forty-eight (48) hours prior to the start of any construction activity.

(3) Permittees shall observe all State "One Call - Call Before You Dig" requirements.

(h) Activity Pursuant to Permit

(1) Construction and Operations

(i) A copy of the permit and all incorporated conditions shall be kept readily available at the site of the work at all times.

(ii) All work shall be done in keeping with the standards of the city through the building permit process.

(iii) Permittee shall notify the building division within forty-eight (48) hours after concluding all activities required by or authorized by the permit.

(iv) Permittee shall allow inspection of all materials and equipment by the city at any time. Permittee and agents/employees, including

field personnel on site, shall provide all information and identification requested by the city.

(v) During construction, all applicable governing safety regulations shall be observed. The permittee may take such safety measures, including the placing and display of caution signs, as it deems necessary to observe all required safety regulations in the conduct of activities under the permit.

(vi) Permittee shall perform all testing through the building permit process. Testing shall adhere to the most current version of the Florida Department of Transportation and Palm Beach County Engineering Department design standards and testing specifications for the construction of roads, storm drainage, and utilities.

(vii) All underground cable or phone lines shall be installed or located at least thirty (30) inches below grade. All lines, cable, or phone lines, under the roadway shall be installed or located at least thirty-six (36) inches deep, unless a different depth is approved through the building permit process.

(viii) All underground utility installations other than cable or phone lines shall be installed or located at the depth specified or approved by through the building permit process.

(ix) All other underground crossing installations not mentioned hereinabove shall be laid at such depth as may be approved through the building permit process.

(x) All activity performed in the city right-of-way pursuant to a Right-of-Way Use Permit shall conform to the approved permit, the approved drawings, and the conditions, if any, of the permit. Deviations from approved drawing or other aspects of the permit or conditions that are required as a result of physical site conditions discovered after the start of the work shall be described in writing to the city within twenty-four (24) hours after discovery of the condition and, to the extent possible, before further activity is performed under the permit. Upon written submission of a description of the circumstances requiring a deviation from the approved drawings/permit/conditions, is submitted to the building division, the development and neighborhood services director or designee may amend the permit to authorize the deviation if the deviation otherwise meets the standards of this Code.

(xii) No track type equipment will be allowed on any asphalt or concrete surface. If this cannot be avoided, it must be stated in the

building permit application and contractor shall be responsible for full restoration of impacted/damaged surface if it occurs.

(xiii) Required erosion and sediment control devices shall be in place at all times during construction and shall be removed only after final stabilization has been established. Photographic evidence of the erosion and sediment control devices shall be submitted to the building division at weekly intervals to ensure compliance.

(xiv) No illicit discharge shall occur as a result of activity performed pursuant to the permit.

(xv) No dewatering into a city right-of-way shall occur without prior written approval from the Public Works Director, or designee as a part of the approved permit. Where dewatering has been approved, no sediment transfer may occur during any dewatering into the city's right-of-way, and pumped water must be uncontaminated. No direct pumping into inlets is allowed, and there must be a visible zone of at least five (5) feet from the dewatering discharge hose to the structure receiving the water. There shall be no dewatering into the city's right-of-way from any petroleum site, whether contaminated or not.

(xvi) Interruption of vehicular or pedestrian traffic or obstruction of a traffic lane shall not occur, except pursuant to the terms of an approved maintenance of traffic plan approved through the building permit process.

(xvii) Roads shall not be closed without an approved MOT by the city, notification, and acceptance of the closure to the city's emergency responders and city to the surrounding residents.

(xviii) Provision for safe pedestrian traffic must be maintained at all times.

(xix) Open cuts shall not be performed without prior written approval through the building permit process.

(xx) Work pursuant to a permit must be performed in accordance with the city's noise ordinance as stated in Chapter 7-56 of the city's Code of Ordinances unless specifically authorized otherwise through the building permit process.

(2) Restoration and Maintenance Standards

(i) The city right-of-way, including sidewalks, curbs and gutters, landscaping, and any aesthetic enhancement thereto, and any adjacent private property affected during activity performed pursuant to a Right-of-Way Use Permit, or for which a Right-of-Way Use Permit was required, must be restored within fifteen (15) days of the completion of activity authorized by the permit, unless a different time period is specified in writing through the building permit process. Any sidewalks removed or damaged must be replaced within three (3) days after the removal or damage.

