



CITY COUNCIL SPECIAL/BUDGET MEETING

City of Greenacres, Florida

Wednesday, September 14, 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

First Budget Hearing - Fiscal Year 2023 Proposed Budget.

1. Fiscal Year 2023 Proposed Budget Presentation. - Teri Beiriger, Director of Finance.
2. **PUBLIC HEARING: Ordinance 2022-31: First Reading:** Establishing a taxable valuation and levying an Ad Valorem Tax on property located within the corporate limits of Greenacres, Florida, as of the year ending December 31, 2022; providing for repeal of conflicting ordinances; providing for severability; and providing for an effective date. - Teri Beiriger, Director of Finance.
3. **PUBLIC HEARING: Ordinance: 2022-32: First Reading:** Adopting an operating budget for the fiscal year beginning October 1, 2022, and ending September 30, 2023; providing for repeal of conflicting ordinances; providing for severability; and providing for an effective date. - Ter Beiriger, Director of Finance.

SPECIAL BUSINESS

4. **Proclamation:** National I.T. Professionals Day, September 20, 2022, and National Cybersecurity Awareness Month. - Georges Bayard, Director of I.T.
5. **Proclamation:** National Hispanic Heritage Month, October 2022. - Maria Antuna, CEO of the Hispanic Chamber of Commerce.
6. **Proclamation:** Firefighter Appreciation Month, September 2022. - Brian Fuller, Fire Rescue Chief.
7. **Proclamation:** Hunger Action Month. - Stuart Haniff, MHA, Vice President of Philanthropy, Feeding South Florida.

8. **Presentation:** Comprehensive Plan Update. - Caryn Gardner-Young, Zoning Administrator.

CONSENT AGENDA

9. **Official Meeting Minutes:** City Council Meeting Minutes, August 15, 2022, and City Council Special Meeting Minutes, August 15, 2022. - Quintella Moorer, City Clerk.
10. **Resolution 2022-41:** Approving the Professional Service Agreement between the City of Greenacres and Nowlen, Holt & Miner, P.A. to provide annual auditing services; authorizing the appropriate City Officials to execute the agreement; providing for an effective date. - Monica Powery, Director of Purchasing.
11. **Resolution 2022-42:** Approving the Fiscal Year 2023 Community Based Agency Contract with the Palm Beach County Youth Services Department; authorizing execution; and providing an effective date. - Jowie Mohammed, Director of Youth Programs.
12. **Resolution 2022-43:** Authorizing participation in the Public Emergency Medical Transportation (PEMT) Supplemental payment program for Medicaid managed care patients; delegating authority to execute letter(s) of agreement with the State of Florida relating to intergovernmental transfers to the State; delegating authority to execute other documents necessary to participate in the program and providing an effective date. - Teri Beiriger, Director of Finance.
13. **Resolution 2022-44:** Approving Amendment Two (2) to the Interlocal Agreement for fire protection and emergency medical services by and between the City of Greenacres and the City of Atlantis, providing for an effective date. - Andrea McCue, City Manager.
14. **Resolution 2022-45:** Authorizing the submittal of the Fiscal Year 2021 Department of Homeland Security Grant application for assistance to Firefighters in the amount of \$57,870.27 for the purpose of covering the overtime cost associated with training and or backfill personnel who are training using front-line apparatus and equipment providing the most real-life experience. - Teri Beiriger, Director of Finance.
15. **Resolution 2022-46:** Authorizing the execution of the Fiscal Year 2022-2023 Community Development Block Grant (CDBG) amended Agreement for Phase 1 Lift Station Original Section Sewer Project; and providing for an effective date. - Andrea McCue, City Manager.

REGULAR AGENDA

16. **PUBLIC HEARING: Ordinance 2022-02: Second 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 Irwin- Ferris, City Consultant.
17. **PUBLIC HEARING: Ordinance 2022-15: Second Reading:** Amending Chapter 16 "Zoning Regulations," Article 2 "Administration," by deleting in its entirety current Division 11 "Adult Entertainment establishments" and adopting a new Division 11, entitled "Adult Entertainment establishment," which shall formally incorporate Palm Beach County's Adult Entertainment Code, and setting forth those specific opt-out provisions from the

County's Adult Entertainment Code; providing for severability, preservation, conflicts, codification and an effective date. - Caryn Gardner-Young, Zoning Administrator.

18. Ordinance 2022-20: First Reading: Amending Chapter 8, Licenses and Business Regulations, Article 3, Business Taxes, Sections 8-46 through 8-72, to clarify Business Tax Receipt requirement for home businesses and amending the fees to obtain a Business Tax Receipt, providing for repeal of conflicting ordinances, severability, inclusion in code, and an effective date. - Caryn Gardner-Young, Zoning Administrator.

19. PUBLIC HEARING: Ordinance 2022-21: Second Reading: Amending Chapter 16, Zoning Regulations, Article 7, Landscaping, Section 16-1249(b)(6); to clarify when tree removal permits are not required for single family detached dwelling units in accordance with recently adopted State Statutes; providing for repeal of conflicting ordinances; providing for severability providing for inclusion in Code; and providing for an effective date. - Caryn Gardner-Young, Zoning Administrator.

20. PUBLIC HEARING: Ordinance 2022-25: First Reading: Amending Chapter 16 "Zoning Regulations" by deleting Article 6, "Sign Regulations," in its entirety and adopting a new Article 6, "Sign Regulations," providing for severability, conflicts, codification and an effective date. - Caryn Gardner-Young, Zoning Administrator.

21. Ordinance 2022-26: First Reading: Amending Chapter 10, Personnel, Article IV, Retirement, Pensions and other Employee Benefit Programs, Division 3, Retirement Systems authorized, Section 10-148 entitled "Public Safety Officers and Firefighters Retirement Plan and Trust:" amending the Florida Municipal Pension Trust Fund Defined Benefit Plan and Trust Adoption Agreement to provide for a Deferred Retirement Trust Option Plan for those Public Safety Officers who continued to remain members of the City's retirement plan after becoming PBSO employees; providing for repeal of conflicting Ordinances, inclusion in the Code, severability and an effective date. - Andrea McCue, City Manager.

22. PUBLIC HEARING: Ordinance 2022-27: Second Reading: Adopting Chapter 13 "Taxation," Article 4 "Additional Homestead Exemption for Persons 65 and older, to provide for an additional \$5,000.00 Homestead Exemption for qualifying persons 65 years of age and older; providing for severability, conflicts, codification, delivery, and an effective date. - Andrea McCue, City Manager.

23. Ordinance 2022-28: First Reading: Amending Chapter 4 "Buildings and Building Regulations," Article 3 "Floodplain Management" to provide for accessory structures in flood hazard areas; to specify elevation of manufactured homes in flood hazard areas; to address market value and for other purposes; providing for applicability, conflicts, severability, and an effective date. - Scott H. Wood, Building Official.

24. Ordinance 2022-30: First Reading: Amending Chapter 11, Streets, Sidewalks, and other Places, Article 4, City Parks, by creating a new Section 11-76 to be entitled, "Smoking and Vaping prohibited in Parks;" providing for repeal of conflicting ordinances, severability, inclusion in the Code, and an effective date. - Andrea McCue, City Manager.

DISCUSSION ITEM

25. Campaign Free Zone.- Judith Dugo, Councilmember.

26. City Manager and City Attorney Evaluations. - Andrea McCue, City Manager.

27. Greenacres Historical Museum. - Andrea McCue, City Manager.

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 Meeting**

September 28, 2022 - Final 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 of Greenacres

Budget Meeting
September 14, 2022

Item # 1.

General Fund

GENERAL FUND

REVENUE AND EXPENDITURE SUMMARY

2022 FORECAST TO 2023 PROPOSED

Item # 1.

| CATEGORY | FY 2022 FORECAST * | FY 2023 PROPOSED | CHANGE FROM PRIOR YR | % CHANGE | % OF TOTAL BUDGET |
|---------------------------|-----------------------|----------------------|-------------------------|---------------|----------------------|
| REVENUES | | | | | |
| Ad Valorem Taxes | \$ 13,902,937 | \$ 15,367,846 | \$ 1,464,909 | 10.5% | 42.1% |
| Utility Service Taxes | 3,164,780 | 3,126,000 | (38,780) | -1.2% | 8.6% |
| Other Taxes | 2,571,698 | 2,422,688 | (149,010) | -5.8% | 6.6% |
| Permits & Fees | 3,178,605 | 2,951,658 | (226,947) | -7.1% | 8.1% |
| Intergovernmental | 6,097,066 | 6,042,540 | (54,526) | -0.9% | 16.5% |
| Charges for Services | 5,548,593 | 5,948,270 | 399,677 | 7.2% | 16.3% |
| Fines & Forfeitures | 165,903 | 96,886 | (69,017) | -41.6% | 0.3% |
| Interest Income | 46,083 | 78,994 | 32,911 | 71.4% | 0.2% |
| Contributions | 29,550 | 28,550 | (1,000) | -3.4% | 0.1% |
| Rent & Royalties | 389,784 | 382,928 | (6,856) | -1.8% | 1.0% |
| Interfund Transfers (In) | 10,185,492 | 0 | (10,185,492) | -100.0% | 0.0% |
| Miscellaneous Income | 153,712 | 90,929 | (62,783) | -40.8% | 0.2% |
| TOTAL REVENUE | \$ 45,434,203 | \$ 36,537,289 | \$ (8,896,914) | -19.6% | 100% |
| EXPENDITURES | | | | | |
| Personnel Services | \$ 15,516,000 | \$ 17,216,993 | \$ 1,700,993 | 11.0% | 34.7% |
| Operating | 3,630,479 | 4,207,350 | 576,871 | 15.9% | 8.5% |
| PBSO Contract | 10,389,897 | 10,771,463 | 381,566 | 3.7% | 21.7% |
| Capital Outlay | 58,883 | 62,100 | 3,217 | 5.5% | 0.1% |
| Grants & Aids | 128,923 | 129,000 | 77 | 0.1% | 0.3% |
| Solid Waste Collection | 2,251,835 | 2,376,634 | 124,799 | 5.5% | 4.8% |
| Insurance | 308,925 | 344,325 | 35,400 | 11.5% | 0.7% |
| Interfund Transfers (Out) | 635,000 | 14,305,000 | 13,670,000 | 2152.8% | 28.9% |
| Contingency | 168,854 | 50,000 | (118,854) | -70.4% | 0.1% |
| Other Obligations | 90,308 | 90,308 | 0 | 0.0% | 0.2% |
| TOTAL EXPENDITURE | \$ 33,179,104 | \$ 49,553,173 | \$ 16,374,069 | 49.4% | 100% |

Excess Revenue Over (under) 12,255,099 (13,015,884)
Expenditures

* Forecast as of 6/30/2022

GENERAL FUND

REVENUE AND EXPENDITURE SUMMARY

| CATEGORY | FY 2022 BUDGET | FY 2023 PROPOSED | CHANGE FROM PRIOR YR | % CHANGE | % OF TOTAL BUDGET |
|--------------------------|----------------------|----------------------|-------------------------|--------------|----------------------|
| REVENUES | | | | | |
| Ad Valorem Taxes | \$ 13,892,004 | \$ 15,367,846 | \$ 1,475,842 | 10.6% | 42.1% |
| Utility Service Taxes | 3,032,000 | 3,126,000 | 94,000 | 3.1% | 8.6% |
| Other Taxes | 2,321,710 | 2,422,688 | 100,978 | 4.3% | 6.6% |
| Permits & Fees | 2,690,798 | 2,951,658 | 260,860 | 9.7% | 8.1% |
| Intergovernmental | 4,918,502 | 6,042,540 | 1,124,038 | 22.9% | 16.5% |
| Charges for Services | 5,956,687 | 5,948,270 | (8,417) | -0.1% | 16.3% |
| Fines & Forfeitures | 85,569 | 96,886 | 11,317 | 13.2% | 0.3% |
| Interest Income | 15,837 | 78,994 | 63,157 | 398.8% | 0.2% |
| Contributions | 29,550 | 28,550 | (1,000) | -3.4% | 0.1% |
| Rent and Royalties | 323,271 | 382,928 | 59,657 | 18.5% | 1.0% |
| Interfund Transfers (In) | 227,856 | 0 | (227,856) | -100.0% | 0.0% |
| Miscellaneous Income | 115,092 | 90,929 | (24,163) | -21.0% | 0.2% |
| TOTAL REVENUE | \$ 33,608,876 | \$ 36,537,289 | \$ 2,928,413 | 8.7% | 100% |
| EXPENDITURES | | | | | |
| Personnel Services | \$ 15,794,278 | \$ 17,216,993 | \$ 1,422,715 | 9.0% | 34.7% |
| Operating | 3,456,785 | 4,207,350 | 750,565 | 21.7% | 8.5% |
| PBSO Contract | 10,372,836 | 10,771,463 | 398,627 | 3.8% | 21.7% |
| Capital Outlay | 147,120 | 62,100 | (85,020) | -57.8% | 0.1% |
| Grants & Aids | 130,500 | 129,000 | (1,500) | -1.1% | 0.3% |
| Solid Waste Collection | 2,251,609 | 2,376,634 | 125,025 | 5.6% | 4.8% |
| Insurance | 312,568 | 344,325 | 31,757 | 10.2% | 0.7% |
| Interfund Transfers | 635,000 | 14,305,000 | 13,670,000 | 2152.8% | 28.9% |
| Contingency | 100,000 | 50,000 | (50,000) | -50.0% | 0.1% |
| Other Obligations | 90,308 | 90,308 | 0 | 0.0% | 0.2% |
| TOTAL EXPENDITURE | \$ 33,291,004 | \$ 49,553,173 | \$ 16,262,169 | 48.8% | 100% |

Excess Revenue Over (under) 317,872 (13,015,884)
Expenditures

BUDGET SUMMARY ALL FUNDS

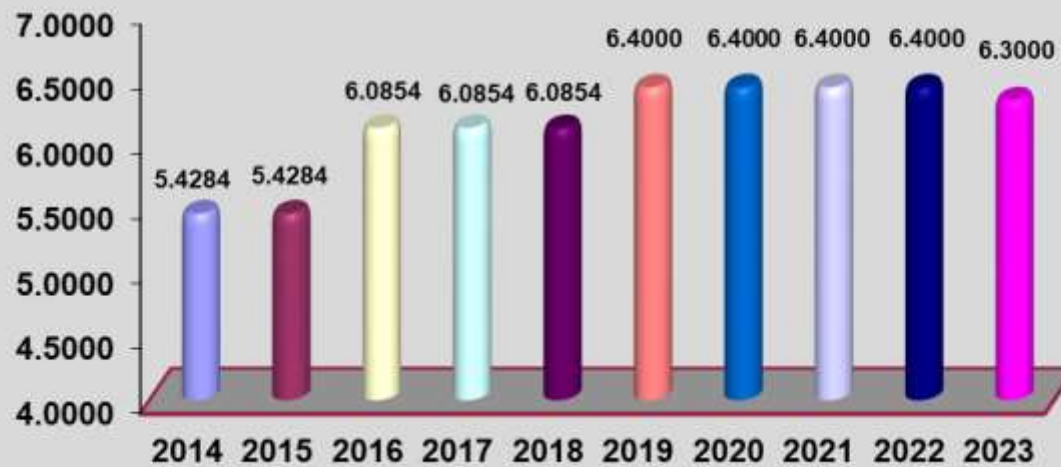
Item # 1.

| | GENERAL FUND | SPECIAL REVENUE FUNDS* | DEBT SERVICE FUNDS | CAPITAL PROJECTS FUNDS | TOTAL |
|--|-----------------|------------------------------|--------------------------|------------------------------|--------------|
| <u>ESTIMATED REVENUES:</u> | | | | | |
| Taxes: Millage Per \$1,000 | | | | | |
| Ad Valorem Taxes 6.3000 | 15,367,846 | | | | 15,367,846 |
| Utility Service Tax | 3,126,000 | | | | 3,126,000 |
| Other Taxes | 2,422,688 | | | 136,996 | 2,559,684 |
| Permits & Fees | 2,951,658 | | | 164,297 | 3,115,955 |
| Intergovernmental Revenues | 6,042,540 | 416,796 | | 14,457,693 | 20,917,029 |
| Charges for Services | 5,948,270 | 185,419 | | | 6,133,689 |
| Fines & Forfeitures | 96,886 | | | | 96,886 |
| Miscellaneous Revenues | | | | | |
| Contributions | 28,550 | | | | 28,550 |
| Interest Earned | 78,994 | 704 | 891 | 41,424 | 122,013 |
| Rent and Royalties | 382,928 | | | 311,959 | 694,887 |
| Other Miscellaneous Revenues | 90,929 | 1,335 | | | 92,264 |
| Total Revenues | \$36,537,289 | \$604,254 | \$891 | \$15,112,369 | \$52,254,803 |
| Other Financing Sources | | | | | |
| Debt Proceeds | | | | | |
| Interfund Transfers - IN | 0 | 135,000 | 370,000 | 13,800,000 | 14,305,000 |
| Appropriated use of Fund Balance (increase) | 13,015,884 | 100,993 | 32,369 | (6,696,034) | 6,453,212 |
| Total Estimated Revenues and Financing Sources | \$49,553,173 | \$840,247 | \$403,260 | \$22,216,335 | \$73,013,015 |
| <u>EXPENDITURES, USES AND RESERVES:</u> | | | | | |
| General Government | 7,552,478 | | | 2,446,540 | 9,999,018 |
| Public Safety | 21,575,416 | 93,091 | | 4,348,670 | 26,017,177 |
| Transportation | 1,529,928 | | | 2,473,536 | 4,003,464 |
| Culture / Recreation | 2,213,717 | 740,156 | | 8,555,000 | 11,508,873 |
| Physical Environment | 2,376,634 | 7,000 | | 4,392,589 | 6,776,223 |
| Debt Service | | | 403,260 | | 403,260 |
| Total Expenditures | \$35,248,173 | \$840,247 | \$403,260 | \$22,216,335 | \$58,708,015 |
| Other Financing Uses | | | | | |
| Interfund Transfers - OUT | 14,305,000 | | | 0 | 14,305,000 |
| Total Appropriated Expenditures and other Uses | \$49,553,173 | \$840,247 | \$403,260 | \$22,216,335 | \$73,013,015 |

* Several funds within this fund type are restricted. See Special Revenue Funds for details. Forfeitures Fund revenues are not budgeted per Chapter 932, Florida Statutes, which prohibits budgeting of these revenues.

Millage Rate for 2023

TAX MILLAGE RATES





ITEM SUMMARY

MEETING DATE: September 14, 2022
FROM: Teri Lea Beiriger, Director of Finance
SUBJECT: Ord. Nos. 2022-31 and 2022-32

BACKGROUND

Florida Statutes Section 200.065 specifies the procedural steps that must be followed by each unit of local government in the preparation and approval of the government entity's property tax millage, levy, and annual budget. In accordance with these regulations, the certified taxable property values as of July 1, 2022, provided by the Palm Beach County Property Appraiser will be used to determine the ad valorem tax proceeds in the calculation of the Fiscal Year (FY) 2022-2023 Budget.

Taxing authorities must hold two (2) public hearings to adopt a millage rate and budget. This evening's hearing is the First Public Hearing of the City of Greenacres to adopt a tentative millage rate and budget for Fiscal Year 2022-23.

The tentative millage rate and the budget must be adopted by separate votes. Pursuant to direction provided by the City Council at the budget workshop held on July 18th and the budget meeting held on August 15th staff has prepared the two (2) ordinances required by the Truth in Millage (TRIM) process for approval by the City Council. The ordinance to establish the taxable value and set the ad valorem rate (Ordinance 2022-31) must be passed first, followed by the ordinance to adopt the budget (Ordinance 2022-32).

ANALYSIS

The first ordinance, 2022-31, establishes the taxable value and sets the ad valorem rate.

The certified total taxable value of \$2,540,979,752 provided by the Property Appraiser's office is \$279,911,413 more than last year's certified taxable value of \$2,261,068,339. The 12.38% increase in taxable value is due to an increase in property values along with an increase in new construction.

The millage rate of 6.300 mills applicable to the General Fund Levy, for Fiscal Year 2023 is 10.55% greater than the calculated rolled-back millage rate pursuant to Section 200.065(1) F.S. of 5.6986 mills that generates the same amount of property tax revenue as last year on existing real and personal property.

The property tax rate of 6.300 mills set by ordinance 2022-31 would generate \$15,367,846 of ad valorem revenue, or \$1,475,842 more than FY2022.

The second ordinance, 2022-32, adopts an operating budget for the fiscal year beginning October 1, 2022 and ending September 30, 2023. The proposed budget increases appropriated revenues and expenditures from \$49,561,753 in FY 2022 to \$73,013,015 in FY 2023.

FINANCIAL INFORMATION

The proposed ordinances set the total millage at 6.3000 mills and appropriate \$73,013,015 for the operation of the City in FY2023.

LEGAL

The first budget hearing was advertised in the preliminary tax assessment notices as required in F.S. 200.065. The second hearing, to set the millage rate and adopt the FY2023 budget, is scheduled for September 28, 2022, at 6:00 p.m. at the Greenacres City Hall and will be advertised in a newspaper that has local circulation in the City.

STAFF RECOMMENDATION

Approval of Ordinance 2022-31 and Ordinance 2022-32.

ORDINANCE NO. 2022-32

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, ADOPTING AN OPERATING BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Manager, in accordance with provisions of State Law and the City Charter, has submitted a proposed budget to the City Council for the Fiscal Year beginning October 1, 2022 and ending September 30, 2023; and

WHEREAS, the City Council has considered the recommendations of the City Manager and has made revisions thereto; and

WHEREAS, the City Council has complied with Chapter 200.065 F.S., in the setting of a proposed millage rate and the computation of a roll-back rate; and

WHEREAS, the City Council has scheduled and advertised public hearings on the proposed operating budget in accordance with Chapter 200.065, Florida Statutes.

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

SECTION 1. For the purpose of fixing the amount of appropriations for the Fiscal Year beginning October 1, 2022, and ending September 30, 2023, it is estimated that revenues will be available to meet budgeted appropriations according to the following sources:

REVENUES
GENERAL FUND

| | |
|--------------------------------------|---------------|
| <i>Ad Valorem Taxes</i> | \$ 15,367,846 |
| <i>Utility Taxes</i> | 3,126,000 |
| <i>Other Taxes</i> | 2,422,688 |
| <i>Permits & Fees</i> | 2,951,658 |
| <i>Intergovernmental</i> | 6,042,540 |
| <i>Charges for Services</i> | 5,948,270 |
| <i>Fines & Forfeitures</i> | 96,886 |

Ordinance No. 2022-32 | Adoption of Operating Budget

Page No. 2

| | |
|---|----------------------|
| <i>Interest Income</i> | 78,994 |
| <i>Rents & Royalties</i> | 382,928 |
| <i>Miscellaneous</i> | 119,479 |
| <i>Interfund Transfer</i> | 0 |
| <i>Budgeted Fund Balance Surplus</i> | <u>13,015,884</u> |
| <i>Total Revenues - General Fund</i> | \$ 49,553,173 |

SPECIAL REVENUE FUNDS**Forfeitures Fund**

| | |
|---|------------------|
| <i>Florida State Statute 932.7055 Prohibits Budgeting Anticipated Revenue ...</i> | N/A |
| <i>Use of Fund Balance</i> | <u>\$ 90,789</u> |
| <i>Sub-Total Forfeitures Fund</i> | \$ 90,789 |

Arboreous Fund

| | |
|--|-----------------|
| <i>Revenue - Contributions, Interest Earned, Impact Fees</i> | <u>\$ 2,573</u> |
| <i>Use of Fund Balance</i> | <u>4,427</u> |
| <i>Sub-Total Arboreous Fund</i> | \$ 7,000 |

Fire Rescue Donations and Contributions Fund

| | |
|--|-----------------|
| <i>Revenue - Contributions & Interest Earned</i> | <u>\$ 106</u> |
| <i>Use of Fund Balance</i> | <u>2,196</u> |
| <i>Sub-Total Public Safety Donation and Contributions Fund</i> | \$ 2,302 |

Youth Programs Fund

| | |
|--|-------------------|
| <i>Revenue - Intergovernmental Grants, Fees, Contributions</i> | <u>\$ 736,575</u> |
| <i>Budgeted Fund Balance Surplus</i> | <u>3,581</u> |
| <i>Sub-Total Youth Programs Fund</i> | \$ 740,156 |

Total Revenues - Special Revenue Funds **\$ 840,247**

DEBT SERVICE FUND

Ordinance No. 2022-32 | Adoption of Operating Budget

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Public Facility Improvement Notes

| | | |
|---|-----------|----------------|
| Interest Earned | \$ | 891 |
| Inter-fund Transfer | | 370,000 |
| Budgeted Fund Balance Surplus | | <u>32,369</u> |
| Total Revenues - Debt Service Fund | \$ | 403,260 |

CAPITAL PROJECTS FUNDS

| | | |
|--|-----------|--------------------------|
| Revenue New Growth Fund | \$ | 9,843,670 |
| Revenue Parks and Recreation | | 251,075 |
| Revenue Reconstruction & Maintenance | | 767,050 |
| Revenue Infrastructure Surtax | | 7,913,046 |
| Revenue American Rescue Plan | | 10,137,528 |
| Use of Fund Balance | | <u>(6,696,034)</u> |
| Total Revenues - Capital Projects Funds | \$ | 22,216,335 |
| Total Revenues Available | \$ | <u>73,013,015</u> |

SECTION 2. For the purpose of financing the operations of the City of Greenacres, Florida, for the Fiscal Year beginning October 1, 2022 and ending September 30, 2023, there is hereby appropriated from taxes and other revenues and sources received by the City of Greenacres, the following amounts:

APPROPRIATIONS**GENERAL FUND**

| | | |
|---|----|---------------|
| Administration | \$ | 2,453,509 |
| Finance | | 909,175 |
| Purchasing | | 366,279 |
| Information Technology | | 1,224,381 |
| Development & Neighborhood Ser | | 2,453,696 |
| Public Works | | 3,325,530 |
| Fire Rescue | | 9,084,309 |
| Community and Recreation Services | | 1,383,408 |
| Non-Departmental | | 13,997,886 |
| Interfund Transfers | | 14,305,000 |
| Contingency | | <u>50,000</u> |

Ordinance No. 2022-32 | Adoption of Operating Budget

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Total General Fund Appropriations \$ 49,553,173

SPECIAL REVENUE FUNDS

| | |
|---|-----------------------|
| <i>Forfeitures Fund</i> | <i>\$ 90,789</i> |
| <i>Arboreous Fund.....</i> | <i>7,000</i> |
| <i>Public Safety Donation & Contribution Fund</i> | <i>2,302</i> |
| <i>Youth Programs Fund.....</i> | <i><u>740,156</u></i> |

Total Special Revenue Appropriations \$ 840,247

DEBT SERVICE**Public Facility Imp. Notes**

| | |
|------------------------|-------------------------|
| <i>Principal</i> | <i>\$ 376,066</i> |
| <i>Interest</i> | <i><u>\$ 27,194</u></i> |

Total Debt Service Fund Appropriations \$ 403,260

CAPITAL IMPROVEMENT FUNDS

| | |
|---|---------------------|
| <i>New Growth</i> | <i>\$ 3,138,597</i> |
| <i>Parks and Recreation</i> | <i>635,000</i> |
| <i>Reconstruction & Maintenance</i> | <i>884,873</i> |
| <i>Infrastructure Surtax.....</i> | <i>9,057,865</i> |
| <i>American Rescue Plan.....</i> | <i>8,500,000</i> |
| <i>Inter-fund Transfer.....</i> | <i><u>0</u></i> |

Total Capital Funds Appropriations \$ 22,216,335

Total Appropriations..... \$ 73,013,015

SECTION 2. Repeal of Conflicting Ordinances.

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

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

Ordinance No. 2022-32 | Adoption of Operating Budget

Page No. 5

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. Effective Date

The provisions of this Ordinance shall become effective October 1, 2022 in accordance with the laws of the State of Florida.

Ordinance No. 2022-32 | Adoption of Operating Budget

Page No. 6

Passed on the first reading this 14th day of September 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



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, August 15, 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

Deputy Mayor Tharp called the meeting to order at 6PM and Ms. Moorer called the roll. Mayor Flores was absent. Ms. Christy Goddeau, City Attorney was present.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Deputy Mayor Tharp suggested removing items 11 and 12 pertaining to City Manager and City Attorney evaluations since Mayor Flores was absent.

Councilmember Bousquet said she would like to discontinue the practice of open forum evaluations for the City Manager and the City Attorney she felt it was unnecessary and inappropriate. She moved to completely discontinue the practice.

After discussion with Ms. Christy Goddeau, City Attorney, and Council the decision was made to remove the evaluation items until further notice and add a discussion item on the next agenda to discuss the practice of evaluations.

Motion made by Councilmember Bousquet, Seconded by Councilmember Dugo to remove items 11 and 12 from the agenda. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

None.

SPECIAL BUSINESS

None.

CONSENT AGENDA

1. **Official Minutes:** City Council Special Meeting Minutes, July 18, 2022 and City Council Meeting Minutes, August 1, 2022.
2. **Resolution 2022-36:** Approving four (4) Professional Service Agreements between the City of Greenacres and Calvin, Giordano & Associates, Inc., the Corradino Group, Inc., Kimley-Horn and Associates, Inc., and WGI, Inc., to provide general professional planning consultant services; authorizing the appropriate City Officials to execute the agreement; providing for an effective date. - Monica Powery, Director of Purchasing.
3. **Resolution 2022-39:** Satisfying certain liens imposed against residential property, pursuant to Section 15-31, City of Greenacres Code. - Teri Beiriger, Director of Finance.

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

REGULAR AGENDA

4. **PUBLIC HEARING: Ordinance 2022-01: Second 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; providing for severability; and providing for an effective date.- Kara Irwin-Ferris, City Consultant.

Ms. Moorer read the ordinance by title.

Ms. Irwin-Ferris stated this was the Second Reading for the ISBA agreement which was required by Florida Statutes. She said the agreement would be transferred to Palm Beach County for two Public Hearings. Once adopted Staff would return to Council for approval of the annexation. Staff recommended approval of the ordinance.

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

5. **PUBLIC HEARING: Ordinance 2022-19: Second 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.

Ms. Moorer read the ordinance by title.

Ms. Gardner-Young stated this was the Second Reading of the ordinance to create a engineering permit process to make the process user friendly and clarify the content. No changes have been made since the First Reading. Staff recommended approval.

Motion made by Councilmember Diaz, Seconded by Councilmember Bousquet to approve Ordinance 2022-19 on Second Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

- 6. PUBLIC HEARING: Ordinance 2022-24: Second 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.

Ms. Moorer read the ordinance by title.

Ms. McCue stated usually the City conducted Fire Rescue personnel background checks. Recently the City had been notified by the Federal Bureau of Investigation that the City could no longer use the current Originating Agency Identification for those background checks. The City was now required to create a separate Originating Agency Identification to continue to perform background checks. Staff recommended approval.

Motion made by Councilmember Dugo, Seconded by Councilmember Dugo to approve Ordinance 2022-24 on Second Reading.

Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

- 7. PUBLIC HEARING: Ordinance 2022-15: First Reading:** Amending Chapter 16 "Zoning Regulations," Article 2 "Administration," by deleting in its entirety current Division 11 "Adult Entertainment establishments" and adopting a new Division 11, entitled "Adult Entertainment establishment," which shall formally incorporate Palm Beach County's Adult Entertainment Code, and setting forth those specific opt-out provisions from the County's Adult Entertainment Code; providing for severability, preservation, conflicts, codification and an effective date. - Caryn Gardner-Young, Zoning Administrator.

Ms. Moorer read the ordinance by title.

Ms. Gardner-Young stated the Adult Entertainment ordinance was overdue for an update. She received assistance from Mr. Aleksandr Boksner, Attorney to address some of the updates and requirements. Mr. Boksner stated he reviewed the existing ordinance which was missing some frame work. He also reviewed Palm Beach County's (County) ordinance which controlled the nearby cities. Mr. Boksner felt it was vital to adopt the County's code. Mr. Boksner stated a few changes included no alcohol and/or nudity was allowed on the premises and a separation clause. Staff recommended approval.

Motion made by Councilmember Bousquet, Seconded by Councilmember Diaz to approve Ordinance 2022-15 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

- 8. Ordinance 2022-21: First Reading:** Amending Chapter 16, Zoning Regulations, Article 7, Landscaping, Section 16-1249(b)(6); to clarify when tree removal permits are not required for single family detached dwelling units in accordance with recently adopted State Statutes; providing for repeal of conflicting ordinances; providing for severability providing for inclusion in code; and providing for an effective date. - Caryn Gardner-Young, Zoning Administrator.

Ms. Moorer read the ordinance by title.

Ms. Gardner-Young stated the ordinance was required by State Statutes. It was in reference to the City's tree removal permit and had been effective since July 1, 2022. The ordinance covered tree removal without permits which only applied to single family detached dwellings. She stated it was for endangerment of persons. Staff recommended approval.

Motion made by Councilmember Dugo, Seconded by Councilmember Diaz to approve Ordinance 2022-21 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

- 9. Ordinance 2022-27: First Reading:** Adopting Chapter 13 "Taxation," Article 4 "Additional Homestead Exemption for Persons 65 and older, "to provide for an additional \$5,000.00 Homestead exemption for qualifying persons 65 years of age and older; providing for severability, conflicts, codification, delivery, and an effective date. - Andrea McCue, City Manager.

Ms. Moorer read the ordinance by title.

Ms. McCue stated there were currently over 500 properties in the City eligible for the exemption, she said the impact to the City was \$17,056. Staff recommended approval of the ordinance as presented.

Motion made by Councilmember Noble, Seconded by Councilmember Bousquet to approve Ordinance 2022-27 on First Reading. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

- 10. Resolution 2022-30:** Repealing Resolution 2021-57 and adopting a Schedule of Filing Fees for matters pertaining to Chapter 12, Subdivision and Land Development Regulations and engineering and right-of-way permits; providing for repeal of conflicting resolutions; and providing for an effective date. - Caryn Gardner-Young, Zoning Regulations.

Ms. Moorer read the resolution by title.

Ms. Gardner-Young said the resolution was a request to amend the fee schedule. She said the updates were due to housing keeping, adding new fees and to allow increases due to cost of living. Staff recommended approval.

Motion made by Councilmember Dugo, Seconded by Councilmember Diaz to approval Resolution 2022-30. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, ad Councilmember Bousquet.

11. City Manager Andrea McCue Annual Evaluation. - Joel Flores, Mayor.

Item was removed from the agenda.

12. City Attorney, Glen Torcivia Annual Evaluation. - Joel Flores, Mayor.

Item was removed from the agenda.

DISCUSSION ITEM - None.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

None.

CITY MANAGER'S REPORT

13. Community & Recreation Services Department Report.
14. Development and Neighborhood Services Department Report.
15. Finance Department Report.
16. Fire Rescue Department Report.
17. Information Technology Department Report.
18. Palm Beach County Sheriff's Office District 16 Report.
19. Purchasing Department Report.
20. Public Works Department Report.
21. Youth Programs Department Report.

Ms. McCue stated due to the notice of funding regarding Youth Program the agreement was placed on the dais for execution ahead of the final approval. The Council agreed.

She reminded Council about the upcoming Let's Talk series on August 31 and September 14 at 6:30pm at the Community Center and the September 11, Street Fair.

CITY ATTORNEY'S REPORT

No report.

MAYOR AND CITY COUNCIL REPORT

Councilmember Diaz congratulated the City and the Aleah Lemonade Stand on a great event.

Councilmember Dugo, requested the return of the discussion item relating to a possible Campaign Free Zone in the Council Chambers. The last discussion she was not present and wanted to add more input. She also requested to return the Community Development District (CDD) item to gain more information regarding the pros and cons. She also asked the status of the Historical Society.

Councilmember Noble stated there were issues with the Staff of the Historical Society in the past. He also felt there was no need to bring the CDD discussion back as majority of Council disagreed.

After discussion amongst the Council most of Council agreed to bring back the Campaign Free Zone discussion item. (Noble and Tharp disagreed).

Deputy Mayor Tharp congratulated the Backpack event with Aleah and felt she was an amazing young woman.

ADJOURNMENT

6:50PM

Joel Flores
Mayor

Quintella Moorer, CMC
City Clerk

Date Approved: _____



CITY COUNCIL SPECIAL MEETING

City of Greenacres, Florida

Monday, August 15, 2022 at 7:00 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

Deputy Mayor Tharp called the meeting to order at 6:55pm and City Clerk Moorer called the roll.

Mayor Flores was absent.

AGENDA APPROVAL

Motion made by Councilmember Bousquet, Seconded by Councilmember Dugo to approve the agenda.

Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Diaz, and Councilmember Bousquet.

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

None.

REGULAR AGENDA

1. FY 2023 Preliminary Budget Review. - Teri Beiriger, Director of Finance and Andrea McCue, City Manager.

Ms. Beiriger reviewed the forecast and stated there were no changes since the last meeting. She highlighted a few cities with decreased millage rates and increases.

Ms. Beiriger showed examples of different millage rate options for the City.

The Council discussed the unassigned reserve, lowering and or keeping the millage rate the same and upcoming projects.

After discussion the Council agreed to a 6.3 millage rate, Councilmember Dugo disagreed.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

None.

CITY MANAGER'S REPORT

None.

CITY ATTORNEY'S REPORT

None.

MAYOR AND CITY COUNCIL REPORT

None.

ADJOURNMENT

7:11PM.

Joel Flores

Mayor

Quintella Moorer, CMC

City Clerk

Date Approved: _____



ITEM SUMMARY

MEETING DATE: September 14, 2022

FROM: Monica Powery, Director, Purchasing

SUBJECT: Award of RFP No. 22-013 Financial Auditing Services

BACKGROUND

Section 11.45 of the Florida Statutes requires each local government entity to complete annual financial audits of accounts and records. In 2015 the City entered into an auditing services agreement with Nowlen, Holt, & Miner, PA. With the expiration of the current agreement, the City solicited proposals from qualified public accountants to audit the City's financial statements starting fiscal year ending September 30, 2022. The City issued a Request for Proposal for Financial Audit Services on July 3, 2022.

ANALYSIS

The proposals were opened on July 26, 2022 with five (5) proposers responding. The attached tabulation sheet summarized the responses received. All were found to be responsive and responsible.

Florida Statute 218.391 Auditor Selection Procedures requires each local governmental entity to establish an Auditor Selection Committee consisting of at least three members. One member of the Selection Committee must be a member of the governing body who shall serve as the Chair of the committee. Susy Diaz, Councilmember for District IV served as the Chair. The remaining Selection Committee members were comprised of City Managers Dan Clark with the Town of Lake Clarke Shores and Tracey Stevens with the Town of High Ridge.

On August 9, 2022, the Selection Committee held a meeting to discuss, evaluate and rank all the firms. The attached tabulation sheets summarizes the committee's final ranking.

The top ranked firm, Nowlen, Holt & Miner, P.A. is located in West Palm Beach and has provided auditing services to public entities for the past 60 years. Their current clients include the City of Belle Glade, Town of Juno Beach, Town of Lake Park, Town of Manalapan, Solid Waste Authority of Palm Beach County and numerous other government entities. Nowlen, Holt & Miner, P.A. is the City's most recent auditing services provider.

FINANCIAL INFORMATION

Sufficient funds are budgeted within the Finance Department in account 001-20-21-32-1 Accounting & Auditing.

Nowlen, Holt, & Miner annual audit costs are as follows:

| | |
|----------------------|----------|
| FY 2022 Audit | \$30,000 |
| FY 2023 Audit | \$30,000 |
| FY 2024 Audit | \$30,000 |
| FY 2025 Audit | \$30,000 |
| FY 2026 Audit | \$30,000 |
| | |
| Federal Single Audit | \$4,500 |
| State Single Audit | \$4,500 |

The hourly rates for additional services beyond those in the agreement are as follows:

| | |
|-------------------|----------------|
| Partners | \$195 per hour |
| Managers | \$160 per hour |
| Supervisory Staff | \$150 per hour |
| Seniors | \$120 per hour |
| Staff Accountants | \$110 per hour |
| Paraprofessional | \$ 60 per hour |

LEGAL

The recommendation for award is in accordance with the requirements of City policies and procedures.

STAFF RECOMMENDATION

Approval of Resolution No. 2022-41 authorizing execution of a one-year agreement with the option for four (4) additional one-year renewals for RFP No. 22-013 Financial Auditing Services to Nowlen, Holt & Miner, P.A.

RESOLUTION NO. 2022-41

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE PROFESSIONAL SERVICE AGREEMENT BETWEEN THE CITY OF GREENACRES AND NOWLEN, HOLT & MINER, P.A. TO PROVIDE ANNUAL AUDITING SERVICES; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City is in need of a qualified firms to provide annual auditing services;
and

WHEREAS, The Purchasing Department (the "Department") issued Request for Proposal No. 22-013 (the "RFP"); and

WHEREAS, the RFP was advertised in the legal notices section of the Palm Beach Post on July 3, 2022, and a notice was also sent to one hundred fifty-seven (157) prospective proposers via DemandStar; and

WHEREAS, on July 26, 2022 at 3:00 p.m. EST, the RFP closed and the Purchasing Department received five (5) responses which were reviewed by staff to ensure the responses met the RFP requirements. All proposals received were determined to be both responsive and responsible; and

WHEREAS, the Selection Committee (the "Committee") met on August 9, 2022 to discuss and evaluate the firms to determine which would be in the best interest of the City; and

WHEREAS, the Committee recommends that the City Council approve award of the RFP to Nowlen, Holt & Miner, P.A. and authorize the execution of the agreement.

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

SECTION 1. The City Council hereby authorizes the Award for Financial Audit Services to Nowlen, Holt & Miner, P.A.

Resolution No. 2022-41 | Financial Audit Services

Page No. 2

SECTION 2. The City Council authorizes the appropriate City Officials to execute the Agreement.

SECTION 3. This Resolution shall be effective upon its adoption.

RESOLVED AND ADOPTED this 14 of day of September 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

CONTRACTOR AGREEMENT Financial Audit Services

THIS CONTRACTOR AGREEMENT ("Agreement") is made this 14th day of September 2022, between the **City of Greenacres, Florida**, a municipal corporation herein referred to as the "CITY", and **Nowlen, Holt & Miner, P.A.**, a corporation authorized to do business in the State of Florida, herein referred to as the "CONTRACTOR".

RECITALS

WHEREAS, the CITY issued Request for Proposal # 22-013 for Financial Audit Services for the City ("RFP" hereafter);

WHEREAS, CONTRACTOR submitted a proposal to perform the services described and set out in the RFP;

WHEREAS, the CITY desires to accept CONTRACTOR'S proposal in order for CONTRACTOR to render the services to the CITY as provided herein;

WHEREAS, the CONTRACTOR further warrants that it is experienced and capable of performing the services hereunder in a professional and competent manner;

WHEREAS, the CITY finds awarding the RFP to the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, the CITY hereby engages the services of the CONTRACTOR, and in consideration of the mutual promises herein contained, the sufficient of which is hereby acknowledged by both parties, the parties agree as follows:

1. Term

1.1 The term of this Agreement shall be for one (1) year beginning on September 14, 2022. In accordance with the RFP, at the end of the one (1) year period, this Agreement may be extended for up to four (4) additional one (1) year terms upon mutual written consent of the parties. Pricing may be adjusted upon each annual renewal based on the percent change in the Consumer Price Index, All Urban Consumers, for the Miami-Fort Lauderdale Region from June to June of each prior and renewal year, as published by the United States Department of Labor. Notwithstanding the term, the parties may terminate this Agreement as stated herein.

2. Scope of Work

2.1 CONTRACTOR agrees to conduct financial audit services for the CITY as set forth in the RFP and CONTRACTOR'S proposal response dated July 26, 2022, which RFP and CONTRACTOR'S proposal are incorporated herein by reference.

2.2 The CONTRACTOR represents to the CITY that the services to be performed under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR'S trade in general and that the CONTRACTOR'S services shall conform to the highest standards and in accordance with this Agreement.

2.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and further warrants its capability and experience to perform the services provided for herein in a professional and competent manner.

3. INDEPENDENT CONTRACTOR AND USE OF AGENTS OR ASSISTANTS

3.1 It is expressly agreed that CONTRACTOR is and shall be in the performance of all work, services, and activities under this Agreement an independent contractor and not an employee, agent, or servant of the CITY. All persons engaged in any work, service or activity performed pursuant to this Agreement shall at all times and in all places be subject to CONTRACTOR'S sole direction, supervision and control. CONTRACTOR shall exercise control over the means and manner in which it and its employees perform and work, and in all manner in which it and its employees perform the work, and in all respects CONTRACTOR'S relationship and the relationship of its employees to the CITY shall be that of an independent contractor and not as employees or agents of the CITY.

3.2 In the event CONTRACTOR, during the term of this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered under this Agreement, CONTRACTOR must secure the prior written approval of CITY'S Purchasing Agent. Any subcontractor authorized to perform under this Agreement shall be required to possess the same insurance coverages as enumerated herein for the CONTRACTOR.

3.3 To the extent reasonably necessary to enable the CONTRACTOR to perform its duties hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance its duties. All costs of the services of, or expenses incurred by, such agents or assistance shall be paid by the CONTRACTOR.

4. PROJECT MANAGEMENT

4.1 Both parties shall appoint a Project Manager who shall meet to coordinate, review, and insure performance by the CONTRACTOR under this Agreement. The project manager appointed by the CITY will oversee the daily administration of the tasks to be performed by the CONTRACTOR under this Agreement.

5. EQUIPMENT

5.1 The CONTRACTOR shall provide the equipment necessary to complete the various services to be performed hereunder. In the event CONTRACTOR requires equipment from the CITY, the CONTRACTOR shall meet and confer with the CITY before services commences. In the event the CITY'S equipment is to be utilized, any costs chargeable to the CONTRACTOR shall be agreed upon in advance of the commencement of services.

6. FEE AND ORDERING MECHANISM

6.1 For services to be rendered under this Agreement, the CITY shall issue a purchase order as authority for the CONTRACTOR to proceed with its services. Authorization through an approved order is required prior to commencing any services. City shall not be responsible for payment for any services performed without prior authorization via a purchase order, including pre and post diagnostics.

6.2 Upon satisfactory completion of each cycle under an approved purchase order, CONTRACTOR shall invoice CITY at the address shown on the purchase order based on the pricing set forth in the CONTRACTOR'S proposal.

7. MAXIMUM COSTS

7.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete all services as specified herein and on the purchase order shall not exceed the maximum contractual amount provided for herein without prior written approval from CITY. The maximum

costs, as expressed herein, include any approved costs associated with an executed amendment to this Agreement.

8. BILLING

8.1 The CONTRACTOR shall submit invoices upon 100% completion of scheduled work referencing the purchase order number. The invoices shall be signed by the CONTRACTOR'S representative.

8.2 The CONTRACTOR shall be paid within thirty (30) days receipt of approved invoice for services.

9. AUDIT BY CITY

9.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the City, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the CONTRACTOR'S performance under this Agreement including, but not limited to, expenses for sub-contractors, agents or assistants, direct and indirect charges for work performed and detailed documentation for all such work performed or to per performed under this Agreement.

10. COPIES OF DATA/DOCUMENTS

10.1 Copies or original documents prepared by the CONTRACTOR in relation to services associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

11. OWNERSHIP

11.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

12. WRITTEN AUTHORIZATION REQUIRED

12.1 The CONTRACTOR shall not make changes in the Scope of Services or perform any additional services or provide any additional material under this Agreement without first obtaining written amendment from the CITY for such additional services or materials. Additional labor or materials provided without written amendment shall be done at the CONTRACTOR'S risk and without payment.

13. DEFAULTS, TERMINATION OF AGREEMENT

13.1 If the Project Manager deems that the CONTRACTOR is in default for failure to supply an adequate working force, or service of proper quality, or has failed in any other respect to satisfactorily perform on the services specified in this Agreement, the Project Manager may give written notice to the CONTRACTOR specifying defaults to be remedied within ten (10) days. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures and be made pursuant to paragraph 23 of this Agreement.

- A. If the CONTRACTOR does not remedy defaults within ten (10) days or commence steps to remedy default to the reasonable satisfaction of the Project Manager, the CITY may provide for such services from another CONTRACTOR and the CITY may withhold any money due or which may become due to the CONTRACTOR for such services related to the claimed default; or
- B. If after ten (10) days the CONTRACTOR has not remedied defaults or commenced steps to remedy defaults to the satisfaction of the Project Manager, the CITY may elect to terminate this Agreement.

13.2 Notwithstanding paragraph 13.1, the CITY reserves the right and may elect to terminate this Agreement at any time upon thirty (30) days' notice. At such time, the CONTRACTOR would be compensated only for services which have been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down or other costs incurred due to termination of this Agreement.

14. INSURANCE

14.1 Prior to the effective date of this contract, CONTRACTOR shall be required to submit to the Purchasing Office, a copy of its Certificate of Insurance, reflecting, at a minimum, the following coverages:

Professional Liability Insurance: The limits of liability provided by such policy shall be no less than one million dollars (\$1,000,000.00).

Worker's Compensation Insurance to apply for all employees in compliance with the Workers Compensation Law of the State of Florida and such state where work is performed and all applicable federal laws.

Comprehensive General Liability Insurance with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Premises and/or Operations.
- Independent Contractors.
- Broad Form Property Damage.
- Broad Form Contractual Coverage applicable to this specific Agreement.
- Personal Injury Coverage with employee and contractual exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

Business Automobile Liability Insurance with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office and must include:

- Owned vehicles.
- Hired and non-owned vehicles.
- Employers' non-ownership.

CONTRACTOR agrees to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event CONTRACTOR does not own automobiles, CONTRACTOR agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

14.2 All insurance, other than Worker's Compensation shall specifically include the CITY as an "Additional Insured" on a primary, non-contributing basis.

14.3 Coverage must be maintained during the full term of this Agreement. If there is a cancellation of or change to the policy submitted as proof of coverage, it is the responsibility of

the CONTRACTOR to insure it or the Insurance carrier, notifies the City at least thirty (30) days before expiration of or any changes to the policy.

14.4 Neither approval nor failure to disapprove insurance furnished by the CONTRACTOR shall relieve the CONTRACTOR from responsibility to provide insurance as required by this Agreement.

14.5 The CONTRACTOR shall deliver to the CITY the required certificate(s) of insurance and endorsement(s) before the CITY signs this Agreement.

14.6 The CONTRACTOR'S failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement. In the event of any termination or suspension, the CITY may use the services of another CONTRACTOR without the CITY incurring any liability to the CONTRACTOR.

15. WAIVER OF BREACH

15.1 The waiver of either parts of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

16. INDEMNITY

16.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suite, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), costs and expenses (including attorney's fees, litigation, arbitration, mediation, appeal expenses and expert fees) which in whole or in part arise out of or are connected with, or which are alleged to have arisen out of or to have been connected with, the CONTRACTOR'S performance of this Agreement (including performance by its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed).

16.2 The CONTRACTOR'S obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

16.3 The CONTRACTOR'S failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17. ENTIRE AGREEMENT

17.1 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. **This Agreement consists of the terms and conditions herein stated and the RFP and CONTRACTOR'S proposal. In the event of a conflict between the aforementioned documents, the terms of this Agreement shall prevail with the RFP next taking precedence.**

18. ASSIGNMENT

18.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit or any other party. The CONTRACTOR shall not assign any right or interest in this

Agreement, and shall not delegate any duty owned, without the CITY'S prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes, and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

18.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations, and provisions.

19. SUCCESSORS AND ASSIGNS

19.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

20. WAIVER OF TRIAL BY JURY

20.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

21. GOVERNING LAW

21.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

22. TIME IS OF THE ESSENCE

22.1 Time is of the essence in the completion of tasks and services as specified herein. The CONTRACTOR and the CITY agree that the ongoing performance and completion of all tasks and services specified in this Agreement are of vital importance to the CITY and the CITY will suffer irreparable harm and injury of a nature not capable of being calculated with reasonable certainty if they are not timely completed.

22.2 The CITY may recover from the CONTRACTOR any amounts paid by the CITY for damages suffered to third parties as a result of the CONTRACTOR'S failure to complete the tasks and services as required in this Agreement.

23. NOTICES

23.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date personally delivered to the address indicated below; or on the third (3rd) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office to the address indicated below; or on the next day following delivery by a nationally recognized overnight courier to the address indicated below. Should the CITY of the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

FOR CITY:
PURCHASING AGENT
CITY OF GREENACRES
5800 MELALEUCA LANE
GREENACRES, FL 33463

FOR CONTRACTOR:
EDWARD T. HOLT
NOWLEN, HOLT & MINER, P.A.
515 N. FLAGLER DRIVE, SUITE 1700
WEST PALM BEACH, FL 33401

24. SEVERABILITY

24.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

25. FORCES OF NATURE

25.1 Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest. Any delays beyond the control of wither party shall automatically extend the time schedule as set forth in this Agreement by the period of any such delay.

26. COUNTERPARTS

26.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Each of the parties shall sign a sufficient number of counterparts, so that each party will receive a fully executed version of this Agreement.

27. PUBLIC ENTITY CRIMES

27.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

28. PREPARATION

28.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

29. PALM BEACH COUNTY IG

29.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

30. SCRUTINIZED COMPANIES

30.1 As provided in Section 287.135, Florida Statutes, as amended from time to time, by entering into the Contract Documents, the Contractor certifies that it and any authorized subcontractors are not participating in a boycott of Israel. The City and Contractor agree that the City will have the right to immediately terminate the Contract Documents if the Contractor and/or any authorized subcontractors is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

31. E-VERIFY

31.1 Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

- A. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
- B. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
- C. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
- D. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
- E. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
- F. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

32. PUBLIC RECORDS

32.1 Public Records: The CONTRACTOR shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the CITY as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- A. Keep and maintain public records required by the CITY to perform the service.
- B. Upon request from the CITY'S custodian of public records or designee, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONTRACTOR does not transfer the records to the CITY.
- D. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY'S custodian of public records or designee, in a format that is compatible with the information technology systems of the CITY.

33. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF GREENACRES, ATTN: CITY CLERK, AT (561) 642-2006, CITYCLERK@GREENACRESFL.GOV, 5800 MELALEUCA LANE, GREENACRES, FL 33463.

34. EQUAL OPPORTUNITY EMPLOYMENT

34.1 CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships.

IN WITNESS WHEREOF the parties hereto have made and executed this Contractor Agreement on the day and year first above written.

CITY OF GREENACRES, FLORIDA

By: _____
Joel Flores, Mayor

ATTEST:

Quintella Moorer, City Clerk

Approved as to form and legal sufficiency:

Glen J. Torcivia, City Attorney

CONTRACTOR:

[Corporate Seal]

By: _____

Print Name: _____

Title: _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____, who was physically present, as _____ (title), of _____ (name of entity) which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Print Name: _____

My commission expires: _____

City of Greenacres
RFP Selection Committee Tabulation:
Evaluation
RFP No. 22-013 Financial Audit Services
Meeting Date: August 9, 2022 at 10:00 am

| VENDOR | Committee Member D. Clark Score | Committee Member S. Diaz Score | Committee Member T. Stevens Score | Total Score |
|---|--|---|--|------------------------|
| Caballero Fierman Llerena & Garcia, LLP | 65 | 75 | 80 | 220 |
| Grau & Associates | 79 | 79.5* | 80 | 238.5 |
| Marcum LLP | 72 | 73 | 80 | 225 |
| Mauldin & Jenkins LLC | 78 | 75 | 85 | 238 |
| Nowlen, Holt & Miner, P.A. | 97 | 95 | 100 | 292 |

* S. Diaz excluded herself from scoring as there was a conflict. The Selection Committee decided the best resolution was to take an average of the other two scores.



ITEM SUMMARY

MEETING DATE: September 14, 2022

FROM: Jowie Mohammed, Director, Youth Programs Department

SUBJECT: Community Based Agency Contract with Palm Beach County Youth Services Department for Fiscal Years 2023-2025

BACKGROUND

On October 3, 2017, the Board of County Commissioners approved a Community Based Agency Contract (R2017-1509) with the City of Greenacres for funding of Youth Programs, in an amount not to exceed \$77,000, for the period October 1, 2017, through September 30, 2018 with two (2) one-year renewal options. On September 1, 2022, the Board of County Commissioners approved extension of the original Contract (R2020-1276) for two (2) years to September 20, 2022.

ANALYSIS

Youth Programs is the only Municipal program in PBC that was awarded funds by the County. Funding will allow Youth Programs to provide after-school programming to forty (40) teens throughout the school year.

FINANCIAL INFORMATION

The Palm Beach County Youth Services Department has awarded the City with a grant total amount of two hundred and thirty-one thousand dollars (\$231,000) over a three (3) year period of which seventy-seven thousand dollars (\$77,000) is budgeted in FY2023 with an anticipated annual allocation of seventy-seven thousand dollars (\$77,000) in each subsequent fiscal year for the term.

LEGAL

The Attorney has reviewed the contract and resolution for legal sufficiency and compliance.

STAFF RECOMMENDATION

Approval of Resolution No. 2022-42 authorizing the execution of the FY 2023 – 2025 Community Based Agency Contract with Palm Beach County.

RESOLUTION NO. 2022-42**A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE FISCAL YEAR 2023 COMMUNITY BASED AGENCY CONTRACT WITH THE PALM BEACH COUNTY YOUTH SERVICES DEPARTMENT; AUTHORIZING EXECUTION; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City of Greenacres' Cool Zone and Hot Spot Out-of-School Time Programs have been established to provide an affordable, beneficial structured program with planned activities and enrichment opportunities for the youth in the Greenacres area; and

WHEREAS, Palm Beach County is offering to provide up to \$77,000 in annual funding for the City's Youth Programs for Fiscal Year 2023(with two automatic renewal years) through the County's Community Based Agency Contract; and

WHEREAS, Youth Programs is the only Licensed Child Care Facility in the 33463 zip code to provide programming to middle and high school youth; and

WHEREAS, Youth Programs is uniquely equipped to provide high quality out-of-school time programming for elementary, middle and high school youth as sought by Palm Beach County; and

WHEREAS, the City agrees that it is in the best interest of the community to approve the Fiscal Year 2023 Community Based Agency Contract with Palm Beach County.

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 2023 Community Based Agency Contract with Palm Beach County, attached hereto as Exhibit "A", for \$231,000 to given over the next three years in the amount of \$77,000 per fiscal year to scholarship forty (40) middle and high school youth for after-school programing during the

School Year beginning FY2023 and ending FY2025.

SECTION 2. The City Council directs the Mayor or other elected or appointed City official to execute the Community Based Agency Contract with Palm Beach County.

SECTION 3. This resolution shall be deemed effective consistent with the date of the executed contract with Palm Beach County.

RESOLVED AND ADOPTED this 14th of day of September 2022

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Nobel, 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: September 14, 2022
FROM: Teri Lea Beiriger, Director of Finance
SUBJECT: Res No. 2022-43 Public Emergency Medical Transportation (PEMT) Supplemental Payment Program

BACKGROUND

The City of Greenacres Fire Rescue transports over 3,500 annually to local hospital emergency rooms, which includes transports of Medicaid patients. In 2016, the State of Florida authorized the creation of a Public Emergency Medical Transportation (PEMT) Certified Public Expenditure (CPE) program to provide supplemental payments to public emergency medical transportation providers for Medicaid fee for service patients transported to hospitals. The PEMT CPE program helps to close the gap between actual costs incurred and revenue received for each emergency medical transport.

ANALYSIS

In 2019, Florida's Legislature authorized the expansion of the PEMT program to include Medicaid Managed Care patients. In order to leverage the approximate 60% Federal share, qualifying government owned ambulance providers are to provide the approximate 40% State share through intergovernmental transfers (ITG's). The revenue from this program is expected to be received through the various Medicaid managed care providers for their covered patients who are transported to a hospital. The Florida Medicaid Managed Care Supplemental Payment Program (MCO) will allow qualifying government owned ambulance providers to receive supplemental payments for emergency transports of Medicaid managed care patients. In order to guarantee Federal share funding, ITG's from PEMT providers are required to cover the State's share of the MCO program. It is anticipated that based on the requested intergovernmental transfer of \$71,303.56, the City will receive \$107,787.83 net new Federal funding in return.

FINANCIAL INFORMATION

The proposed resolution required and ITG of \$71,303.56 which has been included in the City's FY 2023 budget.

LEGAL

The agreement has been reviewed by the City Attorney for legal sufficiency and meets all legal requirements.

STAFF RECOMMENDATION

Approval of Resolution 2022-43.

RESOLUTION NO. 2022-43

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AUTHORIZING PARTICIPATION IN THE PUBLIC EMERGENCY MEDICAL TRANSPORTATION (PEMT) SUPPLEMENTAL PAYMENT PROGRAM FOR MEDICAID MANAGED CARE PATIENTS; DELEGATING AUTHORITY TO EXECUTE LETTER(S) OF AGREEMENT WITH THE STATE OF FLORIDA RELATING TO INTERGOVERNMENTAL TRANSFERS TO THE STATE; DELEGATING AUTHORITY TO EXECUTE OTHER DOCUMENTS NECESSARY TO PARTICIPATE IN THE PROGRAM AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the State of Florida has created a supplemental payment program for Medicaid managed care patients who are transported to the hospital by public emergency medical transportation (PEMT) providers and has appropriated approximately \$55 million for this program; and

WHEREAS, the City of Greenacres Fire Rescue transports a large percentage of Medicaid managed care patients annually to hospitals and receives approximately \$190.00 per patient for this service; and

WHEREAS, by participating in this supplemental payment program for Medicaid managed care patients, the City of Greenacres Fire Rescue can substantially increase its Medicaid managed care patient transport revenue and provide better services to the community; and

WHEREAS, this Medicaid managed care supplemental payment program provides for a State share funding mechanism through intergovernmental transfers to the State from PEMT providers, with State and Federal share dollars to later be disbursed through managed care plans back to PEMT providers; and

WHEREAS, to participate in this supplemental payment program, PEMT providers are required to enter into a Letter of Agreement (LOA) with the State of Florida Agency for Health Care Administration before October 1, 2022, and make an intergovernmental transfer to the

State to support the supplemental payment program; and subsequently enter into agreements with the managed health care organizations to receive the supplemental payments; and

WHEREAS, the Greenacres City Council (Council) desires for the City, through its Fire Rescue Department, to participate in this supplemental payment program, and to delegate authority to enter into LOA's with the State and provide for the required intergovernmental transfer to the State, which all serve a valid public purpose.

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

SECTION 1. The foregoing recitals are hereby affirmed as true and correct statements and incorporated herein.

SECTION 2. Greenacres Fire Rescue, through the City Manager, is hereby authorized to participate in the PEMT supplemental payment program for Medicaid managed care patients; and the City Manager, or designee, is hereby authorized to execute LOA(s) with the State of Florida relating to the intergovernmental transfers to the State for this program, provided that: (1) the LOA(s) is a form substantially similar to that attached hereto as Exhibit A; (2) the amount of the intergovernmental transfer(s) to the State provided for in the LOA(s) does not exceed the amount budgeted by the City for said intergovernmental transfers for the applicable fiscal year; and (3) the LOA(s) is approved by the City Attorney's Office

SECTION 3. The City Manager, or designee is hereby authorized to execute other documents necessary for Greenacres Fire Rescue to participate in the PEMT supplemental payment program for Medicaid managed care patients, provided that such documents are substantially consistent with the terms of the duly approves LOA.

SECTION 4. The listed amount in the agreement is subject to minor changes by the state Medicaid agency, the Agency for Health Care Administration (AHCA), upon finalization of the distribution model. Due to the likelihood of minor adjustments to the listed amount, approval dollar amount of 10% above or below the listed amount is being requested.

SECTION 5. This Resolution shall become effective upon adoption.

RESOLVED AND ADOPTED this 14th of day of September 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: September 14, 2022

FROM: Andrea McCue, City Manager, Administration

SUBJECT: Resolution 2022-44, Second Amendment to City of Atlantis Fire Service Agreement

BACKGROUND

The City entered into an agreement with the City of Atlantis to provide fire protection and emergency medical services on May 16, 2012. In August 2021, the agreement was extended for a new ten (10) year term with an annual increase of 3%.

ANALYSIS

The City has seen a substantial increase in the cost for services consistent with overall inflation that has had an impact statewide and nationally. Based on the increased cost for goods and services the City and the City of Atlantis have agreed to a one time increase of 4.5% for FY 2023.

FINANCIAL INFORMATION

Cost for services for FY 2023 is \$1,063,463.00

LEGAL

The City Attorney prepared the agreement in accordance with all City policies and codes.

STAFF RECOMMENDATION

Staff is recommending approval of Resolution 2022-44.

RESOLUTION NO. 2022-44

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING AMENDMENT TWO (2) TO THE INTERLOCAL AGREEMENT FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES BY AND BETWEEN THE CITY OF GREENACRES AND THE CITY OF ATLANTIS, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 16, 2012, the City of Greenacres entered an Interlocal Agreement for fire protection and emergency medical services with the City of Atlantis; and

WHEREAS, on August 2, 2021, the City of Greenacres and the City of Atlantis amended the Agreement to extend the term, address the cost for services for the new term, and make other administrative amendments; and

WHEREAS, Greenacres has seen a substantial increase in the cost for services consistent with overall inflation throughout the State and nation; and

WHEREAS, the City of Greenacres and the City of Atlantis have decided to amend the agreement to increase the cost for services from 3% to 4.5% and further update the agreement; and

WHEREAS, the City of Greenacres and the City of Atlantis have determined that amending the Agreement as set forth herein is in the best interests of the Cities and serves a valid public purpose.

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

SECTION 1. The City Council of the City of Greenacres hereby authorizes the appropriate City Officials to execute Amendment two (2) to the Interlocal Agreement attached hereto.

Resolution No. 2022-44 | City of Atlantis Interlocal Agreement Amendment Two (2)

Page No. 2

SECTION 2. The City Clerk is hereby directed to transmit two (2) originals of Amendment two (2) to the City of Atlantis.

SECTION 3. This Resolution shall become effective on October 1, 2022.

RESOLVED AND ADOPTED this 14th of day of September 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: September 14, 2022
FROM: Teri Lea Beiriger, Director of Finance
SUBJECT: Res No. 2022-45 Assistant to Firefighter Grant

BACKGROUND

The Fiscal Year (FY) 2021 Assistance to Firefighters Grant (AFG) Program is one of three grant programs that constitute the Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA's) focus on enhancing the safety of the public and firefighters with respect to fire and fire-related hazards. The AFG Program provides financial assistance directly to eligible fire departments, nonaffiliated emergency medical service (EMS) organizations, and State Fire Training Academies (SFTAs) for critical training and equipment. The last time the City received an AFG grant was in 2004-2005.

ANALYSIS

The Fiscal Year (FY) 2021 Assistance to Firefighters Grant (AFG) Program will provide for the matching funds for the overtime training of 55 firefighters and backfill personnel for real-time training on front-line apparatus. Funds will also be used to cover the fee to the accredited fire training institution located at Palm Beach State Fire Academy.

FINANCIAL INFORMATION

The proposed resolution is a 90/10 matching grant. The project amount is \$63,657.30 with the City's portion at \$5,787.03 and AFG's portion at \$57,870.27 which has been included in the City's FY 2023 budget.

LEGAL

The Resolution has been reviewed by the City Attorney for legal sufficiency and meets all legal requirements.

STAFF RECOMMENDATION

Approval of Resolution 2022-45.

RESOLUTION NO. 2022-45

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AUTHORIZING THE SUBMITTAL OF THE FISCAL YEAR 2021 DEPARTMENT OF HOMELAND SECURITY GRANT APPLICATION FOR ASSISTANCE TO FIREFIGHTERS IN THE AMOUNT OF \$57,870.27 FOR THE PURPOSE OF COVERING THE OVERTIME COST ASSOCIATED WITH TRAINING AND OR BACKFILL PERSONNEL WHO ARE TRAINING USING FRONT-LINE APPARATUS AND EQUIPMENT PROVIDING THE MOST REAL-LIFE EXPERIENCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Since 2001, Department of Homeland Security's of Assistance to Firefighters Grant Program has assisted in meeting the firefighting and emergency response needs; and

WHEREAS, the City of Greenacres recognizes the need to enhance firefighter safety in the performance of high risk firefighting duties; and

WHEREAS, the City of Greenacres would benefit from the additional firefighting training; and

WHEREAS, the Department of Homeland Security's Office has awarded the City of Greenacres a matching grant in the amount of \$63,657.30, wherein the City cost will be \$5,787.03 or around 10% of \$63,657.30 and the grant will provide for the 90% of cost or \$57,870.27; and

WHEREAS, the grant funds will be allocated to cover overtime expenses paid to 55 firefighters and/or backfill personnel for real-time training on front-line apparatus and to cover participant fees to the accredited fire training institution located at Palm Beach State College; and,

WHEREAS, the City Council finds applying for the Department of Homeland Security grant funds as set forth herein serves a valid public purpose.

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

Section 1. The City Council hereby authorizes the Director of Finance to submit the application on behalf on Fire Rescue and complete all other administrative requirements to obtain funding under the Federal Assistance to Firefighters Grant Program.

Section 2. The City Council hereby approves the use of this grant to fund a portion of the cost for firefighting training and fees.

Section 3. This Resolution shall become effective upon adoption.

RESOLVED AND ADOPTED this 14th of day of September 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: September 14, 2022

FROM: Andrea McCue, City Manager, Administration

SUBJECT: **Resolution 2022-46**

**Interlocal Agreement with Palm Beach County - Phase I Lift Station
Original Section Sewer - Execution of CDBG Grant Amended 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 a funding amount of \$198,947.

ANALYSIS

On August 1, 2022, The City Council approved the FY 2022-2023 Agreement with Palm Beach County. On August 31, 2022, the City received an amended Agreement from Palm Beach County requiring that the Council re-approve and submit to the County. 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 Amended Agreement through the adoption of Resolution 2022-46.

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

WHEREAS, the City Council entered into an Interlocal 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 applied to the Palm Beach County for a Community Development Block Grant for fiscal Year 2022-2023 to assist in funding the construction of the north area lift station to replace 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 (Project); and

WHEREAS, Phase 1 of the Project will be undertaken in the Original Section located between 10th Ave North and Biscayne Boulevard to provide sanitary sewer service to properties within the City's Original Section and enhance water quality standards to the city residents; and

WHEREAS, CDBG funding for this Phase I has been tentatively approved by Palm Beach County in the amount of \$198,947, and will result in greatly needed improvements to the Original Section, which is the City's CDBG "Target Area"; and

WHEREAS, on August 31, 2022, the City received an amended Agreement from Palm Beach County requiring that the Council re-approve the Agreement and submit the same to the County for the CDBG funding; and,

WHEREAS, the City Council has determined that entering the amended Agreement with Palm Beach County for the CDBG funding serves a valid public purpose.

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

SECTION 1. The foregoing recitals are incorporated into this Resolution as true and correct statements.

SECTION 2. The City Council approves and grants authorization for the execution of the FY 2022-2023 Community Development Block Grant (CDBG) Funding Amended Agreement for Phase 1 of the Lift Station to the Original Section sewer improvements of the City of Greenacres (as amended), which Agreement is attached hereto as Exhibit A and incorporated herein.

SECTION 3. That the appropriate City officials are hereby authorized to execute all necessary documents required to effectuate the terms of the amended Agreement.

SECTION 4. All resolutions in conflict herewith are hereby repealed.

SECTION 5. This Resolution shall be effective upon adoption with the amended Agreement becoming effective October 1, 2022.

RESOLVED AND ADOPTED this ____th day of **September, 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: September 14, 2022

FROM: Kara Irwin-Ferris, AICP, Development & Neighborhood Services Director

SUBJECT: **Ordinance 2022-02, ANX-20-03**
Lake Worth Plaza West Annexation

BACKGROUND

The 20.1183-acre site proposed for annexation contains one (1) parcel with a 46,967 square foot retail shopping center. The site is contiguous to the City's boundary on the north, east and south perimeters. City Future Land Use and Zoning designations will be applied to the properties after annexation. The subject site is currently in unincorporated Palm Beach County. The development was built in 1979 and includes restaurants, retail, personal services, and food supermarkets. The site is located at 4180 Jog Road.

ANALYSIS

The approximately 20.1183-acre site is located in unincorporated Palm Beach County within the identified Future Annexation Area of the City and is part of existing Palm Beach County pocket adjacent to the city. The site contains one (1) parcel having a Palm Beach County zoning designation of Commercial General (PBC CG). The site is contiguous to the City's boundary to the north, east and south. Consequently, the proposed annexation will reduce the size of the existing unincorporated pocket.

The applicant is proposing a voluntary annexation as provided for in Section 171.044, Florida Statutes. The subject site is included within the area of an Interlocal Service Boundary Agreement (ISBA) that is being approved concurrently. Through the ISBA, the City will have access to additional tools and statutory provisions for annexation such as annexation that creates pockets or temporary new enclaves, and these are expected to facilitate the expansion of the City towards the ultimate annexation boundary. The voluntary annexation will create an enclave of the outparcels that are located within the plazas master site that mostly have access only through the entrance to the plaza. An enclave will also be created of the two parcels located across Lake Worth Road on the north of the subject site. The outparcels and parcels across the street will be annexed through an Enclave Interlocal Agreement with Palm Beach County.

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. The City Council approved this petition on first reading July 18, 2022 by a vote of 4-0.

FINANCIAL INFORMATION

An Urban Services report was completed by the City and sent to Palm Beach County to address the City's responsibility of providing services to the parcel based on the City's adopted Level of Services in the Comprehensive Plan. The report determined that an increase in personnel would not be required to serve the parcel.

In accordance with the ISBA, the City will be required to pay the Palm Beach County Fire Rescue MSTU rate against the Property Appraisers taxable value for a limited time and upon expiration of that Agreement, the City Fire Rescue Department would provide full services.

LEGAL

Ordinance 2022-02 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the City Attorney.

The application has been advertised in accordance with State Statutes and all required notification has been met.

STAFF RECOMMENDATION

Approval of ANX-20-03 through the adoption of Ordinance 2022-02.

ORDINANCE NO. 2022-02

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, 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

WHEREAS, Matthew Scott of Dunay, Miskel, Backman, LLP., agent for the owners, LW JOG SC LTD. is herein known as the "Petitioner" for the herein described property; and; and

WHEREAS, the petitioner has requested by written petition to have the property voluntarily annexed into the municipal limits of the City of Greenacres; and

WHEREAS, the subject property hereinafter described is reasonably compact and contiguous to the corporate limits of the City of Greenacres, thus making said petition for annexation appropriate at this time; and

WHEREAS, the City of Greenacres has heretofore been authorized to annex lands in accordance with Section 171.044 of the Florida Statutes; and

WHEREAS, the City of Greenacres Planning Commission has held a duly advertised public hearing on July 14, 2022 and recommended approval of petition ANX-20-03 to annex the subject property into the City of Greenacres; and

WHEREAS, the City Council of the City of Greenacres further finds that, in accordance with the Land Development Staff Report and Recommendation dated January 28, 2021, as amended, attached hereto as Exhibit "A" and by this reference made a part hereof, the proposed annexation of the subject property is in the best interest of the citizens of the City of Greenacres, and is in accordance with State and local law; 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.

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

SECTION 1. The City Council finds that the written petition for voluntary annexation filed with the City bears the signature of the owners of the real property and is hereby annexed into the City of Greenacres, Florida.

SECTION 2. The boundary lines of Greenacres, Florida, are hereby redefined to include the described real property lying in Palm Beach County into the City's Boundary Map:

Legal Description

PCN: 00-42-44-27-00-000-1280

27-44-42, PAR LYG IN W 1013.37FT OF NW 1/4 OF NE 1/4 LYG S OF LAKE WORTH RD (LESS NLY 206.03 FT OF ELY 219 FT, NLY 173.69 FT OF WLY 441.32 FT OF ELY 740.32 FT, NLY 738.93 FT OF WLY 295.68 FT & W 80 FT JOGRD R/W)

AND:

The right-of-way adjacent thereto.

CONTAINING A TOTAL OF 20.1183 ACRES MORE OR LESS.

The above-described parcel is subject to road rights-of-way, easements and reservations of record.

The above-described real property is hereby annexed by and declared to be within the corporate limits of the City of Greenacres, Florida.

Section 3. That the above-described real property shall immediately become subject to all of the franchises, privileges, immunities, debts, obligations, liabilities, ordinances and laws to which lands in the City of Greenacres are now or may be subjected to and persons residing thereon shall be deemed citizens of the City of Greenacres.

Section 4. The annexation of the subject property, including adjacent roads, alleys, or the like, if any, shall not be deemed accepted by the City of any maintenance responsibility for such roads, alleys, or the like, unless otherwise specifically initiated by the City pursuant to current requirements and conditions.

SECTION 5. The City Manager is hereby directed to do all things necessary to effectuate this annexation.

SECTION 6. Repeal of Conflicting Ordinances.

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

SECTION 7. 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 8. Effective Date

The provisions of this Ordinance shall become effective upon adoption.

[The remainder of this page intentionally left blank.]

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

PASSED AND ADOPTED on the second reading this 14th day of September, 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

ANX-20-03 (Ordinance 2022-02)
Exhibit "A"
Date: June 9, 2022

Revised: 07/14/2022
07/18/2022



LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

Ordinance 2022-02: Voluntary Annexation – ANX-20-03 Lake Worth Plaza West

Public Hearing, Second Reading & Adoption: A voluntary annexation request for one (1) parcel of land totaling approximately 20.1183 acres. The site is located at 4180 South Jog Road.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department: Planning & Engineering

Project Manager

Kara L. Irwin-Ferris, AICP

Reviewed By:

Director of Planning & Engineering

Kara L. Irwin-Ferris, AICP

Approved By:

City Manager

Andrea McCue

Public Notice:

☒ Required ☐ Not Required

Date: 6/30/22; 7/11/22, 9/2/22

Paper: PB Post

Mailing

☐ Required ☒ Not Required

Notice Distance: Property Owner

Attachments:

- Ordinance 2022-02
- Location Map

City Council Action:

☒ Approval

☐ Approve with conditions

☐ Denial

☐ Continued to: _____

I. Executive Summary

The approximately 20.1183-acre site is located in unincorporated Palm Beach County within the identified Future Annexation Area of the City and is part of existing Palm Beach County pocket adjacent to the City. The site contains one (1) parcel having a Palm Beach County zoning designation of Commercial General (PBC CG). The site is contiguous to the City's boundary to the north, east and south. Consequently, the proposed annexation will reduce the size of the existing pocket.

The applicant is proposing a voluntary annexation as provided for in Section 171.044, Florida Statutes. The subject site is included within the area of an Interlocal Service Boundary Agreement (ISBA) that is being approved concurrently. Through the ISBA, the City will have access to additional tools and statutory provisions for annexation such as annexation that creates pockets or temporary new enclaves, and these are expected to facilitate the expansion of the City towards the ultimate annexation boundary. The voluntary annexation will create an enclave of the outparcels that are located within the plazas master site that mostly have access only through the entrance to the plaza. An enclave will also be created of the two parcels located across Lake Worth Road on the north of the subject site.

II. Site Data:

| | |
|-----------------------|---------------|
| Property Data: | See Exhibit A |
| Size: | 20.1183 acres |

III. Annexation/Zoning History:

The subject site is currently in unincorporated Palm Beach County. The site is comprised of one (1) parcel of land, that are developed with a 46,967 square foot shopping center plaza.

The development was built in 1979 and includes restaurants, retail, personal services, and food supermarkets.

IV. Applicable Comprehensive Plan Provisions:

Annexation Element:

| | |
|---------------------------------------|--|
| Objective 1, page ANX 19-- | addresses efficiency, concurrency and levels of service (LOS). |
| Objective 1, Policy c), page ANX 19-- | prohibits creating enclaves, or pocket areas which are not reasonably compact. |
| Objective 2, page ANX 19-- | encourages orderly annexation in the future annexation boundaries through coordination with adjacent municipalities and Palm Beach County. |
| Objective 4, page ANX 20-- | supports annexations which are deemed necessary to |

promote the orderly growth of the City and will not adversely impact the City's ability to fulfill other plans.

Objective 4, Policy a), page ANX 20-- outlines six guidelines for annexations.

V. Applicable City Code and Statutory Provisions:

Article III, Section 10 of the City Charter relating to annexation
Sec. 16-8 of the City Code relating to zoning of annexed areas
Chapter 171, Florida Statutes relating to voluntary annexation

VI. Staff Analysis:

Land Development Staff Comments:

The petition was reviewed by the Land Development Staff (LDS) on October 15, 2020 and October 29, 2020. The petition was recommended for approval.

| | |
|---------------------------------|--------------------------|
| Planning and Engineering Dept.: | Incorporated into report |
| Building Department: | No objections |
| Public Works Department: | No objections |
| Fire Rescue Department: | No objections |
| PBSO District #16: | No objections |

Background:

The site proposed for annexation contains one (1) parcel with a 46,967 square foot retail shopping center. The site is contiguous to the City's boundary on the north, east and south perimeters. City Future Land Use and Zoning designations will be applied to the properties through a concurrent application process.

Annexation Findings of Fact:

The proposed annexation is consistent with the Goals, Objectives and Policies of the City's Comprehensive Plan. The parcel is contiguous to the City and is within the boundaries of the Future Annexation Area in the Annexation Element of the Comprehensive Plan.

In addition, the following six guidelines, as specified in Objective 4(a) on page 20 and 21 of the Annexation Element within the Comprehensive Plan, must be addressed. The guidelines apply to both City-initiated and voluntary annexations.

Specific Criteria Findings:

In all future annexation requests, the City shall be guided by the following:

- (1) The area in question must meet statutory requirements pertaining to contiguity, compactness and irregular shape.**

Findings: The annexation petition is consistent with the provisions in Chapter 171, F.S., specifically because the subject property is not irregular in shape, reasonably compact, and immediately contiguous to the City's municipal boundaries to the north, east and south. The subject area is identified as an existing unincorporated pocket at the southeast corner of the intersection of Lake Worth Road and South Jog Road, thus annexation reduces the size of the existing pocket area as well as improves service delivery.

- (2) **The petitioned area must have "a unity of interests with the City" and be "a logical extension" of the City's boundaries.**

Findings: The subject property has "a unity of interests with the City" and is "a logical extension" of the City of Greenacres' boundaries. The property is identified as part of the Future Annexation Area in the City's Comprehensive Plan. The site is also an infill location contiguous to the City's boundary to the north, east, and south within an existing unincorporated pocket. The annexation of the parcels is a logical extension of the previous annexations that annexed the southwest and northwest corners of the same intersection. The proposed annexation gives the city jurisdiction over all corners of the intersection which provides for better service delivery in the area.

The development is compatible and consistent with other development in the City that desires the local support services such as recreation, parks, and local City Hall services. The interests of the existing development are congruent to the City's.

- (3) **The area shall have a growth potential sufficient to warrant the extension of services.**

Findings: The area has a growth potential sufficient to warrant the extension of services. Development and redevelopment activity is taking place in the immediate vicinity and adjacent properties within the City are already receiving City services. Since the property proposed for annexation is contiguous to the City and within an existing unincorporated pocket, the City is able to extend the same level of service provided to residents within the City.

- (4) **The deficit of income against expense to the City shall not be unreasonable.**

Findings: The annexation of the subject property will not create an unreasonable expense or burden upon the City of Greenacres. Since the subject property is contiguous to developed parcels already in the City, and it is located in an existing unincorporated pocket, its annexation will not adversely affect the City's overall level of service, nor will it substantially increase costs to the City to warrant the annexation unreasonable. The City will also be provided with revenue from the property taxes of the subject property and the elimination of an unincorporated pocket will improve service delivery efficiency.

- (5) **The advantages both to the City of Greenacres and to the petitioned area must outweigh the disadvantages.**

Findings: The advantages to both the City of Greenacres and the proposed annexation area outweigh any potential disadvantages. The City will benefit by annexing land that is currently identified in the future annexation area and implementing goals, objectives, and policies of the Annexation Element of the Comprehensive Plan to eliminate pocket areas. Further, the

annexation of the subject property will allow the City to improve the identity of the area as being part of Greenacres and improve service delivery efficiency between the City and Palm Beach County.

- (6) **The City of Greenacres must be willing and able to provide City services as well as ensure that services provided by Palm Beach County are furnished to the newly annexed area within a reasonable time.**

Findings: The City of Greenacres will be able to provide City services to the subject property without degrading any established levels of service, since the City is already providing governmental services to other developments along Lake Worth Road and South Jog Road, in the immediate area of the subject parcel.

Summary of Annexation Criteria:

The proposal meets all of the guidelines specified in the City's Comprehensive Plan and Chapter 171 of the Florida Statutes for the annexation of property. It is a logical extension of the City's boundaries in locations identified as part of the City's future annexation area and will reduce the size of an existing unincorporated pocket area.

VII. Staff Recommendation:

Approval of ANX-20-03 through the adoption of Ordinance 2022-02.

**PLANNING AND ZONING BOARD OF APPEALS
RECOMMENDATION – July 14, 2022**

The Planning and Zoning Board of Appeals on a motion made by Commissioner Edmundson and seconded by Commissioner Hayes, by a vote of five (5) to zero (0), ***recommended approval*** of Annexation ***ANX-20-03 (Lake Worth Plaza West)***, as presented by staff.

CITY COUNCIL ACTION 1st Reading – July 18, 2022

The City Council on a motion made by Councilwoman Bousquet and seconded by Councilman Diaz, voting four (4) to zero (0), ***approved*** Annexation ***ANX-20-03 (Lake Worth Plaza West)***, on first reading, through ***Ordinance 2022-02***, as presented by staff.

CITY COUNCIL ACTION Adoption Hearing – September 14, 2022



ITEM SUMMARY

MEETING DATE: September 14, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-15, ZTA-22-05**
Adult Entertainment

BACKGROUND

The intent of the City initiated zoning text amendment is to repeal the City's Adult Entertainment regulations and formally adopt Palm Beach County's Adult Entertainment with some opt-out provisions.

In the past thirty years the number of topless bars, adult bookstores, X-rated theaters, massage parlors—even exotic car washes—has mushroomed. These uses generate intense community concern about the morality of such businesses, their exploitation of individuals, and their “secondary effects” impact on surrounding neighborhoods. Business owners call city council members with concerns that prospective customers will stay away if a massage parlor sets up shop next door. Landowners in a rural area who previously opposed any zoning as an undue restriction on private property rights suddenly turn out in great numbers to demand zoning “protection” when they learn a topless bar is proposed to be located nearby.

The upshot of this outpouring of concern has been a strong trend among local governments around the country to regulate sexually oriented businesses. Regulations must be carefully considered in light of federal and state constitutional guarantees regarding freedom of expression. In particular, regulations imposed on sexually oriented businesses have been challenged in the courts over many years. The result of these challenges is a body of court decisions that conclude that local governments may impose reasonable time, place, and manner regulations on adult businesses as long as a substantial public interest in regulating the use (in a way that does not suppress speech) is demonstrated, and as long as reasonable alternative locations are provided for the use. While it is unlikely that local governments may totally ban sexually oriented businesses, location and licensing restrictions may be imposed since the courts recognize that communities are entitled to protect themselves against the “secondary effects” of such businesses.

The Development Review Committee reviewed these text amendments and is recommending approval. On July 14, 2022, the Planning and Zoning Board of Appeals reviewed this staff-initiated text amendment and recommended approval by a vote of 5-0. The City Council approved Ordinance 2022-15 on first reading August 15, 2022, by a vote of 5-0.

ANALYSIS

The purpose and intent of this chapter is to regulate adult-oriented businesses which, unless closely regulated, tend to have serious secondary effects on the community, which effects include, but are not limited to, the following: depreciation of property values and increase in vacancies in residential and commercial areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their property when such property is located in the vicinity of adult businesses as a result of increases in crime, litter, noise and vandalism; higher crime rates in the vicinity of adult businesses; and blighting conditions such as low-level maintenance of commercial premises and parking lots, which thereby have a deleterious effect upon adjacent areas. Special regulation of these businesses is necessary to prevent these adverse effects and the blighting or degradation of the neighborhoods in the vicinity of the adult businesses. The proposed text amendments to the City Code are to adopt Palm Beach County Adult Entertainment regulations which the City is already bound by but to opt-out of provisions that are not beneficial to Greenacres residents.

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-15 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-22-05 through the adoption of Ordinance 2022-15.

ORDINANCE NO. 2022-15

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16 “ZONING REGULATIONS,” ARTICLE II “ADMINISTRATION,” BY DELETING IN ITS ENTIRETY CURRENT DIVISION 11 “ADULT ENTERTAINMENT ESTABLISHMENTS” AND ADOPTING A NEW DIVISION 11, ENTITLED “ADULT ENTERTAINMENT ESTABLISHMENT,” WHICH SHALL FORMALLY INCORPORATE PALM BEACH COUNTY’S ADULT ENTERTAINMENT CODE, AND SETTING FORTH THOSE SPECIFIC OPT-OUT PROVISIONS FROM THE COUNTY’S ADULT ENTERTAINMENT CODE; PROVIDING FOR SEVERABILITY, PRESERVATION, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, In order to preserve and safeguard the health, safety, property values and general welfare of the people, businesses and industries of the City, it is necessary and advisable for the City to regulate adult entertainment establishments; and

WHEREAS, it is necessary and advisable for the City to regulate the conduct of owners, managers, operators, agents, workers, entertainers, performers and customers at adult entertainment establishments throughout the City; and

WHEREAS, the City Council recognizes the need to update its ordinances regarding adult entertainment establishments in order to ensure that such establishments comply with the regulatory requirements of this ordinance amendment prior to such businesses being permitted to operate in the City; and

WHEREAS, the City Council recognizes that by updating its adult entertainment code, as set forth herein it will allow establish essential regulations and requirements that must be complied with by any adult entertainment establishment in the City; and

WHEREAS, the City Council of the City of Greenacres legislatively determines and declares that creation of a new adult entertainment code as set forth herein is in the public interest of the health, safety and general welfare of the residents and business community of the City.

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

SECTION 1. LEGISLATIVE FINDINGS, INTENT AND PURPOSE. The WHEREAS clauses contained herein are legislatively determined to be true and correct and are incorporated herein and represent the legislative findings of the City Council. It is the purpose and intent of this ordinance to promote the health, safety, and general welfare of the residents of the City, to ensure the proper regulatory requirements for adult entertainment establishments.

SECTION 2. BOUNDARIES. That this Ordinance shall apply to all properties located within the boundaries of the City of Greenacres, Florida.

SECTION 3. DELETION OF CHAPTER 16. ZONING REGULATIONS, ARTICLE II ADMINISTRATION, DIVISION 11. ADULT ENTERTAINMENT ESTABLISHMENTS. The City Council hereby deletes, in full, Chapter 16. Zoning Regulations, Article II. Administration, Division 11. Adult Entertainment Establishments.

SECTION 4. CREATION OF NEW CHAPTER 16. ZONING REGULATIONS, ARTICLE II ADMINISTRATION, DIVISION 11. ADULT ENTERTAINMENT ESTABLISHMENTS. The City Council hereby amends the Greenacres Code by adopting new Chapter 16. Zoning Regulations, Article II. Administration, Division 11. Adult Entertainment Establishments, which shall read as follows:

ARTICLE II. – ADMINISTRATION

DIVISION 11. – ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 16-221. – Title.

This Division shall be known as the “Adult Entertainment Code” of the City.

Sec. 16-222. – Authority and Jurisdiction.

The Adult Entertainment Code of the City is enacted in the interest of the public health, safety, and general welfare of the people of the City and pursuant to the authority of the City to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment to the Constitution of the United States.

The Adult Entertainment Code shall be effective throughout the City.

Sec. 16-223. – Findings of Fact.

In addition and supplemental to the findings and determinations contained in the "Whereas" provisions, which are incorporated by reference into this section, the City Council acting in its legislative capacity for the purpose of regulating adult entertainment establishments, hereby makes the following findings of fact:

Ordinance No. 2022-15 | Adult Entertainment
Page No. 3

Based on the evidence and testimony presented at public hearings before the City Council, and on the findings incorporated in the United States Attorney General's Commission on Pornography (1986), A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values, conducted by the Department of Metropolitan Development, City of Indianapolis, 1984; Adult Entertainment Businesses Study for Manatee County, Manatee County Planning and Development Department, June 1987; Adult Entertainment Study, Department of City Planning, City of New York, November 1994; Director's Report Proposed Land Use Code Text Amendment adult Cabarets, Department of Construction and Land Use, City of Seattle, March 1989; Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, Hubert H. Humphrey, III, Attorney General, State of Minnesota, June 6, 1989; Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, Department of City Planning, City of Los Angeles, June 1997; and the Palm Beach County Adult Entertainment Code, the City finds that:

(1) Establishments exist or may exist within the city where books, magazines, motion pictures, prints, photographs, periodicals, records, novelties and/or devices which depict, illustrate, describe or relate to specified sexual activities are possessed, displayed, exhibited, distributed and/or sold.

(2) Establishments exist or may exist within the City:

a. Where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

b. Where dancers, entertainers, performers or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical areas; or

c. Where lap dancing occurs.

(3) The activities described in subsections (1) and (2) of this section occur at establishments for the purpose of making a profit, and, as such, are subject to regulation by the City in the interest of the health, safety, and general welfare of the people of the City.

(4) The competitive commercial exploitation of such nudity and semi-nudity is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City.

(5) The commercial exploitation of nudity and semi-nudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for, or as consideration for nude or seminude performance by such individuals.

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(6) In order to preserve the public peace and good order, and to safeguard the health, safety and welfare of the community and citizens thereof, it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators and persons on the premises of the commercial establishments subject to this article.

(7) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this article and an increase in criminal activities, moral degradation and disturbances of the peace and good order of the community, and the concurrences of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce and total community environment in the City.

(8) When the activities described in subsections (1) and (2) of this section are presented in establishments within the City, other activities which are illegal, immoral or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include but are not limited to prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(9) When the activities described in subsections (1) and (2) of this section are present in establishments within the City, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere which promotes crime, and ultimately lead residents and businesses to move to other locations.