(ii) The city right-of-way, including sidewalks, curbs and gutters, landscaping, and any aesthetic enhancement thereto, and any adjacent private property affected during activity performed pursuant to a Right-of-Way Use Permit, or for which a Right-of-Way Use Permit was required, must be restored to current code requirements, unless a different standard for restoration is specified in writing through the building permit process.

(1) Restorations shall adhere to the most current version of the Palm Beach County Engineering design standards and testing specifications for the construction of roads, storm drainage, and utilities.

(2) Disturbed areas must be properly stabilized, including grading, compacting, and sodding.

(3) Roadway connections that have been replaced must meet current Florida Department of Transportation regulations including Americans with Disabilities Act standards

(4) All open cut restoration work shall include an additional twenty feet (20') on both sides of milling and resurfacing

(iii) Permittee shall inform the building division within forty-eight (48) hours after completion of required restorations.

(iv) Restorations shall be maintained for one (1) year after completion unless a longer time period is required by this Code.

(i) Bond Requirement

The holder shall post cash, or a Surety Performance Guarantee and Maintenance Guarantee, with the City Clerk. The required amounts for each

shall be based on cost estimates for each prepared by the permittee's engineer and approved by the city manager or designee. The sums approved through the building permit process shall ensure the proper and necessary restoration and maintenance of any property affected by activities under the permit to guarantee performance of the terms and conditions of the permittee's obligations, and to guarantee maintenance of property affected by activity performed under the permit for a period of - twelve (12) months following completion of the activity authorized and required by the permit. In the event a Surety Bond is posted, the said Surety Bond shall be made payable to the city and shall obligate the surety to hold the city harmless and pay the city any costs expended by the city in the event the holder of the permit should fail to meet any of its obligations. The Surety Bond shall also indemnify the city for all court costs and reasonable attorney fees in the event legal action is required to collect on the said Surety Bond. Security posted shall not be refunded, terminated, or released until the expiration of the full required maintenance period and completion of all work authorized or required by the permit.

(j) Prohibitions

Unless exempt under this section, no construction activity; temporary use, or closure of the right-of-way; or removal, placement, installation, or location of structures, facilities, or landscaping in city-owned rights-of-way shall be performed except within the scope of an approved Right-of-Way Use Permit.

(k) Suspension, Modification, or Revocation of Permit

Failure to comply with the terms and conditions of the permit, or County, State, or Federal statutes, rules, or regulations governing use of the right of way may constitute grounds for suspension, modification, or revocation of the Right-of-Way Use Permit. Upon a determination of noncompliance, the city manager or designee may take one (1) or more of the following steps:

(1) Order appropriate corrective action.

(2) Modify the existing conditions or impose additional, more stringent conditions on the permit.

(3) Suspend the permit until appropriate, corrective action is taken or additional or modified conditions are complied with. Any Right-of-Way Use Permit shall be subject to suspension or revocation in whole or in part upon a finding of noncompliance with the terms of the said permit, this Code, or applicable statutes, rules, and regulations. While a permit or any part of a permit is suspended, no operations authorized by the suspended portion of

the Permit shall be carried out. A suspension may be terminated in whole or in part upon a finding that the noncompliance has been corrected.

(4) Revoke the permit.

(l) Enforcement/Violations

In addition to suspension, modification, or revocation of the Right-of-Way Use Permit, violation of this section may be addressed through any of the enforcement methods in this Code.

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances and resolutions or parts thereof which conflict with or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

SECTION 3. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 4. Inclusion in Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of

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Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word “Ordinance” may be changed to “Section”, “Article” or another word.

SECTION 5. Effective Date

The provisions of this Ordinance shall become effective 10 days after adoption.

Passed on the first reading this 18th day of July, 2022.

PASSED AND ADOPTED on the second reading this 1st day of August, 2022.

Joel Flores, Mayor

Voted:
John Tharp, Deputy Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Susy Diaz, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: August 1, 2022
FROM: Caryn Gardner-Young, Zoning Administrator
SUBJECT: **Ordinance 2022-19, ZTA-22-15**
Engineering Permit Process

BACKGROUND

The intent of the City initiated zoning text amendment proposes adding Section 12-12 to create an engineering permit process.