(10) Physical contact within establishments at which the activities described in subsections (1) and (2) of this section occur between workers exhibiting specified anatomical areas and customers poses a threat to the health of both and may lead to the spread of communicable, infectious and social diseases.

(11) In order to preserve and safeguard the health, safety, and general welfare of the people of the City, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers and customers at establishments where the activities described in subsections (1) and (2) of this section occur.

(12) The potential dangers to the health, safety, and general welfare of the people of the City from the activities described in subsections (1) and (2) of this section occurring at establishments without first obtaining a license under this chapter are so great as to require the licensure of such establishments prior to their being permitted to operate.

(13) Sexually oriented businesses are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaison of a casual nature.

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(14) The concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulations of sexually oriented businesses in order to protect the health and well-being of the citizens.

(15) Licensing is a legitimate reasonable means of accountability to ensure that operators of sexually oriented businesses comply with the reasonable regulations within the adult entertainment code and the locational requirements of the city zoning regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

Sec. 16-224. – Opting into County Adult Entertainment Code.

(1) The City hereby opts into the County Adult Entertainment Code, as amended from time to time.

(2) The City Manager, or their representative, shall provide to the occupational licensing department of the County, the designation of city departments and contact persons for the City who have been delegated the responsibilities outlined in following sections:

a. The Building Division is responsible for inspecting any proposed establishment for which a license is being applied for in order to ascertain whether it complies with division 3 of the County Adult Entertainment Code and all applicable building codes, statutes, ordinances and regulations in effect in the City. The respective building official shall compare and certify that all aspects of the submitted floor plan, site plan and certified survey accurately depict the actual structure and comply with the provisions of the County Adult Entertainment Code.

b. The Fire Rescue Department is responsible for the inspection of licensed premises or any proposed or existing establishment to ascertain whether it complies with division 3 of the county adult entertainment code and all applicable fire codes, statutes, ordinances and regulations in effect in the City.

c. The Planning, Engineering and GIS Division of the Development and Neighborhood Services Department is responsible for ascertaining whether a proposed or existing establishment for which a license is being applied for complies with division 3 of the County Adult Entertainment Code and all applicable zoning regulations in effect in the city.

Sec. 16-225. – Replacement of the County Adult entertainment Code's prohibitions at establishments allowing alcoholic beverages.

(1) The City hereby opts out of those provisions set forth in section 17-182 of the County Adult Entertainment Code to the extent that such provisions allow or permit alcoholic beverages at an adult entertainment establishments. This opt-out provision shall apply to the extent that any such adult entertainment establishment dealing in alcoholic beverages as set forth in this Code and section 17-182 of the County Adult Entertainment Code shall not be

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permitted, authorized or licensed to sell, serve, consume or possess any alcoholic beverages.

(2) In addition and supplemental to the findings and determinations contained in the "Whereas" provisions and the Findings of Fact, the City Council, acting in its legislative capacity for the purpose of regulating nudity and other sexual conduct in establishments dealing in alcoholic beverages, as authorized pursuant to the Twenty-First Amendment, finds that:

a. Considering what has happened in other communities, the acts prohibited in subsection (3) herein, encourage or create the potential for the conduct of prostitution, attempted rape, rape, assault, and other crimes, in and around establishments dealing in alcoholic beverages;

b. Actual and simulated nudity and sexual conduct and the depiction thereof, coupled with alcohol in public places produces and has the potential for producing undesirable behavior;

c. Sexual, lewd, lascivious, and salacious conduct among patrons and employees within establishments dealing in alcoholic beverages results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct; and

d. It is the intent of this ordinance to prohibit nudity, gross sexuality, and the simulation and depiction thereof in establishments dealing in alcoholic beverages.

(3) The following prohibitions and criteria shall apply within and around those establishments that are either dealing in or are permitted, authorized or licensed to sell, serve, consume or possess any alcoholic beverages:

a. No person shall knowingly or intentionally appear, or cause another person to appear nude, or expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or buttocks, or any simulation thereof.

b. No female person shall knowingly, intentionally or recklessly expose any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof, and no person shall knowingly, intentionally or recklessly cause a female person to expose any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof.

c. No person or entity maintaining, owning, or operating an establishment dealing in alcoholic beverages shall encourage, allow or permit any person to appear nude or to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the buttocks or simulation thereof.

d. No person or entity maintaining, owning or operating an establishment dealing in alcoholic beverages shall encourage, allow or permit any female person to

expose to public view her breasts, directly or laterally, below the top of the areola or any simulation thereof.

e. No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any sexual intercourse; masturbation; sodomy; bestiality; oral copulation; flagellation; any sexual act which is prohibited by law; touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; or the simulation thereof.

f. No person shall cause and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit the exposition of any graphic representation, including pictures or images by the projection of film or video images on a television or a monitor, which depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts directly or laterally below the top of the areola; sexual intercourse; masturbation; sodomy; bestiality; oral copulation; flagellation; any sexual act prohibited by law; touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; or any simulation thereof. This subsection shall not be construed to prohibit the showing of movies, tapes or video cassettes that contain a movie industry rating of "R" or "PG-13."

Sec. 16-226. – Replacement of Prohibited Locations and Measurement of Distance of the County Adult Entertainment Code; establishing the proximity to certain establishments restricted.

(1) Notwithstanding any other provision of this Chapter or any provision of the City's Zoning Regulations or the Greenacres Code, no person shall propose, cause or permit the operation of, or enlargement of, an adult entertainment establishment which, while in operation or after enlargement, would or will be located within fifteen hundred (1,500) feet of:

a. Any other adult entertainment establishment within or without the municipal limits of the city as defined in [section 16-1](#).

b. Any establishment for the sale of beer, wine, or intoxicating liquor for consumption on or off the premises; pawnshops, pool or billiard hall, penny arcade or other business establishment having as a substantial or significant portion of its business the operation of coin-operated amusement devices.

c. Publicly-owned lands used as recreational facilities, administrative functions or public safety functions.

d. Any church or house of worship.

e. Any college, university, public school, private school, licensed private nursery or pre-school or day care center.

(2) In addition to the distance requirements set forth in subsection (1), an adult entertainment establishment shall only be allowed in areas designated as Commercial Intensive adjacent to South Military Trail.

(3) The distance requirements of subsection (1) are independent of and do not supersede the distance requirements for any other establishment that may be contained in other laws, rules, ordinances or regulations.

(4) All measurements of distances shall be along a straight airline route from the farthest point on any property line to the nearest point on any property line of any property or use described herein for establishing the proximity restrictions to certain establishments.

SECTION 5. SEVERABILITY. Should any one or more of the provisions or element of this ordinance be held invalid, such provision or element shall be null and void, and shall be deemed separate from the remaining provisions or elements of this ordinance and shall in no way affect the validity of any of the remaining provisions or elements of this ordinance.

SECTION 6. PRESERVATION. All pending code compliance cases and code compliance orders existing at the time of the adoption of this ordinance are preserved and shall remain in full force and effect. All code compliance cases to be taken before the special magistrate after the date of adoption of this ordinance shall be processed in accordance with this ordinance. All requests for a release or partial release of an existing code compliance order which are made after the date of the adoption of this ordinance shall be processed in accordance with this ordinance.

SECTION 7. CONFLICTS. All other ordinances and resolutions in conflict with this ordinance are hereby cancelled, repealed or revised to be consistent with provisions and elements of this Ordinance.

SECTION 8. CODIFICATION. Specific authority is hereby granted to codify Section 4 of this Ordinance by removing the current Division 2, entitled "Code Enforcement", as set forth in Chapter 2, Article III; and, replacing it with the newly created Article VIII, entitled "Code Compliance", to be set forth at Chapter 2. The sections set forth in Section 4 of this Ordinance may be renumbered to accomplish such intentions.

SECTION 9. EFFECTIVE DATE.

Passed on the first reading this 15th day of August, 2022.

PASSED AND ADOPTED on the second reading this 14th day of September, 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:

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

ZTA-22-05 (Ord. 2022-15)
Exhibit "A"
Date: May 17, 2022

Revised: 07/14/2022
08/15/2022



DEVELOPMENT REVIEW COMMITTEE STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

ZTA-22-05: Adult Entertainment

Recommendation to City Council: A City-initiated request for a text amendment to repeal the City's Adult Entertainment regulations and formally adopt Palm Beach County's Adult Entertainment with some opt-out provisions.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

| | |
|--|---|
| Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator | Reviewed By: Acting Director of Development and Neighborhood Services _____ Andrea McCue, City Manager |
| Approved By: City Manager _____ Andrea McCue | Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____ |
| Attachments: <ul style="list-style-type: none"> • Ordinance 2022-15_ | City Council Action: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____ |

II. Proposed Zoning Code Amendments:

The following Zoning Code regulations are impacted by the proposed Zoning Text Amendments. Text shown in ~~strike through~~ is to be deleted. Text shown in underline is to be added.

ARTICLE II. – ADMINISTRATION

DIVISION 11. – ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 16-221. – Proximity to certain establishments restricted.

No adult entertainment establishment shall be operated or maintained within fifteen hundred (1,500) feet of:

(1) Any other adult entertainment establishment within or without the municipal limits of the city as defined in section 16-1.

(2) Any establishment for the sale of beer, wine, or intoxicating liquor for consumption on or off the premises; pawnshops, pool or billiard hall, penny arcade or other business establishment having as a substantial or significant portion of its business the operation of coin-operated amusement devices.

(3) Publicly owned lands used as recreational facilities, administrative functions, or public safety functions.

(4) Any church or house of worship.

(5) Any college, university, public school, private school, licensed private nursery or pre-school or day care center.

Sec. 16-222. – Measurement of distance.

For the purposes of section 16-221, all measurements of distances shall be along a straight airline route from the farthest point on any property line to the nearest point on any property line of any property or use described in paragraphs (1) through (2) of section 16-221.

Sec. 16-223. – Hours of operation.

Adult establishments shall be restricted to the following hours of operation:

(1) Adult bookstores, adult health studios, adult photography studios, and adult novelty stores shall not be open for business before 9:00 a.m. or after 9:00 p.m.

~~(2) Restaurants and lounges with adult entertainment shall not be open for business before 11:00 a.m. and after 2:00 a.m.~~

~~(3) Adult motion picture theaters shall not be open for business before 11:00 a.m. or after 2:00 a.m.~~

~~(4) No adult entertainment establishment as described herein shall be open for business on any Sunday or national legal holiday.~~

~~Sec. 16-224. -- Signs, etc.~~

~~All development concept plans submitted in support of applications for adult entertainment establishment special exceptions shall be subject to review of outdoor sign location, size, content, method of lighting, hours of operation and any other reasonable restrictions imposed by the city council. In addition, thereto, the development concept plan shall show and be subject to approval of all outdoor statues or other appurtenance, picture and or graphics which applicant intends to display at time of approval or at any time during the period of operation.~~

~~Sec. 16-225. -- Nonconforming use.~~

~~In the event that any permitted or special exception use allowed within a commercial intensive district is constructed within fifteen hundred (1,500) feet of an adult entertainment establishment as defined in [section 16-1](#), the adult entertainment establishment shall become a nonconforming use at the time of issuance of certificate of occupancy of such permitted or special exception use.~~

~~Sec. 16-226. -- Expiration of approval.~~

~~The adult entertainment establishment approval shall expire twelve (12) months after the date of the abovementioned certificate of occupancy.~~

~~Sec. 16-227. -- Violations.~~

~~(a) It shall be a violation for the owner or operator of any adult entertainment establishment as described herein to permit any person under the age of eighteen (18) years to enter or remain upon the premises of the establishment, or to sell any product or service to any person under the age of eighteen (18) years on the premises of a regulated use.~~

~~(b) It shall be a violation for any person under the age of eighteen (18) years to enter or remain upon the premises of any regulated use, or to purchase any product or service upon the premises of an adult entertainment establishment as described herein.~~

~~(c) It shall be a violation for any person to touch any of the specified anatomical areas of another person while upon the premises of an adult entertainment establishment as described herein.~~

~~Secs. 16-228 — 16-250. — Reserved.~~

Sec. 16-221. – Title.

This Division shall be known as the “Adult Entertainment Code” of the City.

Sec. 16-222. – Authority and Jurisdiction.

The Adult Entertainment Code of the City is enacted in the interest of the public health, safety, and general welfare of the people of the City and pursuant to the authority of the City to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment to the Constitution of the United States.

The Adult Entertainment Code shall be effective throughout the City.

Sec. 16-223. – Findings of Fact.

In addition, and supplemental to the findings and determinations contained in the "Whereas" provisions, which are incorporated by reference into this section, the City Council acting in its legislative capacity for the purpose of regulating adult entertainment establishments, hereby makes the following findings of fact:

Based on the evidence and testimony presented at public hearings before the City Council, and on the findings incorporated in the United States Attorney General's Commission on Pornography (1986), A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values, conducted by the Department of Metropolitan Development, City of Indianapolis, 1984; Adult Entertainment Businesses Study for Manatee County, Manatee County Planning and Development Department, June 1987; Adult Entertainment Study, Department of City Planning, City of New York, November 1994; Director's Report Proposed Land Use Code Text Amendment adult Cabarets, Department of Construction and Land Use, City of Seattle, March 1989; Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, Hubert H. Humphrey, III, Attorney General, State of Minnesota, June 6, 1989; Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, Department of City Planning, City of Los Angeles, June 1997; and the Palm Beach County Adult Entertainment Code, the City finds that:

(1) Establishments exist or may exist within the city where books, magazines, motion pictures, prints, photographs, periodicals, records, novelties and/or devices which depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed and/or sold.

(2) Establishments exist or may exist within the City:

a. Where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

b. Where dancers, entertainers, performers, or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical areas; or

c. Where lap dancing occurs.

(3) The activities described in subsections (1) and (2) of this section occur at establishments for the purpose of making a profit, and, as such, are subject to regulation by the City in the interest of the health, safety, and general welfare of the people of the City.

(4) The competitive commercial exploitation of such nudity and semi-nudity is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City.

(5) The commercial exploitation of nudity and semi-nudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for, or as consideration for nude or seminude performance by such individuals.

(6) In order to preserve the public peace and good order, and to safeguard the health, safety and welfare of the community and citizens thereof, it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators, and persons on the premises of the commercial establishments subject to this article.

(7) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this article and an increase in criminal activities, moral degradation and disturbances of the peace and good order of the community, and the concurrences of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce and total community environment in the City.

(8) When the activities described in subsections (1) and (2) of this section are presented in establishments within the City, other activities which are illegal, immoral, or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include but are not limited to prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(9) When the activities described in subsections (1) and (2) of this section are present in establishments within the City, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere which promotes crime, and ultimately lead residents and businesses to move to other locations.

(10) Physical contact within establishments at which the activities described in subsections (1) and (2) of this section occur between workers exhibiting specified anatomical areas and customers poses a threat to the health of both and may lead to the spread of communicable, infectious, and social diseases.

(11) In order to preserve and safeguard the health, safety, and general welfare of the people of the City, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in subsections (1) and (2) of this section occur.

(12) The potential dangers to the health, safety, and general welfare of the people of the City from the activities described in subsections (1) and (2) of this section occurring at establishments without first obtaining a license under this chapter are so great as to require the licensure of such establishments prior to their being permitted to operate.

(13) Sexually oriented businesses are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaison of a casual nature.

(14) The concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulations of sexually oriented businesses in order to protect the health and well-being of the citizens.

(15) Licensing is a legitimate reasonable means of accountability to ensure that operators of sexually oriented businesses comply with the reasonable regulations within the adult entertainment code and the locational requirements of the city zoning regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

Sec. 16-224. – Opting into County Adult Entertainment Code.

(1) The City hereby opts into the County Adult Entertainment Code, as amended from time to time.

(2) The City Manager, or their representative, shall provide to the occupational licensing department of the County, the designation of city departments and contact persons for the City who have been delegated the responsibilities outlined in following sections:

a. The Building Division is responsible for inspecting any proposed establishment for which a license is being applied for in order to ascertain whether it complies with division 3 of the County Adult Entertainment Code and all applicable building codes, statutes,

ordinances, and regulations in effect in the City. The respective building official shall compare and certify that all aspects of the submitted floor plan, site plan and certified survey accurately depict the actual structure and comply with the provisions of the County Adult Entertainment Code.

b. The Fire Rescue Department is responsible for the inspection of licensed premises or any proposed or existing establishment to ascertain whether it complies with division 3 of the county adult entertainment code and all applicable fire codes, statutes, ordinances, and regulations in effect in the City.

c. The Planning, Engineering and GIS Division of the Development and Neighborhood Services Department is responsible for ascertaining whether a proposed or existing establishment for which a license is being applied for complies with division 3 of the County Adult Entertainment Code and all applicable zoning regulations in effect in the city.

Sec. 16-225. – Replacement of the County Adult entertainment Code’s prohibitions at establishments allowing alcoholic beverages.

(1) The City hereby opts out of those provisions set forth in section 17-182 of the County Adult Entertainment Code to the extent that such provisions allow or permit alcoholic beverages at an adult entertainment establishment. This opt-out provision shall apply to the extent that any such adult entertainment establishment dealing in alcoholic beverages as set forth in this Code and section 17-182 of the County Adult Entertainment Code shall not be permitted, authorized, or licensed to sell, serve, consume, or possess any alcoholic beverages.

(2) In addition, and supplemental to the findings and determinations contained in the "Whereas" provisions and the Findings of Fact, the City Council, acting in its legislative capacity for the purpose of regulating nudity and other sexual conduct in establishments dealing in alcoholic beverages, as authorized pursuant to the Twenty-First Amendment, finds that:

a. Considering what has happened in other communities, the acts prohibited in subsection (3) herein, encourage or create the potential for the conduct of prostitution, attempted rape, rape, assault, and other crimes, in and around establishments dealing in alcoholic beverages;

b. Actual and simulated nudity and sexual conduct and the depiction thereof, coupled with alcohol in public places produces and has the potential for producing undesirable behavior;

c. Sexual, lewd, lascivious, and salacious conduct among patrons and employees within establishments dealing in alcoholic beverages results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct; and

d. It is the intent of this ordinance to prohibit nudity, gross sexuality, and the simulation and depiction thereof in establishments dealing in alcoholic beverages.

(3) The following prohibitions and criteria shall apply within and around those establishments that are either dealing in or are permitted, authorized, or licensed to sell, serve, consume, or possess any alcoholic beverages:

a. No person shall knowingly or intentionally appear, or cause another person to appear nude, or expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or buttocks, or any simulation thereof.

b. No female person shall knowingly, intentionally, or recklessly expose any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof, and no person shall knowingly, intentionally, or recklessly cause a female person to expose any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof.

c. No person or entity maintaining, owning, or operating an establishment dealing in alcoholic beverages shall encourage, allow, or permit any person to appear nude or to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the buttocks or simulation thereof.

d. No person or entity maintaining, owning, or operating an establishment dealing in alcoholic beverages shall encourage, allow, or permit any female person to expose to public view her breasts, directly or laterally, below the top of the areola or any simulation thereof.

c. No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any sexual intercourse; masturbation; sodomy; bestiality; oral copulation; flagellation; any sexual act which is prohibited by law; touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; or the simulation thereof.

d. No person shall cause and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit the exposition of any graphic representation, including pictures or images by the projection of film or video images on a television or a monitor, which depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts directly or laterally below the top of the areola; sexual intercourse; masturbation; sodomy; bestiality; oral copulation; flagellation; any sexual act prohibited by law; touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; or any simulation thereof. This subsection shall not be construed to prohibit the showing of movies, tapes or video cassettes that contain a movie industry rating of "R" or "PG-13."

Sec. 16-226. – Replacement of Prohibited Locations and Measurement of Distance of the County Adult Entertainment Code; establishing the proximity to certain establishments restricted.

- (1) Notwithstanding any other provision of this Chapter or any provision of the City's Zoning Regulations or the Greenacres Code, no person shall propose, cause, or permit the operation of, or enlargement of, an adult entertainment establishment which, while in operation or after enlargement, would or will be located within fifteen hundred (1,500) feet of:
 - a. Any other adult entertainment establishment within or without the municipal limits of the city as defined in [section 16-1](#).
 - b. Any establishment for the sale of beer, wine, or intoxicating liquor for consumption on or off the premises; pawnshops, pool or billiard hall, penny arcade or other business establishment having as a substantial or significant portion of its business the operation of coin-operated amusement devices.
 - c. Publicly owned lands used as recreational facilities, administrative functions, or public safety functions.
 - d. Any church or house of worship.
 - e. Any college, university, public school, private school, licensed private nursery or pre-school or day care center.
- (2) In addition to the distance requirements set forth in subsection (1), an adult entertainment establishment shall only be allowed in areas designated as Commercial Intensive adjacent to South Military Trail.
- (3) The distance requirements of subsection (1) are independent of and do not supersede the distance requirements for any other establishment that may be contained in other laws, rules, ordinances, or regulations.
- (4) All measurements of distances shall be along a straight airline route from the farthest point on any property line to the nearest point on any property line of any property or use described herein for establishing the proximity restrictions to certain establishments.

Secs. 16-227—16-250. - Reserved.

III. Staff Analysis:

Background:

In the past thirty years the number of topless bars, adult bookstores, X-rated theaters, massage parlors—even exotic car washes—has mushroomed. These uses generate intense community

concern about the morality of such businesses, their exploitation of women, and their “secondary effects” impact on surrounding neighborhoods. Business owners call city council members with concerns that prospective customers will stay away if a massage parlor sets up shop next door. Landowners in a rural area who previously opposed any zoning as an undue restriction on private property rights suddenly turn out in great numbers to demand zoning “protection” when they learn a topless bar is proposed to be located nearby. Conservative religious groups and liberal advocates of women’s rights join forces to protest the moral climate set by a proliferation of sexually oriented businesses.

The upshot of this outpouring of concern has been a strong trend among local governments around the country to regulate sexually oriented businesses. Regulations must be carefully considered in light of federal and state constitutional guarantees regarding freedom of expression. In particular, regulations imposed on sexually oriented businesses have been challenged in the courts over many years. The result of these challenges is a body of court decisions that conclude that local governments may impose reasonable time, place, and manner regulations on adult businesses as long as a substantial public interest in regulating the use (in a way that does not suppress speech) is demonstrated, and as long as reasonable alternative locations are provided for the use. While it is unlikely that local governments may totally ban sexually oriented businesses, location and licensing restrictions may be imposed since the courts recognize that communities are entitled to protect themselves against the "secondary effects" of such businesses.

Development Review Committee Comments:

The petition was reviewed by the Development Review Committee on May 19, 2022 and recommended approval.

| | |
|--------------------------|------------------------------------|
| Planning Department: | No comments |
| Building Department: | No comments |
| Recreation and Parks | Comments addressed in Staff Report |
| Fire Department: | No comments |
| PBSO District #16 | Comments addressed in Staff Report |
| Public Works Department: | No comments |

IV. Zoning Text Amendment Criteria:

A. The need and justification for these changes:

The purpose and intent of this chapter is to regulate adult-oriented businesses which, unless closely regulated, tend to have serious secondary effects on the community, which effects include, but are not limited to, the following: depreciation of property values and increase in vacancies in residential and commercial areas in the vicinity of adult businesses; interference with residential property owners’ enjoyment of their property when such property is located in the vicinity of adult businesses as a result of increases in crime, litter, noise and vandalism; higher crime rates in the vicinity of adult businesses; and blighting

conditions such as low-level maintenance of commercial premises and parking lots, which thereby have a deleterious effect upon adjacent areas. Special regulation of these businesses is necessary to prevent these adverse effects and the blighting or degradation of the neighborhoods in the vicinity of the adult businesses. The proposed text amendments to the City Code are to adopt Palm Beach County Adult Entertainment regulations which the City is already bound by but to opt-out of provisions that are not beneficial to Greenacres residents.

- B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City Codes by ensuring the Adult Entertainment standards are in compliance with legal cases and with Palm Beach County regulations.

V. Staff Recommendation:

Approval of ZTA-22-05 through the adoption of Ordinance 2022-15.

PLANNING AND ZONING BOARD OF ADJUSTMENTS RECOMMENDATION – July 14, 2022

The Planning and Zoning Board of Adjustment, on a motion made by Commissioner Litowsky and seconded by Commissioner Edmundson, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-05** (*Adult Entertainment*) as presented by the City Attorney.

CITY COUNCIL ACTION First Reading – August 15, 2022

The City Council on a motion made by Council Member Bousquet and seconded by Council Member Dugo, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-05** as presented by the City Attorney.

CITY COUNCIL ACTION Second Reading – September 14, 2022

Attachments:

1. Ordinance 2022-15



ITEM SUMMARY

MEETING DATE: September 14, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-20, ZTA-22-16**
Business Tax Receipts (BTR) Regulations

BACKGROUND

A City-initiated request for a text amendment that amends the Code of Ordinances Chapter 8 entitled Licenses and Business Regulations to clarify when home occupation inspections are required and increase the Business Tax Receipt fees by the maximum allowed by state statute in the amount of five percent (5%).

The Business Tax Receipt (formerly known as Occupational License) is required of any individual or entity, business, or profession in the City of Greenacres which operates within the City's limits, unless specifically exempted. The Business Tax Receipt is for the privilege of engaging in a business activity either for profit or non-profit.

This is the second amendment to the City's existing Business Tax Receipt provisions. The proposed amendments to the Business Tax Receipt code provisions are as follows:

1. Clarify when home occupation inspections are required
2. Increase the Business Tax Receipt fees by the maximum allowed by state statute in the amount of five percent (5%).

ANALYSIS

The Local Business Tax, formerly known as Occupational License, is required of any individual or entity choosing to engage in or manage any business, profession, or occupation in the City of Greenacres, unless specifically exempted. The City's Business Tax is a privilege tax imposed for revenue purposes only to support the essential services the City provides. No attempt is made through the business tax to regulate the conduct of businesses, nor does the issuance of a Tax Receipt and the payment of the business tax authorize the conduct or continuance of any illegal business or of a legal business in an illegal manner within the City. The Business Tax Receipt process is necessary to ensure that life, health, and safety issues are addressed through the inspection process. This process also ensures that the proposed business is located in the appropriate zoning district and if the appropriate City approvals have been obtained.

The changes requested are to address a conflict in the City's Code with State Statute and to increase the Business Tax Receipt fees by the maximum allowed by state statute in the

amount of five percent (5%) based upon the increased cost of processing these requests and inflation since the last fee update in 2018.

FINANCIAL INFORMATION

The proposed revisions to the Business Taxes provisions would result in a revenue increase of 5%.

LEGAL

Ordinance 2022-20 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-22-16 through the adoption of Ordinance 2022-20.

ORDINANCE NO. 2022-20

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 8, LICENSES AND BUSINESS REGULATIONS, ARTICLE III, BUSINESS TAXES, SECTIONS 8-46 THROUGH 8-72, TO CLARIFY BUSINESS TAX RECEIPT REQUIREMENT FOR HOME BUSINESSES AND AMENDING THE FEES FIVE PERCENT FOR BUSINESS TAX RECEIPT; 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 8 regarding business tax receipts; and

WHEREAS, a business tax receipt is a document issued by the City of Greenacres when the tax is paid by a business authorized to operate within the City’s municipal limits; and

WHEREAS, the business tax receipt ensures that a business is a permitted use to operate on a particular parcel, permits an inspection to ensure that the business is in compliance with city code requirements, and requires proof of state and/or federal licensing and certification for certain businesses; and

WHEREAS, it has been determined, in accordance with the Development Review Committee Staff Report and Recommendation, attached as “Exhibit A” that the proposed amendments to Chapter 8 of the City’s Code of Ordinances 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 GREENACRES, FLORIDA, THAT:

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

SECTION 2. Chapter 8, Article III, Business Taxes, section 8-46 through section 8-73 of the City of Greenacres Code of Ordinances is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

ARTICLE III. - BUSINESS TAXES

Sec. 8-46. - Business tax imposed and registration.

- (a) *Business tax.* A tax is hereby fixed and imposed upon every person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business, profession, or occupation within the city. In addition, the tax is imposed upon any person who is conducting a business, profession, or occupation within their home, when located within the city limits. A business tax is also hereby levied upon any person who does not qualify under the provisions noted hereinabove and who transacts any business or engages in any occupation or profession in interstate commerce, if such tax is not prohibited by section 8 of article I of the United States Constitution.
- (b) *Registration.* Any person who does not fall into one (1) of the categories set forth above in subsection (a), but who comes within the corporate limits of the city to carry on, complete, perform, or engage in any type of business, is hereby required to register with the city by filling out a registration form with the development and neighborhood services department. Such person must provide a copy of a valid business tax receipt issued by another municipality and/or by Palm Beach County indicating that he or she possesses a valid business tax receipt at the location of his or her branch or permanent office. The registration requirement shall not apply to any trade or business regulated by the state department of business and professional regulation including but not limited to, contractors, surveyors, barbers, cosmetologists, architects, landscape architects and interior designers. Additionally, this requirement shall not apply to any pest control operators licensed and regulated by the state.
- (c) *Voluntary registration.* Pursuant to F.S. § 205.065, any person engaging in or managing a business, profession or occupation regulated by the state department of business and professional regulation that has paid a business tax receipt tax for the current year to the county or municipality in that state where the person's permanent business location or branch office is maintained shall not be required to register his business tax receipt with the city. However, such persons may voluntarily

register with the city by presenting proof of state licensing, a valid business tax receipt issued by the municipality or county in which the licensee's branch or permanent office is located and by paying an administrative fee as established by resolution of the city council. Persons not desiring to voluntarily register shall not be required to do so. However, such persons shall be required to present all documentation required by this subsection each time application for a city permit is made.

- (d) *Registration fee.* A registration fee shall be charged to cover administrative costs in registering these additional businesses, occupations, and professions; the amount of which registration fee shall be set by resolution of the city council.

Sec. 8-47. - Required.

No person described in section 8-46(a) shall engage in any trade, business, profession, or occupation within the city without a local business tax receipt or with a local business tax receipt issued upon false statements made by such person or in his or her behalf.

Sec. 8-48. - Application procedures and Inspections.

(a) Before the city shall issue a local business tax receipt, it shall be the duty of the applicant to:

- (1) File an application for a business tax receipt on the form provided by the department of development and neighborhood services.
 - (2) Submit all documentation as required by this article and the director of development and neighborhood services designee and also as required by any other local, state, or federal laws or rules.
 - (3) Remit a non-refundable local business tax fee in accordance section 8-72 local business tax schedule.
 - (4) Submit an application for a county business tax receipt for city zoning approval.
- (b) Every applicant for a local business tax receipt shall obtain a county business tax receipt. The fact that a county business tax receipt is not required for a particular business, profession or occupation does not imply that the requirement for a city local business tax receipt is waived.
- (c) Every applicant for a local business tax shall be reviewed for compliance with the city's zoning code and any applicable site plan or special exception approval for the subject property to verify compliance with the property's zoning designation and approved uses.
- (d) Every applicant for a local business tax receipt must provide proof of a passed fire inspection as required by section 5-8 of the City Code, a building code inspection as

determined by the building official, and any other inspection required by applicable law unless exempt by general law. Failure to provide proof of the passed inspection(s) within thirty (30) days of application may result in the business tax receipt being denied, suspended, revoked and possible fines imposed through the code enforcement procedures as set forth in the City Code. . Pursuant to section 559.955, Florida Statutes (as amended), home-based businesses are exempt from the inspection requirement of section 8-48(d) unless the particular use triggers an inspection under other applicable law.

(e) Upon receipt from the applicant of all application forms, approvals, and documentation as required by this article, and any additional documentation that may be required, the director of development and neighborhood services or appointed designee shall issue a city business tax receipt, valid through September 30, of each fiscal year.

~~Sec. 8-49. — Home-based businesses Business tax receipt required.~~

~~(a) Every applicant for a business tax receipt to conduct a business, profession, or occupation within their home, when located within the city limits, shall file an application for a local business tax receipt as set forth in section 8-48 and pay a local business tax as set forth in the local business tax schedule referred to in section 8-72. Pursuant to section 559.955, Florida Statutes (as amended), home-based businesses are exempt from the inspection requirement of section 8-48(d) unless the particular use triggers an inspection under other applicable law.~~

~~(b) Every applicant for a business tax receipt to conduct a business, profession, or occupation within their home, when located within the corporate limits of the city, shall be reviewed for compliance with the City Code as permitted in section 559.955, Florida Statutes (as amended)~~

~~Sec. 8-50. — Home family daycare.~~

~~In addition to the requirements of section 8-49 every applicant for a business tax receipt to conduct a home family daycare service within their home must submit the following documentation before a business tax receipt can be issued:~~

- ~~(1) Approved inspection required under applicable law;~~
- ~~(2) All permit(s) and/or license(s) for family day care center for the property on which the home family daycare service is to be conducted;~~
- ~~(3) Any additional documentation as required by this article or the director of development and neighborhood services or designee.~~

~~Sec. 8-51~~49. - Exemptions.

Exemptions shall be allowed for certain disabled veterans of any war, declared or undeclared, and their unremarried spouses; certain disabled persons, the aged, and

widows with minor dependents in conformance with F.S. chapter 205, as amended. Such individuals shall be entitled to an exemption as provided for by state statute.

Sec. 8-520. - Business tax receipt required of nonprofit organizations.

(a) The director of development and neighborhood services, or designee shall issue a business tax receipt to any person or organization for the conduct or operation of a nonprofit religious, charitable or educational institution as defined in F.S. chapter 205, as amended. The business tax receipt shall be exempt from payment of any business taxes. Nothing in this section shall be construed to require a business tax receipt for practicing the religious tenets of any church.

(b) Upon application for a local business tax receipt, the person or organization must exhibit an active state certificate, registration, or receipt, or proof of copy of the same before such local business tax receipt may be issued.

Sec. 8-531. - Affidavit required in certain cases.

Whenever information required to document the amount of a business tax receipt applied for is dependent on facts not within the personal knowledge of the director or designee, no business tax receipt shall be issued until the applicant therefore has made and filed with the director of development and neighborhood services or designee a notarized affidavit, duly authenticated, setting forth the facts upon which the amount of such business tax receipt depends.

Sec. 8-542. - Duration and due date.

No local business tax receipt shall be issued for more than one (1) year. All receipts shall expire on the thirtieth day of September of each year.

Sec. 8-553. - Half-year local business tax receipts.

(a) For each local business tax receipt obtained between the first day of October and the thirty-first day of March, the full tax for one (1) year shall be paid.

(b) For each local business tax receipt obtained between the first day of April and the thirtieth day of September, one-half ($\frac{1}{2}$) of the full tax for one (1) year shall be paid.

Sec. 8-564. - Multiple business tax receipts.

In the event any person engaged in a business, occupation, or profession at one (1) location or place of business is required under the provisions of this article to have more than one (1) business tax, the receipt holder shall pay in full all applicable business taxes required in order to operate the business. The director of development and neighborhood services or designee shall have the administrative duty to determine

which local business tax receipt category or categories shall apply to each applicant for a receipt. Appeals to his/her decision shall be processed as provided for in section 8-71.

Sec. 8-575. - Duplicate business tax receipts.

The director of development and neighborhood service or designee shall charge a fee for each duplicate local business tax receipt issued to replace any business tax receipt issued under the provisions of this article which has been lost, stolen, defaced, or destroyed. The duplicate fee charged hereunder shall be equal to ten (10) percent of the annual business tax, but in no case be less than three dollars (\$3.00) nor more than twenty-five dollars (\$25.00).

Sec. 8-586. - Each location to have a separate business tax receipt.

If any person operates any business regulated in this section at more than one (1) location within the city, each location shall be considered a separate business and a separate local business tax receipt therefore is required of each business.

Sec. 8-597. - Posting of business tax receipts.

(a) All local business tax receipts issued to a business that has a permanent place of business within the city shall display the same prominently within its place of business.

(b) In those occupations without a permanent place of business, the receipt holder shall be required to produce the business tax receipt, or proof of copy thereof, upon request.

Sec. 8-6058. - Professional business tax receipts.

The business tax provided in section 8-72(b)(1) for professionals shall be construed to mean that each individual shall pay the tax therein provided whether practicing by himself or herself, in a partnership, employed by another, or incorporated as a professional association.

Sec. 8-6159. - Prohibition of issuance of local business tax receipt without exhibition of state license or registration.

Any person applying for or renewing local business tax receipt for the receipt period beginning October 1 to practice any profession regulated by the state department of professional regulation, or any board or commission thereof, must exhibit an active state certificate, registration or license or proof of copy of the same before such local business tax receipt may be issued. Thereafter, only persons applying for the first time for local business tax receipt must exhibit such certification, registration, or license.

Sec. 8-620. - Transfer business tax receipt required.

(a) Any time a business, profession, or occupation licensed within the city has a change of ownership, location, change of business name, or change in the qualifier a transfer business tax is required. Any change in use type shall require application for a new local business tax receipt according to section 8-48 herein.

(b) The applicant shall obtain a county transfer business tax receipt and submit a copy of the receipt to the director of building or appointed designee.

(b) The applicant shall, in addition to the application form, submit all documentation as required by this article and the director of building or appointed designee.

(c) The fee for each transfer business tax receipt shall be equal to ten (10) percent of the annual business tax but in no case be less than three dollars (\$3.00) nor more than twenty-five dollars (\$25.00).

(d) Every business, occupation or profession licensed within the city and maintaining a permanent business location or branch office within the city, which is required by this section to obtain a transfer business tax receipt, shall have inspections made as set forth in section 8-48(~~de~~).

Sec. 8-631. - Local business tax receipt covers specified business, etc.

No local business tax receipt issued under the provision of this article shall protect any person from prosecution for transacting any business, trade or profession not covered by such business tax receipt, nor shall it protect any merchant doing business having provided false information for business tax receipt computation by affidavit to the director of development and neighborhood services.

Sec. 8-642. - Businesses not specifically covered.

Any person engaged in any lawful business, profession, or occupation, wholly or in part, within the city, not mentioned or covered by this article shall pay the closest applicable or related business tax as determined by the director of development and neighborhood services or designee.

Sec. 8-653. - False statements in application void business tax receipt.

Any business tax receipt issued upon any false statement made in the application therefore shall be considered as void ab initio and shall not protect the holder thereof from prosecution for transacting business without a valid business tax receipt.

Sec. 8-664. – Issuance denial, suspension, or revocation.

(a) The city shall have the authority to deny an application for a business tax receipt on the following grounds:

- (1) That the applicant has failed to disclose or has misrepresented a material fact of any information required by this article in the application;
- (2) That the applicant desiring to engage in the business, as described in the application, has selected a proposed site or type of business activity, which does not comply with the City Code;
- (3) That the applicant has failed to obtain a certificate of occupancy as required by the Florida Building Code;
- (4) The prior business tax receipt for the proposed business location was or has been denied, suspended, or revoked for any reason which reason has not been corrected;
- (5) The issuance of business tax receipt is based upon the applicant's compliance with specific provisions of federal, state, city, or county laws with respect to the specific zoning use and the applicant has violated such specific provisions;
- (6) The applicant has violated any provisions of this article and has failed or refused to cease or correct the violation within thirty (30) days after notification thereof;
- (7) The premises have been condemned by the local health authority for failure to meet sanitation standards or the local authority has condemned the premises because the premises are unsafe or unfit for human occupancy;
- (8) The applicant is delinquent in the payment of any fee imposed under this article, code enforcement lien, special assessment lien and/or other debt or obligation debt to the city under state or local law; and/or,
- (9) The applicant does not engage in the business as described in the application or has changed the use without authorization.

(b) Any business tax receipt issued by the city may be temporarily suspended, refused to be renewed, or revoked and canceled by the director of development and neighborhood services or designee when

- (1) Such business, trade, profession, or occupation is operating in violation of this article or other provision of the City Code;

(2) The business tax receipt holder has utilized fraud or misrepresentation in an application for or in obtaining a business tax receipt;

(3) The premises of the business, trade, profession, or occupation violates any provision of the Florida Building Code;

(4) The applicant does not engage in the business, trade, profession, or occupation as described in the application or has changed the use without authorization; or,

(6) The applicant is delinquent in the payment of any fee imposed under this article, code enforcement lien, special assessment lien and/or other debt or obligation debt to the city under state or local law.

(c) In the case of revocation and cancellation of such business tax receipt, the receipt holder is not entitled to a refund on any unused portion of the business tax.

Sec. 8-675. - Compliance by principal deemed compliance by agent.

Where the principal or employer has complied with the provisions of this article, it shall be unnecessary for his or her agent or employee to comply herewith, unless otherwise expressly provided for herein. In the event such principal or employer shall not have complied with this article, each of his or her agents or employees shall be subject to prosecution and, upon conviction, to fine or imprisonment to the same extent as his principal or employer.

Sec. 8-686. - Engaging in business without local business tax receipt or under a local business tax receipt issued upon false statements; penalties, prima facie evidence.

(a) It shall be unlawful for any person to engage in any business, trade, profession, or occupation taxable by business tax receipt hereunder, without a local business tax receipt or under a local business tax receipt issued upon false statements made by such person, or in his or her behalf. Any person engaged in any such business, profession, or occupation without first obtaining a local business tax receipt, if required herein shall pay a penalty of twenty-five (25) percent of the full year business tax for such trade, in addition to the business tax set forth herein.

(b) In addition to the penalties provided in subsection (a), any person engaged in any trade, business, profession, or occupation, within the city without a local business tax receipt or under a local business tax receipt issued upon false statements made by such person, or in their behalf, shall be subject to a fine as may be imposed through the code enforcement procedures set forth in the City Code.

(c) In any prosecution under this article, the fact that such person is open for business shall be prima facie evidence of engaging in such trade, business, profession, or occupation, and the burden shall be upon the defendant to refute the same.

(d) Each day or part of a day that this article is violated shall constitute a separate and distinct offense for which such person or his agents or employees may be prosecuted.

Sec. 8-697. - Renewal of local business tax receipt.

(a) All local business tax receipts not renewed by September 30th shall be considered delinquent and subject to a delinquency penalty of ten (10) percent of the full year business tax for the month of October, plus an additional five (5) percent penalty for each month of delinquency thereafter until paid. The total delinquency penalty shall never exceed twenty-five (25) percent of the full year business tax for that applicant. The City will endeavor to send out advance renewal notices to the contact information provided on the prior year business tax receipt; however, it is the sole responsibility of each person who engages in any business, trade, occupation, or profession covered by this chapter to timely renew each business tax receipt.

(b) Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required local business tax within one hundred fifty (150) days of July 1st, and who does not obtain the required local business tax receipt is subject to civil actions and penalties, including court costs, reasonable attorney's fees, additional administrative fee of twenty-five dollars (\$25.00) for costs incurred as a result of collection efforts, and a penalty of one hundred dollars (\$100.00).

Sec. 8-7068. - Appeals.

Any person adversely affected by the provisions of this article may petition the director of development and neighborhood services within thirty (30) days of the adverse notice, action, or decision of the city for review of this article as applied to the person. The petition shall be on a form provided by the city and shall contain the name and address of the petitioner. The petition shall briefly set forth the grounds for review, and the director of development and neighborhood services or designee shall consider the petition within thirty (30) days following receipt of the petition. In making its a determination on the petition, the director of development and neighborhood services or designee ~~city council~~ shall consider the provisions of this article and state law. The determination of the director of development and neighborhood services or designee shall be in writing and sent by regular mail to the address of the petitioner as listed on the petition.

Within ten (10) days of the mailing of the written decision of the director of development and neighborhood services or designee, the petitioner may appeal the written decision to the Special Magistrate appointed to hear code enforcement cases. The appeal and its grounds for review shall be set forth in a form provided by the city and shall be filed with the development and neighborhood services department along with a filing fee as set by city resolution. The appeal shall be scheduled for the next available Special

Magistrate hearing date and notice of the hearing shall be sent by regular mail to the address of the petitioner as listed on the original petition form.

Sec. 8-7469. - Local business tax classifications and schedule.

(a) The amount of local business tax levied and imposed upon every person who shall engage in or manage any business, profession, privilege, or occupation hereinafter mentioned, within the city, is fixed, graded, determined, and imposed based upon the classifications and rates set forth in subsection (b).

(b) All businesses and occupations subject to the local business taxes in this article shall be classified according to the following schedule:

(1) *Category 1: Professionals.* Includes insurance companies and all professionals whose occupation is regulated by the State of Florida Department of Business and Professional Regulation, Florida Bar Association, or any other regulatory authority created by the state to regulate professionals except construction contractors included in category 2 below, cosmetology and barber professionals included in subcategory a. and real estate and individual insurance professionals included in subcategory b. below. The business tax shall be separately charged for each professional employed by a business regardless of whether the person is an owner, employee, agent of the business, or incorporated as a professional association.

~~*Tax rate: One hundred sixteen dollars and twenty-two cents (\$116.22) per professional*~~
One hundred twenty-two dollars and three cents (\$122.03) per professional.

a. Cosmetology and barber professionals—Includes all professionals regulated by the State of Florida Department of Business and Professional Regulation Board of Cosmetology or Board of Barbers.

~~*Tax rate: Thirty-eight dollars and sixty-eight cents (\$38.68).*~~ *Forty and six one cent (\$40.61)*

b. Real estate and insurance professionals—Includes all individual professionals regulated by the State of Florida Department of Business and Professional Regulation Board of Real Estate or Department of Insurance. Except, an individual licensed and operating as a real estate sales associate or broker associate under F.S. Ch. 475 is exempt from obtaining a business tax receipt.

~~*Tax rate: Ninety-three dollars (\$93.00).*~~ *Ninety-seven dollars and sixty-five cents (\$97.65)*

(2) *Category 2: Contractors.* Includes each business that is regulated by the State of Florida Department of Business and Professional Regulation in a construction or directly related trade or is licensed by a local or county licensing board in order to be certified to perform a construction trade or business. The business tax shall be charged

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separately for each business with a permanent business location within the city limits of Greenacres.

~~Tax rate: One hundred sixteen dollars and twenty-two cents (\$116.22) per contractor.~~
One hundred twenty-two dollars and three cents (\$122.03)

(3) *Category 3: General services.* Each business, office, or other concern offering the sale of services shall obtain a business tax receipt in this category.

~~Tax rate: One hundred ten dollars and sixty-nine cents (\$110.69) per business tax receipt per business location.~~
One hundred sixteen and twenty-two cents (\$116.22) per business tax receipt per business location

(4) *Category 4: General retail (merchandise).* Includes each business whose source of income is the sale of merchandise to retail customers.

Tax rate:

a. Business occupying three hundred (300) square feet gross floor area or less—~~Seventy-seven dollars and fifty-one cents (\$77.51) per business.~~ Eighty-one dollars and thirty-nine cents (\$81.39) per business.

b. Business occupying over three hundred (300) and up to twenty thousand (20,000) square feet gross floor area—~~One hundred fifty-five dollars and thirteen cents (\$155.13) per five thousand (5,000) square feet gross floor area and each fraction thereof.~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) gross floor area and each fraction thereof.

c. In addition, business occupying over twenty thousand (20,000) square feet gross floor area—~~Three hundred ten dollars and fifty-one cents (\$310.51) per five thousand (5,000) square feet gross floor and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.~~ Three hundred twenty-six dollars and four cents (\$326.04) per five thousand (5,000) square feet gross floor and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.

(5) *Category 5: Food service.* Includes all restaurants, to include delis, snack bars, fast food, sit-down, specialty, bars, lounges, dinner theaters and other businesses serving prepared food and beverage products.

~~Tax rate: One hundred twenty-one dollars and fifty-five cents (\$121.55) per business location plus four dollars and thirteen cents (\$4.13) per chair of customer seating.~~
One hundred twenty-seven dollars and sixty-three cents (\$127.63) per business location plus four dollars and thirty-four cents per chair of customer seating.

(6) *Category 6: Home occupation.* Any business as described section 8-5049. Any business paying the business tax appropriately charged in this category as a home

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occupation, in a residentially zoned district, shall not be charged another tax in one (1) of the other categories.

Tax rate: ~~Seventy-seven dollars and fifty-one cents (\$77.51)~~ Eight-one and thirty-nine cents (\$81.39)

(7) Category 7: Wholesalers. A business whose income is obtained from the selling of goods in relatively large quantities and usually at lower prices than at retail, normally selling to retailers for resale to consumers. Each wholesale business shall obtain a separate local business tax receipt in this category.

Tax rate:

a. ~~One hundred fifty-five dollars and thirteen cents (\$155.13) per five thousand (5,000)~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.

b. In addition, ~~three hundred ten dollars and fifty-one cents (\$310.51)~~ three hundred twenty-six and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.

(8) *Category 8: Industrial.* Any business engaged in the manufacturing or production of new products or the remanufacturing and rehabilitation of used products for subsequent sale at wholesale or retail must obtain a local business tax receipt in this category.

Tax rate:

a. ~~One hundred fifty-five dollars and thirteen cents (\$155.13)~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.

b. ~~Three hundred ten dollars and fifty-one cents (\$310.51)~~ Three hundred twenty-six and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.

(9) *Category 9: Rental.* Any business whose income is obtained from the rental of residential dwelling units located within the City of Greenacres.

Tax rate:

a. ~~One hundred fifty-five dollars and thirteen cents (\$155.13)~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) per rental office; plus

b. ~~Fifteen dollars and forty-six cents (\$15.46) per dwelling unit, with a minimum fee of thirty-eight dollars and sixty-eight cents (\$38.68) per location.~~ Sixteen dollars and

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twenty-three cents (\$16.23) with a minimum fee of forty dollars and sixty-one cents (\$40.61) per location.

(10) *Category 10: Amusement/entertainment facility and vending.* Any business that operates a facility that offers entertainment, amusement, shows, theaters, motion pictures, or similar diversions must obtain a business tax receipt in this category. In addition, a separate business tax is imposed on each amusement, vending, or coin operated machine maintained by any business and where the amusement, vending, or coin operated machine is located within the city limits.

Tax rate:

~~a. One hundred fifty-five dollars and thirteen cents (\$155.13)~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.

~~b. Three hundred ten dollars and fifty-one cents (\$310.51)~~ Three hundred twenty-six dollars and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.

~~c. Thirty dollars and ninety-four cents (\$30.94)~~ Thirty-two dollars and forty-no cents (\$32.49) per amusement, vending, or coin operated machine.

(11) *Category 11: Storage or warehouse.* Includes each business whose source of income is the rental of storage or warehouse space or units.

Tax rate:

a. Storage or warehouse area occupying five thousand (5,000) square feet gross floor area or less ~~Eighty-two dollars and sixty-nine cents (\$82.69)~~ Eighty-six dollars and eighty-two cents (\$86.82) plus

~~b. Thirty-three dollars and eight cents (\$33.08)~~ Thirty-four dollars and seventy-three cents (\$34.73) per each additional five thousand (5,000) square feet of storage or warehouse area or portion thereof.

Sec. 8-720. - Compliance with local business tax receipt adjustments permitted by state statute.

(a) F.S. § 205.0535, as amended, places limitations on local business tax receipt reclassification and local business tax amounts established by municipalities. Nothing contained in section 8-71 of this article is intended to exceed the tax reclassification limitations as established by state law. In the event the tax rates established herein exceed the maximum amount permitted by state statute, the development and

neighborhood services director of building is hereby directed to reduce the amount of such local business taxes to the maximum amount permitted by law.

(b) Every two (2) years as permitted by F.S. § 205.0535, the director of development and neighborhood services or designee is directed to submit a new schedule of local business taxes by ordinance to provide for the adjustment of these taxes as permitted by state statute.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances or parts thereof or parts of the Code conflicting with the provision of this Ordinance are hereby repealed to the extent of the conflict.

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 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 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 Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-

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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 on October 1, 2022.

(Remaining page is intentionally left blank)

Passed on the first reading this 14th day of September 2022.

PASSED AND ADOPTED on the second reading this _____ day of _____, 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

ZTA-22-16 (Ord. 2022-20)
 Exhibit "A"
 Date: June 21, 2022

Revised:



DEVELOPMENT REVIEW COMMITTEE STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

ZTA-22-16: BTRs

Recommendation to City Council: A City-initiated request for a text amendment that amends the Code of Ordinances Chapter 8 entitled Licenses and Business Regulations to clarify when home occupation inspections are required and increase the BTR fees by the maximum allowed by state statute in the amount of five percent (5%).

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department:

Planning & Engineering

Project Manager

 Caryn Gardner-Young, Zoning Administrator

Reviewed By:

Acting Development and Neighborhood Services Director

 Andrea McCue, City Manager

Approved By:

City Manager

 Andrea McCue

Public Notice:

☒ Required

☐ Not Required

Dates:

Paper: The Lake Worth Herald

Mailing

☐ Required

☒ Not Required

Notice Distance: _____

Attachments:

- Ordinance 2022-20__

City Council Action:

☒ **Approval**

☐ **Approve with conditions**

☐ **Denial**

☐ **Continued to:** _____

I. Executive Summary

The Business Tax Receipt (formerly known as Occupational License) is required of any individual or entity, business, or profession in the City of Greenacres which operates within the City's limits, unless specifically exempted. The Business Tax Receipt is for the privilege of engaging in a business activity either for profit or non-profit.

This is the second amendment to the City's existing Business Tax Receipt provisions this year. The proposed amendments to the Business Tax Receipt code provisions are as follows:

1. Clarifying when home occupation inspections are required so the City's Code is in compliance with State Statute
2. Increasing the Business Tax Receipts fees the maximum allowed by state statute in the amount of five percent (5%) since they have not been raised since 2018.

II. Proposed Zoning Text Amendments:

The following Zoning Code regulations are impacted by the proposed Zoning Text Amendments. Items which are proposed for deletion are in ~~Strike-Through~~, items proposed for addition are in Single Underline.

Proposed Change #1

ARTICLE III. - BUSINESS TAXES

Sec. 8-46. - Business tax imposed and registration.

- (a) *Business tax.* A tax is hereby fixed and imposed upon every person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business, profession, or occupation within the city. In addition, the tax is imposed upon any person who is conducting a business, profession, or occupation within their home, when located within the city limits. A business tax is also hereby levied upon any person who does not qualify under the provisions noted hereinabove and who transacts any business or engages in any occupation or profession in interstate commerce, if such tax is not prohibited by section 8 of article I of the United States Constitution.
- (b) *Registration.* Any person who does not fall into one (1) of the categories set forth above in subsection (a), but who comes within the corporate limits of the city to carry on, complete, perform, or engage in any type of business, is hereby required to register with the city by filling out a registration form with the development and neighborhood services department. Such person must provide a copy of a valid business tax receipt issued by another municipality and/or by Palm Beach County indicating that he or she possesses a valid business tax receipt at the location of his or her branch or permanent office. The registration requirement shall not apply to any trade or business regulated by the state department of business and professional regulation including but not limited to, contractors, surveyors, barbers,

cosmetologists, architects, landscape architects and interior designers. Additionally, this requirement shall not apply to any pest control operators licensed and regulated by the state.

- (c) *Voluntary registration.* Pursuant to F.S. § 205.065, any person engaging in or managing a business, profession or occupation regulated by the state department of business and professional regulation that has paid a business tax receipt tax for the current year to the county or municipality in that state where the person's permanent business location or branch office is maintained shall not be required to register his business tax receipt with the city. However, such persons may voluntarily register with the city by presenting proof of state licensing, a valid business tax receipt issued by the municipality or county in which the licensee's branch or permanent office is located and by paying an administrative fee as established by resolution of the city council. Persons not desiring to voluntarily register shall not be required to do so. However, such persons shall be required to present all documentation required by this subsection each time application for a city permit is made.
- (d) *Registration fee.* A registration fee shall be charged to cover administrative costs in registering these additional businesses, occupations, and professions; the amount of which registration fee shall be set by resolution of the city council.

Sec. 8-47. - Required.

No person described in section 8-46(a) shall engage in any trade, business, profession, or occupation within the city without a local business tax receipt or with a local business tax receipt issued upon false statements made by such person or in his or her behalf.

Sec. 8-48. - Application procedures and Inspections.

(a) Before the city shall issue a local business tax receipt, it shall be the duty of the applicant to:

- (1) File an application for a business tax receipt on the form provided by the department of development and neighborhood services.
- (2) Submit all documentation as required by this article and the director of development and neighborhood services designee and also as required by any other local, state, or federal laws or rules.
- (3) Remit a non-refundable local business tax fee in accordance section 8-72 local business tax schedule.
- (4) Submit an application for a county business tax receipt for city zoning approval.

(b) Every applicant for a local business tax receipt shall obtain a county business tax receipt. The fact that a county business tax receipt is not required for a particular business,

profession or occupation does not imply that the requirement for a city local business tax receipt is waived.

(c) Every applicant for a local business tax shall be reviewed for compliance with the city's zoning code and any applicable site plan or special exception approval for the subject property to verify compliance with the property's zoning designation and approved uses.

(d) Every applicant for a local business tax receipt must provide proof of a passed fire inspection as required by section 5-8 of the City Code, a building code inspection as determined by the building official, and any other inspection required by applicable law unless exempt by general law. Failure to provide proof of the passed inspection(s) within thirty (30) days of application may result in the business tax receipt being denied, suspended, revoked and possible fines imposed through the code enforcement procedures as set forth in the City Code. Pursuant to section 559.955, Florida Statutes (as amended), home-based businesses are exempt from the inspection requirement of section 8-48(d) unless the particular use triggers an inspection under other applicable law.

(e) Upon receipt from the applicant of all application forms, approvals, and documentation as required by this article, and any additional documentation that may be required, the director of development and neighborhood services or appointed designee shall issue a city business tax receipt, valid through September 30, of each fiscal year.

~~Sec. 8-49. Home-based businesses Business tax receipt required.~~

~~(a) Every applicant for a business tax receipt to conduct a business, profession, or occupation within their home, when located within the city limits, shall file an application for a local business tax receipt as set forth in section 8-48 and pay a local business tax as set forth in the local business tax schedule referred to in section 8-72. Pursuant to section 559.955, Florida Statutes (as amended), home-based businesses are exempt from the inspection requirement of section 8-48(d) unless the particular use triggers an inspection under other applicable law.~~

~~(b) Every applicant for a business tax receipt to conduct a business, profession, or occupation within their home, when located within the corporate limits of the city, shall be reviewed for compliance with the City Code as permitted in section 559.955, Florida Statutes (as amended)~~

~~Sec. 8-50. Home family daycare.~~

~~In addition to the requirements of section 8-49 every applicant for a business tax receipt to conduct a home family daycare service within their home must submit the following documentation before a business tax receipt can be issued:~~

~~(1) Approved inspection required under applicable law;~~

~~(2) All permit(s) and/or license(s) for family day care center for the property on which the home family daycare service is to be conducted;~~

~~(3) Any additional documentation as required by this article or the director of development and neighborhood services or designee.~~

Sec. 8-~~514~~9. - Exemptions.

Exemptions shall be allowed for certain disabled veterans of any war, declared or undeclared, and their unremarried spouses; certain disabled persons, the aged, and widows with minor dependents in conformance with F.S. chapter 205, as amended. Such individuals shall be entitled to an exemption as provided for by state statute.

Sec. 8-~~520~~. - Business tax receipt required of nonprofit organizations.

(a) The director of development and neighborhood services; or designee shall issue a business tax receipt to any person or organization for the conduct or operation of a nonprofit religious, charitable or educational institution as defined in F.S. chapter 205, as amended. The business tax receipt shall be exempt from payment of any business taxes. Nothing in this section shall be construed to require a business tax receipt for practicing the religious tenets of any church.

(b) Upon application for a local business tax receipt, the person or organization must exhibit an active state certificate, registration, or receipt, or proof of copy of the same before such local business tax receipt may be issued.

Sec. 8-~~531~~. - Affidavit required in certain cases.

Whenever information required to document the amount of a business tax receipt applied for is dependent on facts not within the personal knowledge of the director or designee, no business tax receipt shall be issued until the applicant therefore has made and filed with the director of development and neighborhood services or designee a notarized affidavit, duly authenticated, setting forth the facts upon which the amount of such business tax receipt depends.

Sec. 8-~~542~~. - Duration and due date.

No local business tax receipt shall be issued for more than one (1) year. All receipts shall expire on the thirtieth day of September of each year.

Sec. 8-~~553~~. - Half-year local business tax receipts.

(a) For each local business tax receipt obtained between the first day of October and the thirty-first day of March, the full tax for one (1) year shall be paid.

(b) For each local business tax receipt obtained between the first day of April and the thirtieth day of September, one-half (½) of the full tax for one (1) year shall be paid.

Sec. 8-564. - Multiple business tax receipts.

In the event any person engaged in a business, occupation, or profession at one (1) location or place of business is required under the provisions of this article to have more than one (1) business tax, the receipt holder shall pay in full all applicable business taxes required in order to operate the business. The director of development and neighborhood services or designee shall have the administrative duty to determine which local business tax receipt category or categories shall apply to each applicant for a receipt. Appeals to his/her decision shall be processed as provided for in section 8-71.

Sec. 8-575. - Duplicate business tax receipts.

The director of development and neighborhood service or designee shall charge a fee for each duplicate local business tax receipt issued to replace any business tax receipt issued under the provisions of this article which has been lost, stolen, defaced, or destroyed. The duplicate fee charged hereunder shall be equal to ten (10) percent of the annual business tax, but in no case be less than three dollars (\$3.00) nor more than twenty-five dollars (\$25.00).

Sec. 8-586. - Each location to have a separate business tax receipt.

If any person operates any business regulated in this section at more than one (1) location within the city, each location shall be considered a separate business and a separate local business tax receipt therefore is required of each business.

Sec. 8-597. - Posting of business tax receipts.

(a) All local business tax receipts issued to a business that has a permanent place of business within the city shall display the same prominently within its place of business.

(b) In those occupations without a permanent place of business, the receipt holder shall be required to produce the business tax receipt, or proof of copy thereof, upon request.

Sec. 8-6058. - Professional business tax receipts.

The business tax provided in section 8-72(b)(1) for professionals shall be construed to mean that each individual shall pay the tax therein provided whether practicing by himself or herself, in a partnership, employed by another, or incorporated as a professional association.

Sec. 8-~~615~~9. - Prohibition of issuance of local business tax receipt without exhibition of state license or registration.

Any person applying for or renewing local business tax receipt for the receipt period beginning October 1 to practice any profession regulated by the state department of professional regulation, or any board or commission thereof, must exhibit an active state certificate, registration or license or proof of copy of the same before such local business tax receipt may be issued. Thereafter, only persons applying for the first time for local business tax receipt must exhibit such certification, registration, or license.

Sec. 8-~~620~~. - Transfer business tax receipt required.

- (a) Any time a business, profession, or occupation licensed within the city has a change of ownership, location, change of business name, or change in the qualifier a transfer business tax is required. Any change in use type shall require application for a new local business tax receipt according to section 8-48 herein.
- (b) The applicant shall obtain a county transfer business tax receipt and submit a copy of the receipt to the director of building or appointed designee.
- (b) The applicant shall, in addition to the application form, submit all documentation as required by this article and the director of building or appointed designee.
- (c) The fee for each transfer business tax receipt shall be equal to ten (10) percent of the annual business tax but in no case be less than three dollars (\$3.00) nor more than twenty-five dollars (\$25.00).
- (d) Every business, occupation or profession licensed within the city and maintaining a permanent business location or branch office within the city, which is required by this section to obtain a transfer business tax receipt, shall have inspections made as set forth in section 8-48(de).

Sec. 8-~~631~~. - Local business tax receipt covers specified business, etc.

No local business tax receipt issued under the provision of this article shall protect any person from prosecution for transacting any business, trade or profession not covered by such business tax receipt, nor shall it protect any merchant doing business having provided false information for business tax receipt computation by affidavit to the director of development and neighborhood services.

Sec. 8-~~642~~. - Businesses not specifically covered.

Any person engaged in any lawful business, profession, or occupation, wholly or in part, within the city, not mentioned or covered by this article shall pay the closest applicable

or related business tax as determined by the director of development and neighborhood services or designee.

Sec. 8-653. - False statements in application void business tax receipt.

Any business tax receipt issued upon any false statement made in the application therefore shall be considered as void ab initio and shall not protect the holder thereof from prosecution for transacting business without a valid business tax receipt.

Sec. 8-664. – Issuance denial, suspension, or revocation.

(a) The city shall have the authority to deny an application for a business tax receipt on the following grounds:

- (1) That the applicant has failed to disclose or has misrepresented a material fact of any information required by this article in the application;
- (2) That the applicant desiring to engage in the business, as described in the application, has selected a proposed site or type of business activity, which does not comply with the City Code;
- (3) That the applicant has failed to obtain a certificate of occupancy as required by the Florida Building Code;
- (4) The prior business tax receipt for the proposed business location was or has been denied, suspended, or revoked for any reason which reason has not been corrected;
- (5) The issuance of business tax receipt is based upon the applicant's compliance with specific provisions of federal, state, city, or county laws with respect to the specific zoning use and the applicant has violated such specific provisions;
- (6) The applicant has violated any provisions of this article and has failed or refused to cease or correct the violation within thirty (30) days after notification thereof;
- (7) The premises have been condemned by the local health authority for failure to meet sanitation standards or the local authority has condemned the premises because the premises are unsafe or unfit for human occupancy;
- (8) The applicant is delinquent in the payment of any fee imposed under this article, code enforcement lien, special assessment lien and/or other debt or obligation debt to the city under state or local law; and/or,

(9) The applicant does not engage in the business as described in the application or has changed the use without authorization.

(b) Any business tax receipt issued by the city may be temporarily suspended, refused to be renewed, or revoked and canceled by the director of development and neighborhood services or designee when

(1) Such business, trade, profession, or occupation is operating in violation of this article or other provision of the City Code;

(2) The business tax receipt holder has utilized fraud or misrepresentation in an application for or in obtaining a business tax receipt;

(3) The premises of the business, trade, profession, or occupation violates any provision of the Florida Building Code;

(4) The applicant does not engage in the business, trade, profession, or occupation as described in the application or has changed the use without authorization; or,

(6) The applicant is delinquent in the payment of any fee imposed under this article, code enforcement lien, special assessment lien and/or other debt or obligation debt to the city under state or local law.

(c) In the case of revocation and cancellation of such business tax receipt, the receipt holder is not entitled to a refund on any unused portion of the business tax.

Sec. 8-675. - Compliance by principal deemed compliance by agent.

Where the principal or employer has complied with the provisions of this article, it shall be unnecessary for his or her agent or employee to comply herewith, unless otherwise expressly provided for herein. In the event such principal or employer shall not have complied with this article, each of his or her agents or employees shall be subject to prosecution and, upon conviction, to fine or imprisonment to the same extent as his principal or employer.

Sec. 8-686. - Engaging in business without local business tax receipt or under a local business tax receipt issued upon false statements; penalties, prima facie evidence.

(a) It shall be unlawful for any person to engage in any business, trade, profession, or occupation taxable by business tax receipt hereunder, without a local business tax receipt or under a local business tax receipt issued upon false statements made by such person, or in his or her behalf. Any person engaged in any such business, profession, or occupation without first obtaining a local business tax receipt, if required herein shall pay a penalty of twenty-five (25) percent of the full year business tax for such trade, in addition to the business tax set forth herein.

(b) In addition to the penalties provided in subsection (a), any person engaged in any trade, business, profession, or occupation, within the city without a local business tax receipt or under a local business tax receipt issued upon false statements made by such person, or in their behalf, shall be subject to a fine as may be imposed through the code enforcement procedures set forth in the City Code.

(c) In any prosecution under this article, the fact that such person is open for business shall be prima facie evidence of engaging in such trade, business, profession, or occupation, and the burden shall be upon the defendant to refute the same.

(d) Each day or part of a day that this article is violated shall constitute a separate and distinct offense for which such person or his agents or employees may be prosecuted.

Sec. 8-697. - Renewal of local business tax receipt.

(a) All local business tax receipts not renewed by September 30th shall be considered delinquent and subject to a delinquency penalty of ten (10) percent of the full year business tax for the month of October, plus an additional five (5) percent penalty for each month of delinquency thereafter until paid. The total delinquency penalty shall never exceed twenty-five (25) percent of the full year business tax for that applicant. The City will endeavor to send out advance renewal notices to the contact information provided on the prior year business tax receipt; however, it is the sole responsibility of each person who engages in any business, trade, occupation, or profession covered by this chapter to timely renew each business tax receipt.

(b) Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required local business tax within one hundred fifty (150) days of July 1st, and who does not obtain the required local business tax receipt is subject to civil actions and penalties, including court costs, reasonable attorney's fees, additional administrative fee of twenty-five dollars (\$25.00) for costs incurred as a result of collection efforts, and a penalty of one hundred dollars (\$100.00).

Sec. 8-7068. - Appeals.

Any person adversely affected by the provisions of this article may petition the director of development and neighborhood services within thirty (30) days of the adverse notice, action, or decision of the city for review of this article as applied to the person. The petition shall be on a form provided by the city and shall contain the name and address of the petitioner. The petition shall briefly set forth the grounds for review, and the director of development and neighborhood services or designee shall consider the petition within thirty (30) days following receipt of the petition. In making ~~it's~~ a determination on the petition, the director of development and neighborhood services or designee ~~city council~~ shall consider the provisions of this article and state law. The determination of the director of development and neighborhood services or designee shall be in writing and sent by regular mail to the address of the petitioner as listed on the petition.

Within ten (10) days of the mailing of the written decision of the director of development and neighborhood services or designee, the petitioner may appeal the written decision to the Special Magistrate appointed to hear code enforcement cases. The appeal and its grounds for review shall be set forth in a form provided by the city and shall be filed with the development and neighborhood services department along with a filing fee as set by city resolution. The appeal shall be scheduled for the next available Special Magistrate hearing date and notice of the hearing shall be sent by regular mail to the address of the petitioner as listed on the original petition form.

Sec. 8-7169. - Local business tax classifications and schedule.

(a) The amount of local business tax levied and imposed upon every person who shall engage in or manage any business, profession, privilege, or occupation hereinafter mentioned, within the city, is fixed, graded, determined, and imposed based upon the classifications and rates set forth in subsection (b).

(b) All businesses and occupations subject to the local business taxes in this article shall be classified according to the following schedule:

(1) *Category 1: Professionals.* Includes insurance companies and all professionals whose occupation is regulated by the State of Florida Department of Business and Professional Regulation, Florida Bar Association, or any other regulatory authority created by the state to regulate professionals except construction contractors included in category 2 below, cosmetology and barber professionals included in subcategory a. and real estate and individual insurance professionals included in subcategory b. below. The business tax shall be separately charged for each professional employed by a business regardless of whether the person is an owner, employee, agent of the business, or incorporated as a professional association.

~~*Tax rate: One hundred sixteen dollars and twenty two cents (\$116.22) per professional*~~
One hundred twenty-two dollars and three cents (\$122.03) per professional.

a. Cosmetology and barber professionals—Includes all professionals regulated by the State of Florida Department of Business and Professional Regulation Board of Cosmetology or Board of Barbers.

~~*Tax rate: Thirty eight dollars and sixty eight cents (\$38.68).*~~ Forty and six one cent (\$40.61)

b. Real estate and insurance professionals—Includes all individual professionals regulated by the State of Florida Department of Business and Professional Regulation Board of Real Estate or Department of Insurance. Except, an individual licensed and operating as a real estate sales associate or broker associate under F.S. Ch. 475 is exempt from obtaining a business tax receipt.

~~Tax rate: Ninety-three dollars (\$93.00).~~ Ninety-seven dollars and sixty-five cents (\$97.65)

(2) *Category 2: Contractors.* Includes each business that is regulated by the State of Florida Department of Business and Professional Regulation in a construction or directly related trade or is licensed by a local or county licensing board in order to be certified to perform a construction trade or business. The business tax shall be charged separately for each business with a permanent business location within the city limits of Greenacres.

~~Tax rate: One hundred sixteen dollars and twenty-two cents (\$116.22) per contractor.~~ One hundred twenty-two dollars and three cents (\$122.03)

(3) *Category 3: General services.* Each business, office, or other concern offering the sale of services shall obtain a business tax receipt in this category.

~~Tax rate: One hundred ten dollars and sixty-nine cents (\$110.69) per business tax receipt per business location.~~ One hundred sixteen and twenty-two cents (\$116.22) per business tax receipt per business location

(4) *Category 4: General retail (merchandise).* Includes each business whose source of income is the sale of merchandise to retail customers.

Tax rate:

a. Business occupying three hundred (300) square feet gross floor area or less—~~Seventy-seven dollars and fifty-one cents (\$77.51) per business.~~ Eighty-one dollars and thirty-nine cents (\$81.39) per business.

b. Business occupying over three hundred (300) and up to twenty thousand (20,000) square feet gross floor area—~~One hundred fifty-five dollars and thirteen cents (\$155.13) per five thousand (5,000) square feet gross floor area and each fraction thereof.~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) gross floor area and each fraction thereof.

c. In addition, business occupying over twenty thousand (20,000) square feet gross floor area—~~Three hundred ten dollars and fifty-one cents (\$310.51) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.~~ Three hundred twenty-six dollars and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.

(5) *Category 5: Food service.* Includes all restaurants, to include delis, snack bars, fast food, sit-down, specialty, bars, lounges, dinner theaters and other businesses serving prepared food and beverage products.

~~Tax rate: One hundred twenty-one dollars and fifty-five cents (\$121.55) per business location plus four dollars and thirteen cents (\$4.13) per chair of customer seating. One hundred twenty-seven dollars and sixty-three cents (\$127.63) per business location plus four dollars and thirty-four cents per chair of customer seating.~~

(6) *Category 6: Home occupation.* Any business as described section 8-5049. Any business paying the business tax appropriately charged in this category as a home occupation, in a residentially zoned district, shall not be charged another tax in one (1) of the other categories.

~~Tax rate: Seventy-seven dollars and fifty-one cents (\$77.51) Eight-one and thirty-nine cents (\$81.39)~~

(7) *Category 7: Wholesalers.* A business whose income is obtained from the selling of goods in relatively large quantities and usually at lower prices than at retail, normally selling to retailers for resale to consumers. Each wholesale business shall obtain a separate local business tax receipt in this category.

Tax rate:

~~a. One hundred fifty-five dollars and thirteen cents (\$155.13) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.~~
One hundred sixty-two dollars and eighty-nine cents (\$162.89) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.

~~b. In addition, three hundred ten dollars and fifty-one cents (\$310.51) three hundred twenty-six and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.~~

(8) *Category 8: Industrial.* Any business engaged in the manufacturing or production of new products or the remanufacturing and rehabilitation of used products for subsequent sale at wholesale or retail must obtain a local business tax receipt in this category.

Tax rate:

~~a. One hundred fifty-five dollars and thirteen cents (\$155.13) One hundred sixty-two dollars and eighty-nine cents (\$162.89) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.~~

~~b. Three hundred ten dollars and fifty-one cents (\$310.51) Three hundred twenty-six and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.~~

(9) *Category 9: Rental.* Any business whose income is obtained from the rental of residential dwelling units located within the City of Greenacres.

Tax rate:

a. ~~One hundred fifty five dollars and thirteen cents (\$155.13)~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) per rental office; plus

b. ~~Fifteen dollars and forty six cents (\$15.46) per dwelling unit, with a minimum fee of thirty eight dollars and sixty eight cents (\$38.68) per location.~~ Sixteen dollars and twenty-three cents (\$16.23) with a minimum fee of forty dollars and sixty-one cents (\$40.61) per location.

(10) *Category 10: Amusement/entertainment facility and vending.* Any business that operates a facility that offers entertainment, amusement, shows, theaters, motion pictures, or similar diversions must obtain a business tax receipt in this category. In addition, a separate business tax is imposed on each amusement, vending, or coin operated machine maintained by any business and where the amusement, vending, or coin operated machine is located within the city limits.

Tax rate:

a. ~~One hundred fifty five dollars and thirteen cents (\$155.13)~~ One hundred sixty-two dollars and eighty-nine cents (\$162.89) per five thousand (5,000) square feet gross floor area and each fraction thereof up to twenty thousand (20,000) square feet.

b. ~~Three hundred ten dollars and fifty one cents (\$310.51)~~ Three hundred twenty-six dollars and four cents (\$326.04) per five thousand (5,000) square feet gross floor area and each fraction thereof for that portion exceeding twenty thousand (20,000) square feet.

c. ~~Thirty dollars and ninety four cents (\$30.94)~~ Thirty-two dollars and forty-nine cents (\$32.49) per amusement, vending, or coin operated machine.

(11) *Category 11: Storage or warehouse.* Includes each business whose source of income is the rental of storage or warehouse space or units.

Tax rate:

a. Storage or warehouse area occupying five thousand (5,000) square feet gross floor area or less — ~~Eighty two dollars and sixty nine cents (\$82.69)~~ Eighty-six dollars and eighty-two cents (\$86.82) plus

b. ~~Thirty three dollars and eight cents (\$33.08)~~ Thirty-four dollars and seventy-three cents (\$34.73) per each additional five thousand (5,000) square feet of storage or warehouse area or portion thereof.

Sec. 8-720. - Compliance with local business tax receipt adjustments permitted by state statute.

(a) F.S. § 205.0535, as amended, places limitations on local business tax receipt reclassification and local business tax amounts established by municipalities. Nothing contained in section 8-71 of this article is intended to exceed the tax reclassification limitations as established by state law. In the event the tax rates established herein exceed the maximum amount permitted by state statute, the development and neighborhood services director of building is hereby directed to reduce the amount of such local business taxes to the maximum amount permitted by law.

(b) Every two (2) years as permitted by F.S. § 205.0535, the director of development and neighborhood services or designee is directed to submit a new schedule of local business taxes by ordinance to provide for the adjustment of these taxes as permitted by state statute.

III. Staff Analysis:

The Local Business Tax, formerly known as Occupational License, is required of any individual or entity choosing to engage in or manage any business, profession, or occupation in the City of Greenacres, unless specifically exempted. The City's Business Tax is a privilege tax imposed for revenue purposes only to support the essential services the City provides. No attempt is made through the business tax to regulate the conduct of businesses, nor does the issuance of a Tax Receipt and the payment of the business tax authorize the conduct or continuance of any illegal business or of a legal business in an illegal manner within the City.

The Business Tax Receipt process is necessary to ensure that life, health, and safety issues are addressed through the inspection process. This process also ensures that the proposed business is located in the appropriate zoning district and if the appropriate City approvals have been obtained.

The change to the home occupation language is to address a conflict in the City's Code with State Statute and the increase in fees is to reflect the costs and inflation that has occurred since the last fee update in 2018.

Development Review Committee Comments:

The petition was reviewed by the Development Review Committee Development Staff on June 16, 2022 and recommended for approval.

| | |
|--------------------------------------|------------------------------------|
| Planning and Engineering Department: | No Comments |
| Building Department: | No Comments |
| Recreation and Parks | No Comments |
| Fire Department: | Comments addressed in Staff Report |
| PBSO District #16 | No Comments |
| Public Works Department: | No Comments |

IV. Zoning Text Amendment Criteria:

A. *The need and justification for these changes:*

The Business Tax Receipt regulations of the City can be found in Chapter 8, Article III of the City Code. State Statute has changed to preclude home occupation inspections unless the use triggers the inspection. The City Code needed to be changed to reflect the new legislation. In addition, City Staff is proposing to increase the BTR fees across the board in the amount of five percent which is the most that can be levied by State Statute. The last time the City increased its fees was in 2018.

- B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Codes by updating the Business Tax Receipt regulations to ensure that the City Council's vision of the City is implemented and maintained.

V. Staff Recommendation:

Approval of ZTA-22-16 through the adoption of Ordinance 2022-20.

CITY COUNCIL ACTION First Reading – September 14, 2022

CITY COUNCIL ACTION Second Reading – September 28, 2022



ITEM SUMMARY

MEETING DATE: August 15, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-21, ZTA-22-12**
Tree Removal Permits

BACKGROUND

The State of Florida adopted new regulations regarding tree removal permits. The approved legislation amends s. 163.045, F.S., which prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from a certified arborist or a licensed landscape architect, that the tree “poses an unacceptable risk” to persons or property. Under the bill, a tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate as outlined in Best Management Practices – Tree Risk Assessment, Second Edition (2017).

The bill defines "documentation" to mean an onsite tree risk assessment performed in accordance with the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017). Documentation must be signed by an arborist certified by the International Society of Arboriculture (ISA) or Florida licensed landscape architect. The bill also defines the term "residential property" as a single-family detached building located on an existing lot, actively used for single-family residential purposes, and which is either an existing conforming use or a legally recognized nonconforming use following the local jurisdiction's applicable land development regulations.

The Development Review Committee reviewed these text amendments and is recommending approval. On August 11, 2022, the Planning and Zoning Board of Appeals reviewed this staff-initiated text amendment and recommended its approval. The City Council by a unanimous vote voted to approve Ordinance 2022-21 on first reading at its August 15, 2022, meeting.

ANALYSIS

The principal intent of these proposed text amendments to the Zoning Code is to amend the City's Tree Removal Permit criteria to be in compliance with newly adopted State legislation which does not require a Tree Removal Permit for trees removed from single family homes and determined by a landscape architect or arborist that the tree poses an unacceptable risk to persons or property per Best Management Practices – Tree Risk Assessment, Second Edition (2017).

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-21 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-22-12 through the adoption of Ordinance 2022-21.

ORDINANCE NO. 2022-21

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16, ZONING REGULATIONS, ARTICLE VII, LANDSCAPING, DIVISION 1, GENERAL REQUIREMENTS, SECTION 16-1249, BUILDING PERMIT FOR VEGETATION REMOVAL REQUIRED, TO CLARIFY WHEN A TREE REMOVAL PERMIT IS NOT REQUIRED FOR RESIDENTIAL PROPERTY IN COMPLIANCE WITH NEWLY ADOPTED STATE STATUTES; 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 Development and Neighborhood Services Department has submitted a request for a Zoning Code Text Amendment to revise Chapter 16, Article VII, Division 1, specifically section 16-1249 to clarify when a tree removal permit is not required for residential property; and

WHEREAS, the Development Review Committee determined that the proposed amendments to section 16-1249 are appropriate as further stated in the Committee’s Staff Report and Recommendation, “Exhibit A” dated July 7, 2022 (attached); and

WHEREAS, the proposed amendments are required due to recently approved amendments to the governing state statute, which the City’s existing code is in conflict with; 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

Ordinance No. 2022-10 | Tree Removal Permit

Page No. 2

GREENACRES, FLORIDA, THAT:

SECTION 1. The City of Greenacres Code of Ordinance at Chapter 16, Zoning Regulations, Article VII, Landscaping, Division 1, General Requirements, is hereby amended at section 16-1249 as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

Sec. 16-1249. - Building permit for vegetation removal required.

(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

(1) For residential developments and subdivisions with approved landscape plans and homeowners' associations, a building permit is required for vegetation removal(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

(1) For residential developments and subdivisions with approved landscape plans and homeowners' associations, a building permit is required for vegetation removal. A homeowners association letter of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements, located in accord with the approved landscape plan.

(2) For residential developments and subdivisions without approved landscape plans and with a homeowner's association, a building permit is required for vegetation removal. A homeowners association letter of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.

(3) For residential developments and subdivisions without approved landscape plans and without a homeowner's association, a building permit is required for vegetation removal. Each tree removed must be replaced with a new tree that meets current City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.

(b) Exemptions.

Ordinance No. 2022-10 | Tree Removal Permit

Page No. 3

- (1) Prohibited trees listed in Table 16-1312(a) may be removed for any reason without a permit for vegetation removal.
- (2) Other than for trees, the permit requirement for vegetation removal at single-family and duplex residential lots may be waived at the discretion of the planning and engineering director or designee if the vegetation to be removed is replaced at a 1:1 ratio.
- (3) Trees with a trunk less than one (1) inch in diameter, measured at a point which is at least four and one-half (4½) feet above finished grade, may be removed without a permit.
- (4) Removal of dead trees requires a permit and may require replacement trees to be planted as provided elsewhere in this article, however the permit shall be issued at no charge.
- (5) In the event that a replacement tree is not required as a result of an approved removal (such as if the lot will meet or exceed the minimum tree count requirement after removal), the permit for removal shall be issued at no charge.
- (6) *Residential property.* As referenced in F.S. § 163.045, residential property shall be defined as a single-family, detached building located on a lot that is actively used for single-family residential purposes and that is either a confirming use or a legally recognized nonconforming use in accordance with the city's zoning regulations. ~~fee-simple, single-family, attached or detached, or duplex lots.~~ Those parcels or lots that comprise the common elements or community property, in whole or in part, within a PCD, PUD, and or MXD shall not be defined as or deemed to be "residential property" for the purposes of F.S. § 163.045. Residential properties that utilize the state statute exemption are required to possess ~~file~~ the required documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree being removed poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices – Tree Risk Assessment, Second Edition (2017). If the residential property meets this requirement, then the tree may be removed without a permit. ~~provides a reason and justification that the tree presents a danger to persons or property with the city's planning and engineering department.~~

[Subsections 16-1249(c) through 16-1249(g) and Section 12-1250 are not being amended and are omitted for brevity]

SECTION 2. Repeal of Conflicting Ordinances.

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

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 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 upon adoption.

Ordinance No. 2022-10 | Tree Removal Permit

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PASSED on the first reading this 15th day of August, 2022.

PASSED AND ADOPTED on the second reading this 14th day of September, 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

ZTA-22-12 (Ordinance 2022-21)

Revised: 8/11/2022

Date: July 7, 2022

8/15/2022



DEVELOPMENT REVIEW COMMITTEE STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

ZTA-22-12: Tree Removal Permit

Recommendation to City Council: A City-initiated request for a text amendment to amend the City's Tree Removal Permit criteria to be in compliance with newly adopted State legislation.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

| | |
|--|---|
| Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator | Reviewed By: Acting Director of Development and Neighborhood Services _____ Andrea McCue, City Manager |
| Approved By: City Manager _____ Andrea McCue | Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____ |
| Attachments: <ul style="list-style-type: none"> Ordinance 2022-21_ | City Council Action: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____ |

I. Executive Summary

The State of Florida adopted new regulations regarding tree removal permits. The approved legislation amends s. 163.045, F.S., which prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from a certified arborist or a licensed landscape architect, that the tree “poses an unacceptable risk” to persons or property. Under the bill, a tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate as outlined in Best Management Practices – Tree Risk Assessment, Second Edition (2017).

The bill defines "documentation" to mean an onsite tree risk assessment performed in accordance with the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017). Documentation must be signed by an arborist certified by the International Society of Arboriculture (ISA) or Florida licensed landscape architect. The bill also defines the term "residential property" as a single-family detached building located on an existing lot, actively used for single-family residential purposes, and which is either an existing conforming use or a legally recognized nonconforming use following the local jurisdiction's applicable land development regulations.

II. Proposed Zoning Text Amendments:

The following Zoning Code regulations are impacted by the proposed Zoning Text Amendments. Items which are proposed for deletion are in **~~Strike-Through~~**, items proposed for addition are in **Single Underline**.

Proposed Change

CHAPTER 16

ARTICLE VII LANDSCAPING

Sec. 16-1249. - Building permit for vegetation removal required.

(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

(1) For residential developments and subdivisions with approved landscape plans and homeowners' associations, a building permit is required for vegetation removal(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

(1) For residential developments and subdivisions with approved landscape plans and homeowners' associations, a building permit is required for vegetation removal. A homeowners association letter

of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements, located in accord with the approved landscape plan.

(2) For residential developments and subdivisions without approved landscape plans and with a homeowner's association, a building permit is required for vegetation removal. A homeowners association letter of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.

(3) For residential developments and subdivisions without approved landscape plans and without a homeowner's association, a building permit is required for vegetation removal. Each tree removed must be replaced with a new tree that meets current City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.

(b) Exemptions.

(1) Prohibited trees listed in Table 16-1312(a) may be removed for any reason without a permit for vegetation removal.

(2) Other than for trees, the permit requirement for vegetation removal at single-family and duplex residential lots may be waived at the discretion of the planning and engineering director or designee if the vegetation to be removed is replaced at a 1:1 ratio.

(3) Trees with a trunk less than one (1) inch in diameter, measured at a point which is at least four and one-half (4½) feet above finished grade, may be removed without a permit.

(4) Removal of dead trees requires a permit and may require replacement trees to be planted as provided elsewhere in this article, however the permit shall be issued at no charge.

(5) In the event that a replacement tree is not required as a result of an approved removal (such as if the lot will meet or exceed the minimum tree count requirement after removal), the permit for removal shall be issued at no charge.

(6) *Residential property.* As referenced in F.S. § 163.045, residential property shall be defined as a single-family, detached building located on a lot that is actively used for single-family residential purposes and that is either a confirming use or a legally recognized nonconforming use in accordance with the city's zoning regulations. ~~fee simple, single family, attached or detached, or duplex lots.~~ Those parcels or lots that comprise the common elements or community property, in whole or in part, within a PCD, PUD, and or MXD shall not be defined as or deemed to be "residential property" for the purposes of F.S. § 163.045. Residential properties that utilize the state statute exemption are required to possess file the required documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree being removed poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices – Tree Risk Assessment, Second Edition (2017). If the residential property meets this requirement, then the tree may be removed without a permit.

~~provides a reason and justification that the tree presents a danger to persons or property with the city's planning and engineering department.~~

[Subsections 16-1249(c) through 16-1249(g) and Section 12-1250 are not being amended and are omitted for brevity]

III. Zoning Text Amendment Criteria:

A. *The need and justification for these changes:*

The principal intent of these proposed text amendments to the Zoning Code is to amend the City's Tree Removal Permit criteria to be in compliance with newly adopted State legislation which does not require a Tree Removal Permit for trees removed from single family homes and determined by a landscape architect or arborist that the tree poses an unacceptable risk to persons or property per Best Management Practices – Tree Risk Assessment, Second Edition (2017).

B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City codes.

IV. Staff Analysis:

The Development Review Committee Staff met on June 9 and 16, 2022, to discuss the proposed amendment. No objections were received.

| | |
|--|---------------|
| Planning, GIS, and Engineering Division: | No objections |
| Building Division, | No objections |
| Fire Rescue Department | No objections |
| Public Works Department | No objections |
| PBSO District #16 | No objections |
| Recreation and Community Services Department | No objections |

IV. Staff Recommendation:

Approval of ZTA- 22-12 through the adoption of Ordinance 2022-21.

PLANNING ZONING BOARD OF APPEALS RECOMMENDATION – August 11, 2022

The Planning and Zoning Board of Appeals on a motion made by Board Member Edmundson and seconded by Board Member Litowsky, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-12** as presented by staff.

CITY COUNCIL ACTION First Reading – August 15, 2022

The City Council on a motion made by Council Member Dugo and seconded by Council Member Diaz, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-12** as presented by staff.

CITY COUNCIL ACTION Adoption Hearing – September 14, 2022



ITEM SUMMARY

MEETING DATE: September 14, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-25, ZTA-22-09**
Sign Code

BACKGROUND

This Zoning Text Amendment is at the request of the City's Development and Neighborhood Services Department due to the United States Supreme Court's decision in *Reed v. Town of Gilbert*. With *Reed*, the new standard is that any law or regulation of speech that is based on the content of the speech is presumptively unconstitutional and subject to "strict scrutiny," which is the most rigorous standard for First Amendment review. Strict scrutiny requires a challenged regulation to be "narrowly tailored to serve a compelling governmental interest," with legal experts stating that such scrutiny is almost always fatal to the regulation in question.

The primary takeaways of the *Reed* case are that local sign regulations must be content-neutral *and* that a sign code will be subject to "strict scrutiny" judicial review if it applies different standards based on:

- a sign's content (i.e., what is written or portrayed on the sign);
- the purpose of the sign; or
- who is putting up the sign.

In other words, if you have to differentiate the type of sign being regulated by reading the sign's content or knowing the sign message's author, then the regulation is probably unconstitutional. Before *Reed*, most regulations, if challenged, would have been subject to a "lesser" scrutiny test.

Even though it raises a lot of unanswered questions, the *Reed* case makes it clear that local governments need to review their sign codes and update them in response to a changing legal landscape. It is important for cities, counties, and towns to heed that advice, and embark upon the significant work of regulating signs in a manner that both meets local expectations and passes constitutional muster. The purpose of the proposed language is to accomplish just that.

The Development Review Committee has reviewed these text amendments and is recommending approval. The Planning and Zoning Board of Appeals has reviewed these text amendments on August 11, 2022, and recommended approval.

ANALYSIS

The principal intent of these proposed text amendments to the Zoning Code is to provide a comprehensive update of the City's sign code which over the last decade has only been amended for specific reasons. The proposed amendments will ensure that the sign code is in compliance with state, federal, county laws as well as court cases and will ensure that the City's sign code is enforceable.

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City Codes.

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-25 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-22-09 through the adoption of Ordinance 2022-25.

ORDINANCE NO. 2022-25

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16 “ZONING REGULATIONS,” BY DELETING ARTICLE VI, “SIGN REGULATION,” IN ITS ENTIRETY AND ADOPTING A NEW ARTICLE VI, “SIGN REGULATIONS”; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

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

WHEREAS, Article VIII of the State Constitution and Chapter 166, Florida Statutes, provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, as the governing body, the City Council of the City of Greenacres (“the Council”), pursuant to the authority vested in it by Chapters 163 and 166, Florida Statutes, is authorized and empowered to consider changes to its land development regulations; and

WHEREAS the City of Greenacres (“the City”) desires to modify and update its regulation of signs in a manner consistent with the United States Supreme Court’s decision in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), holding that the regulation of signage based on content is subject to strict scrutiny in determining whether such regulation is constitutional; and

WHEREAS, the *Reed* decision does not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate aesthetic objectives, including rules that distinguish between on-premises and off-premises signs; and

WHEREAS, the City does not wish to censor speech or regulate the content thereof, but rather to provide for the public welfare by regulating the physical characteristics and placement of signage in a manner that enhances the aesthetics of the community, reduces visual pollution, provides clear information, and minimizes distractions to drivers in the interests of traffic safety; and

WHEREAS, the City Council finds and determines that these sign regulations are intended to protect the public from the dangers of unsafe signs, including signs that create hazardous conditions, confusion, and visual clutter through excess proliferation, improper placement, illumination, animation, and excessive size; and

WHEREAS, the City Council finds and determines that these sign regulations are intended to permit signs that are compatible with their surroundings, aid orientation, and do not obstruct the vision of or distract motorists, bicyclists, or pedestrians; and

WHEREAS, the City Council finds and determines that the prohibition of off-premises signs, as well as the establishment and continuation of height, size, and other standards for on-premise signs, will reduce the number of driver distractions and aesthetic eyesores along the roadways of the City; and

WHEREAS, in accordance with the requirements of Chapter 163, Florida Statutes, the City's Local Planning Agency has reviewed the proposed Ordinance and has determined that the proposed regulation is consistent with the City's Comprehensive Plan; and

WHEREAS, the City Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the City Council has determined that this Ordinance is consistent with the City's Comprehensive Plan; and

WHEREAS, the City Council of the City of Greenacres legislatively determines and declares that adoption of a new, updated sign regulation code as set forth herein is in the public interest of the health, safety and general welfare of the residents and business community 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.