Engineering permits are issued when work is performed on-site for such activities as excavation, dredging, earthwork, grading, lot clearing, drainage, utility work, sealcoating, striping, and paving. Please note that this permit does not apply to work within the Right-of-Way since that will be covered by the newly created Right of Way permit.

Engineering Permits are required for the following reasons:

- To ensure that the work is done correctly by allowing city inspections
- To ensure the City knows the extent and permanence of the beneficial and detrimental effects of the permitted work
- To require erosion and sediment control devices and prevent illicit discharges
- To coordinate work amongst agencies like Palm Beach County Water Utilities

The Development Review Committee has reviewed these text amendments and is recommending approval. The Planning and Zoning Board of Appeals reviewed this staff-initiated text amendment on July 14, 2022, and recommended approval by a vote of 5-0.

ANALYSIS

Presently the City issues a building permit to review this type of work. City Staff is proposing a specific section of the code to outline the requirements for such a permit so the process is clear and concise for a permittee. This proposed process will provide better customer service and avoid delays.

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-19 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the City Attorney.

STAFF RECOMMENDATION

Approval of ZTA-22-15 through the adoption of Ordinance 2022-19.

ORDINANCE NO. 2022-19

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 12, SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS, ARTICLE I, IN GENERAL, BY ADDING SECTION 12-12, ENGINEERING PERMITS, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, INCLUSION IN CODE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres, Florida (the “City”) is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Chapter 12 of the City’s Code of Ordinances sets forth the requirements for the subdivision and development of property within the City; and

WHEREAS, currently, engineering permits are issued for all subdivision and development construction work including, but not limited to, excavation, site work, infrastructure for water, sewer, and roadway improvements, sidewalks, parking areas, and similar improvements; and

WHEREAS, it is the intent and purpose of this amendment to codify the current process for applying for and obtaining a City issued engineering permits for such subdivision and development activities within the City’s municipal jurisdiction; and

WHEREAS, it has been determined, in accordance with the Development Review Committee Staff Report and Recommendation, “Exhibit A” dated June 21, 2022 (attached) that the proposed amendments set forth herein are appropriate; and,

WHEREAS, the City Council deems approval of this Ordinance to be in the best interest of the residents and citizens of the City of Greenacres and serves a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

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GREENACRES, FLORIDA, THAT:

SECTION 1. The foregoing recitals are incorporated into this Ordinance as true and correct findings of the City.

SECTION 2. Chapter 12 of the City of Greenacres Code of Ordinances, entitled “Subdivisions and Land Development Regulations”, Article I, entitled “In Genera”, is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

CHAPTER 12 - SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS**ARTICLE I. - IN GENERAL****Sec. 12-12. - Engineering permits.**

(a) Engineering permits required. An engineering permit is required for all construction activities and work related to subdivision and development improvements governed by this chapter. Engineering permits shall be issued by the development and neighborhood services department in accordance with the City’s Comprehensive Plan, City Code, and such other applicable law. A permit from the county engineering department or state department of transportation is required for the construction of streets to any county or state street, respectively. Construction activities and work requiring an engineering permit include, but are not limited to, the following:

(1) Excavation , fill or grading of earth including, but not limited, to removal of soil from property, import of soil to property, use of any type of grading or earth moving equipment/machinery on property. This subsection shall not apply to excavations and soil removal which are incidental to a lawful building operation for which a valid building permit has been issued by the City. Only clean, suitable fill materials shall be permitted. No trash, wood vegetative or organic matter shall be permitted.

(2) Removal or construction of drainage pipe, drainage structures, lake outfalls etc.

(3) Construction of asphalt, concrete or paver brick surface enhancements or rejuvenation. To replace, overlay, seal coat or perform other forms of pavement surface enhancement or rejuvenation, including any restriping work, on roadways, alleys, asphalt drives, and parking areas.

(4) Construction of driveways. To construct or reconstruct driveways within private property or private or public rights-of-way with access to streets, roads, alleys, or access

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easement areas. Construction of a driveway for one- or two-family dwelling units is exempted from this engineering permit requirement if a City building permit is obtained.