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

SECTION 1. **Legislative Findings, Intent and Purpose.** The WHEREAS clauses contained herein are legislatively determined to be true and correct and are incorporated herein and represent the legislative findings of the City Council, in addition and supplemental to those findings set forth in Section 16-931 of this ordinance. It is the purpose and intent of this ordinance to promote the health, safety, and general welfare of the residents of the City, and to ensure the proper regulatory requirements for signage within the City's corporate limits.

SECTION 2. **Deletion Of Chapter 16. Zoning Regulations, Article VI, Sign Regulation.** The City Council hereby deletes, in full, Chapter 16. Zoning Regulations, Article VI, Sign Regulation.

SECTION 3. **Creation Of New Chapter 16. Zoning Regulations, Article IV, Sign Regulations.** The City Council hereby amends the City of Greenacres Code of Ordinance by adopting new Chapter 16. Zoning Regulations, Article VI, Sign Regulation, which shall read as follows:

CHAPTER 16. ZONING REGULATIONS.

ARTICLE VI. SIGN REGULATIONS

DIVISION 1. GENERALLY

Sec. 16-931. Scope, Intent, Purpose.

- (a) Scope. The provisions of this article shall regulate the location, number, size, use, appearance, construction and maintenance of all signs permitted in each zoning district. This chapter is not intended to and does not apply to signs constructed, maintained, or otherwise posted, owned, or leased by the City of Greenacres, Palm Beach County, the State of Florida, or the federal government, and does not regulate official traffic control devices.
- (b) Intent. Increased numbers and size of signs, as well as certain types of lighting, distract the attention of motorists and interfere with traffic safety. In addition, the indiscriminate construction and maintenance of signs detract from the appearance of the city. It is therefore the intent of these regulations to promote and protect the public health, safety, general welfare, convenience and enjoyment of the citizens of the city. More specifically, the sign regulations are intended to:
- (1) Classify and categorize signs by type and zoning district;
 - (2) Permit, regulate and encourage the use of signs with a scale, graphic character, and type of lighting compatible with buildings and uses in the area, so as to support and complement the goals, objectives and policies set forth in the city's comprehensive plan;
 - (3) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
 - (4) Encourage and allow signs that are appropriate to the zoning district in which they are located consistent with and serving the needs of the land uses, activities and functions to which they pertain;
 - (5) Establish regulations affecting the design, construction, and maintenance of signs for the purpose of ensuring equitable means of graphic communication, while maintaining a harmonious and aesthetically pleasing visual environment within the city. It is recognized that signs form an integral part of architectural building and site design and require equal attention in their design, placement and construction;
 - (6) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the city and that complements the natural surroundings in recognition of this city's reliance on its natural surroundings and beautification efforts as a source of economic advantage as an attractive place to live and work;
 - (7) Preclude signs from conflicting with the principal permitted use of the lot and adjoining lots;
 - (8) Establish dimensional limits and placement criteria for signs that are legible and proportional to the size of the lot and structure on which the sign is to be placed, or to which it pertains;
 - (9) Maintain and enhance the scenic beauty of the aesthetic environment and the city's ability to attract sources of economic development and growth;
 - (10) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts in the city;
 - (11) Encourage the effective use of signs as a means of communication in the city;

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- (12) Ensure pedestrian safety and traffic safety;
- (13) Regulate signs so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;
- (14) Regulate signs so that they are effective in performing the function of identifying and safely directing pedestrian and vehicular traffic to a destination;
- (15) Curtail the size and number of signs to the minimum reasonably necessary to identify a residential or business location, and the nature of such use, and to allow smooth navigation to these locations;
- (16) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive area of signs which compete for the attention of pedestrian and vehicular traffic and are not necessary to aid in wayfinding;
- (17) Allow for traffic control devices without city regulation consistent with national standards because they promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and by notifying road users of regulations and providing nationally consistent warnings and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream and modes of travel, while regulating private signs to ensure that their size, location and other attributes do not impair the effectiveness of such traffic control devices;
- (18) Minimize the possible adverse effect of signs on nearby public and private property;
- (19) Protect property values by precluding, to the maximum extent possible, signs that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- (20) Protect property values by ensuring that the size, number, and appearance of signs are in harmony with buildings, neighborhoods, structures, and conforming signs in the area;
- (21) Except to the extent expressly preempted by Palm Beach County, state, or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- (22) Foster the integration of signage with architectural and landscape designs;
- (23) Not regulate signs more than necessary to accomplish the compelling and important governmental objectives described herein;
- (24) Enable the fair and consistent enforcement of these sign regulations; and
- (25) Be considered the maximum standards allowed for signage.

(c) Purpose: The regulations in this chapter are not intended to regulate or censor speech based on its content or viewpoint, but rather to regulate the secondary effects of speech that may adversely affect the City of Greenacres' substantial and compelling governmental interests in preserving scenic beauty and community aesthetics, and in vehicular and pedestrian safety in conformance with the First Amendment. It is therefore the purpose of this Article to promote aesthetics and the public health, safety, and general welfare, and assure the adequate provision of light and air within the City of Greenacres through reasonable, consistent, and nondiscriminatory standards for the posting, displaying, construction, use, and maintenance of signs and sign structures that are no more restrictive than necessary to achieve these governmental interests.

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(d) Findings. In addition and supplemental to the findings and determinations contained in the "Whereas" provisions, which are incorporated by reference into this section, the City Council acting in its legislative capacity for the purpose of regulating signage, hereby makes the following findings of fact:

The reasonable regulation of the location, number, size, use, appearance, construction and maintenance of signs within the city serves a compelling governmental interest, for the following reasons:

- (1) Florida Constitution. Article II, Section 7 of the Florida Constitution provides that "[i]t shall be the policy of the state to conserve and protect its natural resources and scenic beauty. . . ." A beautiful environment preserves and enhances the desirability of Greenacres as a place to live and to do business. Implementing the Florida Constitution is a compelling governmental interest.
- (2) Florida Statutes. Florida law requires cities to adopt comprehensive plans and implement them through land development regulations (also known as zoning regulations) and approval of development orders that are consistent with the comprehensive plan. See Part II of Chapter 163, Florida Statutes. Florida law specifically requires that municipalities adopt sign regulations. See Section 163.3202(2)(f), Florida Statutes. Complying with state law is a compelling governmental interest.
- (23) Greenacres Code of Ordinances. Chapter 16 of the Greenacres Code of Ordinances provides in section 16-2 that the chapter's purpose is to "promote, protect and improve in accordance with present and future needs, the public health, safety, comfort, good order, appearance, convenience, morals and general welfare of the citizens of the city; to conserve the value of land, buildings, and resources; to protect the character and maintain the stability of residential, agricultural, business and industrial areas; and to provide for efficiency and economy in the process of development, for the appropriate and best use of the land, for preservation, protection, development, and conservation of the natural resources of land, water, and air, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion of the civic amenities of beauty and visual interest, and for promotion of developments as a means of achieving unified civic design by establishing zoning districts and by regulating the location and use of buildings, signs, and other structures, and land or water for trade, agriculture, industry, and residence, by regulating and limiting or determining the height, bulk, and access to light and air of buildings and structures, the area of yards, and other open spaces, and the density of use."

The City Council specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no less restrictive way for the city to further these interests.

Sec. 16-932. Severability; Substitution

- (a) Severability: If any provision of this chapter is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of the other provisions of this chapter that can be given effect without the invalid provision.
- (1) Generally: If any part, section, subsection, paragraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, graph, subparagraph, sentence, phrase, clause, term, or word of this chapter. Should any section, paragraph, sentence, clause, phrase, or other part of this chapter or the adopting ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this chapter or the adopting ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.
 - (2) Severability where less speech results: Without diminishing or limiting in any way the declaration of severability set forth in subsection (a)(1) above, or elsewhere in this chapter or the adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or the adopting ordinance, even if such severability would result in a situation in which there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.
 - (3) Severability of provisions pertaining to prohibited signs: Without diminishing or limiting in any way the declaration of severability set forth in subsection(a)(1), or elsewhere in this chapter or the adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or the adopting ordinance or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or the adopting ordinance that pertains to prohibited signs.
 - (4) Severability of prohibition on off-premise signs: If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other code provisions or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition of off-premise signs as contained herein.
- (b) Substitution: Notwithstanding any provisions of this chapter to the contrary, to the extent that this chapter permits a sign containing commercial content, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to

noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this chapter.

Sec. 16-933. Definitions.

- (1) *Abandoned sign*: A building, freestanding, or off premises sign that: (a) for a period of thirty (30) or more consecutive days, (1) no longer correctly advertises, identifies, displays, directs, or attracts attention to an object, institution, organization, business, product, service, or event on the premises upon which the sign is located; (2) identifies a time, event or purpose that has passed or no longer applies; (3) contains missing letters or other components of the sign, rendering the sign indecipherable or (b) for a period of six (6) consecutive months, includes a sign structure that bears no sign or a sign face that bears no copy.
- (2) *Address sign*: A sign indicating only the common street address. For the purposes of this definition, a nameplate shall be construed to be an address sign.
- (3) *"A" frame sign*: A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure thereof.
- (4) *Animated sign*: A building, freestanding, or off-premises sign which may flash, revolve, rotate, swing, undulate, or otherwise attract attention through the movement or flashing of any part of the sign or advertising structure.
- (5) *Awning sign*: A sign painted upon a cloth, plastic or metal surface supported by a metal frame fastened to the wall of a building.
- (6) *Banner flag*: A tall, narrow banner, attached to a vertical pole, with a straight body shape that is curved at then ends to resemble the tips of feathers, commonly used to draw attention to an event or business location (also known as a *feather flag*).
- (7) *Banner sign*: Any sign (that cannot be considered a flag), intended to be suspended for display, either with or without frames, having characters, letters, illustrations, or ornamentations applied to cloth, paper, plastic, balloons, or fabric of any kind with such material acting as a backing.
- (8) *Billboard sign*: A large off-premises permanent sign structure that may be freestanding or affixed to a building.
- (9) *Bulletin board sign*: A building or free-standing sign constructed by or for a charitable, educational, governmental, or religious institution, or a public body, which is constructed on the same property as said institution.

- (10) Canopy: A roof-like structure generally self-supporting that may be freestanding or attached to a principal structure, providing shade and weather protection, typically utilized in locations such as over drive-thru lanes, walkways, entrances, and gasoline pumps.
- (11) Changeable copy sign: A sign on which the copy is changed manually, through the utilization of attachable letters, numbers, symbols and other similar characters.
- (12) Copy: Written or graphic material that is placed, displayed, or depicted or otherwise indicated on a sign.
- (13) Clearance (of a sign): The smallest vertical distance between the established grade of the site upon which the sign is to be located and the lowest point of the sign, including framework and any ornamentation attached thereon, extending over that grade.
- (14) Construction sign: A freestanding sign erected on the premises on which development is taking place during the period of such development, commonly used to indicate the names of architects, engineers, landscape architects, contractors, owners, or others having a role or interest in the structure project.
- (15) Copycat signs: Signs that resemble any official sign or markers and that because of design, location, position, shape, or color may be reasonably confused with or construed as traffic-control devices or regulatory signs.
- (16) Copy area: The entire face of a sign including the advertising surface of any framing, trim or molding but not including the supporting structure.
- (17) Directory sign: A building or freestanding sign which may indicate the name, address, or direction to, the occupants or businesses which are located on the premises, that is intended to be viewed only from within the development where it is located.
- (18) Electronic changeable copy sign: A sign that utilizes an electronic display including but not limited to liquid crystal display or light emitting diodes (LCD or LED), plasma display, or projected images, on which the copy is changed electronically. The following definitions pertain to electronic signs:
 - (i) "Dwell time" means the minimum amount of time that a message must be static on an electronic sign. The dwell times shall not include any transition time.
 - (ii) "Static" means a display that is fixed, and unchanging with no portion of the display being in motion, flashing or changing in color or light intensity.
 - (iii) "Transition" means a visual effect used on an electronic sign to change from one message to another.
- (19) Emitting signs: Signs that emit audible sound, odor, or visible matter such as smoke or steam.

- (20) Entry feature signs: An architectural feature or element with signage that is typically located at the entrance to a development project but is not attached to a perimeter wall.
- (21) Entry Wall Sign: A sign attached to a wall near the entrance of a site as part of a continuous perimeter wall or fence.
- (22) Façade: The entire face of a building (front, side, and rear) including the parapet.
- (23) Façade projection: A structural projection from a facade, such as a gallery, arcade or marquee, which serves as a design element or overhead shelter from sun and rain that is also designed to accommodate signage. Protruding balconies are specifically excluded from this definition. Facade projections are finished with aluminum, stucco, stone, glass, or other construction material that exceeds industry standard quality.
- (24) Flag: Any fabric, plastic, canvas, material or bunting containing distinctive color(s), pattern(s), symbol(s), emblem(s) or insignia(s) that represents a non-commercial idea or institution, or entity, such as a government or civic club.
- (25) Freestanding sign: A sign supported by a sign structure secured in the ground and which is wholly independent of any building, fence, or object other than the sign structure for support.
- (26) Frontage: The property line or building façade parallel with and facing the public road right-of-way abutting the subject property.
- (27) Frontage wall face: The building façade, excluding parapet, fascia, soffit, mansard and roof, which faces a frontage of the premises.
- (28) Grade: A reference plane representing the highest point of the crown of any public or private street or roadway which lies contiguous to the property or building site. In the event that the abutting streets or roadways are unimproved, grade shall be measured from the nearest paved roadway.
- (29) Gas station price sign: A sign utilized to indicate the price of fuel available for sale on the premises. A gas station price sign may be a free-standing sign or a portion thereof, or may be affixed to the gas tank structure.
- (30) Home occupation sign: A building sign, erected flat against the dwelling in which the home occupation is operated, indicating the name of the individual or business operated within the dwelling.
- (31) Human sign (or living sign): A sign or a form of commercial message held by or attached to a human or character (animated or otherwise) for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service or product. This can also include a person or a live or animated character

dressed in costume or wearing a commercial message for the purpose of advertising or drawing attention to an individual business commodity service or product.

- (32) Identification sign: A wall sign or freestanding sign used to identify the building, development or establishment of the premises on which it is located
- (33) Illegal sign: A sign which has been constructed and is being maintained in violation of the provisions of this chapter.
- (34) Illuminated Sign: A sign that is internally or externally illuminated by artificial means.
- (35) Master sign plan: A comprehensive document that contains a set of sign criteria unique to a specific shopping center, commercial property, building or development. It includes drawings and plans that illustrate the sign program for the overall development, including, but not limited to, size, location, type, architectural design, dimensions, and other design standards including materials, color, and sign illumination.
- (36) Memorial sign: A building or free-standing sign, tablet, or plaque memorializing a person, structure, site or event.
- (37) Monument sign: A free-standing sign with a solid base located on or close to the ground typically incorporating materials that complement the architecture and landscaping of the principal structure on the site.
- (38) Multi-panel monument sign: a monument sign that contains multiple panels and areas for the display of graphics or lettering for multiple tenants.
- (39) Neon sign: A sign that contains an exposed neon tube or is treated in such a manner as to appear to be a sign containing an exposed neon tube or unshielded light.
- (40) Nonconforming sign: A sign existing at the time of the passage of this chapter or amendment thereto, which does not conform to the regulations of the zoning district in which it is located, or other applicable sections of this chapter.
- (41) Obstructing sign: a sign that obstructs the vision of pedestrians, cyclists, or motorists traveling on or entering public streets.
- (42) Off-premises sign: A sign utilized for advertising an establishment, activity, product, service or entertainment which is sold, produced, manufactured, available or furnished at a place other than on the property on which said sign is located. For purposes of this chapter noncommercial messages are never allowed as off-premises signs.
- (43) Painted wall sign: A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.
- (44) Parapet: A vertical false front or wall extension above the roof line.

- (45) Portable sign: A free-standing or off-premises sign which is not permanently affixed to the ground, building, or other structure, which may be mounted on wheels or affixed to a vehicle, and can easily be transported from place to place.
- (46) Post and panel sign: A sign made of wood, metal, similar rigid materials, or durable weatherproof fabric attached to one (1) or more ground mounted posts utilized as a panel to display copy.
- (47) Primary façade: The facade that has the principal entrance, often referred to as the principal facade or storefront.
- (48) Projecting sign: A building sign which projects outward, either perpendicular or at an angle to the wall or building on which it is mounted more than twelve (12) inches.
- (49) Real estate sign: A sign erected by the owner, or the owner's agent, on real property which is for rent, sale or lease.
- (50) Right-of-way: A strip of land, dedicated or deeded to the perpetual use of the public, occupied or intended to be occupied by a street, crosswalk, railroad, canal, road, electric transmission line, oil or gas pipeline, water supply main, sanitary sewer, storm drain, or for any other special use.
- (51) Roof sign: A sign constructed or visible over or on, and wholly or partially dependent upon, the roof, parapet or mansard of any building for support, or attached to the roof, parapet or mansard in any way.
- (52) Sign: Any device or representation for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, excluding signage wholly within the interior of a building or structure, and not visible from the exterior of such building or structure. The term is inclusive of the sign structure.
- (53) Sign area: The square foot area of a single rectangle enclosing the entire sign face (as distinguished from *copy area*), unless otherwise provided in this chapter for a particular sign type.
- (54) Sign face: The part of the sign that is or can be used to identify, advertise, or communicate information, or for visual representation, which attracts the attention of the public for any purpose. "Sign face" includes the extreme limits of the copy, together with any background material, panel, trim, color and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface or object upon which or against which it is placed.
- (55) Sign structure: A structure or device designed or used for the support of a sign, with or without a sign thereon, which is considered to be an integral part of a sign. This definition does not include fences, buildings, or other structures having another permitted primary function (if no sign is located thereon).

- (56) *Snipe sign*: A sign constructed of any material that is attached to a utility pole, tree, fence, light post, stake or similar object located or situated on public or private property.
- (57) *Storefront*: The façade of a store or commercial tenant space typically on the ground floor or street level.
- (58) *Temporary sign*: A sign that is not permanently affixed or installed, or is displayed for a limited period of time.
- (59) *Time and temperature sign*: A building or free-standing sign which is solely utilized to indicate the time and/or temperature with a sequence span of four (4) to eight (8) seconds.
- (60) *Traffic control device*: A sign, signal, marking, or other device used to regulate, warn, guide traffic, placed on, over or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared use path by authority of a public agency or official having jurisdiction placed by a public body or, in the case of a private road open to public transit, by authority of the private owner or private official having jurisdiction.
- (61) *Traffic-control sign*: A sign constructed or approved by a government entity used to direct and assist vehicle operators and pedestrians in the guidance and navigational tasks required to traverse safely any facility open to public travel.
- (62) *Under canopy sign*: A building sign which is mounted, attached or suspended perpendicular to the building, beneath an awning, canopy or marquee.
- (63) *Vee-shaped sign*: A building, free-standing, or off-premises sign which has two (2) faces that are not parallel to one (1) another.
- (64) *Vehicular sign*: Any sign or banner which is attached to or placed upon a parked motor vehicle or trailer and placed in a position or location for the sole purpose of displaying the same to the public.
- (65) *Wall*: An exterior vertical structure encompassing the area between the grade and the eaves of a building that encloses the building or that is an enclosure for the perimeter of a property.
- (66) *Wall sign*: a sign constructed parallel to, and extending not more than 24 inches from the building facade to which it is affixed. A sign that is projected onto a building facade (e.g. video projection, 3D projection mapping and other methods of casting images) is also a wall sign.
- (67) *Window pane area*: The glass area of a single window or door pane used for calculation of permitted sign area.

- (68) Window sign: Any sign which is painted on, applied to, attached to or projected upon or within the exterior or interior of a building glass area, including doors, or located within fifteen (15) feet of the interior of a building glass area, including doors, or any interior illuminated signs or exposed unshielded light source.
- (69) Yard sign: A small temporary sign placed upon or supported by the ground independent of another structure but is not an A-frame sign.

Sec. 16-934. Applicability of other requirements.

Signs or other advertising structures shall be constructed and maintained in strict conformity with city building and electrical codes and all other applicable city regulations.

Sec. 16-935. Prohibited signs.

It shall be a violation of this chapter to construct, install, place, or maintain the following signs or advertising structures in this city, unless otherwise approved by the city:

- (1) Any signs or advertising structures which are not specifically permitted under this chapter or signs that exceed the sign allowance for the district.
- (2) Traffic or pedestrian hazard. Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or signs that obstruct or detract from the visibility of traffic-control devices or emergency vehicles. The use of flashing lights or revolving lights is prohibited as part of any sign as it constitutes a traffic hazard. Any sign which by glare or method of illumination constitutes a hazard to either vehicular or non-vehicular traffic is prohibited. Also prohibited is any sign which may be confused with or purports to be a governmental, traffic direction or safety sign, or any other sign or group of signs which create a traffic hazard as determined by the city.
- (3) Obscenities. Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient or which exhibit obscene or illegal written messages or materials.
- (4) Right-of-way. Any sign or advertising structure (other than those constructed by a governmental agency or required to be constructed by a governmental agency for a public purpose) constructed, installed or placed on the right-of-way of any street, road or public way, or signs overhanging or infringing upon the right-of-way of any street, road or public way, except as specifically permitted by this chapter.
- (5) Public property. Any sign or advertising structure constructed on city property or other governmental property other than signs constructed by any governmental entity for public purposes.

- (6) Ingress and egress to buildings. Any sign or advertising structure which is constructed, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
- (7) Rear of a building. Any sign or advertising structure which is constructed, installed or maintained upon the rear of a building, with the exception of signs to identify the business address on a rear exit door with no greater than six (6) inch non-illuminated letters with a minimum stroke width of one-half inch (½") located directly above the rear door, or as required by applicable fire safety regulations.
- (8) "A" frame signs.
- (9) Animated signs.
- (10) Banner signs. Any banner sign, with the exception of those banner signs that are granted a temporary use permit by the city.
- (11) Banner flag signs.
- (12) Off-premises signs.
- (13) Portable signs.
- (14) Projecting signs
- (15) Snipe signs.
- (16) Temporary signs, except as allowed under Division 4 of this article.
- (17) Vehicular signs.
- (18) Vee-shaped signs.
- (19) Abandoned signs.
- (20) Signs placed upon benches, bus shelters, or waste receptacles, except as may be authorized by the City of Greenacres or superseded by state statutes.
- (21) Under canopy signs, except as allowed as a part of an approved Master Sign Plan.
- (22) Exposed neon tubing, neon signs, and LED signs that emulate the general appearance of traditional neon signs.
- (23) Emitting signs.
- (24) Roof signs.

(25) Any sign with an exposed unshielded light source which does not comply with the terms, conditions and provisions contained in this chapter.

(26) Painted wall signs.

(27) Hot or cold-air balloons, with the exception of those cold air balloons that are granted a temporary use permit. Inflatable shapes or figures with or without words or pictures.

(28) Electronic changeable copy signs, with the exception of the following, which may be displayed as set forth in this Article:

a. Time and temperature signs as allowed in section 16-983(b)(4);

b. Gas station price signs as allowed in section 16-983(b)(5);

c. Freestanding signs as allowed for government uses in section 16-983(b)(56);

d. Menu board signs as allowed in section 16-994.

(29) Copycat signs.

(30) Awning signs.

(31) Any sign not specifically permitted herein.

Sec. 16-936. Mandatory signs - no permit required.

(a) Address signs. All residential and nonresidential structures shall post the building address in a location viewable, readable, and unobstructed from the adjacent public or private right-of-way. The size of residential address numbers shall not be less than four (4) inches, or exceed six (6) inches in height, or as otherwise approved based on the setback from or width of the right-of-way. The size of nonresidential address numbers shall not be less than eight (8) inches or exceed twelve (12) inches in height, or as otherwise approved by the master sign plan based upon the specific height of the building to which the numbers and letters are attached, or setback from or width of the right-of-way. In cases where the building is not located within view from the public street or right-of-way, the address identifier (numerals) must be located on the mailbox or other suitable device such that it is visible from the street or right-of-way. Additionally, each tenant space shall have the address displayed directly above the entry door utilizing six (6) inch letters on contrasting background.

(b) Required Posting. Where a federal, state, or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state, or local law to exercise that authority by posting a sign on the property. If the federal, state, or local regulation describes the form and dimensions of the sign, the property owner must comply with those requirements; otherwise, when not defined, the sign shall be no larger than two (2) square feet and located in a place on the property to provide access to the notice that is required to be made.

(c) Official Notice. Official notices posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed by the property owner no more than ten (10) days after their purpose has been accomplished or as otherwise required by law.

Sec. 16-937. Window signs – Permit not required.

Window signs are allowed in non-residential districts subject to the following requirements:

- (a) Window signs may be installed in each window or glass door area, so long as each sign does not exceed twenty-five per cent (25%) of the total window pane area.
- (b) Neither flashing or strobe lights nor glass neon tubing outlining the window panel shall be allowed.

Sec. 16-938. Signs requiring sign permits.

All signs, other than mandatory signs as provided in section 16-936, window signs as defined in Section 16-933(68) and temporary signs as provided in Division 4 of this Article shall require sign permits issued under this Article and are subject to the district sign allowances and other regulations hereunder.

Sec. 16-939. Permit procedure.

The development and neighborhood services department shall establish procedures for the submission and processing of sign permit applications. Application forms and information concerning required supporting materials shall be made available on the department's website. The development and neighborhood services director, or his/her designee, may approve the application with or without conditions, or deny the application. No permit shall be issued until compliance with the requirements of this Article and all other applicable codes and regulations has been demonstrated. The decision of the director to approve or deny the permit shall be final.

Sec. 16-940. Maintenance, alteration and removal of signs.

- (a) Any sign or sign structure constructed or installed under the provisions of this article shall be maintained in a safe, functional and sound structural condition at all times. General maintenance of such sign shall include the replacement of nonfunctioning, broken, or defective parts, painting, cleaning, and upkeep of the premises immediately surrounding the sign or advertising structure and any other action required for the maintenance of such sign or advertising structure. All signs and supporting structures shall be kept painted or treated in some manner to prevent rust, decay or deterioration.
- (b) Any sign or advertising structure, existing on or constructed after the effective date of the ordinance from which this article was derived, shall be removed within thirty (30) days upon the discontinuance of such business or sale of such product or service or shall be deemed abandoned.

(c) If any sign or advertising structure is identified by the Building Official and/or Zoning Administrator as being unsafe, insecure, abandoned, a menace to the public, or has been constructed, installed or is being maintained in violation of the provisions of this article or any other applicable city code, the Code Enforcement Division shall issue a written notice of the violation to the violator and/or to the owner of the property upon which the sign or advertising structure is located. The violation shall be enforced through the provisions of section 2-72 and 2-72.1. Nonconforming signs shall be governed by the provisions of sections 16-942 and 16-943. Appeals of this subsection shall be to the special magistrate.

Sec. 16-941. Nonconforming signs.

(a) *Generally.* Nonconforming signs are declared by this chapter to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this chapter but not to encourage their survival.

(b) *Registration of nonconforming signs.* The development and neighborhood services department shall establish a registry of nonconforming signs and an application process for nonconforming sign determination. Any person who wishes to establish the status of a nonconforming sign shall submit an application for determination of nonconforming sign status, together with supporting evidence demonstrating that the sign was a legally existing sign that became non-conforming as of the effective date of this Ordinance. The nonconforming status of the sign shall be determined by the development and neighborhood services director or his/her designee.

(c) *Expansion or relocation of nonconforming signs.* No nonconforming sign or advertising structure shall be expanded or relocated unless such sign or advertising structure is brought into conformance with the provisions of this article or any other applicable City Code requirement.

(d) *Repairs and maintenance.* Repairs and maintenance of nonconforming signs necessary to maintain health and safety only if the total amount expended for such repairs or maintenance over a one-year period does not exceed 50% of the value of the sign. If the costs of repair or maintenance exceed 50% of the value of the sign, a permit must be obtained and the sign brought into compliance.

(e) *Alteration of nonconforming signs.* Only alterations involving message changes or changes in the information on the face(s) of existing nonconforming signs may be allowed, provided that a sign permit for the alterations is obtained. The issuance of a permit to change the message or information on a nonconforming sign shall not affect the nonconforming status or extend the amortization period for the sign.

Sec. 16-942. Amortization of Non-conformities.

Except as provided in paragraph (c) below, all non-conforming signs shall be brought into compliance within five (5) years, as follows:

- (a) Legally existing signs that become non-conforming as of the effective date of this Ordinance shall maintain legally non-conforming status for a period of five (5) years from the effective date of this Ordinance, with exceptions as herein contained. At the end of the five (5) year period, all signs not in compliance shall become illegal signs. It shall be unlawful for any sign owner not to be in compliance with the following amortization provisions, with exceptions as herein contained.
- (b) Within two (2) years of the effective date of this Ordinance, all owners of legally nonconforming signs are required to prepare and submit to the City a proposed Master Sign Plan in accordance to regulations herein.
- (c) Within three (3) years of the effective date of this Ordinance, all owners of legally nonconforming signs are required to have an approved Master Sign Plan in compliance with this Schedule. The Master Sign Plan shall address the amortization of nonconforming signs according to the time frames provided herein. The approval of the Master Sign Plan shall not extend the amortization period.
- (d) Within five (5) years of the effective date of this Ordinance, all legally nonconforming signs and their supporting structures shall be altered, and/or removed from the property.
- (e) *Special Amortization Requirements for Temporary Signs, Billboards.*
 - (1) *Temporary Signs.* All legally existing temporary signs shall be in compliance with the provisions of this Schedule within ninety (90) days of the effective date of this Ordinance.
 - (2) *Billboards.* The amortization period shall not apply to billboard signs that were lawfully constructed prior to the date of adoption of this code. These signs shall be permitted as legally nonconforming signs. Said signs shall be subject to below provisions regarding Maintenance and Repair of Nonconforming Signs.
- (f) *Annexation.* All nonconforming signs or sign structures within an area annexed into the city after the effective date of the Ordinance which do not conform to city code shall, within five (5) years of the effective date of annexation, be removed or rebuilt into a conforming configuration in the event of any renovation, remodeling, or reconstruction of an existing building or site requiring a Special Exception, or where the value of the construction work is equal to or more than twenty-five (25) percent of the value of the building as indicated by the Palm Beach County Property Appraiser.
- (g) *Unpermitted signs.* Any sign for which a required sign permit is not obtained shall be deemed an illegal sign and subject to immediate removal. Such sign shall not be afforded non-conforming status.

Sec. 16-943. Appeals procedure.

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- (a) Any final decision concerning the interpretation or administration of this Article IV except for citations issued by the Code Enforcement Division, may be appealed to the planning & zoning board of appeals as provided in Article II, Division 3, section 16-85 of this Chapter.
- (b) Citations issued by the Code Enforcement Division for a sign or sign structure that is unsafe, insecure, abandoned, a menace to the public, or has been constructed, installed or is being maintained in violation of the provisions of this article or any other applicable city code may be appealed to the special magistrate as provided in Chapter 2, Article III, Division 2.

Secs. 16-944 – 946. Reserved.**DIVISION 2. GENERAL STANDARDS****Sec. 16-947. Computation of Sign Number and sign area.**

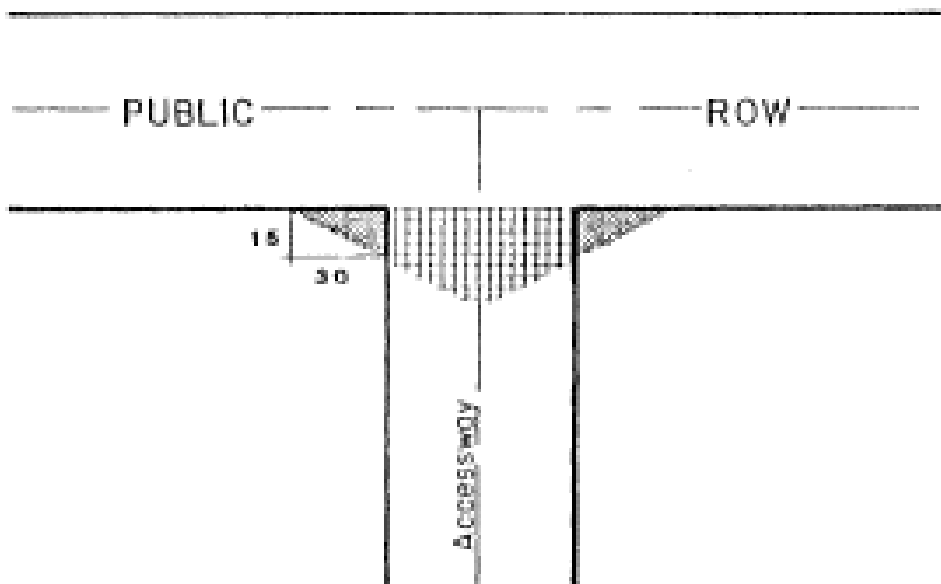
- (a) In determining the copy area of a sign, the entire face of the sign, including the advertising surface of any framing, trim or molding, shall be included. Should the sign structure or supports become part of the sign due to the design of the structure or supports in relation to the sign, such structure or supports shall be included in the determination of copy area.
- (b) In the instance where a sign is composed of letters only with no connection by the advertising structure between the letters, the copy area shall be determined by measuring the distance from the outside edges of the outside letters and from the top of the largest letter to the bottom of the lowest letter. Should one (1) letter be unequally large or small in comparison to the other letters composing the sign, the unequal letter shall be squared off, the remaining letters shall be measured from the outside edges, and the two (2) added for a total copy area determination.
- (c) Unless determined by the zoning district regulations, the allowable copy area of a sign shall be based on one (1) side of the sign. Double-faced signs may use up to the full amount of allowable copy area on each side, provided that both sides of the sign are parallel to one another and that the applicable zoning district regulations are not conflicting.
- (d) The minimum clearance of a sign shall be based upon the lowest point of any sign and the established grade of the site.
- (e) The utilization of natural berming, in order to increase the height of a pedestal sign, is permitted so long as such berming does not exceed two (2) feet in height above the grade of the site upon which the sign is to be located and the overall height of the sign, measured from the top of the berm does not exceed the maximum height permitted for a pedestal sign in the applicable zoning district regulations.

- (f) For the purpose of computing the number and area of signs, the frontages of lots shall be established by orientation of the main entrances of the buildings. If this method is not determinative, the Planning, Engineering & GIS Division shall determine frontages on the basis of traffic flow and access from adjacent streets. As defined herein, "frontage" faces the abutting public right of way; thus, internal shopping center roads are not frontage.

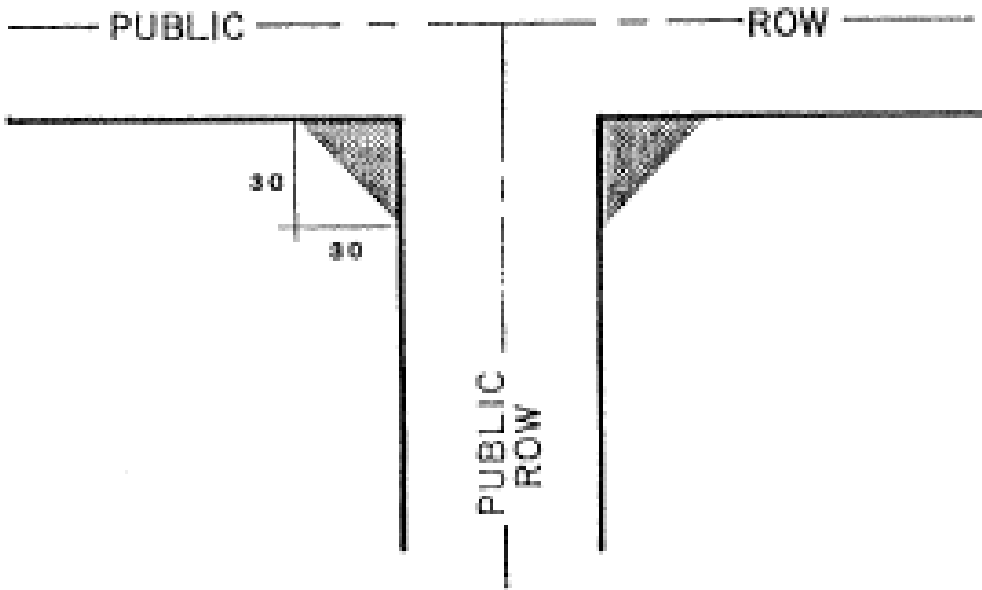
Sec. 16-948. Visibility triangle.

No sign or advertising structure shall be placed, constructed or maintained upon property in any visibility triangle area as described below:

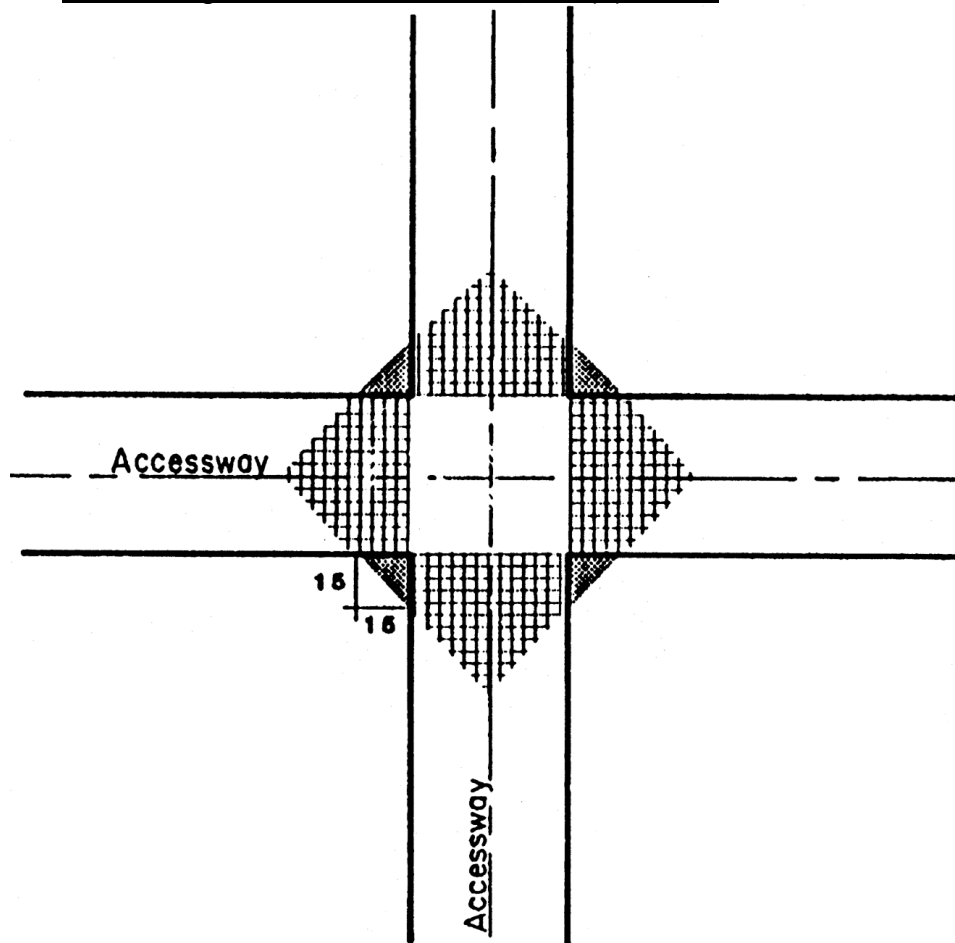
- (a) The area of property located at a corner formed by the intersection of two (2) public rights-of-way with two (2) sides of the triangular area, being a minimum of thirty (30) feet in length along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two (2) sides.



- (b) The area of property formed by the intersection of an accessway and a public right-of-way with one (1) side of the triangular area being thirty (30) feet in length along the public road right-of-way line measured from the edge of the accessway pavement and one (1) side of the triangle being fifteen (15) feet in length along the accessway pavement measured from the public road right-of-way line, and the third side being a line connecting the ends of the other two (2) sides.



- (c) The area of property formed by the intersection of two (2) accessways with two (2) sides of the triangular area being a minimum of fifteen (15) feet in length along the accessway pavement, measured from their point of intersection, and the third side being line connecting the ends of the other two (2) sides.



(d) Traffic-control signs are exempt from the provisions of the visibility triangle.

Sec. 16-949. Hazard.

A sign shall not directly or indirectly create a traffic or fire hazard, interfere with the free and unobstructed use of streets, sidewalks or building entrances or obstruct clear vision at the intersection of any streets, drives, or public or private vehicular access ways or so that it may be confused with authorized traffic signs or devices.

Sec. 16-950. Setback.

All signs shall be set back a minimum of ten (10) feet from the property line, unless otherwise specified in this section, and shall provide a minimum clearance of two (2) feet from rights-of-way, curbs, and sidewalks, or a larger clearance if deemed necessary by the Planning, GIS and Engineering Division.

Sec. 16-951. Separation.

All signs not mounted to a building shall be separated from another sign on the same parcel by 200 feet.

Sec. 16-952. Lighting.

Lighting of permanent signs shall be white, non-glaring, directed away from adjoining properties, and shall be designed to avoid affecting the vision of drivers on adjacent roadways.

Sec. 16-953. Screening.

All mechanical and electrical elements of a sign shall be fully screened or concealed.

Sec. 16-954. Landscaping: All sign structures shall be landscaped to ensure that the base or foundation of the sign at the ground adjacent to the sign is properly screened. Landscaping shall be installed and maintained in a manner not to interfere with visibility of a sign and shall be installed prior to approval of a sign permit.

Sec. 16-955. Sign Height.

Sign height shall be measured from the average grade of surrounding property. Grades raised solely to increase sign height shall not be used to determine allowable height. Grade elevations raised as part of landscaping, berms, and approved entry features may be utilized to determine height.

Sec. 16-956. Mounting.

(a) Wall signs shall not be mounted to extend more than 24 inches from the face of the building, including wireways and other mounting structures...

(b) Wall signs shall not be mounted to, or extend above or below, the edge of any wall or above the parapet.

(c) Monument and ground signs shall be on a foundation or footing.

Secs. 16-957 – 16-958. Reserved.

DIVISION 3. MASTER SIGN PLANS.

Sec. 16-959. Master Sign Plan Required.

(a) All commercial centers and plazas, multi-tenant buildings, and planned commercial or residential developments located within the city are required to submit and obtain approval for a Master Sign Plan. The approval of a Master Sign Plan by the city shall be required prior to the issuance of a sign building permit to install, alter, construct, construct, post, paint, maintain, or relocate any sign.

(b) Sign Plan Compliance – Existing Developments. Whenever a sign owner desires to replace, alter, relocate a sign on a property, and/or perform sign repair and maintenance that is not in compliance with regulations governing same as specified in this Section herein, a Master Sign Plan in accordance with the provisions of this Section shall be prepared and submitted. Upon approval of the Master Sign Plan under this compliance provision, signs approved on the Master Sign Plan shall be brought into compliance in accordance to the amortization schedule specified herein.

(c) Multi-tenant Sign Plan Compliance. When a Master Sign Plan is required for a multi-tenant development, and an individual sign owner(s) seeks a sign permit for any type of permanent sign, the property owner shall file a Master Sign Plan with the city in accordance to the provisions set forth in this Section within sixty (60) days of the sign permit being filed. Failure to file such a Master Sign Plan within the prescribed time frame shall be a violation of this section by the property owner. Sign permits may be withheld until a Master Sign Plan is submitted and approved.

Sec. 16-960. Master Sign Plan Approval Process.

(a) A written application for a Master Sign Plan shall be submitted on forms provided by the development and neighborhood services department. The application shall be signed by the property owner and the applicant, shall include agent authorization for the applicant to represent the owner and shall include the application fee as established by the city council. It shall be the applicant's burden of proof to satisfy all applicable requirements for the proposed request.

(b) The development and neighborhood services department shall review the application. Once complete, the application shall be scheduled for the next available development review committee (DRC) meeting. The DRC shall provide consider each application and provide comments, if applicable. Once all comments have been adequately addressed by

the petition, a memorandum shall be prepared explaining the request and containing any conditions of approval. It shall be signed by the development and neighborhood services director or his/her designee to indicate official approval and the memorandum and supporting documents placed into the property's file.

(c) Sign Plan Required Elements. The Master Sign Plan shall include all signs to be installed within the property, including any out parcels to be and/or developed sharing common driveways and parking, and shall indicate, but not limited to, the following:

- (1) Location/placement of all monument, freestanding directional/information, and wall signs, window signs, including but not limited, to setback dimensions from property lines, spacing, etc.
- (2) Size of each sign, indicating, but not limited to sign area, height, dimensions, area of changeable copy.
- (3) Sign copy for each sign, including but not limited to logos, trademarks etc.
- (4) Type of sign, including, but not limited to the type of lettering i.e. channel letters or cabinet style, color, materials, changeable copy area, etc.
- (5) Type and manner of illumination, if any.
- (6) Landscape plan indicating plant material and ground cover.

Sec. 16-961. Master Sign Plan Criteria.

In reviewing the Master Sign Plan, the Zoning Administrator shall determine if the following criteria have been met:

- (a) The signage for the project is in keeping with the overall architecture and character of the building development.
- (b) The signage for the project is designed to meet the directional needs of the project for communication, identification, way finding, regulatory and informational messages in keeping with the overall architectural theme of the development or project;
- (c) The signage proposed is legible, conspicuous, and easily readable;
- (d) The visibility and impact of the type of sign, number of signs, design, size, method of, construction, illumination and location of the proposed signs are in compliance with the minimum standards of this Section, and does not adversely impact adjoining properties, or create a hazard of health risk; and
- (e) The proposed signage is consistent and not in conflict with the intent and interests of the City of Greenacres, as stated in the policy adopting this code.

Sec. 16-962. Administrative variances from Master Sign Plan requirements.

- (a) In approving a Master Sign Plan, the Zoning Administrator may authorize limited administrative variances from applicable Code of Ordinance provisions as follows:

- (1) An increase in the maximum sign height up to 20% of the permitted height for the zoning district the property is located;
- (2) An increase of up to 25% in the number of signs allowed;
- (3) Reasonable modification of the location of signs to accommodate unusual lot conditions;
- (4) Inclusion of multiple multi-tenant signs; wall signs; pylon signs; and monument signs; and
- (5) An increase in the maximum sign area no greater than 20% of the permitted sign copy area for the zoning district the property is located.

(b) Any request for an administrative variance shall be considered based upon whether the following criteria are met:

- (1) The variance is necessary because of practical difficulty peculiar to the land, structure or building involved and which is not applicable to other lands, structures and buildings in the same zoning district; or
- (2) The variance is necessary and appropriate due to unique architectural features of the proposed signage; and
- (3) The variance is the minimum variance necessary to alleviate the practical difficulty; and
- (4) The variance will be in harmony with the general intent and purpose of this Chapter and will not be injurious to the area involved or otherwise detrimental to the public welfare.

Sec. 16-963. Conditional Approval.

In issuing a Master Sign Plan, the Zoning Administrator may impose reasonable conditions on the Master Sign Plan relating to the design, materials, locations, placements, or orientations, and sign specifications; provided that such conditions are related to time, place and manner matters and does not attempt to regulate sign content. Reasonable conditions are conditions imposed on the Master Sign Plan that promote the purpose of this section and the approval criteria set out in Section 16.961(d).

Sec. 16-964. Amendment.

- (a) An approved Master Sign Plan may be amended upon application by the property owner and approval by the Zoning Administrator. An amendment application may seek to alter the design, materials, locations, placements, orientations, and specifications of a sign or signs designated within an approved master sign plan; provided the amendment does not attempt to increase the area or height of any freestanding or wall sign subject to the original master sign program by more than ten percent (10%).
- (b) To request an amendment the property owner shall submit a completed Master Sign Plan Amendment application, on such form as provided by the development and neighborhood services department, indicating what changes are desired, and shall include all supporting documents necessary to evaluate the request, similar to that which is required for a new approval.

(c) The development and neighborhood services department shall review the proposed changes in comparison to the original approval, original conditions of approval and the Master Sign Plan approval criteria set forth in Section 16.961 (d).

Secs. 16-965 – 16-966. Reserved.

DIVISION 4 – TEMPORARY SIGNS

Sec. 16-967. General Standards

- (a) Temporary signs shall be constructed of durable, weatherproof material.
- (b) A temporary sign shall not directly or indirectly create a traffic or fire hazard, interfere with the free and unobstructed use of streets, sidewalks, or building entrances, or obstruct clear vision at the intersection of any streets, drives, or public or private vehicular access ways or so that it may be confused with authorized traffic signs or devices.
- (c) All temporary signs shall be kept in good condition, present a neat appearance, and be maintained free of debris, stains, mold, discoloration, or deterioration.
- (d) All temporary signs shall be set back a minimum of ten (10) feet from the right-of-way line and side property lines, and must comply with section 9-67 (Visibility triangle).
- (e) *Removal – Generally.* Unless otherwise provided herein, all temporary signs posted in connection with an event, including an election, must be removed within three (3) business days after the event has concluded.
- (f) *Removal - Hurricane Watch.* Any temporary sign installed within the city shall be removed by the owner when a hurricane watch is posted. In the event that the owner does not remove the sign, the city is permitted to remove the sign and cite the owner as listed on the temporary use permit application. The city shall not be responsible for the replacement of such signage after a hurricane watch is discontinued.
- (g) *Violations.* The city shall have the right to remove any temporary signage in violation of this section. Any failure to comply with these regulations will result in the administrative suspension or revocation of the sign permit and/or enforcement proceedings pursuant to F.S. ch. 162 or civil citation. Notwithstanding the foregoing, the city may also pursue any remedy available under the law.

Section 16-968. Temporary signs –permit not required.

Except for those signs requiring temporary use permits as provided in Section 16-969, temporary signs do not require permits but are subject to the following limitations as to size, location and duration:

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(a) Temporary Non-commercial Signs Before an Election. For the period beginning sixty (60) days prior to a local, state or federal election, additional temporary signs will be allowed as follows:

- (1) On residential property: a maximum of one (1) sign per position or issue.
- (2) On non-residential property, a maximum of one (1) sign per position or issue for each 200 linear feet of frontage.
- (3) All signs posted under this subsection shall be removed within three (3) business days following the election.

(b) Temporary Signs When Property Is Being Offered For Sale or Lease. One (1) temporary sign, totaling no more than three (3) square feet, may be located on a property:

- (1) When that property is being offered for sale or lease through a licensed real estate agent; or
- (2) If not offered for sale or lease through a licensed real estate agent, when the sign is owned by the property owner and that property is offered for sale or lease by the owner.
- (3) All signs posted under this subsection shall be removed within three (3) business days after the property ceases to be offered for lease or sale.

(c) Additional Temporary Sign When a Property Being Offered for Sale or Lease Is Open to the Public: One (1) temporary sign, totaling no more than three (3) square feet, may be located on the owner's property on the day prior to and on the day(s) when a property owner is opening the property to the public.

(d) Maximum Sign Area per Temporary Sign: Unless otherwise specified in this chapter, any temporary sign must not be larger than three (3) square feet in residential districts and four (4) square feet in all other districts.

Sec. 16-969. Temporary signs – temporary use permit required.

The following temporary signs require a city temporary use permit as set forth in Article IV, Division 6.

(a) Banner Sign, Commercial:

- (1) Upon application of the building owner, at any one time, a maximum of one (1) banner may be permitted for each commercial building and shall be mounted on a pole installed in the ground at least five (5) feet from the property line.. In no event shall the banner obstruct pedestrian walkways or be located within landscaping or vehicular circulation areas.
- (2) Signs shall not exceed 10 feet in height, 18 inches in width, and a maximum sign area of 15 square feet.
- (3) Sign placement is limited to a maximum of fourteen (14) consecutive calendar days, three (3) times per year per subject property.

(b) Building Banner Sign, Commercial.

- (1) A maximum of one (1) banner per commercial building with a maximum sign area of 32 square feet. Signs shall be securely fastened to the building facade and shall not extend above the roofline or parapet.
- (2) Banner placement is limited in duration to no more than twenty (20) days, which shall run consecutively and include the date of the event or activity to which they relate, or the first twenty (20) days after an opening of a new business, commencing on the date of business tax receipt issuance.
- (c) *Human signs (living signs).* Upon the issuance of a permit, a human sign may be allowed on the premises of the property that is being advertised, set back at least eight (8) feet interior of the property line, along the right-of-way immediately adjacent to the property. A business is permitted a living or human sign for a maximum of three (3) times per calendar year for no more than seven (7) consecutive days for each instance. The sign area shall not exceed three (3) square feet in size, and the living or human sign shall not be permitted off site, within the right-of-way, or closer than eight (8) feet from the right-of-way immediately adjacent to the property being advertised. Any failure to comply with these regulations will result in the administrative suspension or revocation of the sign permit and/or enforcement proceedings pursuant to F.S. ch. 162. Notwithstanding the foregoing, the city may also pursue any remedy available under the law.
- (d) *Construction signs.* A maximum of one (1) construction sign per development street frontage may be constructed as a free-standing sign with a maximum height of eight (8) feet and set back at least ten (10) feet from all property lines.
 - (1) All construction signs shall be removed within seven (7) days from the issuance of a certificate of occupancy (CO) or certificate of completion (CC).
 - (2) In residential districts, the maximum sign area for construction signs shall be sixteen (16) square feet. In all other districts, the maximum sign area shall thirty-two (32) square feet.

Secs. 16-970 – 16-980. Reserved.

DIVISION 5. SIGN REGULATION BY ZONING DISTRICT.

Sec. 16-981. Generally.

Signs requiring sign permits are subject to the following regulations governing the number of signs, maximum sign area, placement, and other standards according to zoning district and/or use.

Sec. 16-982. Bulletin board signs.

Educational, governmental, religious, or institutional uses in all zoning districts may construct a maximum of one (1) freestanding sign per subject property, with a maximum of twelve (12) square feet of sign area, to serve as a bulletin board. Bulletin board signs shall not exceed six (6) feet in height.

Sec. 16-983. Identification signs.

(a) Residential districts.

- (1) In residential districts, non-residential uses are allowed one (1) identification wall sign.
- (2) For planned residential developments and subdivisions, one free-standing sign per major access is allowed. Two (2) signs with one (1) copy side each may be permitted in place of a single sign with two (2) copy areas.

(b) Non-residential districts. Except as provided in subsections (1), (2) and (3) below, in commercial and other non-residential districts, one (1) free standing sign and one (1) wall sign shall be allowed per frontage, provided that the signs are not located within two hundred (200) feet of each other on the same lot as measured along the frontage line.

- (1) For single-use stores with over forty thousand (40,000) sq. ft. of floor area, three (3) wall signs with copy area not to exceed the maximum copy area allowed.
- (2) Multi-tenant commercial properties are allowed one (1) freestanding sign per frontage and one (1) wall sign per tenant space.
- (3) Outparcels and outbuildings within a unified development are allowed one (1) free-standing monument sign with a maximum height of eight (8) feet and with a maximum copy area of forty (40) sq. ft. per sign face.
- (4) Time and temperature signs not exceeding two (2) feet in height, located in the bottom portion of the sign, may be included as an integral part of the identification sign copy area in CG districts for banks and financial institutions with drive-thrus.
- (5) Electronic changeable copy gas station price signs not exceeding twelve (12) square feet may be included as an integral part of the freestanding sign copy area for gas stations located in the CG and CI districts provided they are LED style and the sign copy is only for fuel prices.
- (6) Electronic changeable copy signs for Government users are limited to messages that serve a public purpose and are not permitted to promote commercial messages of any kind. No advertising for off-site businesses is permitted in any form.

(c) General provisions – wall signs.

- (1) There shall be a minimum separation of three (3) feet between wall signs.
- (2) Side wall building signage shall not exceed fifty (50) percent of max. sq. ft. of allowable building sign copy area, or twenty-five (25) percent of max. sq. ft. of allowable building signs copy area when adjacent to residential parcels.
- (3) All wall signs shall be no closer than twelve (12) inches from the side lines of the premises storefront and six (6) inches to the top and bottom of the premises sign area.
- (4) The height of any wall sign cannot exceed the top elevation of the structure.
- (5) Building signs shall be consistent in color with those of the freestanding sign.
- (6) Unless otherwise approved as part of the Master Sign Plan, site and development plan approval, or as necessary to maintain consistency with the majority of the existing signs in the plaza, wall signs shall be internally illuminated with individual channel letters or reverse channel letters. The trim cap and returns of the building wall sign

shall be the same color as the letters and the illumination shall be with clear neon or LED tubing. No raceways or box signs will be permitted. A maximum of fifty (50) percent of the area of each wall sign may incorporate a logo of any color, the logos shall not exceed the total height of the sign on the building and shall meet the requirements of distance from the premise area.

(d) General provisions – freestanding signs.

- (1) Free-standing identification signs shall be designed as monument signs, and oriented perpendicularly to the frontage on which they are situated. The maximum height for free-standing signs shall be eight (8) feet except as otherwise provided in this Chapter.
- (2) Free-standing signs must be located within the general area of the major vehicular access points, and must include the name of the development prominently displayed. Free-standing identification signs for commercial developments must also include the full range of street addresses located onsite (this will not be included as part of the copy area).
- (3) Freestanding signs shall be consistent in color with those on the building. All freestanding signs shall be designed with an opaque background, so that light or a light source cannot penetrate through the sign with the exception of through the letters and logo associated with said sign. The architectural design shall be consistent with the design of the building, sharing materials, colors, and design motifs.
- (4) Free-standing monument signs may include a leasing sign not exceeding twelve (12) square feet incorporated into the base of the monument sign. Letter size shall be no less than five (5) inches using no more than two (2) colors and consistent with the design of the rest of the sign.

(e) All signage located within any development shall maintain architectural consistency with itself, as well as with all structures, located onsite. The development may get a master sign program approval which incorporates multiple colors, fonts, and logos provided it is included in part of a theme that provides architectural consistency for the project as a whole and is formally approved by the city.

Sec. 16-984. Memorial signs.

In the AR, RE, RL, RM, RH, and GU districts, each parcel may have one (1) memorial sign with a maximum of five (5) square feet of sign area and not exceeding six (6) feet in height may be constructed. These signs shall be set back no less than twenty (20) feet from any property line.

Sec. 16-985. Home Occupation Signs.

In any residential district, one (1) home occupation identification sign not exceeding two (2) square feet may be placed on the wall next to the primary entrance of any single family or two-family dwelling unit in which a home occupation is lawfully conducted.

Secs. 16-986 – 16-988. Reserved.

Sec. 16-989. Traffic-control signs.

Freestanding signs for traffic control purposes may be placed in all zoning districts subject to the following:

- (a) Traffic-control directional signs designating parking area entrances and exits are limited to two (2) signs not exceeding three (3) feet in height for each entrance and exit abutting a street, and each sign shall not exceed three (3) square feet of copy area and include the words "enter," "exit," "one-way," or a directional arrow.
- (b) Traffic-control signs shall be reviewed for location placement by the Development and Neighborhood Services Department, and shall be in general conformance with the Manual on Uniform Traffic-control Devices for Streets and Highways.

Sec. 16-990. Directory signs.

One (1) directory sign per major vehicular access may be constructed as either a wall sign or a free-standing sign with a maximum height of six (6) feet. Directory signs shall be set back at least twenty (20) feet from the front and ten (10) feet from the side-corner property line. The maximum sign area for directory signs in mixed use districts shall be twelve (12) square feet. In all other districts the maximum sign area shall be sixteen (16) square feet, except for planned commercial developments which may have directory signs with a sign area of up to a maximum of thirty-two (32) square feet.

Secs. 16-991 – 16-992. Reserved.

Secs. 16-993. Under canopy signs.

Under canopy signs are allowed only in CN, CG and CI districts as a part of the Master Sign Plan. One (1) sign with a maximum copy area of six (6) square feet is allowed per tenant. All signs must have a minimum vertical clearance of nine (9) feet.

Secs. 16-994. Menu board signs.

In the CG and CI districts, one (1) menu board sign per fast-food restaurant drive-thru lane with a maximum of thirty-eight (38) square feet of copy area, no more than six (6) feet in height, may be constructed, subject to the following conditions:

- (a) Menu boards shall only be internally back-lit.
- (b) Menu boards shall not contain more than one (1) square foot of copy area of corporate or company identification.
- (c) No additional add-ons to the menu board shall be permitted.
- (d) Menu boards shall not be visible from any public right-of-way.

(e) An additional six (6) square feet of copy area may be permitted for use as an LCD screen.

Secs 16-995 – 16-1000. Reserved.

SECTION 4. Repeal of Conflicting Ordinances. All other ordinances or parts thereof or parts of the Code of Ordinances conflicting or inconsistent with this Ordinance are hereby cancelled, repealed or revised to be consistent with provisions and elements of this Ordinance.

SECTION 5. Severability. As more fully set forth in Section 16-932 of this ordinance, 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 6. Codification.

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. Other minor, non-substantive editorial changes may be made to make this Ordinance consistent with the existing ordinances in the City's Code of Ordinances.

SECTION 7. Effective Date.

The provisions of this Ordinance shall become effective upon adoption.

Passed on the first reading this 14th day of September, 2022.

PASSED AND ADOPTED on the second reading this _____ day of _____, 202Y.

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

ZTA-22-09 (Ordinance 2022-25)
Date: August 26, 2022

Revised: 08/11/2022



DEVELOPMENT REVIEW COMMITTEE STAFF REPORT AND RECOMMENDATION

ZTA-22-09: Sign Regulations

Recommendation to City Council: A City-initiated request for a text amendment to complete a comprehensive update to the Sign Regulations in order to regulate the location, number, size, use, appearance, construction and maintenance of all signs permitted in each zoning district .

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

| | |
|--|---|
| Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator | Reviewed By: Acting Director of Development and Neighborhood Services _____ Andrea McCue, City Manager |
| Approved By: City Manager _____ Andrea McCue | Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____ |
| Attachments: <ul style="list-style-type: none"> • Ordinance 2022-25 | City Council Action: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____ |

I. Executive Summary

In its 2015 decision in *Reed v. Town of Gilbert*, the United States Supreme Court held that local government sign ordinances regulating signs based on message or content will be held unconstitutional under the First Amendment unless the regulations can survive review under the rigorous “strict scrutiny” standard. Simply stated, if you have to differentiate the type of sign being regulated by reading the sign’s content or knowing who authored it, then the regulation is probably unconstitutional. In light of the *Reed* decision, local governments reviewed their sign regulations to ensure that they do not have the effect of regulating or censoring speech, but are designed to promote the public health, safety and general welfare through reasonable, consistent and nondiscriminatory regulations. Sign regulations need to be content-neutral “time, place and manner” regulations based upon characteristics such as the number, location, size, height, duration, type of structure, use of materials, lighting, moving parts, and other physical and aesthetic characteristics of the signage.

II. Proposed Zoning Text Amendments:

The following Zoning Code regulations are impacted by the proposed Zoning Text Amendments. Items which are proposed for deletion are in **~~Strike-Through~~**, items proposed for addition are in **Single Underline**.

Proposed Change

Chapter 16, Article VI to be deleted in its entirety and replaced by the following:

CHAPTER 16. ZONING REGULATIONS.

ARTICLE VI. SIGN REGULATIONS

DIVISION 1. GENERALLY

Sec. 16-931. Scope, Intent, Purpose.

(a) Scope. The provisions of this article shall regulate the location, number, size, use, appearance, construction and maintenance of all signs permitted in each zoning district. This chapter is not intended to and does not apply to signs constructed, maintained, or otherwise posted, owned, or leased by the City of Greenacres, Palm Beach County, the State of Florida, or the federal government, and does not regulate official traffic control devices.

(b) Intent. Increased numbers and size of signs, as well as certain types of lighting, distract the attention of motorists and interfere with traffic safety. In addition, the indiscriminate construction and maintenance of signs detract from the appearance of the city. It is therefore the intent of these regulations to promote and protect the public health, safety, general welfare, convenience and enjoyment of the citizens of the city. More specifically, the sign regulations are intended to:

- (1) Classify and categorize signs by type and zoning district;
- (2) Permit, regulate and encourage the use of signs with a scale, graphic character, and type of lighting compatible with buildings and uses in the area, so as to support and complement the goals, objectives and policies set forth in the city's comprehensive plan;
- (3) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- (4) Encourage and allow signs that are appropriate to the zoning district in which they are located consistent with and serving the needs of the land uses, activities and functions to which they pertain;
- (5) Establish regulations affecting the design, construction, and maintenance of signs for the purpose of ensuring equitable means of graphic communication, while maintaining a harmonious and aesthetically pleasing visual environment within the city. It is recognized that signs form an integral part of architectural building and site design and require equal attention in their design, placement and construction;
- (6) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the city and that complements the natural surroundings in recognition of this city's reliance on its natural surroundings and beautification efforts as a source of economic advantage as an attractive place to live and work;
- (7) Preclude signs from conflicting with the principal permitted use of the lot and adjoining lots;
- (8) Establish dimensional limits and placement criteria for signs that are legible and proportional to the size of the lot and structure on which the sign is to be placed, or to which it pertains;
- (9) Maintain and enhance the scenic beauty of the aesthetic environment and the city's ability to attract sources of economic development and growth;
- (10) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts in the city;
- (11) Encourage the effective use of signs as a means of communication in the city;
- (12) Ensure pedestrian safety and traffic safety;
- (13) Regulate signs so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;

- (14) Regulate signs so that they are effective in performing the function of identifying and safely directing pedestrian and vehicular traffic to a destination;
- (15) Curtail the size and number of signs to the minimum reasonably necessary to identify a residential or business location, and the nature of such use, and to allow smooth navigation to these locations;
- (16) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive area of signs which compete for the attention of pedestrian and vehicular traffic and are not necessary to aid in wayfinding;
- (17) Allow for traffic control devices without city regulation consistent with national standards because they promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and by notifying road users of regulations and providing nationally consistent warnings and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream and modes of travel, while regulating private signs to ensure that their size, location and other attributes do not impair the effectiveness of such traffic control devices;
- (18) Minimize the possible adverse effect of signs on nearby public and private property;
- (19) Protect property values by precluding, to the maximum extent possible, signs that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- (20) Protect property values by ensuring that the size, number, and appearance of signs are in harmony with buildings, neighborhoods, structures, and conforming signs in the area;
- (21) Except to the extent expressly preempted by Palm Beach County, state, or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- (22) Foster the integration of signage with architectural and landscape designs;
- (23) Not regulate signs more than necessary to accomplish the compelling and important governmental objectives described herein;
- (24) Enable the fair and consistent enforcement of these sign regulations; and
- (25) Be considered the maximum standards allowed for signage.

(c) Purpose: The regulations in this chapter are not intended to regulate or censor speech based on its content or viewpoint, but rather to regulate the secondary effects of speech that may adversely affect the City of Greenacres' substantial and compelling governmental interests in preserving scenic beauty and community aesthetics, and in vehicular and pedestrian safety in conformance with the First Amendment. It is therefore the purpose of this Article to promote aesthetics and the public health, safety, and general welfare, and assure the adequate provision of light and air within the City of Greenacres through reasonable, consistent, and nondiscriminatory standards for the posting, displaying, construction, use, and maintenance of signs and sign structures that are no more restrictive than necessary to achieve these governmental interests.

(d) Findings. In addition and supplemental to the findings and determinations contained in the "Whereas" provisions, which are incorporated by reference into this section, the City Council acting in its legislative capacity for the purpose of regulating signage, hereby makes the following findings of fact:

The reasonable regulation of the location, number, size, use, appearance, construction and maintenance of signs within the city serves a compelling governmental interest, for the following reasons:

- (1) *Florida Constitution.* Article II, Section 7 of the Florida Constitution provides that “[i]t shall be the policy of the state to conserve and protect its natural resources and scenic beauty. . . .” A beautiful environment preserves and enhances the desirability of Greenacres as a place to live and to do business. Implementing the Florida Constitution is a compelling governmental interest.
- (2) *Florida Statutes.* Florida law requires cities to adopt comprehensive plans and implement them through land development regulations (also known as zoning regulations) and approval of development orders that are consistent with the comprehensive plan. See Part II of Chapter 163, Florida Statutes. Florida law specifically requires that municipalities adopt sign regulations. See Section 163.3202(2)(f), Florida Statutes. Complying with state law is a compelling governmental interest.
- (23) *Greenacres Code of Ordinances.* Chapter 16 of the Greenacres Code of Ordinances provides in section 16-2 that the chapter’s purpose is to “promote, protect and improve in accordance with present and future needs, the public health, safety, comfort, good order, appearance, convenience, morals and general welfare of the citizens of the city; to conserve the value of land, buildings, and resources; to protect the character and maintain the stability of residential, agricultural, business and industrial areas; and to provide for efficiency and economy in the process of development, for the appropriate and best use of the land, for preservation, protection, development, and conservation of the natural resources of land, water, and air, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion of the civic amenities of beauty and visual interest, and for promotion of developments as a means of achieving unified civic design by establishing zoning districts and by regulating the location and use of buildings, signs, and other structures, and land or water for trade, agriculture, industry, and residence, by regulating and limiting or determining the height, bulk, and access to light and air of buildings and structures, the area of yards, and other open spaces, and the density of use.”

The City Council specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no less restrictive way for the city to further these interests.

Sec. 16-932. Severability; Substitution

- (a) *Severability:* If any provision of this chapter is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of the other provisions of this chapter that can be given effect without the invalid provision.

- (1) Generally: If any part, section, subsection, paragraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, graph, subparagraph, sentence, phrase, clause, term, or word of this chapter. Should any section, paragraph, sentence, clause, phrase, or other part of this chapter or the adopting ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this chapter or the adopting ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.
 - (2) Severability where less speech results: Without diminishing or limiting in any way the declaration of severability set forth in subsection (a)(1) above, or elsewhere in this chapter or the adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or the adopting ordinance, even if such severability would result in a situation in which there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.
 - (3) Severability of provisions pertaining to prohibited signs: Without diminishing or limiting in any way the declaration of severability set forth in subsection(a)(1), or elsewhere in this chapter or the adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or the adopting ordinance or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or the adopting ordinance that pertains to prohibited signs.
 - (4) Severability of prohibition on off-premise signs: If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other code provisions or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition of off-premise signs as contained herein.
- (b) Substitution: Notwithstanding any provisions of this chapter to the contrary, to the extent that this chapter permits a sign containing commercial content, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this chapter.

Sec. 16-933. Definitions.

- (1) Abandoned sign: A building, freestanding, or off premises sign that: (a) for a period of thirty (30) or more consecutive days, (1) no longer correctly advertises, identifies, displays, directs, or attracts attention to an object, institution, organization, business, product, service, or event on the premises upon which the sign is located; (2) identifies a time, event or purpose that has passed or no longer applies; (3) contains missing letters or other components of the sign, rendering the sign indecipherable or (b) for a period of six (6) consecutive months, includes a sign structure that bears no sign or a sign face that bears no copy.
- (2) Address sign: A sign indicating only the common street address. For the purposes of this definition, a nameplate shall be construed to be an address sign.
- (3) "A" frame sign: A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure thereof.
- (4) Animated sign: A building, freestanding, or off-premises sign which may flash, revolve, rotate, swing, undulate, or otherwise attract attention through the movement or flashing of any part of the sign or advertising structure.
- (5) Awning sign: A sign painted upon a cloth, plastic or metal surface supported by a metal frame fastened to the wall of a building.
- (6) Banner flag: A tall, narrow banner, attached to a vertical pole, with a straight body shape that is curved at then ends to resemble the tips of feathers, commonly used to draw attention to an event or business location (also known as a feather flag).
- (7) Banner sign: Any sign (that cannot be considered a flag), intended to be suspended for display, either with or without frames, having characters, letters, illustrations, or ornamentations applied to cloth, paper, plastic, balloons, or fabric of any kind with such material acting as a backing.
- (8) Billboard sign: A large off-premises permanent sign structure that may be freestanding or affixed to a building.
- (9) Bulletin board sign: A building or free-standing sign constructed by or for a charitable, educational, governmental, or religious institution, or a public body, which is constructed on the same property as said institution.
- (10) Canopy: A roof-like structure generally self-supporting that may be freestanding or attached to a principal structure, providing shade and weather protection, typically utilized in locations such as over drive-thru lanes, walkways, entrances, and gasoline pumps.
- (11) Changeable copy sign: A sign on which the copy is changed manually, through the utilization of attachable letters, numbers, symbols and other similar characters.

- (12) Copy: Written or graphic material that is placed, displayed, or depicted or otherwise indicated on a sign.
- (13) Clearance (of a sign): The smallest vertical distance between the established grade of the site upon which the sign is to be located and the lowest point of the sign, including framework and any ornamentation attached thereon, extending over that grade.
- (14) Construction sign: A freestanding sign erected on the premises on which development is taking place during the period of such development, commonly used to indicate the names of architects, engineers, landscape architects, contractors, owners, or others having a role or interest in the structure project.
- (15) Copycat signs: Signs that resemble any official sign or markers and that because of design, location, position, shape, or color may be reasonably confused with or construed as traffic-control devices or regulatory signs.
- (16) Copy area: The entire face of a sign including the advertising surface of any framing, trim or molding but not including the supporting structure.
- (17) Directory sign: A building or freestanding sign which may indicate the name, address, or direction to, the occupants or businesses which are located on the premises, that is intended to be viewed only from within the development where it is located.
- (18) Electronic changeable copy sign: A sign that utilizes an electronic display including but not limited to liquid crystal display or light emitting diodes (LCD or LED), plasma display, or projected images, on which the copy is changed electronically. The following definitions pertain to electronic signs:
- (i) "Dwell time" means the minimum amount of time that a message must be static on an electronic sign. The dwell times shall not include any transition time.
 - (ii) "Static" means a display that is fixed, and unchanging with no portion of the display being in motion, flashing or changing in color or light intensity.
 - (iii) "Transition" means a visual effect used on an electronic sign to change from one message to another.
- (19) Emitting signs: Signs that emit audible sound, odor, or visible matter such as smoke or steam.
- (20) Entry feature signs: An architectural feature or element with signage that is typically located at the entrance to a development project but is not attached to a perimeter wall.
- (21) Entry Wall Sign: A sign attached to a wall near the entrance of a site as part of a continuous perimeter wall or fence.
- (22) Façade: The entire face of a building (front, side, and rear) including the parapet.

- (23) *Façade projection*: A structural projection from a facade, such as a gallery, arcade or marquee, which serves as a design element or overhead shelter from sun and rain that is also designed to accommodate signage. Protruding balconies are specifically excluded from this definition. Facade projections are finished with aluminum, stucco, stone, glass, or other construction material that exceeds industry standard quality.
- (24) *Flag*: Any fabric, plastic, canvas, material or bunting containing distinctive color(s), pattern(s), symbol(s), emblem(s) or insignia(s) that represents a non-commercial idea or institution, or entity, such as a government or civic club.
- (25) *Freestanding sign*: A sign supported by a sign structure secured in the ground and which is wholly independent of any building, fence, or object other than the sign structure for support.
- (26) *Frontage*: The property line or building façade parallel with and facing the public road right-of-way abutting the subject property.
- (27) *Frontage wall face*: The building façade, excluding parapet, fascia, soffit, mansard and roof, which faces a frontage of the premises.
- (28) *Grade*: A reference plane representing the highest point of the crown of any public or private street or roadway which lies contiguous to the property or building site. In the event that the abutting streets or roadways are unimproved, grade shall be measured from the nearest paved roadway.
- (29) *Gas station price sign*: A sign utilized to indicate the price of fuel available for sale on the premises. A gas station price sign may be a free-standing sign or a portion thereof, or may be affixed to the gas tank structure.
- (30) *Home occupation sign*: A building sign, erected flat against the dwelling in which the home occupation is operated, indicating the name of the individual or business operated within the dwelling.
- (31) *Human sign (or living sign)*: A sign or a form of commercial message held by or attached to a human or character (animated or otherwise) for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service or product. This can also include a person or a live or animated character dressed in costume or wearing a commercial message for the purpose of advertising or drawing attention to an individual business commodity service or product.
- (32) *Identification sign*: A wall sign or freestanding sign used to identify the building, development or establishment of the premises on which it is located

- (33) Illegal sign: A sign which has been constructed and is being maintained in violation of the provisions of this chapter.
- (34) Illuminated Sign: A sign that is internally or externally illuminated by artificial means.
- (35) Master sign plan: A comprehensive document that contains a set of sign criteria unique to a specific shopping center, commercial property, building or development. It includes drawings and plans that illustrate the sign program for the overall development, including, but not limited to, size, location, type, architectural design, dimensions, and other design standards including materials, color, and sign illumination.
- (36) Memorial sign: A building or free-standing sign, tablet, or plaque memorializing a person, structure, site or event.
- (37) Monument sign: A free-standing sign with a solid base located on or close to the ground typically incorporating materials that complement the architecture and landscaping of the principal structure on the site.
- (38) Multi-panel monument sign: a monument sign that contains multiple panels and areas for the display of graphics or lettering for multiple tenants.
- (39) Neon sign: A sign that contains an exposed neon tube or is treated in such a manner as to appear to be a sign containing an exposed neon tube or unshielded light.
- (40) Nonconforming sign: A sign existing at the time of the passage of this chapter or amendment thereto, which does not conform to the regulations of the zoning district in which it is located, or other applicable sections of this chapter.
- (41) Obstructing sign: a sign that obstructs the vision of pedestrians, cyclists, or motorists traveling on or entering public streets.
- (42) Off-premises sign: A sign utilized for advertising an establishment, activity, product, service or entertainment which is sold, produced, manufactured, available or furnished at a place other than on the property on which said sign is located. For purposes of this chapter noncommercial messages are never allowed as off-premises signs.
- (43) Painted wall sign: A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.
- (44) Parapet: A vertical false front or wall extension above the roof line.
- (45) Portable sign: A free-standing or off-premises sign which is not permanently affixed to the ground, building, or other structure, which may be mounted on wheels or affixed to a vehicle, and can easily be transported from place to place.

- (46) Post and panel sign: A sign made of wood, metal, similar rigid materials, or durable weatherproof fabric attached to one (1) or more ground mounted posts utilized as a panel to display copy.
- (47) Primary façade: The facade that has the principal entrance, often referred to as the principal facade or storefront.
- (48) Projecting sign: A building sign which projects outward, either perpendicular or at an angle to the wall or building on which it is mounted more than twelve (12) inches.
- (49) Real estate sign: A sign erected by the owner, or the owner's agent, on real property which is for rent, sale or lease.
- (50) Right-of-way: A strip of land, dedicated or deeded to the perpetual use of the public, occupied or intended to be occupied by a street, crosswalk, railroad, canal, road, electric transmission line, oil or gas pipeline, water supply main, sanitary sewer, storm drain, or for any other special use.
- (51) Roof sign: A sign constructed or visible over or on, and wholly or partially dependent upon, the roof, parapet or mansard of any building for support, or attached to the roof, parapet or mansard in any way.
- (52) Sign: Any device or representation for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, excluding signage wholly within the interior of a building or structure, and not visible from the exterior of such building or structure. The term is inclusive of the sign structure.
- (53) Sign area: The square foot area of a single rectangle enclosing the entire sign face (as distinguished from copy area), unless otherwise provided in this chapter for a particular sign type.
- (54) Sign face: The part of the sign that is or can be used to identify, advertise, or communicate information, or for visual representation, which attracts the attention of the public for any purpose. "Sign face" includes the extreme limits of the copy, together with any background material, panel, trim, color and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface or object upon which or against which it is placed.
- (55) Sign structure: A structure or device designed or used for the support of a sign, with or without a sign thereon, which is considered to be an integral part of a sign. This definition does not include fences, buildings, or other structures having another permitted primary function (if no sign is located thereon).
- (56) Snipe sign: A sign constructed of any material that is attached to a utility pole, tree, fence, light post, stake or similar object located or situated on public or private property.

- (57) Storefront: The façade of a store or commercial tenant space typically on the ground floor or street level.
- (58) Temporary sign: A sign that is not permanently affixed or installed, or is displayed for a limited period of time.
- (59) Time and temperature sign: A building or free-standing sign which is solely utilized to indicate the time and/or temperature with a sequence span of four (4) to eight (8) seconds.
- (60) Traffic control device: A sign, signal, marking, or other device used to regulate, warn, guide traffic, placed on, over or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared use path by authority of a public agency or official having jurisdiction placed by a public body or, in the case of a private road open to public transit, by authority of the private owner or private official having jurisdiction.
- (61) Traffic-control sign: A sign constructed or approved by a government entity used to direct and assist vehicle operators and pedestrians in the guidance and navigational tasks required to traverse safely any facility open to public travel.
- (62) Under canopy sign: A building sign which is mounted, attached or suspended perpendicular to the building, beneath an awning, canopy or marquee.
- (63) Vee-shaped sign: A building, free-standing, or off-premises sign which has two (2) faces that are not parallel to one (1) another.
- (64) Vehicular sign: Any sign or banner which is attached to or placed upon a parked motor vehicle or trailer and placed in a position or location for the sole purpose of displaying the same to the public.
- (65) Wall: An exterior vertical structure encompassing the area between the grade and the eaves of a building that encloses the building or that is an enclosure for the perimeter of a property.
- (66) Wall sign: a sign constructed parallel to, and extending not more than 24 inches from the building facade to which it is affixed. A sign that is projected onto a building facade (e.g. video projection, 3D projection mapping and other methods of casting images) is also a wall sign.
- (67) Window pane area: The glass area of a single window or door pane used for calculation of permitted sign area.
- (68) Window sign: Any sign which is painted on, applied to, attached to or projected upon or within the exterior or interior of a building glass area, including doors, or located within

fifteen (15) feet of the interior of a building glass area, including doors, or any interior illuminated signs or exposed unshielded light source.

- (69) *Yard sign:* A small temporary sign placed upon or supported by the ground independent of another structure but is not an A-frame sign.

Sec. 16-934. Applicability of other requirements.

Signs or other advertising structures shall be constructed and maintained in strict conformity with city building and electrical codes and all other applicable city regulations.

Sec. 16-935. Prohibited signs.

It shall be a violation of this chapter to construct, install, place, or maintain the following signs or advertising structures in this city, unless otherwise approved by the city:

- (1) Any signs or advertising structures which are not specifically permitted under this chapter or signs that exceed the sign allowance for the district.
- (2) *Traffic or pedestrian hazard.* Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or signs that obstruct or detract from the visibility of traffic-control devices or emergency vehicles. The use of flashing lights or revolving lights is prohibited as part of any sign as it constitutes a traffic hazard. Any sign which by glare or method of illumination constitutes a hazard to either vehicular or non-vehicular traffic is prohibited. Also prohibited is any sign which may be confused with or purports to be a governmental, traffic direction or safety sign, or any other sign or group of signs which create a traffic hazard as determined by the city.
- (3) *Obscenities.* Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient or which exhibit obscene or illegal written messages or materials.
- (4) *Right-of-way.* Any sign or advertising structure (other than those constructed by a governmental agency or required to be constructed by a governmental agency for a public purpose) constructed, installed or placed on the right-of-way of any street, road or public way, or signs overhanging or infringing upon the right-of-way of any street, road or public way, except as specifically permitted by this chapter.
- (5) *Public property.* Any sign or advertising structure constructed on city property or other governmental property other than signs constructed by any governmental entity for public purposes.

- (6) Ingress and egress to buildings. Any sign or advertising structure which is constructed, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
- (7) Rear of a building. Any sign or advertising structure which is constructed, installed or maintained upon the rear of a building, with the exception of signs to identify the business address on a rear exit door with no greater than six (6) inch non-illuminated letters with a minimum stroke width of one-half inch (½") located directly above the rear door, or as required by applicable fire safety regulations.
- (8) "A" frame signs.
- (9) Animated signs.
- (10) Banner signs. Any banner sign, with the exception of those banner signs that are granted a temporary use permit by the city.
- (11) Banner flag signs.
- (12) Off-premises signs.
- (13) Portable signs.
- (14) Projecting signs
- (15) Snipe signs.
- (16) Temporary signs, except as allowed under Division 4 of this article.
- (17) Vehicular signs.
- (18) Vee-shaped signs.
- (19) Abandoned signs.
- (20) Signs placed upon benches, bus shelters, or waste receptacles, except as may be authorized by the City of Greenacres or superseded by state statutes.
- (21) Under canopy signs, except as allowed as a part of an approved Master Sign Plan.
- (22) Exposed neon tubing, neon signs, and LED signs that emulate the general appearance of traditional neon signs.
- (23) Emitting signs.

(24) Roof signs.

(25) Any sign with an exposed unshielded light source which does not comply with the terms, conditions and provisions contained in this chapter.

(26) Painted wall signs.

(27) Hot or cold-air balloons, with the exception of those cold air balloons that are granted a temporary use permit. Inflatable shapes or figures with or without words or pictures.

(28) Electronic changeable copy signs, with the exception of the following, which may be displayed as set forth in this Article:

a. Time and temperature signs as allowed in section 16-983(b)(4);

b. Gas station price signs as allowed in section 16-983(b)(5);

c. Freestanding signs as allowed for government uses in section 16-983(b)(56);

d. Menu board signs as allowed in section 16-994.

(29) Copycat signs.

(30) Awning signs.

(31) Any sign not specifically permitted herein.

Sec. 16-936. Mandatory signs - no permit required.

(a) Address signs. All residential and nonresidential structures shall post the building address in a location viewable, readable, and unobstructed from the adjacent public or private right-of-way. The size of residential address numbers shall not be less than four (4) inches, or exceed six (6) inches in height, or as otherwise approved based on the setback from or width of the right-of-way. The size of nonresidential address numbers shall not be less than eight (8) inches or exceed twelve (12) inches in height, or as otherwise approved by the master sign plan based upon the specific height of the building to which the numbers and letters are attached, or setback from or width of the right-of-way. In cases where the building is not located within view from the public street or right-of-way, the address identifier (numerals) must be located on the mailbox or other suitable device such that it is visible from the street or right-of-way. Additionally, each tenant space shall have the address displayed directly above the entry door utilizing six (6) inch letters on contrasting background.

(b) Required Posting. Where a federal, state, or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state, or local law to exercise that authority by posting a sign on the property. If the federal, state, or local regulation describes the form and dimensions of the sign, the property owner must comply with those requirements; otherwise, when not defined, the sign shall be no larger than two (2) square feet and located in a place on the property to provide access to the notice that is required to be made.

(c) Official Notice. Official notices posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed by the property owner no more than ten (10) days after their purpose has been accomplished or as otherwise required by law.

Sec. 16-937. Window signs – Permit not required.

Window signs are allowed in non-residential districts subject to the following requirements:

- (a) Window signs may be installed in each window or glass door area, so long as each sign does not exceed twenty-five per cent (25%) of the total window pane area.
- (b) Neither flashing or strobe lights nor glass neon tubing outlining the window panel shall be allowed.

Sec. 16-938. Signs requiring sign permits.

All signs, other than mandatory signs as provided in section 16-936, window signs as defined in Section 16-933(68) and temporary signs as provided in Division 4 of this Article shall require sign permits issued under this Article and are subject to the district sign allowances and other regulations hereunder.

Sec. 16-939. Permit procedure.

The development and neighborhood services department shall establish procedures for the submission and processing of sign permit applications. Application forms and information concerning required supporting materials shall be made available on the department's website. The development and neighborhood services director, or his/her designee, may approve the application with or without conditions, or deny the application. No permit shall be issued until compliance with the requirements of this Article and all other applicable codes and regulations has been demonstrated. The decision of the director to approve or deny the permit shall be final.

Sec. 16-940. Maintenance, alteration and removal of signs.

- (a) Any sign or sign structure constructed or installed under the provisions of this article shall be maintained in a safe, functional and sound structural condition at all times. General maintenance of such sign shall include the replacement of nonfunctioning, broken, or defective parts, painting, cleaning, and upkeep of the premises immediately surrounding the sign or advertising structure and any other action required for the maintenance of such sign or advertising structure. All signs and supporting structures shall be kept painted or treated in some manner to prevent rust, decay or deterioration.
- (b) Any sign or advertising structure, existing on or constructed after the effective date of the ordinance from which this article was derived, shall be removed within thirty (30) days upon the

discontinuance of such business or sale of such product or service or shall be deemed abandoned.

- (c) If any sign or advertising structure is identified by the Building Official and/or Zoning Administrator as being unsafe, insecure, abandoned, a menace to the public, or has been constructed, installed or is being maintained in violation of the provisions of this article or any other applicable city code, the Code Enforcement Division shall issue a written notice of the violation to the violator and/or to the owner of the property upon which the sign or advertising structure is located. The violation shall be enforced through the provisions of section 2-72 and 2-72.1. Nonconforming signs shall be governed by the provisions of sections 16-942 and 16-943. Appeals of this subsection shall be to the special magistrate.

Sec. 16-941. Nonconforming signs.

- (a) Generally. Nonconforming signs are declared by this chapter to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this chapter but not to encourage their survival.
- (b) Registration of nonconforming signs. The development and neighborhood services department shall establish a registry of nonconforming signs and an application process for nonconforming sign determination. Any person who wishes to establish the status of a nonconforming sign shall submit an application for determination of nonconforming sign status, together with supporting evidence demonstrating that the sign was a legally existing sign that became nonconforming as of the effective date of this Ordinance. The nonconforming status of the sign shall be determined by the development and neighborhood services director or his/her designee.
- (c) Expansion or relocation of nonconforming signs. No nonconforming sign or advertising structure shall be expanded or relocated unless such sign or advertising structure is brought into conformance with the provisions of this article or any other applicable City Code requirement.
- (d) Repairs and maintenance. Repairs and maintenance of nonconforming signs necessary to maintain health and safety only if the total amount expended for such repairs or maintenance over a one-year period does not exceed 50% of the value of the sign. If the costs of repair or maintenance exceed 50% of the value of the sign, a permit must be obtained and the sign brought into compliance.
- (e) Alteration of nonconforming signs. Only alterations involving message changes or changes in the information on the face(s) of existing nonconforming signs may be allowed, provided that a sign permit for the alterations is obtained. The issuance of a permit to change the message or information on a nonconforming sign shall not affect the nonconforming status or extend the amortization period for the sign.

Sec. 16-942. Amortization of Non-conformities.

Except as provided in paragraph (c) below, all non-conforming signs shall be brought into compliance within five (5) years, as follows:

- (a) Legally existing signs that become non-conforming as of the effective date of this Ordinance shall maintain legally non-conforming status for a period of five (5) years from the effective date of this Ordinance, with exceptions as herein contained. At the end of the five (5) year period, all signs not in compliance shall become illegal signs. It shall be unlawful for any sign owner not to be in compliance with the following amortization provisions, with exceptions as herein contained.
- (b) Within two (2) years of the effective date of this Ordinance, all owners of legally nonconforming signs are required to prepare and submit to the City a proposed Master Sign Plan in accordance to regulations herein.
- (c) Within three (3) years of the effective date of this Ordinance, all owners of legally nonconforming signs are required to have an approved Master Sign Plan in compliance with this Schedule. The Master Sign Plan shall address the amortization of nonconforming signs according to the time frames provided herein. The approval of the Master Sign Plan shall not extend the amortization period.
- (d) Within five (5) years of the effective date of this Ordinance, all legally nonconforming signs and their supporting structures shall be altered, and/or removed from the property.
- (e) *Special Amortization Requirements for Temporary Signs, Billboards.*
 - (1) *Temporary Signs.* All legally existing temporary signs shall be in compliance with the provisions of this Schedule within ninety (90) days of the effective date of this Ordinance.
 - (2) *Billboards.* The amortization period shall not apply to billboard signs that were lawfully constructed prior to the date of adoption of this code. These signs shall be permitted as legally nonconforming signs. Said signs shall be subject to below provisions regarding Maintenance and Repair of Nonconforming Signs.
- (f) *Annexation.* All nonconforming signs or sign structures within an area annexed into the city after the effective date of the Ordinance which do not conform to city code shall, within five (5) years of the effective date of annexation, be removed or rebuilt into a conforming configuration in the event of any renovation, remodeling, or reconstruction of an existing building or site requiring a Special Exception, or where the value of the construction work is equal to or more than twenty-five (25) percent of the value of the building as indicated by the Palm Beach County Property Appraiser.
- (g) *Unpermitted signs.* Any sign for which a required sign permit is not obtained shall be deemed an illegal sign and subject to immediate removal. Such sign shall not be afforded non-conforming status.

Sec. 16-943. Appeals procedure.

- (a) Any final decision concerning the interpretation or administration of this Article IV except for citations issued by the Code Enforcement Division, may be appealed to the planning & zoning board of appeals as provided in Article II, Division 3, section 16-85 of this Chapter.
- (b) Citations issued by the Code Enforcement Division for a sign or sign structure that is unsafe, insecure, abandoned, a menace to the public, or has been constructed, installed or is being maintained in violation of the provisions of this article or any other applicable city code may be appealed to the special magistrate as provided in Chapter 2, Article III, Division 2.

Secs. 16-944 – 946. Reserved.

DIVISION 2. GENERAL STANDARDS

Sec. 16-947. Computation of Sign Number and sign area.