(5) Construction of residential lots/developments. To construct or reconstruct parking areas, hardscape areas, or common area accessways or walks, or to alter elevations/grading of perimeter buffers, berms or swale/retention areas on residential lots or residential developments.

(6) Construction or alteration of drainage. To construct or reconstruct, deepen, widen, fill, re-route or alter any new or existing drainageway, ditch drain, culvert, or canal within the city, including swales within the right-of-way. Minor temporary or emergency drainage work shall not require an emergency permit.

(7) Construction of commercial, retail, assisted living facility (ALF), industrial, or mixed-use property site development/redevelopment. To construct or reconstruct infrastructure for/in lot, tract, parcel, or land subdivision. Infrastructure would include, but not be limited to, earthwork, basins, water, sewer, drainage, curbing, sidewalks, pavement systems, streets, and striping, etc.

(8) Construction of residential multi-unit or subdivision site development/redevelopment. To construct or reconstruct infrastructure for/in a residential multi-unit or subdivision of property. Infrastructure would include, but not be limited to, earthwork, basins, water, sewer, drainage, curbing, sidewalks, pavement systems, roadways, alleys, bridges, streets, and striping.

(9) Construction of utilities. To construct or reconstruct franchise and non-franchise utility lines, conduits, sleeves, etc., within public or private rights-of-way, including roads, alleys, access easements, or common use areas. A permit shall not be required under this Article if a right-of-way permit or other permit approval covers the construction or reconstruction as determined by the development and neighborhood services department director or designee.

(10) Construction of traffic control devices. The construction and reconstruction of traffic control devices including, but not limited, restriping a street or parking area which differs from what was approved (or is being changed with no record of prior approval) including, but not limited to, layout, arrangement or angle, space size or dimension, number of spaces etc.

(b) *Vegetation removal permit.* A vegetation removal permit from development and neighborhood services department may also be required of any of the activities listed in this section involving the clearing or other removal or destruction of vegetation.

(c) *No construction or work before permit.* Except as provided hereinafter, no construction activities or work shall be started until an engineering permit for the proposed activities or work has been issued by the development and neighborhood services department. Minor maintenance work, such as minor repair of existing conditions, franchise utilities, external drainage, pavement or other hardscape in the same location, elevation, and limits may be

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commenced without an engineering permit; provided, however the development and neighborhood services department shall be given forty-eight (48) hours prior written notice of the same. This does not include cable replacement or any other type of facility upgrading or rehabilitation involving excavation.

(d) *Emergency repair work.* Emergency repair work may be done without an engineering permit. Emergency repair work is work which must be done immediately upon discovery, in order to safeguard the public from immediate danger to life or limb, to safeguard public health, safety or welfare, to repair or replace traffic signals or to restore interrupted utility services. In the event of an emergency, emergency repair work may be started without an engineering permit upon verbal notification being given to the development and neighborhood services department. If the development and neighborhood services offices are closed, then notification must be given as early as possible on the next regular workday. After the emergency repair work is completed, an engineering permit (if applicable) must be applied for and obtained from the development and neighborhood services department within ten (10) working days. Work that can be scheduled ahead of time will not be considered emergency repair work.

In addition to the above, in the event emergency repair work is necessary, the owner/applicant shall provide the following to development and neighborhood services:

(1) A public relations/customer service representative who may be contacted immediately for all emergency repair work and who shall be available to handle all homeowner questions and issues as well as media information.

(2) The name, address and telephone number of the company retained, if any, by the owner/applicant to handle all emergency repair work, including but not limited to, immediate repair of any of the facilities and/or property affected by an emergency situation.

(e) *General requirements.*

(1) Engineering permits will expire and become invalid one hundred eighty (180) calendar days from date of issuance if work has not substantially begun on the permitted project unless an extension of time has been granted by the development and neighborhood services department. Permits will become invalid upon suspension of work without a passed inspection in excess of ninety (90) days on any permitted work unless an extension has been granted by the development and neighborhood services department. Permit extension requests must be submitted prior to the expiration of the permit and may be issued by the development and neighborhood services department director or designee for good cause shown. All extension requests will be reviewed for changes in requirements and all new requirements will be made a condition of any permit extension including, but not limited to, changes in the City's Comprehensive Plan, City Code, or other applicable local, state or federal law.

(2) If permittee wishes to begin, continue, or resume work after permit expiration, a new permit must be obtained with all current conditions and regulations having to be met

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including any new approvals that may be required. A new permit fee will be charged for the uncompleted portion of the work only.

(3) Engineering permits will be deemed completed upon completion of all permitted work and acceptance of the installation, by the owner, developer, all regulatory agencies involved, and the development and neighborhood services department.

(f) Procedure for obtaining an engineering permit.

(1) Engineering permits shall be issued to qualified applicants only. Necessary application forms shall be available at the development and neighborhood services department. Forms are to be completed, signed, and submitted together with appropriate fees. Subject to satisfaction of and compliance with the requirements contained in this chapter, permits may be issued to the following:

(i) Utility corporations or companies, including county and municipal utilities, that will be servicing the property or facility.

(ii) Contractors responsible for the installation of any utility facility or structure subject to this Chapter.

(iii) Private citizens, corporations, or organizations with a reasonable and legitimate purpose in using the rights-of-way, which purpose poses no threat or danger to the public health, safety, or welfare.

(iv) In those cases, in which the services to be provided are subject to the City's regulations relating to underground utilities, the applicant must be a certified underground utility and excavation contractor.

(2) Applications shall include a hard copy and electronic copy in both AutoCAD and PDF formats, with the following information:

(i) Engineered drawings (24" x 36") signed and sealed by a Professional Engineer licensed in the State of Florida, showing the location of the proposed installation of facilities in the rights-of-way shall be to scale and show:

1. The adjacent street rights-of-way and pavement width;

2. The distance from the edge of the pavement to the facility or utility;

3. Within a minimum of 100 feet of work all above ground infrastructure and improvements, including without limitation, pavement, curb, sidewalks, buildings, utility poles, street furniture, landscaping, etc.; and all below ground infrastructure and utilities, including without limitation, foundations, tanks, utilities, etc. within limits of work;

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4. The location of all other utilities and facilities, including wireless communication facilities, within the area of work;

5. The facilities to be installed and their size;

6. Identification of the parcels consisting of the nearest adjacent property and the zoning and jurisdiction of such property;

7. One or more typical cross sections as required to adequately reflect the location of the facility. The minimum vertical clearance above or below the pavement shall be shown.

8. Additional information, such as the location in relation to the nearest municipality, major road intersections, bridges, and other physical features, shall be indicated on the drawings and identified.

(ii) A simple key map showing the location of the proposed facility shall be included, either on the drawing itself or as a separate sketch, to assist all concerned with the general location of the installation, indicating the applicable section, city ship, and range.

(iii) Applicable stormwater analysis, traffic impact analysis, and maintenance of traffic plan for any disruption of the public rights-of-way.

(iv) Information on the ability of the public rights-of-way to accommodate the proposed facility.

(v) The means and methods in which the facilities shall be installed.

(vi) For all facilities located within applicable proximity to an intersection, a sightline obstruction analysis signed and by a Professional Engineer licensed in the State of Florida.

(vii) For utilization of electric utility poles and facilities, documentation of compliance with the requirements of the electric utility's franchise agreement regarding facilities for other, non-electric utility services or products.

(viii) The timetable for construction of the project or each phase thereof, and the areas of the city which will be affected.

(3) No engineering permit shall be issued for construction or work until all the required irrevocable letter of credits have been posted. Construction shall not commence until applicant has obtained all necessary approvals and permits from all agencies having jurisdiction and has submitted same to the development and neighborhood services department. Forty-eight (48) hours minimum prior notice must be given to the development

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and neighborhood services department prior to the start of construction once all necessary approvals and permits have been obtained.

(4) The approval of an engineering permit is based primarily upon the information contained on the approved engineering construction drawings. Subsequent minor revisions approved after permitting may be indicated upon approved prints, but such changes must be signed and dated by the engineer of record and the development and neighborhood services department prior to the permittee proceeding with the revisions.