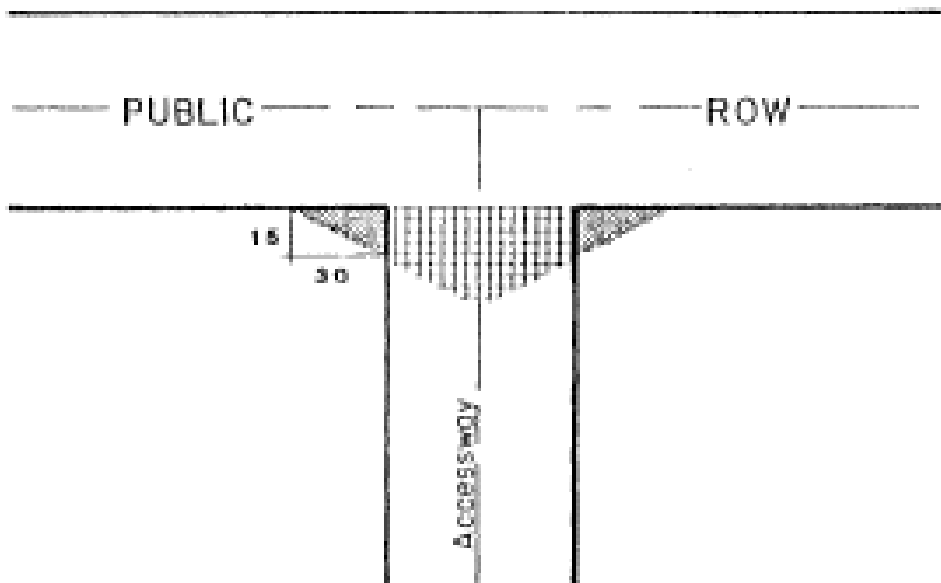
- (a) In determining the copy area of a sign, the entire face of the sign, including the advertising surface of any framing, trim or molding, shall be included. Should the sign structure or supports become part of the sign due to the design of the structure or supports in relation to the sign, such structure or supports shall be included in the determination of copy area.
- (b) In the instance where a sign is composed of letters only with no connection by the advertising structure between the letters, the copy area shall be determined by measuring the distance from the outside edges of the outside letters and from the top of the largest letter to the bottom of the lowest letter. Should one (1) letter be unequally large or small in comparison to the other letters composing the sign, the unequal letter shall be squared off, the remaining letters shall be measured from the outside edges, and the two (2) added for a total copy area determination.
- (c) Unless determined by the zoning district regulations, the allowable copy area of a sign shall be based on one (1) side of the sign. Double-faced signs may use up to the full amount of allowable copy area on each side, provided that both sides of the sign are parallel to one another and that the applicable zoning district regulations are not conflicting.
- (d) The minimum clearance of a sign shall be based upon the lowest point of any sign and the established grade of the site.
- (e) The utilization of natural berming, in order to increase the height of a pedestal sign, is permitted so long as such berming does not exceed two (2) feet in height above the grade of the site upon which the sign is to be located and the overall height of the sign, measured from the top of the berm does not exceed the maximum height permitted for a pedestal sign in the applicable zoning district regulations.

- (f) For the purpose of computing the number and area of signs, the frontages of lots shall be established by orientation of the main entrances of the buildings. If this method is not determinative, the Planning, Engineering & GIS Division shall determine frontages on the basis of traffic flow and access from adjacent streets. As defined herein, "frontage" faces the abutting public right of way; thus, internal shopping center roads are not frontage.

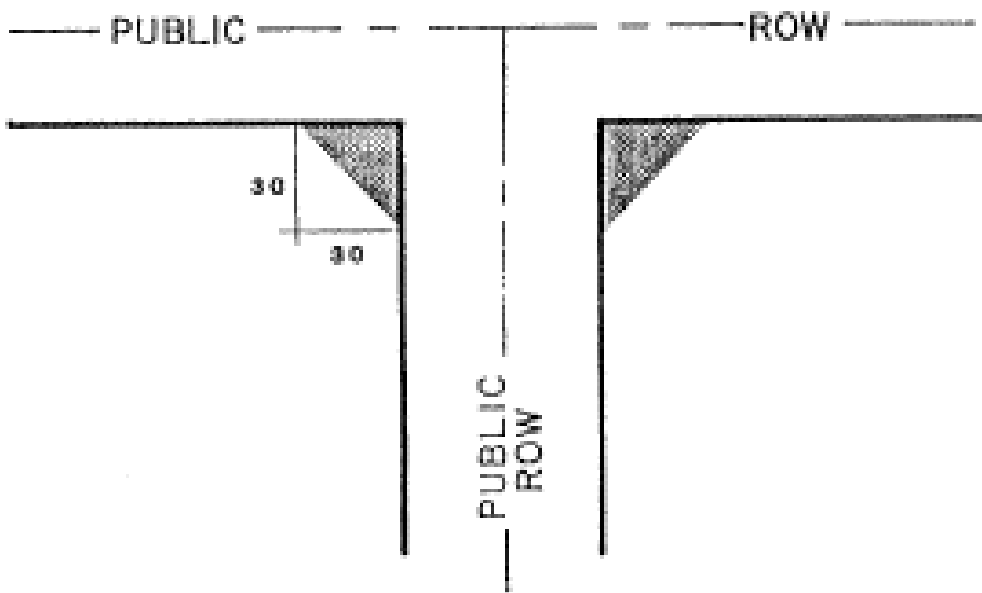
Sec. 16-948. Visibility triangle.

No sign or advertising structure shall be placed, constructed or maintained upon property in any visibility triangle area as described below:

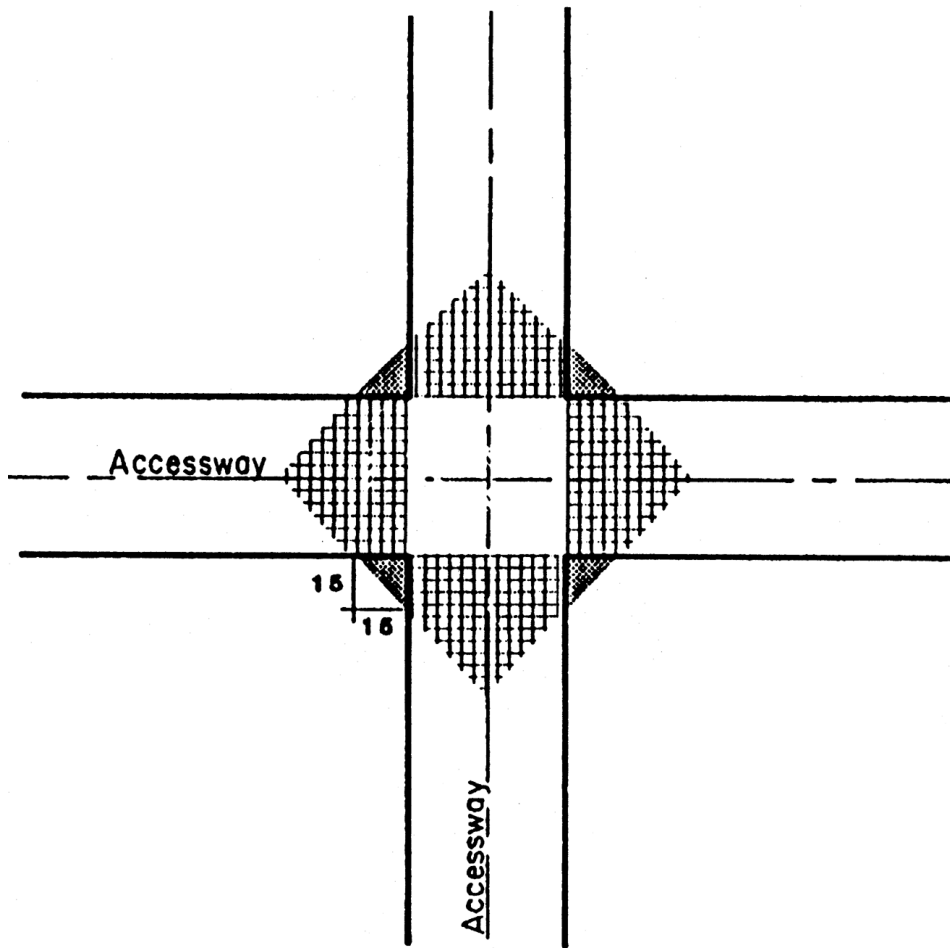
- (a) The area of property located at a corner formed by the intersection of two (2) public rights-of-way with two (2) sides of the triangular area, being a minimum of thirty (30) feet in length along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two (2) sides.



- (b) The area of property formed by the intersection of an accessway and a public right-of-way with one (1) side of the triangular area being thirty (30) feet in length along the public road right-of-way line measured from the edge of the accessway pavement and one (1) side of the triangle being fifteen (15) feet in length along the accessway pavement measured from the public road right-of-way line, and the third side being a line connecting the ends of the other two (2) sides.



- (c) The area of property formed by the intersection of two (2) accessways with two (2) sides of the triangular area being a minimum of fifteen (15) feet in length along the accessway pavement, measured from their point of intersection, and the third side being line connecting the ends of the other two (2) sides.



(d) Traffic-control signs are exempt from the provisions of the visibility triangle.

Sec. 16-949. Hazard.

A sign shall not directly or indirectly create a traffic or fire hazard, interfere with the free and unobstructed use of streets, sidewalks or building entrances or obstruct clear vision at the intersection of any streets, drives, or public or private vehicular access ways or so that it may be confused with authorized traffic signs or devices.

Sec. 16-950. Setback.

All signs shall be set back a minimum of ten (10) feet from the property line, unless otherwise specified in this section, and shall provide a minimum clearance of two (2) feet from rights-of-way, curbs, and sidewalks, or a larger clearance if deemed necessary by the Planning, GIS and Engineering Division.

Sec. 16-951. Separation.

All signs not mounted to a building shall be separated from another sign on the same parcel by 200 feet.

Sec. 16-952. Lighting.

Lighting of permanent signs shall be white, non-glaring, directed away from adjoining properties, and shall be designed to avoid affecting the vision of drivers on adjacent roadways.

Sec. 16-953. Screening.

All mechanical and electrical elements of a sign shall be fully screened or concealed.

Sec. 16-954. Landscaping: All sign structures shall be landscaped to ensure that the base or foundation of the sign at the ground adjacent to the sign is properly screened. Landscaping shall be installed and maintained in a manner not to interfere with visibility of a sign and shall be installed prior to approval of a sign permit.

Sec. 16-955. Sign Height.

Sign height shall be measured from the average grade of surrounding property. Grades raised solely to increase sign height shall not be used to determine allowable height. Grade elevations raised as part of landscaping, berms, and approved entry features may be utilized to determine height.

Sec. 16-956. Mounting.

(a) Wall signs shall not be mounted to extend more than 24 inches from the face of the building, including wireways and other mounting structures...

(b) Wall signs shall not be mounted to, or extend above or below, the edge of any wall or above the parapet.

(c) Monument and ground signs shall be on a foundation or footing.

Secs. 16-957 – 16-958. Reserved.**DIVISION 3. MASTER SIGN PLANS.****Sec. 16-959. Master Sign Plan Required.**

(a) All commercial centers and plazas, multi-tenant buildings, and planned commercial or residential developments located within the city are required to submit and obtain approval for a Master Sign Plan. The approval of a Master Sign Plan by the city shall be required prior to the issuance of a sign building permit to install, alter, construct, construct, post, paint, maintain, or relocate any sign.

(b) Sign Plan Compliance – Existing Developments. Whenever a sign owner desires to replace, alter, relocate a sign on a property, and/or perform sign repair and maintenance that is not in compliance with regulations governing same as specified in this Section herein, a Master Sign Plan in accordance with the provisions of this Section shall be prepared and submitted. Upon approval of the Master Sign Plan under this compliance provision, signs approved on the Master Sign Plan shall be brought into compliance in accordance to the amortization schedule specified herein.

(c) Multi-tenant Sign Plan Compliance. When a Master Sign Plan is required for a multi-tenant development, and an individual sign owner(s) seeks a sign permit for any type of permanent sign, the property owner shall file a Master Sign Plan with the city in accordance to the provisions set forth in this Section within sixty (60) days of the sign permit being filed. Failure to file such a Master Sign Plan within the prescribed time frame shall be a violation of this section by the property owner. Sign permits may be withheld until a Master Sign Plan is submitted and approved.

Sec. 16-960. Master Sign Plan Approval Process.

(a) A written application for a Master Sign Plan shall be submitted on forms provided by the development and neighborhood services department. The application shall be signed by the property owner and the applicant, shall include agent authorization for the applicant to represent the owner and shall include the application fee as established by the city council. It shall be the applicant's burden of proof to satisfy all applicable requirements for the proposed request.

(b) The development and neighborhood services department shall review the application. Once complete, the application shall be scheduled for the next available development review committee (DRC) meeting. The DRC shall provide consider each application and provide comments, if applicable. Once all comments have been adequately addressed by the petition, a memorandum shall be prepared explaining the request and containing any conditions of approval. It shall be signed by the development and neighborhood services director or his/her designee to indicate official approval and the memorandum and supporting documents placed into the property's file.

(c) Sign Plan Required Elements. The Master Sign Plan shall include all signs to be installed within the property, including any out parcels to be and/or developed sharing common driveways and parking, and shall indicate, but not limited to, the following:

- (1) Location/placement of all monument, freestanding directional/information, and wall signs, window signs, including but not limited, to setback dimensions from property lines, spacing, etc.
- (2) Size of each sign, indicating, but not limited to sign area, height, dimensions, area of changeable copy.
- (3) Sign copy for each sign, including but not limited to logos, trademarks etc.
- (4) Type of sign, including, but not limited to the type of lettering i.e. channel letters or cabinet style, color, materials, changeable copy area, etc.

(5) Type and manner of illumination, if any.

(6) Landscape plan indicating plant material and ground cover.

Sec. 16-961. Master Sign Plan Criteria.

In reviewing the Master Sign Plan, the Zoning Administrator shall determine if the following criteria have been met:

- (a) The signage for the project is in keeping with the overall architecture and character of the building development.
- (b) The signage for the project is designed to meet the directional needs of the project for communication, identification, way finding, regulatory and informational messages in keeping with the overall architectural theme of the development or project;
- (c) The signage proposed is legible, conspicuous, and easily readable;
- (d) The visibility and impact of the type of sign, number of signs, design, size, method of, construction, illumination and location of the proposed signs are in compliance with the minimum standards of this Section, and does not adversely impact adjoining properties, or create a hazard of health risk; and
- (e) The proposed signage is consistent and not in conflict with the intent and interests of the City of Greenacres, as stated in the policy adopting this code.

Sec. 16-962. Administrative variances from Master Sign Plan requirements.

- (a) In approving a Master Sign Plan, the Zoning Administrator may authorize limited administrative variances from applicable Code of Ordinance provisions as follows:
 - (1) An increase in the maximum sign height up to 20% of the permitted height for the zoning district the property is located;
 - (2) An increase of up to 25% in the number of signs allowed;
 - (3) Reasonable modification of the location of signs to accommodate unusual lot conditions;
 - (4) Inclusion of multiple multi-tenant signs; wall signs; pylon signs; and monument signs; and
 - (5) An increase in the maximum sign area no greater than 20% of the permitted sign copy area for the zoning district the property is located.
- (b) Any request for an administrative variance shall be considered based upon whether the following criteria are met:
 - (1) The variance is necessary because of practical difficulty peculiar to the land, structure or building involved and which is not applicable to other lands, structures and buildings in the same zoning district; or

- (2) The variance is necessary and appropriate due to unique architectural features of the proposed signage; and
- (3) The variance is the minimum variance necessary to alleviate the practical difficulty; and
- (4) The variance will be in harmony with the general intent and purpose of this Chapter and will not be injurious to the area involved or otherwise detrimental to the public welfare.

Sec. 16-963. Conditional Approval.

In issuing a Master Sign Plan, the Zoning Administrator may impose reasonable conditions on the Master Sign Plan relating to the design, materials, locations, placements, or orientations, and sign specifications; provided that such conditions are related to time, place and manner matters and does not attempt to regulate sign content. Reasonable conditions are conditions imposed on the Master Sign Plan that promote the purpose of this section and the approval criteria set out in Section 16.961(d).

Sec. 16-964. Amendment.

- (a) An approved Master Sign Plan may be amended upon application by the property owner and approval by the Zoning Administrator. An amendment application may seek to alter the design, materials, locations, placements, orientations, and specifications of a sign or signs designated within an approved master sign plan; provided the amendment does not attempt to increase the area or height of any freestanding or wall sign subject to the original master sign program by more than ten percent (10%).
- (b) To request an amendment the property owner shall submit a completed Master Sign Plan Amendment application, on such form as provided by the development and neighborhood services department, indicating what changes are desired, and shall include all supporting documents necessary to evaluate the request, similar to that which is required for a new approval.
- (c) The development and neighborhood services department shall review the proposed changes in comparison to the original approval, original conditions of approval and the Master Sign Plan approval criteria set forth in Section 16.961 (d).

Secs. 16-965 – 16-966. Reserved.

DIVISION 4 – TEMPORARY SIGNS

Sec. 16-967. General Standards

- (a) Temporary signs shall be constructed of durable, weatherproof material.
- (b) A temporary sign shall not directly or indirectly create a traffic or fire hazard, interfere with the free and unobstructed use of streets, sidewalks, or building entrances, or obstruct clear vision at

the intersection of any streets, drives, or public or private vehicular access ways or so that it may be confused with authorized traffic signs or devices.

- (c) All temporary signs shall be kept in good condition, present a neat appearance, and be maintained free of debris, stains, mold, discoloration, or deterioration.
- (d) All temporary signs shall be set back a minimum of ten (10) feet from the right-of-way line and side property lines, and must comply with section 9-67 (Visibility triangle).
- (e) Removal – Generally. Unless otherwise provided herein, all temporary signs posted in connection with an event, including an election, must be removed with three (3) business days after the event has concluded.
- (f) Removal - Hurricane Watch. Any temporary sign installed within the city shall be removed by the owner when a hurricane watch is posted. In the event that the owner does not remove the sign, the city is permitted to remove the sign and cite the owner as listed on the temporary use permit application. The city shall not be responsible for the replacement of such signage after a hurricane watch is discontinued.
- (g) Violations. The city shall have the right to remove any temporary signage in violation of this section. Any failure to comply with these regulations will result in the administrative suspension or revocation of the sign permit and/or enforcement proceedings pursuant to F.S. ch. 162. Notwithstanding the foregoing, the city may also pursue any remedy available under the law.

Section 16-968. Temporary signs –permit not required.

Except for those signs requiring temporary use permits as provided in Section 16-969, temporary signs do not require permits but are subject to the following limitations as to size, location and duration:

- (a) Temporary Non-commercial Signs Before an Election. For the period beginning sixty (60) days prior to a local, state or federal election, additional temporary signs will be allowed as follows:
 - (1) On residential property: a maximum of one (1) sign per position or issue.
 - (2) On non-residential property, a maximum of one (1) sign per position or issue for each 200 linear feet of frontage.
 - (3) All signs posted under this subsection shall be removed within three (3) business days following the election.
- (b) Temporary Signs When Property Is Being Offered For Sale or Lease. One (1) temporary sign, totaling no more than three (3) square feet, may be located on a property:
 - (1) When that property is being offered for sale or lease through a licensed real estate agent;
or
 - (2) If not offered for sale or lease through a licensed real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner.

(3) All signs posted under this subsection shall be removed within three (3) business days after the property ceases to be offered for lease or sale.

(c) Temporary Sign When a Property Being Offered for Sale or Lease Is Open to the Public: One (1) temporary sign, totaling no more than three (3) square feet, may be located on the owner's property on the day prior to and on the day(s) when a property owner is opening the property to the public.

(d) Maximum Sign Area per Temporary Sign: Unless otherwise specified in this chapter, any temporary sign must not be larger than three (3) square feet in residential districts and four (4) square feet in all other districts.

Sec. 16-969. Temporary signs – temporary use permit required.

The following temporary signs require a city temporary use permit as set forth in Article IV, Division 6.

(a) Banner Sign, Commercial:

- (1) Upon application of the building owner, at any one time, a maximum of one (1) banner may be permitted for each commercial building and shall be mounted on a pole installed in the ground at least five (5) feet from the property line.. In no event shall the banner obstruct pedestrian walkways or be located within landscaping or vehicular circulation areas.
- (2) Signs shall not exceed 10 feet in height, 18 inches in width, and a maximum sign area of 15 square feet.
- (3) Sign placement is limited to a maximum of fourteen (14) consecutive calendar days, three (3) times per year per subject property.

(b) Building Banner Sign, Commercial.

- (1) A maximum of one (1) banner per commercial building with a maximum sign area of 32 square feet. Signs shall be securely fastened to the building facade and shall not extend above the roofline or parapet.
- (2) Banner placement is limited in duration to no more than twenty (20) days, which shall run consecutively and include the date of the event or activity to which they relate, or the first twenty (20) days after an opening of a new business, commencing on the date of business tax receipt issuance.

(c) Human signs (living signs). Upon the issuance of a permit, a human sign may be allowed on the premises of the property that is being advertised, set back at least eight (8) feet interior of the property line, along the right-of-way immediately adjacent to the property. A business is permitted a living or human sign for a maximum of three (3) times per calendar year for no more than seven (7) consecutive days for each instance. The sign area shall not exceed three (3) square feet in size, and the living or human sign shall not be permitted off site, within the right-of-way, or closer than eight (8) feet from the right-of-way immediately adjacent to the property being advertised. Any failure to comply with these regulations will result in the administrative suspension or revocation of the sign permit and/or enforcement proceedings pursuant to F.S. ch.

162. Notwithstanding the foregoing, the city may also pursue any remedy available under the law.

(d) Construction signs. A maximum of one (1) construction sign per development street frontage may be constructed as a free-standing sign with a maximum height of eight (8) feet and set back at least ten (10) feet from all property lines.

(1) All construction signs shall be removed within seven (7) days from the issuance of a certificate of occupancy (CO) or certificate of completion (CC).

(2) In residential districts, the maximum sign area for construction signs shall be sixteen (16) square feet. In all other districts, the maximum sign area shall thirty-two (32) square feet.

Secs. 16-970 – 16-980. Reserved.

DIVISION 5. SIGN REGULATION BY ZONING DISTRICT.

Sec. 16-981. Generally.

Signs requiring sign permits are subject to the following regulations governing the number of signs, maximum sign area, placement, and other standards according to zoning district and/or use.

Sec. 16-982. Bulletin board signs.

Educational, governmental, religious, or institutional uses in all zoning districts may construct a maximum of one (1) freestanding sign per subject property, with a maximum of twelve (12) square feet of sign area, to serve as a bulletin board. Bulletin board signs shall not exceed six (6) feet in height.

Sec. 16-983. Identification signs.

(a) Residential districts.

(1) In residential districts, non-residential uses are allowed one (1) identification wall sign.

(2) For planned residential developments and subdivisions, one free-standing sign per major access is allowed. Two (2) signs with one (1) copy side each may be permitted in place of a single sign with two (2) copy areas.

(b) Non-residential districts. Except as provided in subsections (1), (2) and (3) below, in commercial and other non-residential districts, one (1) free standing sign and one (1) wall sign shall be allowed per frontage, provided that the signs are not located within two hundred (200) feet of each other on the same lot as measured along the frontage line.

- (1) For single-use stores with over forty thousand (40,000) sq. ft. of floor area, three (3) wall signs with copy area not to exceed the maximum copy area allowed.
- (2) Multi-tenant commercial properties are allowed one (1) freestanding sign per frontage and one (1) wall sign per tenant space.
- (3) Outparcels and outbuildings within a unified development are allowed one (1) free-standing monument sign with a maximum height of eight (8) feet and with a maximum copy area of forty (40) sq. ft. per sign face.
- (4) Time and temperature signs not exceeding two (2) feet in height, located in the bottom portion of the sign, may be included as an integral part of the identification sign copy area in CG districts for banks and financial institutions with drive-thrus.
- (5) Electronic changeable copy gas station price signs not exceeding twelve (12) square feet may be included as an integral part of the freestanding sign copy area for gas stations located in the CG and CI districts provided they are LED style and the sign copy is only for fuel prices.
- (6) Electronic changeable copy signs for Government users are limited to messages that serve a public purpose and are not permitted to promote commercial messages of any kind. No advertising for off-site businesses is permitted in any form.

(c) General provisions – wall signs.

- (1) There shall be a minimum separation of three (3) feet between wall signs.
- (2) Side wall building signage shall not exceed fifty (50) percent of max. sq. ft. of allowable building sign copy area, or twenty-five (25) percent of max. sq. ft. of allowable building signs copy area when adjacent to residential parcels.
- (3) All wall signs shall be no closer than twelve (12) inches from the side lines of the premises storefront and six (6) inches to the top and bottom of the premises sign area.
- (4) The height of any wall sign cannot exceed the top elevation of the structure.
- (5) Building signs shall be consistent in color with those of the freestanding sign.
- (6) Unless otherwise approved as part of the Master Sign Plan, site and development plan approval, or as necessary to maintain consistency with the majority of the existing signs in the plaza, wall signs shall be internally illuminated with individual channel letters or reverse channel letters. The trim cap and returns of the building wall sign shall be the same color as the letters and the illumination shall be with clear neon or LED tubing. No raceways or box signs will be permitted. A maximum of fifty (50) percent of the area of each wall sign may incorporate a logo of any color, the logos shall not exceed the total height of the sign on the building and shall meet the requirements of distance from the premise area.

(d) General provisions – freestanding signs.

- (1) Free-standing identification signs shall be designed as monument signs, and oriented perpendicularly to the frontage on which they are situated. The maximum height for free-standing signs shall be eight (8) feet except as otherwise provided in this Chapter.
- (2) Free-standing signs must be located within the general area of the major vehicular access points, and must include the name of the development prominently displayed. Free-standing

identification signs for commercial developments must also include the full range of street addresses located onsite (this will not be included as part of the copy area).

(3) Freestanding signs shall be consistent in color with those on the building. All freestanding signs shall be designed with an opaque background, so that light or a light source cannot penetrate through the sign with the exception of through the letters and logo associated with said sign. The architectural design shall be consistent with the design of the building, sharing materials, colors, and design motifs.

(4) Free-standing monument signs may include a leasing sign not exceeding twelve (12) square feet incorporated into the base of the monument sign. Letter size shall be no less than five (5) inches using no more than two (2) colors and consistent with the design of the rest of the sign.

(e) All signage located within any development shall maintain architectural consistency with itself, as well as with all structures, located onsite. The development may get a master sign program approval which incorporates multiple colors, fonts, and logos provided it is included in part of a theme that provides architectural consistency for the project as a whole and is formally approved by the city.

Sec. 16-984. Memorial signs.

In the AR, RE, RL, RM, RH, and GU districts, each parcel may have one (1) memorial sign with a maximum of five (5) square feet of sign area and not exceeding six (6) feet in height may be constructed. These signs shall be set back no less than twenty (20) feet from any property line.

Sec. 16-985. Home Occupation Signs.

In any residential district, one (1) home occupation identification sign not exceeding two (2) square feet may be placed on the wall next to the primary entrance of any single family or two-family dwelling unit in which a home occupation is lawfully conducted.

Secs. 16-986 – 16-988. Reserved.

Sec. 16-989. Traffic-control signs.

Freestanding signs for traffic control purposes may be placed in all zoning districts subject to the following:

- (a) Traffic-control directional signs designating parking area entrances and exits are limited to two (2) signs not exceeding three (3) feet in height for each entrance and exit abutting a street, and each sign shall not exceed three (3) square feet of copy area and include the words "enter," "exit," "one-way," or a directional arrow.
- (b) Traffic-control signs shall be reviewed for location placement by the Development and Neighborhood Services Department, and shall be in general conformance with the Manual on Uniform Traffic-control Devices for Streets and Highways.

Sec. 16-990. Directory signs.

One (1) directory sign per major vehicular access may be constructed as either a wall sign or a free-standing sign with a maximum height of six (6) feet. Directory signs shall be set back at least twenty (20) feet from the front and ten (10) feet from the side-corner property line. The maximum sign area for directory signs in mixed use districts shall be twelve (12) square feet. In all other districts the maximum sign area shall be sixteen (16) square feet, except for planned commercial developments which may have directory signs with a sign area of up to a maximum of thirty-two (32) square feet.

Secs. 16-991 – 16-992. Reserved.**Sec. 16-993. Under canopy signs.**

Under canopy signs are allowed only in CN, CG and CI districts as a part of the Master Sign Plan. One (1) sign with a maximum copy area of six (6) square feet is allowed per tenant. All signs must have a minimum vertical clearance of nine (9) feet.

Sec. 16-994. Menu board signs.

In the CG and CI districts, one (1) menu board sign per fast-food restaurant drive-thru lane with a maximum of thirty-eight (38) square feet of copy area, no more than six (6) feet in height, may be constructed, subject to the following conditions:

- (a) Menu boards shall only be internally back-lit.
- (b) Menu boards shall not contain more than one (1) square foot of copy area of corporate or company identification.
- (c) No additional add-ons to the menu board shall be permitted.
- (d) Menu boards shall not be visible from any public right-of-way.
- (e) An additional six (6) square feet of copy area may be permitted for use as an LCD screen.

Secs. 16-9955 – 16-1000. Reserved.

SECTION 4. Repeal of Conflicting Ordinances. All other ordinances or parts thereof or parts of the Code conflicting or inconsistent with this ordinance are hereby cancelled, repealed or revised to be consistent with provisions and elements of this Ordinance.

SECTION 5. Severability. As more fully set forth in Section 16-932 of this ordinance, 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 6. Effective Date.

The provisions of this Ordinance shall become effective upon adoption.

III. Zoning Text Amendment Criteria:

A. *The need and justification for these changes:*

The principal intent of these proposed text amendments to the Zoning Code is to provide a comprehensive update of the City's sign code, which over the last decade has only been amended for specific reasons. The proposed amendments are designed to ensure that the City's sign code will withstand constitutional challenge in light of the *Reed v. Town of Gilbert* decision and related case law. The proposed text amendments include express findings to clarify that the intent and purpose of the sign regulations is not to regulate or censor speech, but to promote the public health, safety and welfare through reasonable "time, place and manner" regulations. To this end, the regulations have been revised to remove content-based criteria while continuing to regulate the physical and aesthetic characteristics of signage. The proposed amendments also include a new amortization schedule that allows a reasonable time period for the elimination of existing non-conforming signs, reducing visual clutter. In addition, new regulations are proposed to codify the Master Sign Plan requirement for certain large developments, which promotes the coordination and harmonious appearance of signage on those properties. Finally, the sign code has been reorganized and restructured to improve clarity and ease of use.

B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City codes.

IV. Staff Analysis:

The Development Review Committee Staff met on July 12, 2022, to discuss the proposed amendment. No objections were received.

| | |
|--|---------------|
| Planning, GIS, and Engineering Division: | No objections |
| Building Division, | No objections |
| Fire Rescue Department | No objections |
| Public Works Department | No objections |
| PBSO District #16 | No objections |
| Recreation and Community Services Department | No objections |

IV. Staff Recommendation:

Approval of ZTA- 22-09 through the adoption of Ordinance 2022-25.

PLANNING ZONING BOARD OF APPEALS RECOMMENDATION – August 11, 2022

The Planning and Zoning Board of Appeals on a motion made by Board Member Edmundson and seconded by Vice Chair Litkowsky, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-09** as presented by staff.

CITY COUNCIL ACTION First Reading – September 14, 2022

CITY COUNCIL ACTION Adoption Hearing – September 28, 2022



ITEM SUMMARY

MEETING DATE: September 14, 2022

FROM: Andrea McCue, City Manager, Administration

SUBJECT: Ordinance 2022-26 DROP Option Plan for Public Safety Officers

BACKGROUND

On February 1, 2016, sworn law enforcement officers of the City became employees of the Palm Beach Sheriff's Office (PBSO). At that time, some officers elected to continue to participate in the City's Retirement Plan after becoming PBSO employees.

ANALYSIS

The City has agreed to amend the Retirement Plan to provide for a Deferred Retirement Option Plan (DROP) for sworn law enforcement officers of the City who continued to participate in the plan after becoming PBSO employees.

FINANCIAL INFORMATION

To ensure no cost to the City the plan has been amended to provide that should the City's minimum required pension contribution exceed the amount of the PBSO employer contributions to the City Retirement Plan in any plan year based on the most recent actuarial valuation for the Plan, the City may use the Contribution Reserve Account to cover the shortfall.

LEGAL

The City's Pension Attorney has prepared the Ordinance and all supporting documents.

STAFF RECOMMENDATION

Staff is recommending approval of Ordinance 2022-26 on first reading.

ORDINANCE NO. 2022-26

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 10, PERSONNEL, ARTICLE IV, RETIREMENT, PENSIONS AND OTHER EMPLOYEE BENEFIT PROGRAMS, DIVISION 3, RETIREMENT SYSTEMS AUTHORIZED, SEC. 10-148 ENTITLED "PUBLIC SAFETY OFFICERS AND FIREFIGHTERS RETIREMENT PLAN AND TRUST"; AMENDING THE FLORIDA MUNICIPAL PENSION TRUST FUND DEFINED BENEFIT PLAN AND TRUST ADOPTION AGREEMENT TO PROVIDE FOR A DEFERRED RETIREMENT OPTION PLAN FOR THOSE PUBLIC SAFETY OFFICERS WHO CONTINUED TO REMAIN MEMBERS OF THE CITY'S RETIREMENT PLAN AFTER BECOMING PBSO EMPLOYEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, as set forth in Section 10-148 of the City's Code of Ordinances, the City established a retirement plan and trust for the public safety officers/sworn law enforcement officers and firefighters of the City on January 1, 1996 ("Retirement Plan" or "Plan" or "City Retirement Plan"), which included as Exhibit "B-3" the Florida Municipal Pension Trust Fund Defined Benefit Plan and Trust Adoption Agreement with attachments (the "Adoption Agreement"); and

WHEREAS, the Adoption Agreement authorizes the City Council to amend the Plan and Trust Agreement, in whole or in part, either retroactively or prospectively, by delivering to the Board of Trustees of the Retirement Plan a written amendment to the same; and

WHEREAS, on February 1, 2016, sworn law enforcement officers of the City became employees of the Palm Beach Sheriff's Office (PBSO). At that time, some officers elected to continue to participate in the Retirement Plan after becoming PBSO employees; and

WHEREAS, to City desires to amend the Retirement Plan to provide for a Deferred Retirement Option Plan (“DROP”) for sworn law enforcement officers of the City who continued to participate in the Retirement Plan after becoming PBSO employees; and

WHEREAS, in order to implement such a DROP plan, the City must adopt an ordinance amending Section 10-148 of the City Code and the documents referred to therein.

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

SECTION 1. That Chapter 10, Article IV, Division 3, Section 10-148, of the Greenacres City Code entitled “Public Safety Officers and Firefighters Retirement Plan and Trust” is hereby amended as follows:

ARTICLE IV. RETIREMENT, PENSIONS AND OTHER EMPLOYEE BENEFIT PROGRAMS

Sec. 10-148. Public Safety Officers and Firefighters Retirement Plan and Trust.

(a) A retirement plan and trust for the firefighters and public safety officers of the City of Greenacres is hereby established, effective the 1st day of January 1996. The instruments which represent the terms of said plan and trust include the Florida Municipal Pension Trust Fund Trust Joinder Agreement (exhibit “A”), Florida Municipal Pension Trust Fund Defined Benefit Plan and Trust Adoption Agreement (exhibit “B-3” including the Amendment No. 2 3 to the Share Plan - attachment 1, and Amendment No. 1 to the Retirement Plan Changes for Sworn Law Enforcement Officers Effective February 1, 2016 – attachment 2), the Florida Municipal Pension Trust Fund Defined Benefit Plan Document, (exhibit “C”), the Florida Municipal Pension Trust Fund, Master Trust Agreement (exhibit “D-1”) and the Investment Policy (exhibit “E”), and will be and remain exhibits to this section,

remanded to the custody of the city clerk who will maintain such for public inspection.

SECTION 2. The Florida Municipal Pension Trust Fund Defined Benefit Plan and Trust Adoption Agreement is hereby amended to include a DROP program for sworn law enforcement officers of the City who continued to participate in the Retirement Plan after becoming PBSO employees as further set forth in the document attached to this Ordinance as Exhibit “1” and incorporated herein.

SECTION 3. Repeal of Conflicting Ordinances

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

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 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 5. 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

Ordinance No. 2022-26 | DROP Option Plan for Public Safety Officers

Page No. 4

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 6. Effective Date

The provisions of this Ordinance shall become effective upon adoption.

Passed on the first reading this 14th day of September, 2022.

PASSED AND ADOPTED on the second reading this DD day of Month, 202Y.

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

Exhibit 1**FLORIDA MUNICIPAL PENSION TRUST FUND
DEFINED BENEFIT PLAN AND TRUST
ADOPTION AGREEMENT**

The undersigned Employer adopts the Florida Municipal Pension Trust Fund Defined Benefit Plan and Trust for those Employees who shall qualify as Participants hereunder, to be known as the Retirement Plan and Trust for the

Firefighters and Public Safety Officers of the City of Greenacres

It shall be effective as of the date specified below. The Employer hereby selects the following Plan specifications:

EMPLOYER INFORMATION

| | |
|--------------------------------|---|
| Employer: | <u>City of Greenacres</u> |
| Contact Name and Title: | <u>Andrea McCue, City Manager</u> |
| Address: | <u>5800 Melaleuca Lane</u> <u>Greenacres, FL 33463</u> |
| Telephone: | <u>(561) 642-2017</u> |
| Fax: | <u>(561) 642-2037</u> |
| E-Mail: | <u>amccue@greenacres.fl.gov</u> |

NAME AND ADDRESS OF TRUSTEE:

Florida Municipal Pension Trust Fund
301 S. Bronough St., Suite 300
P.O. Box 1757
Tallahassee, FL 32302-1757
Tel: (850)222-9684 Fax: (850)222-3806

LOCATION OF EMPLOYER'S PRINCIPAL OFFICE:

The Employer is located in the State of Florida
and this Trust shall be enforced and construed
under the laws of the State of Florida.

EMPLOYER FISCAL YEAR:

Twelve months commencing on October 1st and ending on September 30th.

A. PLAN INFORMATION

This Adoption Agreement shall establish a Plan and Trust with the following provisions:

A1) Effective Date:

Effective Date: January 1, 1996;

A2) Plan Year (12 consecutive month period):

Beginning October 1 and Ending September 30

A3) Plan Anniversary Date (Annual Valuation Date):

October 1

A4) Name of Plan Administrator:

Florida League of Cities, Inc.
301 S. Bronough St.
Post Office Box 1757
Tallahassee, Florida 32302-1757
Tel: (850) 222-9684 Fax: (850) 222-3806

A5) Florida Municipal Pension Trust Fund I.D. Number:

59-2961075

A6) Florida Municipal Pension Trust Funds' Agent for Legal Process:

Florida League of Cities, Inc.
301 South Bronough St., P.O. Box 1757
Tallahassee, FL 32302-1757
Tel: (850) 222-9684 Fax: (850) 222-3806

B. PLAN

This plan represents the Public Safety Officers and Firefighters of the City of Greenacres.

C. Eligibility

All Public Safety Officers and Firefighters hired on or after the effective date of the plan are eligible to participate in the plan immediately when hired.

One time election:

Firefighters and Public Safety Officers in the City of Greenacres "General Employees" Defined Contribution Plan as of the effective date of Ordinance No. 2008-13 will have a one (1) time option to become members of the Plan. Employees wishing to become members must make an irrevocable written election to join the Plan. Members must submit an enrollment form to the Board of Trustees within ninety (90) days of the effective date of this Amendment. Members electing to join the Plan will have the ability to purchase, utilize and transfer their existing 401 Contribution assets in the City General Employee Defined Contribution Plan to the Plan, all of their previous credited employment service time with the City of Greenacres, provided such employment service was in a position covered by the Plan. Purchase of this past employment service will be at the full actuarial cost of such services and shall not increase the contribution rate of the Plan.

D. SALARY**A. Firefighter**

Means the fixed monthly remuneration paid a Firefighter; where, as in the case of a Volunteer Firefighter, remuneration is based on actual services rendered, salary shall be the total cash remuneration received yearly for such services, prorated on a monthly basis. The remuneration paid a Firefighter by the employer for a plan excludes overtime payments greater than 300 hours per calendar year, Bonuses, Lump Sum Payments for Accrued Annual Leave and Sick Leave, Annual Shoe Allowance, and Longevity Payments.

B. Public Safety Officer

Means the total cash remuneration paid to a Public Safety Officer for services rendered, excluding overtime payments greater than 300 hours per calendar year, Lump Sum Payments for Accrued Annual Leave and Sick Leave, and any payments for extra duty or special detail work performed on behalf of a second party employer.

E. CREDITED SERVICE

Shall mean the total number of years and fractional parts of years of service as a Participant during which the Participant made required contributions to the Plan, omitting intervening years or fractional parts of years when such Participant is not employed by the Employer.

F. AVERAGE FINAL COMPENSATION

Shall mean one-twelfth (1/12) of the average annual compensation of the five (5) best years of the last ten (10) years of Credited Service prior to retirement, termination or death, or the career average, whichever is greater. *(See Plan Definition)*

G. BENEFIT AMOUNTS AND ELIGIBILITY**G1) Normal Retirement Date:**

A Participant's Normal Retirement Date shall be the first day of the month coincident with or next following the attainment of age 55 and 6 years of service or the attainment of 25 years of service, regardless of age.

(Only actual completed years of credited service will be used to determine normal retirement date)

G2) Normal Retirement Benefit:

The retirement benefit shall be equal to the number of years of credited service multiplied by 3% and multiplied by average final compensation.

G3) Early Retirement Date:

A Participant may retire on his Early Retirement Date which shall be the first day of any month coincident with or next following attainment of age 50 and 6 years of credited service.

G4) Early Retirement Benefit:

The accrued benefit will be reduced by three percent (3%) for all years prior to normal retirement age.

H. DISABILITY BENEFITS**H1) Disability Benefits In-the-Line-of-Duty:**

A member determined to be totally and permanently disabled from a service-connected injury or disease will receive the greater of a monthly pension equal to 42% of average monthly compensation or an amount equal to the accrued retirement benefit.

H2) Disability Benefits Off-Duty:

A member determined to be totally and permanently disabled from a non-service-connected injury or disease and who has completed ten (10) years of service will receive the greater of a monthly pension equal to 25% of average monthly compensation or an amount equal to the accrued retirement benefit.

I. DEATH BENEFITS**I1) Death Prior to Vesting - In-Line-Of-Duty:**

If a member dies prior to retirement in-the-line-of-duty, and he is not vested, his beneficiary shall receive a refund of one hundred percent (100%) of the member's accumulated contributions.

I2) Death After Vesting - In-Line-Of-Duty:

If a member dies prior to retirement in-the-line-of-duty, and he is vested, having completed the required years of credited service, his beneficiary shall receive the benefits otherwise payable to the member at the member's early or normal retirement date.

13) Death Prior to Vesting - Off -Duty:

If a member dies prior to retirement other than in-the-line-of-duty, but he is not vested, his beneficiary shall receive a refund of one hundred percent (100%) of the member's accumulated contributions.

14) Death After Vesting - Off-Duty:

If a member dies prior to retirement other than in-the-line-of-duty, but he is vested, having completed the required years of credited service, his beneficiary shall receive the benefits otherwise payable to the member at the member's early or normal retirement date.

J. TERMINATION OF EMPLOYMENT AND VESTING

If a member's employment is terminated either voluntarily or involuntarily the following benefits are payable:

- 1) If the member has less than six (6) years of credited service upon termination of employment, the member shall be entitled to a refund of his accumulated contributions, or the member may leave the accumulated contributions deposited with the Fund.
- 2) If the member has six (6) or more years of credited service upon termination of employment, the member shall be entitled to their accrued monthly retirement benefit, starting at the member's otherwise normal or early retirement date, provided he does not elect to withdraw his contributions and provided he survives to his normal or early retirement date. Early and normal retirement dates are based on actual years of credited service.

K. EMPLOYEE CONTRIBUTIONS

Members of the Plan shall be required to make regular contributions to the Fund in the amount four percent (4%) of their salary on a pre-tax basis.

L. COST OF LIVING ADJUSTMENT

Retirees are entitled to an annual C.O.L.A. of three percent (3%) on a compounded basis COLA. For firefighters, the COLA commences one year after retirement and separation from City employment. For public safety officers, the 3% annual cost of living adjustment commences one year after termination of the member's participation in the DROP, or if the member does not participate in the DROP, one year after the member begins to receive retirement benefits from the Plan.

M. DEFERRED RETIREMENT OPTION PROGRAM-"DROP"

1) FIREFIGHTER DROP: A deferred retirement option plan ("DROP") is hereby established for firefighters effective December 7, 2020.

(a). DROP eligibility and participation.

- i. A member who attains normal retirement eligibility (age 55 with at least six years of credited service or 25 years of credited service regardless of age) shall be eligible to participate in the DROP. A member may defer participation in the DROP until age 59 or 33 years of service, whichever occurs first; provided, a member who has attained normal retirement eligibility but exceeds age 59 on December 7, 2020 be eligible to participate in the DROP by making a written election to enter the DROP no later than three (3) months from the effective date of the DROP.

- ii. A member must make a written election to participate in the DROP on a form provided by the City. A member's election to participate in the DROP shall be irrevocable.
- iii. An eligible member may participate in the DROP for a maximum of 5 years.
- iv. A member who elects to participate in the DROP shall be required to terminate City employment no later than the end of the maximum DROP period. A member who elects to participate in the DROP may terminate DROP participation and City employment sooner than the end of the maximum DROP period, with at least 30 days' advance written notice to the City.

(b) DROP plan features.

- i. An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of credited service and average final compensation at the time the member enters the DROP, will be paid into the member's DROP account every month during the DROP period. Member DROP accounts are notional accounts, used only for the purpose of calculating DROP benefits, and are not separate accounts within the pension plan. The monies allocated to member DROP accounts shall be invested by the pension board in the same manner as other plan assets, and members shall have no control over the investment of DROP accounts.
- ii. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional credited service or any additional benefits under the pension plan after entering the DROP.
- iii. A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan after DROP participation begins.
- iv. During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. The member's DROP account will earn interest at the rate of 3% per annum, compounded monthly. The DROP account shall not earn interest after the member's DROP participation ends.
- v. Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the pension board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph 6 below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover would be accomplished in accordance with IRS regulations and the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.
- vi. If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. The member may change the designated beneficiary no more than two times during the member's participation in the DROP. Such change must be on a form prescribed by the City, signed by the member, and filed with the board. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.

vii. Participation in the DROP is not a guarantee of continued employment. DROP participants are subject to the same employment policies and standards as employees who are not in the DROP.

viii. A member who participates in the DROP shall be eligible to receive payment for unused sick leave as follows:

- a. Upon separation from employment – up to 960 hours at 100% of the employees' hourly rate; and
- b. During DROP – an employee may receive payment for accrued sick leave in excess of 960 hours at 50% of the employees' hourly rate.

ix. The DROP account distribution, along with other benefits paid by the pension plan, is subject to limitation under Section 415(b) of the Internal Revenue Code.

x. The pension board may adopt any rules for administering the DROP that are necessary to maintain compliance with the Internal Revenue Code.

2) PUBLIC SAFETY OFFICER DROP: A deferred retirement option plan ("DROP") is hereby established for sworn law enforcement officers of the City who became employees of the Palm Beach Sheriff's Office (PBSO) on February 1, 2016 and who continued to participate in the Retirement Plan, effective September 28, 2022:

(a). DROP eligibility and participation.

i. A member who attains normal retirement eligibility (age 55 with at least six years of credited service or 25 years of credited service regardless of age) shall be eligible to participate in the DROP.

ii. A member must make a written election to participate in the DROP on a form provided by the City. A member's election to participate in the DROP shall be irrevocable.

iii. An eligible member may participate in the DROP for a maximum of 5 years. A member's participation in the DROP shall automatically terminate at the conclusion of the maximum 5-year DROP participation period.

iv. A member who elects to participate in the DROP may terminate DROP participation sooner than the end of the maximum DROP period, with at least 30 days' advance written notice to the City.

(b) DROP plan features.

i. An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the Pension Plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of credited service and average final compensation at the time the member enters the DROP, will be paid into the member's DROP account every month during the DROP period. Member DROP accounts are notional accounts, used only for the purpose of calculating DROP benefits, and are not separate accounts within the Pension Plan. The monies allocated to member DROP accounts shall be invested by the pension board in the same manner as other plan assets, and members shall have no control over the investment of DROP accounts.

ii. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional credited service or any additional benefits under the pension plan after entering the DROP.

iii. A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan after DROP participation begins.

iv. During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. The member's DROP account will earn interest at the rate of 3% per annum, compounded monthly. The DROP account shall not earn interest after the member's DROP participation ends.

v. Within thirty (30) days following the end of the member's DROP participation or death, the member, or in the event of the member's death the member's designated beneficiary, shall submit a written election on a form approved by the pension board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph vi below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover would be accomplished in accordance with IRS regulations and the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

vi. If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. The member may change the designated beneficiary no more than two times during the member's participation in the DROP. Such change must be on a form prescribed by the pension board, signed by the member, and filed with the board. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.

vii. The DROP account distribution, along with other benefits paid by the Pension Plan, is subject to limitation under Section 415(b) of the internal Revenue Code.

viii. The pension board may adopt any rules for administering the DROP that are necessary to maintain compliance with the Internal Revenue Code.

N. SUPPLEMENTAL "SHARE" PLAN

A supplemental Share Plan, originally established by Ordinance No. 2012-05, and amended by Ordinance No. 2019-04 (Amendment No. 1) and Ordinance 2020-16 (Amendment No. 2), and Ordinance 2022-26 (Amendment No. 3) is attached hereto as Attachment "1".

O. RETIREMENT PLAN CHANGES FOR SWORN POLICE OFFICERS EFFECTIVE FEBRUARY 1, 2016

Pursuant to a Memorandum of Understanding between the City of Greenacres and Palm Beach County Police Benevolent Association (PBA) ratified in January 2016, the City and PBA have mutually agreed to a number of changes to the Retirement Plan for sworn law enforcement officers, in conjunction with the Law Enforcement Services Agreement between the City and the Palm Beach County Sheriff's Office. The Retirement Plan changes, attached hereto as Attachment "2", shall take effect February 1, 2016.

This Adoption Agreement may be used only in conjunction with the Basic Defined Benefit Plan Document.

This Adoption Agreement and the Basic Defined Benefit Plan Document shall together be known as the Retirement Plan and Trust for the Public Safety Officers and Firefighters of the City of Greenacres.

The Adoption Agreement and the Basic Defined Benefit Plan Document are furnished for the consideration of the Employer and its legal and financial advisors. The Florida Municipal Pension Trust Fund advises the sponsoring Employer to consult with its own attorney and financial advisors on the legal and tax implications of the Defined Benefit Plan and the Adoption Agreement. Nothing herein should be construed as constituting legal or tax advice.

We understand that the Employer may amend any election in this Adoption Agreement by giving the Trustee written notification of such Amendment as adopted.

The Employer hereby agrees to operate under the provisions of the Master Trust Agreement creating the Florida Municipal Pension Trust Fund, which is incorporated in full into this Agreement and attached hereto as Exhibit A to the Basic Defined Benefit Plan Document and the Adoption Agreement.

IN WITNESS WHEREOF, the Employer and Trustee hereby cause this Agreement to

be executed on this 28th day of September, 2022.

EMPLOYER:

By: _____ **Date:** _____

Title: _____

Exhibit 2

**CITY OF GREENACRES
FIREFIGHTERS' & POLICE OFFICERS' SHARE PLAN
AMENDMENT NO. 2 3**

(1) Creation; purpose.

Pursuant to F.S. §§175.351(1)(b) & 185.35(1)(b), a trust fund to be known as the "City of Greenacres Firefighters' & Police Officers' Share Plan" is established. The purpose of this Share Plan is to place excess premium tax revenues received pursuant to F.S. §§175.101, 175.351, 185.08 & 185.35 and earnings generated therefrom into a separate trust fund to pay extra benefits to City Firefighters and Police Officers who are active participants in the Public Safety Officers and Firefighters Retirement Plan and Trust. In accordance with the provisions of F.S. §§175.351(1) & 185.35(1), this Share Plan has been approved by a majority of such participants as of January 1, 2011. The Share Plan hereby created shall be in addition to any other benefits under the Public Safety Officers and Firefighters Retirement Plan and Trust.

(2) Definitions. The following words and phrases shall, unless otherwise defined or required by the context, for the purpose of the share plan, have the meanings indicated below.

- (a) "Account" means the participant's share plan account credited with: (i) the initial allocation of accumulated excess premium tax revenues under section 3(a) hereof; (ii) subsequent annual allocation of additional premium tax revenues under section 3(b) hereof; (iii) allocations of forfeitures under section 3(c) hereof; and (iv) the net investment return on the participant's share plan account in accordance with the participant's investment election pursuant to sections 3(d), 3(e) and 3(f) hereof.
- (b) "Accumulated Excess Premium Tax Revenues" means Chapter 175 and 185 premium tax revenues in excess of the allowable amount as determined in the Actuarial Valuation for the Retirement Plan for the Firefighter and Public Safety Officers of the City of Greenacres dated October 1, 2011. The total accumulated excess premium tax revenues as of October 1, 2011 was \$497,579.
- (c) "Additional Premium Tax Revenues" means Chapter 175 and 185 premium tax revenues received by the City during the plan year beginning October 1, 2011 and each plan year thereafter, in excess of the allowable amount.

- (d) "Allowable amount" of premium tax revenues means the amount that may be used to reduce the City's annual required contribution to the Retirement Plan. The allowable amount as of January 19, 2016 was \$336,796 (\$160,796 for firefighters pursuant to Chapter 175; and \$170,000 for police officers pursuant to Chapter 185), subject to the conditions set forth in Section 3(b) below.
- (e) "Beneficiary" means any person designated by a participant to receive any benefits payable in the event of the participant's death. If no beneficiary designation is in effect at the participant's death, the participant's surviving spouse, if any, shall be deemed to be the beneficiary; otherwise the beneficiary shall be the participant's estate.
- (f) "City" means the City of Greenacres, Florida.
- (g) "City Code" means the Code of Ordinances of the City of Greenacres as the same may be amended from time to time.
- (h) "Effective Date" means the date on which this share plan is adopted by Ordinance by the City Council of the City of Greenacres.
- (i) "Forfeiture" means the termination of a participant's account under section 5 of this share plan.
- (j) "IRC" means the Internal Revenue Code of 1986 as same may be amended from time to time.
- (k) "Net investment return for the retirement plan" means the retirement plan's rate of investment return on the retirement plan's assets as a whole as reported by the retirement plan's investment consultant, net of investment expenses and any administrative expense incurred by the retirement plan.
- (l) "Net investment return for the share plan" means the net investment return for the retirement plan, net of any investment expenses and any administrative expenses incurred by the share plan.
- (m) "Participant" means a member of the Retirement Plan who is (i) actively employed by the City on October 1, 2011, or on October 1 of any subsequent year ,or (ii) a sworn law enforcement officer who remains a member of the City Retirement Plan after becoming a PBSO employee in accordance with the Memorandum of Understanding dated January 19, 2016. Retired sworn law enforcement officers who became a PBSO employee in accordance with the Memorandum of Understanding will remain Participants after retirement, for purposes of the Share Plan only.

- (n) "Retirement Plan" means the Public Safety Officers and Firefighters Retirement Plan and Trust established pursuant to Section 10-148 of the City Code.
 - (o) "Retirement Plan Board" or "Board" means the board of trustees of the Public Safety Officers and Firefighters Retirement Plan and Trust which serves as the administrative board thereof and holds title to, supervises, administers the Retirement Plan and manages the assets thereof and who shall likewise serve as the board of trustees for this share plan. The Board shall be the administrative board, which shall hold title to, supervise, administer and manage the assets of this share plan.
 - (p) "Share Plan" means the City of Greenacres Share Plan as set forth herein.
 - (q) "Share Plan Year" or "Plan Year" means each October 1st through September 30th, commencing October 1, 2011.
 - (r) "State" shall mean the State of Florida.
 - (s) "Trustee" means any member of the Retirement Plan Board.
 - (t) "Valuation Date" or "Annual Valuation Date" means October 1st of any Share Plan Year. The Annual Valuation Date shall be the date upon which the fair market value of the assets of the Share Plan shall be determined.
 - (u) "Vested Participant" means a participant with at least six (6) years of credited service in the Retirement Plan.
 - (v) "Memorandum of Understanding" means the Memorandum of Understanding between the City of Greenacres and the Palm Beach County Police Benevolent Association, Inc. dated January 19, 2016.
 - (w) "PBSO" means the Palm Beach County Sheriff's Office.
- (3) Funding; allocation to accounts.
- (a) Initial Allocation of Accumulated Excess Premium Tax Revenues. Upon implementation of this Share Plan and as soon as practicable thereafter, the Retirement Plan Board shall allocate to each eligible Participant's account the Participant's share of the Accumulated Excess Premium Tax Revenues, which shall be equal to the ratio of the Participant's years and fractional parts of years of credited service under the Retirement Plan to the total years and fractional parts of years of credited service of all Participants in the Share Plan.
 - (b) Subsequent Allocation of Additional Premium Tax Revenues. Commencing December 1, 2012 and each December 1 thereafter, the Retirement Plan

Board shall allocate the total Additional Premium Tax Revenues received during the preceding plan year among all Participant's share accounts as follows: each participant, with each participant who was employed for the entire preceding plan year receiving an equal share based on 12 complete months of credited service. Participants who were employed for less than the entire preceding plan year shall receive a proportionate share based on their complete months of credited service during the plan year.

Notwithstanding the allocation described above, beginning February 1, 2016, Chapter 185 premium tax revenues shall be allocated as follows:

1. The first \$170,000 of Chapter 185 revenue received each year shall be used to reduce the City's annual contribution to the City Retirement Plan.
2. The next \$57,400 of Chapter 185 revenue (above the first \$170,000) received each year shall be placed in a Contribution Reserve Account, to be maintained and used as provided herein.
3. The next \$4,200 of Chapter 185 revenue (above the first \$227,400) received each year shall be allocated to law enforcement officers' share accounts in equal shares. The allocation shares will include accounts for sworn law enforcement officers who remained a member of the City Retirement Plan after becoming a PBSO employee in accordance with the Memorandum of Understanding, with annual allocations to such Participant's share accounts until the Participant's death.
4. All annual Chapter 185 revenue in excess of \$231,600 shall be used to reduce the City's annual contribution to the City Retirement Plan or placed in the Contribution Reserve Account, as determined by the City.

Notwithstanding the allocation described above, effective December 7, 2020, Chapter 175 premium tax revenues shall be allocated as follows. If the City's required contribution to the City Retirement Plan for Firefighters should exceed 25% of payroll in any plan year based on the most recent actuarial valuation for the Plan, up to 50% of the excess premium tax revenues above \$160,796 shall be used to reduce the City's pension contribution, as needed to reduce the City's contribution to 25% of payroll.

Notwithstanding the allocation above, if the City's minimum required pension contribution should exceed the amount of the PBSO employer contributions to the City Retirement Plan in any plan year based on the most recent actuarial valuation for the Plan, the City may use the Contribution Reserve Account to cover the shortfall. In addition, the Contribution Reserve Account may be used to cover the cost of professional services provided to that portion of the City Retirement Plan that is dedicated to sworn law enforcement officer participants, including actuary fees and attorney's fees.

- (c) Allocations of forfeitures. As of the Annual Valuation Date in each Share Plan Year, all amounts forfeited under Section 5 since the preceding Annual Valuation Date shall be prorated and credited to the accounts of the individual Participants in the same manner as the allocations under subparagraph (b) above.
- (d) Allocation of net investment return. The Board shall invest the Share Plan assets together with the assets of the Retirement Plan. Except for the initial allocation of Accumulated Excess Premium Tax Revenues, the Board shall value the Share Plan's assets as of each Annual Valuation Date and shall allocate to each Participant's account his or her allocable share of the change in the fair market value of the Share Plan's assets, where such allocable share shall be based on the participant's account balance, if any, as of the preceding October 1st.
- (e) Payment of costs, expenses and fees. All costs, expenses and fees of administering the Share Plan shall be paid from the assets of the Share Plan in such fashion as the Board shall determine. Any allocation to a Participant's Account shall be net of the Participant's share of the costs, expenses and fees of administering the Share Plan.
- (f) Exclusive benefit rule. No part of the assets of the Share Plan shall be used for or diverted to any purpose whatsoever other than for the exclusive benefit of Participants thereof in accordance with the terms hereof and paying the expenses of the Share Plan as provided in subsection (e) above. No person shall have any interest in or right to any part of the assets of the Share Plan except as and to the extent expressly provided in the Share Plan.
- (g) Custody of fund assets. The Retirement Plan Board shall hold custody of Share Plan solely for use in paying the benefits provided by the Share Plan in accordance with the terms hereof and paying expenses of the Share Plan as described in subsection (e) above.
- (h) Maximum allocation limitation. Notwithstanding any provision of this Share Plan to the contrary, the maximum amount allocated to a Participant's account for any calendar year under the provisions of subsections (a), (b) and (c) of this Section 3 shall not exceed the limitations set forth in IRC section 415 and any regulations issued thereunder.
- (i) The Contribution Reserve Account created by the Memorandum of Understanding may be used, in the discretion of the City, to cover shortfalls in the Public Safety Plan only, occasioned by lower than expected returns on Retirement Plan investments, other actuarial losses, or to make up any shortfall resulting from PBSO employer contributions to the Retirement Plan that are less than the required employer contribution amount. The Contribution Reserve Account shall be capped at a maximum funding amount of two million dollars (\$2,000,000).

(4) Participation.

- (a) Establishment of Share Plan Account. An Account shall be established for each eligible Participant subsequent to the effective date of the plan adoption.
- (b) Distribution.
 - 1. A vested firefighter Participant shall request a distribution of his Share Plan account balance upon the Participant's commencement of retirement benefits under the Retirement Plan. The firefighter Participant's distribution shall be equal to the balance in his Account on the Participant's retirement date. A firefighter Participant shall receive his benefit in a single lump sum, as soon as practicable, as determined by the Board. In the event a firefighter Participant does not request a distribution, there will be no further earnings on the Participant's share account.
 - 2. A vested sworn law enforcement officer Participant shall request a distribution of his Share Plan account balance upon the Participant's commencement of retirement benefits under the Retirement Plan.
 - a. The sworn law enforcement officer Participant's distribution upon retirement shall be equal to the balance in his Account on the Participant's retirement date. A sworn law enforcement officer Participant shall receive his benefit upon retirement in a single lump sum, as soon as practicable, as determined by the Board. In the event a sworn law enforcement officer Participant does not request a distribution upon retirement, there will be no further earnings on the Participant's share account.
 - b. Sworn law enforcement officers who remained a member of the City Retirement Plan after becoming a PBSO employee in accordance with the Memorandum of Understanding, shall, following retirement, receive an annual distribution from the Share Plan in an amount equal to the allocation to the Participant's Account for that year. These amounts shall be paid in a lump sum as soon as practicable following allocation.
- (c) Termination of participation. Every firefighter-who is a Participant as of the effective date shall remain a Participant until death, termination of City employment as a firefighter, or retirement, whichever occurs first. Sworn law enforcement officers who remain members of the City Retirement Plan after becoming a PBSO employee in accordance with the Memorandum of Understanding shall remain a Participant until death. The Board may require and rely upon such proof of death and such evidence of the right of any eligible Beneficiary to receive the value of the Account of a deceased

Participant as the Board may deem proper and its determination of the right of that Beneficiary to receive payment shall be conclusive.

- (d) Payment of benefits. Benefits under this Section 4 shall be payable as soon as possible following the payment date described in subsection (b) above. Acceptance of any partial or full payment of a Participant's Account as provided in this Section 4 shall be in full settlement of all claims of a Participant or Beneficiary against the Share Plan as to the partial or full payment received.
- (5) Forfeitures.
 - (a) Forfeiture without cause. If a Participant terminates employment with the City or PBSO for any reason whatsoever prior to completing six (6) years of credited service in the Retirement Plan, the Participant's Share Plan Account shall be forfeited and allocated to the accounts of all remaining Participants in accordance with the provisions of paragraph (c) of Section 3 above.
 - (b) Forfeiture for cause. Notwithstanding anything in the Plan to the contrary, if a Participant or beneficiary enters a plea of no contest where adjudication is withheld to a lesser charge or is convicted of a specified offense as set forth in F.S. §112.3173, as same may be amended from time to time, or F.S. §§ 175.195 or 185.185, as same may be amended from time to time, the provisions of either F.S. §§ 112.3173, 175.195 or 185.185, as applicable, shall apply and the Participant or Beneficiary shall forfeit all rights to receive a benefit from the Share Plan. For purposes of this subsection (b), "convicted" and "specified offense" shall have the meanings given to them in F.S. §§ 112.3173, 175.195 or 185.185 as may be applicable.
- (6) Miscellaneous provisions.
 - (a) City's responsibilities. The City shall have no responsibility for the operation of this Share Plan except those specified herein. The City shall not be required to levy any additional taxes on its residents or to make any contributions to the share plan.
 - (b) Facility of payment. If the Board finds that a Participant or other person entitled to a benefit is unable to care for his or her affairs or is a minor or is legally incapacitated, the Board may direct that any benefit due such individual shall be paid to the individual's duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of this Share Plan for that benefit.
 - (c) Information. Each Participant, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to such individual or credited to the Participant's Account under the fund, shall file with the Board the

information that it shall require to establish the individual's rights and benefits under the Share Plan.

- (d) Severability of provisions. If any provision of this Share Plan is for any reason held unconstitutional, inoperative or void, such holding shall not affect the remaining provisions of this Share Plan. It is the intent of the City Council to create this Share Plan without such unconstitutional, inoperative or void provision and the remainder of the share plan, after the exclusion of such provision, shall be deemed and held to be valid as if such provision had not been included herein.
- (e) Reports. The Board shall issue a report of this Share Plan's operations at least annually.
- (f) Reservations of right to amend Share Plan. Subject to the provisions of F.S. Chs. 112, 175, 185 & 447, Pt. II, the City reserves the right at any time to amend or modify this Share Plan, provided that no amendment shall cause any part of the Share Plan assets to be used or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries. If at any time Chapters 175 and/or 185 are amended to allow additional premium tax revenues to be used to reduce the City's annual required contribution to the Retirement Plan, all premium tax revenues received after such amendment may be used to the maximum allowable extent to reduce the City's annual required contributions to the Retirement Plan. Following any such amendment participants' share accounts shall be maintained, and any further allocations of premium tax revenues to the share accounts shall be determined in accordance with the amendment.
- (g) Termination and discontinuance. Subject to the provisions of F.S. Chs. 112, 175, 185 & 447, Pt. II, this Share Plan may be terminated by the City. Upon termination of this Share Plan, the Share Plan assets shall be apportioned and distributed in accordance with the allocation formulas set forth herein. Upon termination of the Share Plan, each participant shall become 100% vested in his/her share account balance as of the date of termination.
- (h) Required distributions. In no event shall the provisions of this share plan operate so as to allow the distribution of a participant's account to begin after the later of April 1st following: (i) the calendar year in which the participant attains age 70½, or (ii) the calendar year in which the participant terminates employment with the City (the "required beginning date").
- (i) Distribution limitation. Notwithstanding any other provision of this share plan, all distributions from this Share Plan shall conform to the regulations issued under IRC section 401(a)(9), including the incidental death benefit provisions of IRC section 401(a)(9)(G). Further, such regulations shall

override any provision of this Share Plan that are inconsistent with IRC section 401(a)(9).

- (j) Direct rollover of certain distributions. Notwithstanding any provision of this share plan to the contrary that would otherwise limit a distributee's election under this subsection (j), a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly by the share plan to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions apply to the terms used in this subsection (j):
 - (1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution to the extent such distribution is required under IRC section 401(a)(9) and the portion of any distribution that is not includible in gross income;
 - (2) "Eligible retirement plan" means an individual retirement account described in IRC section 408(a), an individual retirement annuity described in IRC section 408(b), an annuity plan described in IRC section 403(a), a deferred compensation plan described in IRC section 457, or a qualified trust described in IRC section 401(a), that accepts the distributee's eligible rollover distribution.
 - (3) "Distributee" means an employee or former employee. In addition, the employee's surviving spouse is a distributee with regard to the interest of the spouse; and
 - (4) "Direct rollover" means a payment by the fund to the eligible retirement plan specified by the distributee.
- (k) Non-alienation of benefits. Except as provided by law, the benefits provided by this share plan shall not be subject to garnishment, attachment; execution of any other legal process, except the board may authorize the deduction of alimony and child support, in accordance with F.S. §§ 175.061(7) or 185.05(6).
- (l) Amendment. The provisions of the plan are intended to meet the all applicable requirements of the Internal Revenue Code for tax exempt status, and other applicable federal and state laws. Should any changes be required to this Share Plan for it to comply or to continue to comply with applicable provisions of the IRC, the board shall recommend to the City Council any such required changes to the share plan.
- (m) Captions. The caption preceding the sections and paragraphs of this share text rather than the caption shall control.

- (n) USERRA. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).



ITEM SUMMARY

MEETING DATE: August 15, 2022

FROM: Andrea McCue, City Manager, Administration

SUBJECT: Ordinance 2022-27 – Limited Income Senior Citizen Exemption

BACKGROUND

PBC senior citizens, age 65 or older, with income below the limit set by the Florida Dept. of Revenue and whose properties qualify for the homestead exemption can also qualify for an additional exemption. The additional benefit for qualified seniors applies only to taxes levied by municipal entities that have approved the additional exemption.

ANALYSIS

At the July 18, 2022, Council Meeting, staff was directed to prepare an Ordinance for the Council's consideration to implement the program in the City. A majority of the Council supported the \$5,000.00 exemption. The income limit for the 2022 exemption is \$32,561. There are currently 533 properties in the City that qualify for this exemption.

The Council approved the first reading of Ordinance 2022-27 on August 15, 2022

FINANCIAL INFORMATION

The financial impact to the City based on the \$5,000.00 exemption level will be \$17,056.00.

LEGAL

The City Attorney has reviewed for legal sufficiency and compliance.

STAFF RECOMMENDATION

Staff is recommending approval of Ordinance 2022-27 on second reading.

ORDINANCE NO. 2022-27

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, ADOPTING CHAPTER 13 "TAXATION," ARTICLE IV "ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 AND OLDER," TO PROVIDE FOR AN ADDITIONAL \$5,000.00 HOMESTEAD EXEMPTION FOR QUALIFYING PERSONS 65 YEARS OF AGE AND OLDER; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, DIRECTIONS TO THE CLERK FOR DELIVERY, AND AN EFFECTIVE DATE.

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

WHEREAS, Section 6(d), Article VII of the Florida Constitution and Section 196.075, Florida Statutes, authorize local governments to adopt an ordinance to establish an additional homestead exemption for a person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed an established maximum amount, currently set at \$32,561.00; and

WHEREAS, the City Council wishes to adopt an ordinance pursuant to Section 196.075, Florida Statutes, to provide qualifying persons who are 65 years and older an additional homestead exemption of \$5,000.00; and

WHEREAS, the City Council has considered the costs to the City and the benefits to the eligible property owners resulting from this additional homestead exemption by the City; and

WHEREAS, the City Council finds that this additional homestead exemption for qualifying persons 65 years and older serves a public purpose and is in the best interests of the public health, safety and/or welfare of the City.

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

SECTION 1. The foregoing recitals are hereby fully incorporated herein by reference as the legislative findings of the City Council of the City of Greenacres.

SECTION 2. The City of Greenacres Code of Ordinances is hereby amended by adding a new Article V “Additional homestead exemption for persons 65 and older” to Chapter 13 “Taxation,” and such new article shall read as follows:

ARTICLE V – ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 AND OLDER

Sec. 13-83– Purpose; applicability.

The purpose of this article is to provide an additional homestead exemption for persons 65 years of age and older in accordance with the requirements of F.S. § 196.075. This exemption applies only to taxes levied by the City, including dependent special districts and municipal service taxing units, if any. It is the intent of the City Council that this ordinance shall conform to the requirements of Section 196.075, Florida Statutes, as presently constituted and as may be amended from time to time.

Sec. 13-84. – Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Household means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

Household income means the adjusted gross income, as defined in section 62 of the United States Internal Revenue Code, of all members of a household.

Ordinance No. 2022-27 | Limited Income Senior Citizen Exemption

Page No. 3

Property appraiser means the Palm Beach County Property Appraiser.

Sec. 13-85. – Exemption.

- (a) Qualifications. Pursuant to F.S. § 196.075, an additional homestead exemption is hereby authorized for any person who:
- (1) Has the legal or equitable title to real estate;
 - (2) Maintains thereon the permanent residence of the owner;
 - (3) Is 65 years or older as of January 1; and
 - (4) Whose household income does not exceed \$32,561.00, as adjusted in subsection (e) below.
- (b) Exemption amount. The amount of the additional homestead exemption is \$5,000.00.
- (c) Annual adjustment of household income limitation. For purposes of determining household income, the \$32,561.00 household income limitation shall be calculated in accordance with F.S. § 196.075(3) and adjusted annually. The calculation of household income shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

Sec. 13-86. – Process to claim exemption.

- (a) Initial request. A taxpayer who wants to claim the additional exemption for the first time is required to submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Florida Department of

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Revenue.

(b) Annual request. The taxpayer claiming the exemption is required to submit annually to the property appraiser, not later than May 1, a sworn statement of household income on a form prescribed by the Florida Department of Revenue

(c) Supporting documentation. The initial and annual requests must also include any supporting documentation required by the Department of Revenue and property appraiser. The property appraiser may not grant the exemption if the required documentation requested is not provided.

Sec. 13-87. – Property held jointly with right of survivorship.

If title to the subject property is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.

SECTION 3. Repeal Of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

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SECTION 6. Delivery Of Ordinance. The City Clerk is directed to deliver a copy of this ordinance to the Palm Beach County Property Appraiser no later than December 1, 2022, if possible.

SECTION 7. Effective Date

The provisions of this Ordinance shall become effective immediately upon adoption.

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Passed on the first reading this 15th day of August 2022.PASSED AND ADOPTED on the second reading this 14th day of September, 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: September 14, 2022

FROM: Scott H. Wood, Building Official

SUBJECT: **Ordinance 2022-28**
Amending Floodplain Management Ordinance

BACKGROUND

The ordinance is mandated by the State Floodplain Management Office (SFMO) for cities participating in the National Flood Insurance Program (NFIP). The NFIP is managed by FEMA and is delivered to the public through a network of more than 50 insurance carriers as well as FEMA directly.

Through the NFIP the City is given a rating through the Community Rating System (CRS), currently a Class 9.

Class 6 through 9 communities undergo a verification visit every five years by ISO/CRS to determine compliance, and improvements, if any. The proposed amendments are to ensure that our Floodplain Ordinance is up to the current standard required by the SFMO.

The City has had many iterations of a Floodplain ordinance, the most recent being adopted in 2016 when the State Model Floodplain Ordinance was adopted.

There are only a few minor changes proposed to the current Ordinance.

- Accessory structures in the regulatory floodway shall comply with the ordinance
- Newly installed manufactured homes shall be at an elevation of one foot above Base Flood Elevation, as determined by the current floodplain maps provided by FEMA
- Changes to the way Market Value is calculated, where land value is no longer included in the calculation

The proposed changes were sent to us by the SFMO, reviewed by staff and legal, and is recommended for approval.

ANALYSIS

Approval of this ordinance will provide for higher building elevations and improve our CRS rating from a Class 9 to a Class 8, providing an additional decrease in flood insurance premiums from 5% to 10%. This approval of this ordinance is mandatory if we wish to continue to participate in the NFIP and CRS.

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-28 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the State Floodplain Management Office and the City Attorney.

STAFF RECOMMENDATION

Approval of amending Chapter 4, Article III to comply with the requirements of the State Floodplain Management Office (SFMO) through the adoption of Ordinance 2022-19.

ORDINANCE NO. 2022-28

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 4 “BUILDINGS AND BUILDING REGULATIONS,” ARTICLE III “FLOODPLAIN MANAGEMENT” TO PROVIDE FOR ACCESSORY STRUCTURES IN FLOOD HAZARD AREAS; TO SPECIFY ELEVATION OF MANUFACTURED HOMES IN FLOOD HAZARD AREAS; TO ADDRESS MARKET VALUE AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 - Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the City of Greenacres (the “City”) participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class 9, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

WHEREAS, to satisfy the prerequisite and for the City to qualify for a higher CRS rating in the future, all manufactured homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

WHEREAS, the City Council has determined it appropriate to adopt regulations that are consistent with the FEMA Policy to allow issuance of permits for non-elevated wet floodproofed accessory structures that are not larger than the sizes specified in the FEMA Policy; and

WHEREAS, the City Council has determined that it is in the public interest to amend the floodplain management regulations to better protect manufactured homes and to continue participating in the Community Rating System at the current class rating or better; and

WHEREAS, the City Council wishes to update other provisions of the City's Floodplain Management to help meet the minimum prerequisites for the class rating of Class 8 which will better serve the health, safety, and general welfare of the residents of the City.

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

SECTION 1. LEGISLATIVE FINDINGS, INTENT AND PURPOSE.

The whereas clauses contained herein are legislatively determined to be true and correct and are incorporated herein and represent the legislative findings of the City Council. It is the purpose and intent of this ordinance to promote the health, safety, and general welfare of the residents of the City.

SECTION 2. AMENDMENTS.

Chapter 4, entitled "Buildings and Building Regulations," Article III "Floodplain Management," is hereby amended as follows (as shown in ~~striktthrough~~ and underline format):

CHAPTER 4 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE III - FLOODPLAIN MANAGEMENT

DIVISION 1 - ADMINISTRATION

Section 4-40 - General

Sec. 4-40.1 - Title.

These regulations shall be known as the Floodplain Management Article of the City of Greenacres, hereinafter referred to as "this article".

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-40.2 - Scope.

The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-40.3 - Intent.

The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-40.4 - Coordination with the Florida Building Code.

This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-40.5 - Warning.

The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-40.6 - Disclaimer of liability.

This article shall not create liability on the part of the City Council of the City of Greenacres or on any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-41 - Applicability

Sec. 4-41.1 - General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-41.2 - Areas to which this article applies.

This article shall apply to all flood hazard areas within the City of Greenacres, as established in section 4-41.3 of this article.

Sec. 4-41.3 - Basis for establishing flood hazard areas.

The Flood Insurance Study for Palm Beach County, Florida and Incorporated Areas dated October 5, 2017, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the office of the city clerk.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16; Ord. No. 2017-11, § 1, 8-7-17, eff. 10-5-17)

Sec. 4-41.3.1 - Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations, pursuant to section 4-44 of this article, the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as a flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as a special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-41.4 - Other laws.

The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-41.5 - Abrogation and greater restrictions.

This article supersedes any article in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing articles including but not limited to land development regulations, zoning articles, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other article, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-41.6 - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-42 - Duties and Powers of the Floodplain Administrator

Sec. 4-42.1 - Designation.

The building official is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.2 - General.

The floodplain administrator is authorized and directed to administer and enforce the provisions of this article. The floodplain administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to section 4-46 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.3 - Applications and permits.

The floodplain administrator, in coordination with other pertinent offices of the community, shall:

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;

- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.4 - Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage"; and improvements and repairs as specified in the definition of "substantial improvement"; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.5 - Modifications of the strict application of the requirements of the Florida Building Code.

The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to section 4-46 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.6 - Notices and orders.

The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.7 - Inspections.

The floodplain administrator shall make the required inspections as specified in section 4-45 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.8 - Other duties of the floodplain administrator.

The floodplain administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 4-42.4 of this article;
- (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
- (4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code to determine that such certifications and documentations are complete; and
- (5) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Greenacres are modified.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-42.9 - Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public

inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at office of the City Clerk at the City of Greenacres City Hall.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-43 - Permits

Sec. 4-43.1 - Permits required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.2 - Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.2.1 - Buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in Section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.

- (5) Those structures or facilities of electric utilities, as defined in Section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in Section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.3 - Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the City of Greenacres. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in section 4-44 of this article.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the floodplain administrator.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.4 - Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other article of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.5 - Expiration.

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.6 - Suspension or revocation.

The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other article, regulation or requirement of the city.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-43.7 - Other permits required.

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The South Florida Water Management District; Section 373.036, F.S.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; Section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; Section 161.055, F.S.
- (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (5) Federal permits and approvals.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-44 - Site Plans and Construction Documents

Sec. 4-44.1 - Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with section 4-44.2(2) or (3) of this article.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on

the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with section 4-44.2(1) of this article.

- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (7) Existing and proposed alignment of any proposed alteration of a watercourse.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-44.2 - Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

- (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- (2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- (3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - (a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - (b) Specify that the base flood elevation is three (3) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet.
- (4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-44.3 - Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 4-44.4 of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in section 4-44.4 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-44.4 - Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-45 - Inspections

Sec. 4-45.1 - General.

Development for which a floodplain development permit or approval is required shall be subject to inspection.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-45.1.1 - Development other than buildings and structures.

The floodplain administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-45.1.2 - Buildings, structures and facilities exempt from the Florida Building Code.

The floodplain administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-45.1.2.1 - Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with section 4-44.2(3)(b) of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-45.1.2.2 - Buildings, structures and facilities exempt from the Florida Building Code, final inspection.

As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in section 45.1.2.1 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-45.1.3 - Manufactured homes.

The floodplain administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the floodplain administrator.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-46 - Variances and Appeals

Sec. 4-46.1 - General.

The building board of adjustments and appeals shall hear and decide on requests for appeals and requests for variances from the strict application of this Article. Pursuant to Section 553.73(5), F.S., the building board of adjustments and appeals shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.2 - Appeals.

The building board of adjustments and appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this article. Any person aggrieved by the decision of the building board of adjustments and appeals may appeal such decision to the Circuit Court, as provided by Florida Statutes.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.3 - Limitations on authority to grant variances.

The building board of adjustments and appeals shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 4-46.6 below, the conditions of issuance set forth in section 4-46.7 below, and the comments and recommendations of the floodplain administrator and the building official. The building board of adjustments and appeals has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.3.1 - Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 4-44.3 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.4 - Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.5 - Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of section 4-46.3.1, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.6 - Considerations for issuance of variances.

In reviewing requests for variances, the building board of adjustments and appeals shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this article, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-46.7 - Conditions for issuance of variances.

Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
- (2) Determination by the building board of adjustments and appeals that:
 - (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

- (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and articles; and
- (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-47 - Violations

Sec. 4-47.1 - Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this article, shall be deemed a violation of this article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-47.2 - Authority.

For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-47.3 - Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

DIVISION 2 - DEFINITIONS

Section 4-48 - General

Sec. 4-48.1 - Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this article, have the meanings shown in this division.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-48.2 - Terms defined in the Florida Building Code.

Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-48.3 - Terms not defined.

Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-49 - Definitions

[Sec. 4-49.1 - Definitions.]

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Accessory structure. A structure on the same parcel of property as a principal structure and the use of which is limited to parking and storage incidental to the use of the principal structure.

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this article.

ASCE 24. A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202 see "Basement (for flood loads)".]

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two (2) feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before August 8, 2016. [Also defined in FBC, B, Section 202.]

~~*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 8, 2016.~~

~~*Expansion to an existing manufactured home park or subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this article (may be referred to as the floodplain manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 202.]

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) *Letter of Map Amendment (LOMA).* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) Letter of Map Revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.>

(3) Letter of Map Revision Based on Fill (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional Letter of Map Revision (CLOMR). A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at eight thousand five hundred (8,500) pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Market value. ~~The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market.~~ The value of buildings and structures, excluding the land and other improvements on the parcel. Market value ~~may be established by a qualified independent appraiser,~~ is the Actual Cash Value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of this article and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of

construction" commenced on or after August 8, 2016 and includes any subsequent improvements to such structures.

~~*New manufactured home park or subdivision.*~~ A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 8, 2016

Park trailer. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in Section 320.01, F.S.]

Recreational vehicle. A vehicle, including a park trailer, which is: [See in Section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area. An area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1—A30, AE, A99, AH, V1—V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred. [Also defined in FBC, B Section 202.]

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the 5-year

period begins on the date of the first improvement or repair of that building or structure subsequent to August 8, 2016. If the structure has sustained "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include [Also defined in FBC, B, Section 202.] any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

Variance. A grant of relief from the requirements of this article, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this article or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

DIVISION 3 - FLOOD RESISTANT DEVELOPMENT

Section 4-50 - Buildings and Structures

Sec. 4-50.1 - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to section 4-43.2.1 of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of section 4-56 of this article.

Sec. 4-50.2 – Florida Building Code technical amendments.

(1) The Florida Building Code, Building, Section 202, is amended as follows:

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 5-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 8, 2016. If the structure has sustained substantial damage, any repairs

are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(2) The Florida Building Code, Existing Building, Section 202, is amended as follows:

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. For the purpose of determining compliance with the flood provisions of this code, any combination of repair, reconstruction, rehabilitation, alteration, addition, or improvement of a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the 5-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 8, 2016. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Sec. 4-50.3 – Non-elevated accessory structures.

Accessory structures are permitted below elevations required by the Florida Building Code provided the accessory structures are used only for parking or storage and:

- (1) Are one-story and not larger than 600 sq. ft.
- (2) Have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
- (3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

(4) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

(5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-51 - Subdivisions

Sec. 4-51.1 - Minimum requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-51.2 - Subdivision plats.

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section 4-44.2(1) of this article; and
- (3) Compliance with the site improvement and utilities requirements of section 4-52 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-52 - Site Improvements, Utilities and Limitations

Sec. 4-52.1 - Minimum requirements.

All proposed new development shall be reviewed to determine that:

- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-52.2 - Sanitary sewage facilities.

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-52.3 - Water supply facilities.

All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-52.4 - Limitations on sites in regulatory floodways.

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in section 4-44.3(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-52.5 - Limitations on placement of fill.

Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-53 - Manufactured Homes

Sec. 4-53.1 - General.

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to Section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-53.2 - Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this article. ~~Foundations for manufactured homes subject to section 4-53.4.2 are permitted to be reinforced piers or other foundation elements of at least equivalent strength.~~

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-53.3 - Anchoring.

All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-53.4 - Elevation.

All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A). ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with section 4-53.4.1 or 4-53.4.2 of this article, as applicable.~~

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-53.4.1 – General elevation requirement.

~~Unless subject to the requirements of section 4-53.4.2 of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).~~

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-53.4.2 – Elevation requirement for certain existing manufactured home parks and subdivisions.

~~Manufactured homes that are not subject to section 4-53.4.1 of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:~~

- ~~(1) Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A); or~~

- ~~(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than forty-eight (48) inches in height above grade.~~

~~(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)~~

Sec. 4-53.5 - Enclosures.

Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-53.6 - Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-54 - Recreational Vehicles and Park Trailers

Sec. 4-54.1 - Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- (1) Be on the site for fewer than one hundred eighty (180) consecutive days; or
- (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-54.2 - Permanent placement.

Recreational vehicles and park trailers that do not meet the limitations in section 4-54.1 of this article for temporary placement shall meet the requirements of section 4-53 of this article for manufactured homes.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-55 - Tanks

Sec. 4-55.1 - Underground tanks.

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-55.2 - Above-ground tanks, not elevated.

Above-ground tanks that do not meet the elevation requirements of section 4-55.3 of this article shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-55.3 - Above-ground tanks, elevated.

Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-55.4 - Tank inlets and vents.

Tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Section 4-56 - Other Development

Sec. 4-56.1 - General requirements for other development.

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of section 4-52.4 of this article if located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (4) Be constructed of flood damage-resistant materials; and
- (5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-56.2 - Fences in regulated floodways.

Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 4-52.4 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-56.3 - Retaining walls, sidewalks and driveways in regulated floodways.

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 4-52.4 of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

Sec. 4-56.4 - Roads and watercourse crossings in regulated floodways.

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 4-52.4 of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 4-44.3(3) of this article.

(Ord. No. 2016-14, § 3, 8-1-16, eff. 8-8-16)

SECTION 3. APPLICABILITY. For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Greenacres. This ordinance shall apply to all applications for development in flood hazard areas submitted on or after the effective date of this ordinance.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 5. INCLUSION INTO THE CODE OF ORDINANCES. It is the intent of the City Council that the provisions of this ordinance shall become and be made a part of the City of Greenacres Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered. The word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon adoption.

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

PASSED AND ADOPTED on the second reading this _____ day of _____, 202__.

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: September 14, 2022

FROM: Andrea McCue, City Manager, Administration

SUBJECT: Ordinance 2022-30 Banning Smoking in Parks

BACKGROUND

Section 386.209, Florida Statutes preempted the regulation of smoking to the State and prohibited cities and counties from regulating smoking in local parks.

ANALYSIS

Effective July 1, 2022, the Florida legislature amended section 386.209, to allow cities to restrict smoking in local parks which are within the jurisdiction of the cities and provided for the cities to restrict smoking in county-owned parks within the City's boundaries if the county does not have a conflicting ordinance. The only exception to the amendment is that a city cannot restrict the smoking of unfiltered cigars.

FINANCIAL INFORMATION

There will be a minimal cost for updating of City signs.

LEGAL

The City Attorney prepared the Ordinance in compliance with state statutes.

STAFF RECOMMENDATION

Staff is recommending approval of Ordinance 2022-30 on first reading.

ORDINANCE NO. 2022-30

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 11, STREETS, SIDEWALKS AND OTHER PLACES, ARTICLE IV, CITY PARKS, BY CREATING A NEW SECTION 11-76 TO BE ENTITLED, "SMOKING AND VAPING PROHIBITED IN PARKS"; 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, under section 386.209, Florida Statutes, the State legislature preempted the regulation of smoking to the State and prohibited cities and counties from regulating smoking within local parks; and

WHEREAS, effective July 1, 2022, the Florida legislature amended section 386.209, Florida Statutes, to allow cities to restrict smoking in local parks which are within the jurisdiction of the cities; and

WHEREAS, the Legislature's amendment also allows for a city to restrict smoking in a county-owned park that is within a city's boundaries if the county does not have a conflicting ordinance; and

WHEREAS, the only exception to the Legislature's amendment to section 386.209, Florida Statutes, is that a city cannot restrict the smoking of unfiltered cigars; and

WHEREAS, as noted in the reports cited in the staff analysis for HB 105 (2022) which amended section 386.209, Florida Statutes, (and which are incorporated herein by reference) secondhand smoke can cause numerous health problems and has been causally linked to cancer and other fatal diseases; and

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WHEREAS, the City Council for the City of Greenacres finds that the harmful impact of secondhand smoke in the City's parks is detrimental to park users and should be banned to the greatest extent allowed by law; 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 correct findings of the City Council including, without limitation, the reports cited in the staff analysis for Florida HB 105 (2022) which amended section 386.209, Florida Statutes.

SECTION 2. Chapter 10, entitled, "Streets, Sidewalks and Other Public Places", Article IV, entitled, "City Parks", of the City of Greenacres Code of Ordinances is hereby amended by creating a new section 11-76 to be entitled, "Smoking and Vaping Prohibited in Parks", to read as follows:

Sec. 11-76. – Smoking and Vaping Prohibited in Parks.

- (a) Definitions. For the purposes of this section, the following terms shall have the meanings given. Words not otherwise defined shall have the meaning set forth in Part II, Chapter 386, Florida Statutes (the Florida Clean Air Act), or shall be construed to mean the common and ordinary meaning.

"Smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product. However, "unfiltered cigars" shall be exempt from this definition of smoking.

"Vape" or "vaping" means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

- (b) Prohibition. A person is prohibited from smoking and/or vaping in a park located within the city. This prohibition includes a park that is owned by Palm Beach County

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but within the boundaries of the city unless Palm Beach County has an ordinance authorizing smoking and/or vaping within that County owned park.

- (c) Enforcement. This section may be enforced by the city's code enforcement division and/or the city's law enforcement agency. Enforcement may include, but is not limited to, enforcement through city code enforcement, city civil citation, county court citation, and/or any other enforcement proceeding available to the city.
- (d) Penalties. The penalty for violation of this section shall be the maximum penalty or penalties permitted by applicable law.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances or parts thereof or parts of the Code conflicting with the provision of this Ordinance are hereby repealed to the extent of the conflict.

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 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.

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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 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 6. Effective Date

The provisions of this Ordinance shall become effective upon adoption.

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Passed on the first reading this 14th day of September, 2022.

PASSED AND ADOPTED on the second reading this _____ day of _____ 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:

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Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: September 14, 2022
FROM: Andrea McCue, City Manager, Administration
SUBJECT: City Manager and City Attorney Evaluation Discussion

BACKGROUND

City Manager: Section 7, Performance Evaluations, of the City Managers Employment Agreement outlines that the Manager shall provide the Mayor and the City Council with a self-evaluation of her performance by July 1st of each year in advance of the annual operating budget. The Manager shall then make herself available for individual meetings with the Mayor and each member of the City Council at which time her self-evaluation can be discussed. Subsequent to the individual meetings, but before the adoption of the annual budget, the Mayor or any member of the City Council may bring up the Manager's performance at a public meeting and may recommend a higher or lower merit increase than that provided to other City employees.

City Attorney: The City entered into an Independent Contractor Agreement for legal representation on all matters related to the City on October 15, 2018.

ANALYSIS

City Manager: The current practice regarding the Manager's review has been that the City Manager completes a self-evaluation and the Mayor and City Council also complete the same evaluation. Subsequently, an item has been added to the agenda to discuss the Managers evaluation and any associated increase.

The City's employee evaluation forms calculate merit increases based on performance in core competency areas and current work results achieved. Meets Expectations provides for a 2.5% increase, Exceeds Expectations provides for a 3.5% increase and Greatly Exceeds Expectations provides for a 4.5% increase.

City Attorney: As an independent contractor the terms of the agreement provide for changes to the contract should the Mayor and Council wish to make a change.

FINANCIAL INFORMATION

Any merit increase for the City Manager and/or rate increase for the City Attorney would be included in the City's annual budget.

LEGAL

N/A

STAFF RECOMMENDATION

City Manager: Staff is recommending that the City Manager continue to provide a self-evaluation to the Mayor and Council annually and in turn they will meet individually with the City Manager to discuss the evaluation. Should the Mayor and/or Council wish to discuss the Manager's performance and/or recommend a higher or lower merit increase (i.e., above or below a Meets Expectations (2.5%)), they would request that an item be added to an agenda for discussion.

City Attorney: Staff is recommending that the Mayor and Council no longer complete the City Attorney evaluation form and rather follow the terms of the Independent Contractor Agreement related to adjustments and/or termination of the agreement if needed. Should the City Attorney wish to request an increase to their hourly rate, a request should be done during the budget process and prior to adoption of the annual budget.