(g) *Work without a permit.* Failure to obtain an engineering permit required by this Section before actual construction or work shall subject the property owner, responsible individual, and/or entity involved, to any or all of the following actions and penalties whether an engineering permit has been obtained after the fact or not:

(1) Removal of any work including, but not limited to constructed facilities, and restoration of the violated area to its original condition within thirty (30) days of written notice by the development and neighborhood services department, and in default of compliance with such notice, such work may be removed by the City and all costs of removal shall be borne and paid by the property owner, the responsible individual or entity and/or by draw on any applicable bond or letter of credit.

(2) Payment for damages to city and/or private property and payment for all losses sustained by the city and/or private owners as a result of such unpermitted construction activity and work.

(3) Such other actions as required by the development and neighborhood services department.

(4) Code compliance enforcement with a fine for each day the unpermitted work remains in place.

(5) Any other action and/or penalty established by legal process available at law.

(h) *Notification to other agencies.*

(1) The applicant for a permit under this Chapter shall notify all rights-of-way users and applicable agencies in the immediate vicinity of the proposed construction or installation locations, stating the work proposed by the applicant, to determine if there are any objections to the applicant's proposed construction or installation. The development and neighborhood services department director or designee shall determine the type of notice to be provided, the vicinity to be noticed, the timeframe for the notice, and any other reasonable notice requirements to ensure all users and agencies are properly notified. If any objections to the applicant's proposed construction or installation are received from affected rights-of-way users or agencies, the applicant shall take such reasonable action as is necessary and directed by the development and neighborhood services department director or designee to resolve the objection(s).

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(2) The applicant shall certify the notification to other users by completing the section provided in the application for such verification. It is the full and complete responsibility of the applicant to determine that all other users are notified of the proposed work. Any work performed without this notification shall be at the sole risk of the applicant.

(i) Issuance; copy of permit and stamped approved plans to be available at site; approval of work.

(1) If the permit application is approved by the development and neighborhood services department and all applicable fees have been paid, the development and neighborhood services department will issue an engineering permit for the proposed work.

(2) The engineering permit and approved plans must be available at all times at the work site while work is being performed. Any work in progress including, but not limited, use of the rights-of-way, without a valid permit and approved plans available at the site shall be suspended until such time as a valid permit is produced on the site.

(3) The development and neighborhood services department inspector shall have the right to inspect and approve materials and phases of work. Final inspection and acceptance of work by the development and neighborhood services department must be obtained to document the completion of the work. Work will be considered incomplete until that portion of the permit indicating the final inspection and approval has been signed and dated by the inspector.

(j) Approving authority; standards for approval and appeals.

(1) The development and neighborhood services director or designee shall have the authority to approve or deny applications for permits under this Chapter based upon approved engineering standards and the City's Comprehensive Plan, City Code, other applicable City, local, state, and federal law.

(2) Any party claiming to be aggrieved by a decision of the approving authority under this Chapter may appeal to the Planning and Zoning Board of Appeals pursuant to section 16-85 of the City Code within ten (10) days of rendition of the decision of the approving authority.

(k) Conditions.

(1) It is expressly stipulated, and the holder of a permit under this Chapter agrees, that the engineering permit is a revocable license for a permissive use only, and that the placing of facilities upon public property pursuant to this permit shall not operate to create or to vest any property right in the holder thereof, and that the issuance of an engineering permit does not relieve the permit holder of the need for obtaining any other permits or licenses that may be required by the appropriate authorities. The permit holder agrees that the permit may be revoked if the development and neighborhood services department or designee finds that the work performed thereunder is not in accordance with the approved plans and/or this

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Chapter, the City's Comprehensive Plan, City Code or other applicable law; that the permit was issued in error; and/or, the permit or work will be detrimental to the public health, safety or welfare.

(2) The rights and privileges set out in this Chapter are granted only to the extent of the City's jurisdiction over the land to be entered upon and used by the applicant. The applicant will, at all times, assume all risk of loss and defend, indemnify, and hold the City harmless from and against any and all loss, damage, cost, or expense arising in any manner on account of the exercise or attempted exercise by the applicant of these rights and privileges.

(3) Except where prior written consent has been obtained and copy provided to the development and neighborhood services department, the construction or maintenance of a utility shall not interfere with or encroach upon the property or rights of a prior or current occupant.

(4) In the event of widening, repair, reconstruction, or improvement of rights-of-way, including but not limited to installation of pavement, drainage structures or sidewalks, the applicant shall, upon notice by the development and neighborhood services department, relocate or protect existing facilities to clear the area for construction, at no cost to the City.

(5) Applicants receiving an engineering permit are required to schedule pre- and post-construction inspections with the development and neighborhood services department.

(l) *Compliance with applicable regulations and approved plans.*

(1) The applicant for any permit assumes full and total responsibility for compliance with this Chapter, supporting regulations, additional requirements of the City, and county, state or federal laws, ordinances or other directives which may apply to the proposed work.

(2) The applicant for a permit assumes the responsibility to adhere to the approved plat and site plan post-construction.

(m) *General obligations.*

(1) Obtaining an engineering permit does not relieve an applicant or property owner of its duty to obtain all other necessary authorizations and to pay all fees required by other city, county, state or federal rules, laws, or regulations.

(2) The applicant and property owner shall comply with all requirements of the City's Comprehensive Plan, City Code, other applicable local, state, county, and federal laws, and are responsible for all construction performed pursuant to the engineering permit, regardless of who performs the construction.

(3) The construction performed in on city owned or city controlled property shall be done in conformance with specifications provided for in the City Code.

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(4) Except in the case of emergency, and with the approval of the development and neighborhood services director or designee, no construction on public property may be performed when climatic conditions are unreasonable for such work. The development and neighborhood services director or designee may order a temporary cessation of construction during inclement or impending inclement conditions, when such conditions present an unreasonable danger to persons using the right-of-way or to the general public. The development and neighborhood services director or designee shall provide reasonable notice, as is practical, to make the construction site safe and to secure materials and equipment.

(5) An applicant or property owner shall not cause obstruction in a manner that will interfere with the natural free and clear passage of water through the gutters or other waterway.

(6) Private vehicles, other than authorized company vehicles, may not be parked within or adjacent to a construction site. The loading and unloading of trucks adjacent to a construction site area is prohibited unless specifically authorized through the permit process.

(7) The applicant or its designated licensed contractor shall belong to the Sunshine State One-Call Notification System as required by state law or such other line location system acceptable to the City.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances or parts thereof or parts of the City Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 4. Severability.

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts ha

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not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

SECTION 5. Inclusion in Code.

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 6. Effective Date.

The provisions of this Ordinance shall become effective upon adoption.

(Remaining page is intentionally left blank)

Passed on the first reading this ____ day of _____, 2022.

PASSED AND ADOPTED on the second reading this ____ day of ____ 2022.

Joel Flores, Mayor

Voted:
John Tharp, Deputy Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Suzy Diaz, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



Department Report

MEETING DATE: 08/01/22

FROM: Suzanne Skidmore, Director of Human Resources & Risk Management

SUBJECT: Ordinance 2022-24 - Fire Recue Criminal History Background Checks

BACKGROUND

The City of Greenacres currently conducts such background checks for firefighter personnel through the Florida Department of Law Enforcement's (FDLE) Civil Workflow Control System (CWCS), which enables the City to conduct fingerprint-based state and national criminal history record checks under the authority of Florida Statute Section 633.412. The Federal Bureau of Investigation (FBI) has advised FDLE that the City will no longer be authorized to submit applicants under the authority of Florida Statute Section 633.412 effective May 1, 2023.

ANALYSIS

The City desires to continue its current level of background screening for personnel in the Department of Fire Rescue. The only change is that the City is no longer able to perform Fire Rescue checks using the current Originating Agency Identification (ORI). A separate ORI will need to be established for Fire Rescue.

FINANCIAL INFORMATION

Any costs associated with the policies are and will be included in the City Budget.

LEGAL

The Ordinance has been reviewed by our City Attorney for legal sufficiency.

STAFF RECOMMENDATION

Staff is recommending approval of Ordinance 2022-24 on first reading.

ORDINANCE NO. 2022-24

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 10, "PERSONNEL", ARTICLE I, "IN GENERAL", TO CREATE A NEW SECTION 10-1 TO BE ENTITLED, "STATE AND NATIONAL CRIMINAL HISTORY CHECKS FOR CERTAIN MUNICIPAL EMPLOYEES"; TO CODIFY REQUIREMENTS FOR CRIMINAL HISTORY RECORDS CHECKS FOR PERSONNEL IN THE DEPARTMENT OF FIRE RESCUE WHICH THE GOVERNING BODY OF THE MUNICIPALITY FINDS ARE CRITICAL TO SECURITY OR SAFETY; TO CODIFY THE REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS FOR CERTAIN MUNICIPAL EMPLOYEES AND APPOINTEES WHICH THE CITY COUNCIL OF GREENACRES, FLORIDA, FINDS IS CRITICAL TO SECURITY OR SAFETY; PROVIDING FOR SEVERABILITY, CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, AND AN EFFECTIVE DATE

WHEREAS, it is common practice, appropriate, and proper to require general background checks for prospective City employees; and

WHEREAS, the City of Greenacres ("City") currently conducts such background checks for firefighter personnel through the Florida Department of Law Enforcement's (FDLE) Civil Workflow Control System (CWCS), which enables the City to conduct fingerprint-based state and national criminal history record checks under the authority of Florida Statute Section 633.412; and

WHEREAS, the Federal Bureau of Investigation (FBI) has advised FDLE that the City will no longer be authorized to submit applicants under the authority of Florida Statute Section 633.412 effective May 1, 2023; and

WHEREAS, the City desires to continue its current level of background screening for personnel in the Department of Fire Rescue; and

WHEREAS, Florida Statute Section 166.0442 provides authority to conduct such screening; and

WHEREAS, Florida Statute Section 166.0442 authorizes municipalities, by ordinance, to require criminal history records checks for the following any position of municipal employment or appointment, whether paid, unpaid, or contractual, which the governing body of the municipality finds is critical to security or public safety; and

WHEREAS, Florida Statute Section 166.0442 requires that criminal history record checks include fingerprinting the applicable individuals, and having the individuals' fingerprints submitted to FLDE for a state criminal history record check which are then forwarded by FDLE to the FBI for a national criminal history record check; and

WHEREAS, considering the City's past practice and continuing need to require background screening for prospective employees and certain individuals, it is appropriate for the City to require criminal history record checks for the personnel in the Department of Fire Rescue as authorized by Florida Statute Section 166.0442(1); and,

WHEREAS, the City Council has determined it is in the best interests of the City and serves a valid public purpose to require state and national criminal history record checks for such personnel as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

Section 1: Recitals. That the foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of the City of Greenacres, Florida.

Section 2: That Chapter 10, entitled, “Personnel “Article I, entitled “In General”, is hereby amended by creating a new section 10-1 to be entitled, “State and National Criminal History Checks for Certain Municipal Employees” which new section shall state as follows:

Sec. 10-1. – State and National Criminal History Checks for Certain Municipal Employees.

- (a) Pursuant to Florida Statute Section 166.0442, as amended from time to time, state and national criminal history record checks shall be required for personnel in the Department of Fire Rescue.
- (b) All prospective personnel in the Department of Fire Rescue shall be required to authorize the City to conduct all appropriate background screening procedures as a condition of employment with the City, including but not limited to obtaining fingerprints.
- (c) Fingerprints obtained pursuant to Florida Statutes Section 166.0442 shall be submitted to FDLE for state criminal history record check, which shall be forwarded by FDLE to the FBI for a national criminal history record check, or as in accordance with FDLE and FBI procedures as amended from time to time.
- (d) The information obtained for each criminal history record check conducted under this section shall be used to determine a person’s eligibility for employment and eligibility for continued employment.
- (e) This section is not intended to preempt or prevent any other background screening, including but not limited to, criminal history background checks that the City may lawfully undertake.

Section 3: Severability. That if any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall

be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 4: Repeal of Conflicting Ordinances. All ordinances or parts thereof conflicting with or inconsistent with the provisions of this Ordinance are repealed.

Section 5: Inclusion in the Code. That the provision of this Ordinance shall be made a part of the Code of Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word “Ordinance” may be changed to “Section”, “Article” or another word.

Section 6: Effective Date. That the provisions of this Ordinance shall take effect upon adoption.

Passed on the first reading this 1st day of August 2022.

PASSED AND ADOPTED on this second reading this ____ day of ____, 2022.

Joel Flores, Mayor

Voted:
John Tharp, Deputy Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Susy Diaz, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney