



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, April 04, 2022 at 6:00 PM

City Hall Council Chambers | 5800 Melaleuca Lane

AGENDA

Mayor and City Council

Joel Flores, Mayor

John Tharp, Deputy Mayor

Peter A. Noble, Councilmember, District II

Judith Dugo, Councilmember District III

Susy Diaz, Councilmember, District IV

Paula Bousquet, Councilmember, District V

Administration

Andrea McCue, City Manager

Glen J. Torcivia, City Attorney

Quintella Moorer, City Clerk

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

SPECIAL BUSINESS

1. **Proclamation:** Autism Awareness Month. - Lisa Pugliese-LaCroix, Founder and Nicole Erickson, Coach, of Love Serving Autism.
2. **Presentation:** 2021 President's Volunteer Service Awards. - Jowie Mohammed, Director of Youth Programs and Benjamin Dexter, Youth Programs Supervisor.

CONSENT AGENDA

3. **Official Minutes:** City Council Meeting Minutes, March 21, 2022. - Quintella L. Moorer, City Clerk.
4. **Resolution 2022-07:** Approving the agreement between the city of Greenacres and Zahlene Enterprises, Inc., for construction of asphalt pathway and adjacent swale, irrigation pump system and electrical services for pump, landscaping; authorizing the appropriate city officials to execute the agreement; providing for an effective date. - Monica Powery, Director of Purchasing.
5. **Write-Offs:** False Fire Alarms Write-off for Pacifica Senior Living. - Teri Beiriger, Director of Finance.

REGULAR AGENDA

6. **PUBLIC HEARING: Ordinance 2022-04: Second Reading:** Amending Chapter 16, Article 1, in General, Section 16-1; Article 4, Supplemental District Regulations, Division 2, area and height limitations, Section 16-630; to address the size of accessory structures on large lots and provide regulations for mechanical or architectural equipment placed in

the setback; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.

- 7. PUBLIC HEARING: Ordinance 2022-05: Second Reading:** Amending Greenacres Code of Ordinance at Chapter 16 Zoning Regulations, Article 2 Administration, Section 33 Public Hearings to include a Development Application Approval and Notice Requirement Chart; 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.
- 8. PUBLIC HEARING: Ordinance 2022-06: Second Reading:** Amending Chapter 7, Health, Sanitation and Nuisances, Article 3, Noise, in General, Section 7-56; to reduce construction hours permitted, permit the City Manager the right to approve noise outside the permitted hours, create new sanitation operation hours, and create new noise limitations on heating, ventilation and air conditioning equipment, and landscaping and yard maintenance power tools; 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.
- 9. PUBLIC HEARING: Ordinance 2022-08: Second Reading:** Amending Chapter 11, Streets, Sidewalks, and other Public Places, Article 5, placement of communications facilities in public rights-of-way, Section 11-101, placement or maintenance of a communications facility in public rights-of-way, to address the requirement for City co-location opportunities on Micro Tower Infrastructure within City rights-of-way; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.
- 10. Ordinance 2022-10: First Reading:** Repealing Chapter 2, Administration" Article, "Boards, Committees, Commission", Division 2 "Code Enforcement", adopting a new Article 8, "Code Compliance", providing for severability, preservation, conflicts, codification and an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.
- 11. Designation of Deputy Mayor:** - Andrea McCue, City Manager.
- 12. Appointment of Palm Beach Transportation Planning Agency, Alternate Member.** - Andrea McCue, City Manager.
- 13. Appointment of League of Cities Voting Delegate.** - Andrea McCue, City Manager.

DISCUSSION ITEM - None.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

MAYOR AND CITY COUNCIL REPORT

ADJOURNMENT

Upcoming Council Meetings

April 18, 2022

May 2, 2022

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.



ITEM SUMMARY

MEETING DATE: April 4, 2022

FROM: Jowie Mohammed, Director of Youth Programs

SUBJECT: President's Volunteer Service Awards Memo

BACKGROUND

The President's Volunteer Service Award Program is approved by the President of the United States to recognize Americans of all ages who have made a significant commitment to volunteer service. In 2005, the City of Greenacres became an approved "Official Certifying Organization" for the President's Volunteer Service Awards. Volunteers who demonstrate outstanding volunteer service and/or civic participation can attain a Volunteer Service Award.

ANALYSIS

The city will recognize thirty-three (33) volunteers for their service during the 2021 calendar year: five (5) adults which includes one family of two (2) the Glasser family; twenty-five (25) teens and three (3) young adults. Total volunteer hours were 8,809.

FINANCIAL INFORMATION

The cost of the President's Volunteer Service Awards for calendar year 2021 totals \$327.00, and the expense is included in the FY22 budget.

STAFF RECOMMENDATION

Recognition of the thirty-three (33) dedicated volunteers who have contributed their time and effort in accruing 8,809 hours to benefit the City of Greenacres.



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, March 21, 2022, at 6:00 PM

City Hall Council Chambers | 5800 Melaleuca Lane

MINUTES

Mayor and City Council

Joel Flores, Mayor

John Tharp, Deputy Mayor

Peter A. Noble, Councilmember, District II

Judith Dugo, Councilmember District III

Susy Diaz, Councilmember, District IV

Paula Bousquet, Councilmember, District V

Administration

Andrea McCue, City Manager

Glen J. Torcivia, City Attorney

Quintella Moorer, City Clerk

CALL TO ORDER AND ROLL CALL

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

Councilmember Pearce was absent.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Motion made by Councilmember Bousquet, Seconded by Councilmember Dugo to amend the agenda by removing Item 13.

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

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

None.

SPECIAL BUSINESS

1. Announcement of 2022 Election Results. - Quintella L. Moorer, City Clerk.

Ms. Moorer announced the March 8, 2022, Municipal Election winners as follows: Mr. Peter Noble, District 2, Ms. Judy Dugo, District 3, and Ms. Susy Diaz, District 4.

2. Motion to accept Election Results. - Mayor Joel Flores.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Bousquet to approve the election results as read by Ms. Moorer.

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

3. Oaths of Offices. - Quintella L. Moorer, City Clerk.

Mr. Peter Noble, District 2.

Ms. Judy Dugo, District 3.

Ms. Susy Diaz, District 4.

The Oath of office was performed for all appointed Councilmembers.

Mayor Flores congratulated the appointed Councilmembers and stated he looked forward to working with everyone. Councilmember Diaz thanked everyone for their support and looked forward to working towards the greater good of the community.

Councilmember Dugo stated it was the job of the leaders to help residents achieve the American Dream via teamwork to all residents. She suggested encouraging residents to use public transportation and stated she wanted to work with Palm Tran to increase awareness of public transportation.

4. Proclamation: School District of Palm Beach County and Education Foundation of Palm Beach County - 2022 Teacher of the Year; Ms. Annabel Wagner, Greenacres Elementary School. - Mayor Joel Flores.

Ms. Moorer read the Proclamation by title and Mayor Flores presented the Proclamation to Ms. Wagner. Mayor Flores stated he was so extremely proud of his mother and her accomplishments. Ms. Wagner said she was thankful for the honor and would continue to teach and inspire in Greenacres.

5. Proclamations: Let's Move Palm Beach County Month. - Mr. Wil Romelus, Executive Director of Digital Vibe.

Mr. Romelus thanked the City for their support and challenged the City to join the movement by logging all physical movement minutes. He encouraged everyone to join and to stay active.

6. Presentation: Certificate of Appreciation to Deputy Sheriff Eduardo Davalos. - Andrea McCue, City Manager.

Mayor Flores presented Deputy Sheriff Davalos the certificate of appreciation and thanked him for his amazing efforts and dedication to the City, he wished him well on his promotion.

Councilmember Diaz and Deputy Mayor Tharp thanked Deputy Sheriff Davalos for his remarkable efforts, dedication, and service to the community. They congratulated him on his promotion.

Ms. McCue stated Deputy Sheriff Davalos would be missed dearly and she wished him well in his new position as Detective.

Deputy Sheriff Davalos was honored and thanked everyone for the well wishes.

7. Presentation: Comprehensive Plan Updates (Evaluation and Appraisal Report- EAR). - Caryn Gardner-Young, Zoning Administrator.

Ms. Gardner-Young stated she wanted the Council to be aware of a major task coming up and mentioned it would take a lot of outreach. She said the Comprehensive Plan was required by the State and the intention was coordination. She continued to review what a

Comprehensive Plan was, what was required for the plan and what were the next steps in updating.

Ms. Gardner-Young stated the timeline would begin tonight with the presentation, then a hired consultant would be next, thereafter stakeholder meetings would take place for elements. She mentioned once the Planning Zoning and Appeals Board had approved the elements, the City Council would make a final decision prior to the State's approval.

Ms. Gardner-Young also mentioned a resident survey would be posted online for input.

CONSENT AGENDA

- 8. Official Minutes:** City Council Meeting Minutes, February 7, 2022. - Quintella L. Moorer, City Clerk.
- 9. Resolution 2022-13:** Approving an interlocal agreement with Palm Beach County for distribution of the Palm Beach County Regional Fund for abatement of the effects of the Opioid Epidemic; and authorizing the appropriate city officials to execute all necessary documents; and providing for an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.
- 10. Resolution 2022-14:** Approving the agreement between the City of Greenacres and TCLM Enterprise, Inc., for ditch excavation and grading, sidewalk restoration, pavement restoration, drainage installation, sod placement watering and establishment, and other incidental work; authorizing the appropriate City Officials to execute the agreement; providing for an effective date. - Monica Powery, Director of Purchasing.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Bousquet to approve the Consent Agenda.

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

REGULAR AGENDA

- 11. PUBLIC HEARING: Ordinance 2022-03: Second Reading:** Amending Chapter 15 Utilities to include an additional Article for expansion of Palm Beach County's wastewater system within the City of Greenacres; providing for conflicts, severability, codification, and effective date. - Andrea McCue, City Manager.

City Clerk Moorer read Ordinance 2022-03 by title.

Ms. McCue reiterated the requirements from the County and the City's support of the project and stated no changes had been made since the First Reading and asked were there any questions. Staff recommended approval.

Motion made by Councilmember Noble, Seconded by Councilmember Bousquet to approve Ordinance 2022-03 on Second Reading.

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

12. PUBLIC HEARING: Ordinance 2021-21: Second Reading: Amending Greenacres code of ordinance at Chapter 12 - Subdivisions and Land Development Regulations, Article 3 - Improvements and Design Standards, Sections 12-65 by increasing the width of sidewalks from four feet to five feet; amending Greenacres Code of Ordinance at Chapter 12 – Subdivisions and Land Development Regulations, Article 3 Improvements and Design Standards Section 12-67 (s) and 12-67d table by increasing the street right-of-way width from forty (40) feet to forty-two (42) feet; 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.

City Clerk Moorero read Ordinance 2021-21 by title.

Ms. Gardner-Young stated no changes had been made since the First Reading. She also reiterated the amendment was to change the sidewalk width to five feet, and the right of way changes was to allow five feet of sidewalk on both sides of the road. Staff recommended approval.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Bousquet to approve Ordinance 2021-21 on Second Reading.

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

14. Ordinance 2022-04: First Reading: Amending Chapter 16, Article 1, in General, Section 16-1; Article 4, Supplemental District Regulations, Division 2, area and height limitations, Section 16-630; to address the size of accessory structures on large lots and provide regulations for mechanical or architectural equipment placed in the setback; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.

City Clerk Moorero read Ordinance 2022-04 by title.

Ms. Irwin-Ferris stated the ordinance would address architectural setbacks relating to accessories such as balconies, air conditional units' generators and chimneys. Ms. Irwin-Ferris said accessory structures on large lots would also be addressed to update regulations to meet various size requirements. Staff recommended approval to address changes. Some Councilmembers asked questions regarding sizes, padding and other best practices.

Motion made by Councilmember Noble, Seconded by Deputy Mayor Tharp to approve Ordinance 2022-04 on First Reading.

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

15. Ordinance 2022-05: First Reading: Amending Greenacres Code of Ordinance at Chapter 16 Zoning Regulations, Article 2 Administration, Section 33 Public Hearings to include a Development Application Approval and Notice Requirement Chart; 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.

City Clerk Moorero read Ordinance 2022-05 by title.

Ms. Gardner-Young stated the City wanted to create a user friendly zoning code. She was proposing the amendment to capture the readers attention and help to understand the process. Ms. Gardner-Young mentioned the amendment was not a replacement it was a supplement to the text to simplify the process. Staff recommended approval on first reading.

Motion made by Councilmember Dugo, Seconded by Councilmember Diaz to approve Ordinance 2022-05 on First Reading.

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

16. Ordinance 2022-06: First Reading: Amending Chapter 7, Health, Sanitation and Nuisances, Article 3, Noise, in General, Section 7-56; to reduce construction hours permitted, permit the City Manager the right to approve noise outside the permitted hours, create new sanitation operation hours, and create new noise limitations on heating, ventilation and air conditioning equipment, and landscaping and yard maintenance power tools; 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.

City Clerk Moorer read Ordinance 2022-06 by title.

Ms. Gardner-Young said the ordinance was to modify the machinery and construction activity. She said they were adding heating and ventilation, air conditioning equipment landscaping and yard maintenance with power tools. Ms. Gardner-Young requested to reduce construction noise level hours from 9pm to 8pm and prohibit construction noise on Sundays and Federal holidays, currently the City had no restrictions. She also mentioned the City would have the ability to extend hours if needed.

Ms. Gardner-Young recommended no loading, unloading, opening of boxes, crates, or garbage containers between 10pm and 7am if the operations took place 250 feet of residential area, currently the City had no restrictions.

Ms. Gardner-Young proposed restricting operations of heating and ventilation equipment on residential property if above 80 decibels between 10pm and 7am and in the premises of the complaint, no restrictions currently exist.

Ms. Gardner-Young proposed not allowing landscaping, yard maintenance and power tools Monday-Friday before 7am and Saturday to Sunday before 8am or after 6pm.

Staff recommended approval.

Deputy Mayor Tharp was a bit hesitant with the 8am time frame as more residents worked from home and felt the City should look into alternatives in the future.

Mayor Flores was concerned with Federal holidays being prohibited for projects; he also questioned the 250 feet length. Ms. Gardner-Young suggested returning to Council with backup references. Councilmember Diaz questioned what the consequences were if rules were not followed. Ms. Gardner-Young stated typically Police and Code Enforcement would handle.

Motion made by Councilmember Dugo, Seconded by Deputy Mayor Tharp to approve Ordinance 2022-06 on First Reading.

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

17. Ordinance 2022-08: First Reading: Amending Chapter 11, Streets, Sidewalks, and other Public Places, Article 5, placement of communications facilities in public rights-of-way, Section 11-101, placement or maintenance of a communications facility in public rights-of-way, to address the requirement for City co-location opportunities on Micro Tower Infrastructure within City rights-of-way; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.

City Clerk Moorero read Ordinance 2022-08 by title.

Ms. Irwin-Ferris stated the amendment would address tower height, type of structure, and required permits. Micro Towers were currently throughout the City. She mentioned the co-locate opportunity allowed placement of the City's antennas or cameras. Ms. Irwin-Ferris stated the amendment was allowed shared use of structures and a dedication of space for the City's use.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Bousquet to approve Ordinance 2022-08 on First Reading.

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

18. QUASI-JUDICIAL PUBLIC HEARING: Resolution 2022-05: Approving the petition for a special exception to allow a 2,016 square foot indoor recreational amusement use in a Commercial Intensive (CI) zoning district, located at 3747 S. Military Trail, as requested by the petitioner, Stephan A. Yeckes, Agent for the owner, 3757 Military Trail, LLC; providing for repeal of conflicting resolutions; and providing for an effective date. - Caryn Gardner- Young, Zoning Administrator.

Ms. Gardner Young explained the Quasi-Judicial process.

City Clerk Moorero swore in six people.

City Clerk Moorero read Resolution 2022-05 by title.

Mayor Flores asked for any Ex-parte communications, Councilmember Noble reported he drove by the site. Councilmember Diaz reported she spoke to Staff regarding clarification. No other communications were reported.

Mr. Stephan Yeckes, Architect, 712 US Highway One, North Palm Beach stated the applicant was previously approved for over 1900 square foot of space. Additional space in the same development was now available and was currently larger than the previously approved special exception space. Mr. Yeckes requested another special exception to approve the same use to the larger bay unit east of the current space. He mentioned the amount of the machines would remain the same. Mr. Yeckes said the traffic engineer found no increase or decrease in traffic impact.

Ms. Gardner-Young reiterated the special exception was moving closer to Military Trail. She stated there were no increase in machine use. No traffic impact was reported. Staff recommended conditions prior to approval such as limited hours, age requirement of 18 years or older and no alcohol shall be served on site. Staff recommended approval.

Councilmember Noble stated the area was not desirable and not up to standard. Mr. Yeckes stated the plaza owner was hard to reach due to illness.

Councilmember Diaz asked if the applicant failed to meet the approved conditions what was the penalty. Ms. Christy Goddeau, City Attorney stated Code Enforcement would enforce a use violation.

Mr. Yeckes stated a violation was issued to the tenant as he moved to the new space without a special exception. He also mentioned the tenant had not obtained a building permit. Mayor Flores also suggested adding in the condition that no more machines were allowed.

Motion made by Councilmember Bousquet, Seconded by Councilmember Diaz to Table Resolution 2022-05 until April 4, 2022, Council Meeting.

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

19. Resolution 2022-12: Approving the application for site plan approval to construct 25 single family dwelling units in a Residential Medium-2 (RM-2) zoning district, located on the west side of Chickasaw Circle, north of the L-11 Canal at 6645 Chickasaw Road, as requested by the petitioner, Wantman Group Inc. Agent for the owner, South County Development, LLC.; providing for repeal of conflicting resolutions; and providing for an effective date. - Kara Irwin-Ferris, Director of Development and Neighborhood Services.

City Clerk Moorhead read Resolution 2022-12 by title.

Ms. Irwin-Ferris stated the proposal was to construct 25 single family dwelling units in a residential medium zoning district. She said the previous plan expired. She explained the lot sizes, roadway and landscape plans. Staff recommended approval. Staff and Council continued to discuss requirements and project start time.

Motion made by Deputy Mayor Tharp, Seconded by Councilmember Noble to approve Resolution 2022-12.

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

20. Board Appointment for Scholarship Committee Chair - Andrea McCue, City Manager.

Motion made by Councilmember Dugo, Seconded by Deputy Mayor Tharp to elect Councilmember Diaz as Chair.

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

21. Board Reappointment for the Scholarship Committee: Reappointing Mr. Charles Shaw and Mr. Dennis Smith to serve a three (3) year term. - Andrea McCue, City Manager.

Motion made by Councilmember Bousquet, Seconded by Deputy Mayor Tharp to reappoint Mr. Shaw and Mr. Smith to serve another three-year term.

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

DISCUSSION ITEM - None.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

Mr. Nathan Galang, resident congratulated the newly elected Councilmembers, he thanked everyone for their support.

Mr. Leonard Grant, Pine Drive resident, congratulated the newly elected Councilmembers. He voiced his concern with the safety of the children in various neighborhoods.

Ms. Jill Broede, stated her delinquent Business Tax license renewal was not noticed and felt she should not pay as her letters were never received and she had never been late in the past.

Ms. Jane Justice, Perimeter Drive, congratulated all the newly elected Councilmembers. She was concerned about the Country's open borders and illegal immigrants. Ms. Justice wondered about endorsement processes. She felt non-partisan elections were dated and unacceptable. She recognized Mr. Jonathan Pearce on his hard work.

CITY MANAGER'S REPORT

22. Community and Recreation Service Department Report.

23. Development and Neighborhood Services Report.

24. Finance Report.

25. Fire Rescue Report.

26. PBSO District 16 Report.

27. Public Works Report.

28. Purchasing Report.

29. Youth Programs Report.

Ms. McCue stated the process of the Comprehensive Plan was upcoming and she was excited to involve the community. She reminded the Council of the March 29, 2022 Special Meeting.

She also recognized the City Clerk's Office for hitting a record amount of passport processing. The Clerk's Office generated over \$24,000 in six days.

CITY ATTORNEY'S REPORT

Ms. Goddeau reminded the Council that she was open to any suggestions regarding reports. She also thanked the City Clerk Moorer for keeping the Attorney's Office updated during the election.

MAYOR AND CITY COUNCIL REPORT

Deputy Mayor Tharp: Congratulated the newly elected Council. He requested a Discussion Item regarding Campaign signs be added to the April 18, Council Meeting.

Councilmember Noble: Asked when the Deputy Mayor would be selected. Ms. McCue stated at the next Council meeting.

Councilmember Bousquet: Congratulated the newly elected Councilmembers.

Mayor Flores: Thanked the City Clerk's Office not only for passports but for running a successful election.

ADJOURNMENT

8:11PM.

Joel Flores
Mayor

Quintella Moorer, CMC
City Clerk

Date Approved: _____



ITEM SUMMARY

MEETING DATE: April 4, 2022

FROM: Monica Powery, Director, Purchasing

SUBJECT: Award of Bid No. 22-001 Dillman Trail

BACKGROUND

The City of Greenacres desires to hire experienced and qualified companies for the construction of asphalt pathway and adjacent swale, irrigation pump system and electrical services for pump, landscaping. The bid was advertised by the City's Purchasing Department on December 5, 2021.

ANALYSIS

The proposals were opened on January 12, 2022 with six (6) bidders responding. The attached tabulation sheet summarized the results received. City staff has evaluated the proposal and recommends award to Zahlene Enterprises, Inc. as the lowest responsive, responsible bidder.

FINANCIAL INFORMATION

Sufficient funds are budgeted in Capital Improvement Program 305-30-31-63-161 (CIP 305-232).

LEGAL

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

STAFF RECOMMENDATION

Approval of Resolution No. 2022-07 authorizing execution of contract and award of Bid No. 22-001 Dillman Trail to Zahlene Enterprises, Inc.

RESOLUTION NO. 2022-07

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE AGREEMENT BETWEEN THE CITY OF GREENACRES AND ZAHLENE ENTERPRISES, INC., FOR CONSTRUCTION OF ASPHALT PATHWAY AND ADJACENT SWALE, IRRIGATION PUMP SYSTEM AND ELECTRICAL SERVICES FOR PUMP, LANDSCAPING; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City is in need of a vendor for construction of asphalt pathway and adjacent swale, irrigation pump system and electrical services for pump, landscaping; and

WHEREAS, The Purchasing Department issued Invitation to Bid No. 22-001 (the "BID"); and

WHEREAS, the Director of Purchasing recommends approval of the Agreement; and

WHEREAS, the BID was advertised on the legal notices section of the Palm Beach Post on December 5, 2021, and a notice was also sent to one thousand five hundred eighty-one (1,581) prospective bidders via DemandStar; and

WHEREAS, on January 12, 2022 at 3:00 p.m. EST, the BID closed and the Purchasing Department (the "Department") received six (6) responses which were reviewed by the Department to ensure the responses met the BID requirements and the bidders were both responsive and responsible; and

WHEREAS, the Department recommends that the City Council approved award of the BID to Zahlene Enterprises, Inc. and authorize the execution of the contract.

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

SECTION 1. The City Council hereby authorizes the Agreement between the City of Greenacres and Zahlene Enterprises, Inc.

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

Resolution No. 2022-07| Dillman Trail

Page No. 2

Agreement.

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

RESOLVED AND ADOPTED this 4th of day of April 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:

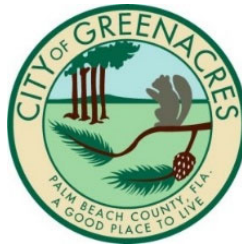
Susy Diaz, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: April 4, 2022

FROM: Teri Lea Beiriger, Finance Director, Finance Department

SUBJECT: False Fire Alarms Write-off for Pacifica Senior Living

BACKGROUND

The City of Greenacres bills businesses for false fire alarms. Section 5-10 Excessive False Alarms of the City of Greenacres Code provides for a service fee for false fire alarms after the third alarm signal within a calendar year. Pacifica Senior Living had 17 false fire alarms in CY2021 and has paid all, but the outstanding balance of \$1,750.00.

ANALYSIS

Staff has researched this amount and determined that not every call to Pacifica was false in nature. There was a resident within the Pacifica community, who was suffering from dementia. Her son is a deceased Palm Beach County Firefighter, and she would activate the pull station, believing that he would respond. She has since passed away and Pacifica has agreed to install covers on the pull stations to prevent any reoccurrences.

FINANCIAL INFORMATION

Attached is a copy of the outstanding invoice in the amount of \$1,750.00.

LEGAL

The memo has been prepared in accordance with applicable City Code requirements.

STAFF RECOMMENDATION

Approval to write-off the outstanding balance of \$1,750.00 for False Fire Alarms at Pacifica Senior Living.



City of Greenacres

5800 Melaleuca Lane – Greenacres, FL 33463-3515

Finance Department

Office (561) 642-2013 – Fax (561) 642-2037

e-mail: AR@greenacresfl.gov

Invoice

Invoice Number:	2021-10000121
Date:	03/24/2021
Original Due Date:	04/23/2021
Invoice Total Due:	\$1,750.00

Customer #: 7160
PACIFICA SENIOR LIVING
 4760 S Jog Rd
 Greenacres, FL 33463

Description: False Fire Alarm Billing

Description	Quantity	Unit Price	Total Price
FALSE ALARM BILLING 10 th Alarm: 2/15/21; 9:45PM 11 th Alarm: 2/18/21; 10:11PM 12 th Alarm: 2/19/21; 4:00PM 13 th Alarm: 2/23/21; 9:28PM 14 th Alarm: 2/28/21; 12:29AM	5	\$350.0000	\$1,750.00



Please write Invoice Number on your check. 2021-10000121

Make Checks Payable to: City of Greenacres

Invoice Total:	\$1,750.00
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Customer #: 7160
PACIFICA SENIOR LIVING
 4760 S Jog Rd
 Greenacres, FL 33463

REMIT PAYMENT TO:
 City of Greenacres
 5800 Melaleuca Lane
 Greenacres, FL 33463-3515



ITEM SUMMARY

MEETING DATE: April 4, 2022

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

SUBJECT: Ordinance 2022-04, ZTA-22-04
Yards

BACKGROUND

A City-initiated text amendment to the Zoning Code in order to address allowable structures in the setback and accessory structures within residential zoning districts.

The yards criteria was adopted in 1966. Since that time, there have been three (3) amendments; Ordinance 1995-01, Ordinance 2010-09, and most recently Ordinance 2019-03. The proposed amendments will address architectural and mechanical features that project or are placed in the setback. This includes generators, which due to effects of a hurricane, are being installed on many single-family lots. The city has been applying the codes used for air conditioners, trellis features, etc., but is currently addressing them specifically within the code. In addition, the city is addressing accessory structures on large lots within the city. Previously, the code was changed to address large lot zoning districts that have more area to accommodate larger accessory structures. Currently, staff is proposing to increase the square footage to allow for accessory structure at a ratio consistent with smaller single-family lots.

The Development Review Committee has reviewed these text amendments and is recommending approval. The Planning and Zoning Board of Appeals reviewed this staff-initiated text amendment on March 10, 2022, and recommended approval by a vote of 5-0. The City Council approved this petition on first reading March 21, 2022 by a vote of 5-0.

ANALYSIS

A City-initiated request to amend the City's Zoning Code to provide for amendments to address issues with current Yard regulations. The Code is being amended to address accessory unit structures within larger lots in the City where the existing regulations are not adequate due to the size of the lot. In addition, the Code is being updated to address mechanical, architectural, and structural appurtenances within the setbacks, especially generators for single-family homes.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2022-04 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of ZTA-22-04 through the adoption of Ordinance 2022-04.

ORDINANCE NO. 2022-04

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16, ARTICLE I, IN GENERAL, SECTION 16-1; ARTICLE IV, SUPPLEMENTAL DISTRICT REGULATIONS, DIVISION 2, AREA AND HEIGHT LIMITATIONS, SECTION 16-630; TO ADDRESS THE SIZE OF ACCESSORY STRUCTURES ON LARGE LOTS AND PROVIDE REGULATIONS FOR MECHANICAL OR ARCHITECTURAL EQUIPMENT PLACED IN THE SETBACK; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Planning and Engineering Department has submitted a request for a zoning text amendment to revise Chapter 16, Article IV, Supplemental District Regulations; and

WHEREAS, it has been determined, in accordance with the Land Development Staff Report and Recommendation, "Exhibit A" dated February 14, 2022 (attached), that certain amendments to the City's zoning regulations are appropriate; and

WHEREAS, the Planning and Zoning Board of Appeals on February 24, 2022, held a duly advertised public hearing and recommended approval of ZTA-22-04 and adoption of Ordinance 2022-04 as presented by staff; and

WHEREAS, the City of Greenacres has held two (2) duly advertised public hearings to review this request; 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

WHEREAS, the City Council of Greenacres finds that the amendments contained with this ordinance will promote the health, safety and welfare of the citizens of Greenacres.

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

SECTION 1. Chapter 16, Article IV is hereby amended as follows:

* * * * *

Ordinance No. 2022-04 | Setbacks for SF Residential Structures

Page No. 2

Sec. 16-630. Yards.

(a) *Projecting architectural and anchored mechanical features.* The space in any required yard shall be open and unobstructed except for the ordinary architectural projections of windowsills, belt course, cornices, eaves and other architectural features provided that such features shall not project more than four (4) feet into any required yard.

(1) The following structures, projections and improvements may be allowed within the required setbacks for single family residential properties located in the residential zoning districts.

- a. Arbors and trellises less than ten (10) feet in height, subject to a minimum three (3) feet setback in the rear yard.
- b. Balconies with support structures projecting a maximum of four (4) feet into the rear yard setback.
- c. Bay windows projecting a maximum of three feet into a rear yard setback, measured at the point at which the face of the building or structure touches the ground.
- d. Chimneys projecting a maximum of three feet into a rear yard setback.
- e. Fountains, subject to a minimum three (3) feet setback in the rear yard.
- f. Heating, ventilation and air conditioning units, including compressors and condensers in the side yard setback. Visual screening from the right-of-way and adjacent property shall be provided. Screening shall be opaque in nature, blends in with the architecture of the building, and be constructed in conformity with materials approved by the Florida Building Code, or shall be composed of vegetation.
- g. Pool equipment, pumps, heating units and related mechanical equipment in the side yard setback. Visual screening from the right-of-way and adjacent property shall be provided. Screening shall be opaque in nature, blends in with the architecture of the building, and be constructed in conformity with materials approved by the Florida Building Code, or shall be composed of vegetation.
- h. Permanent standby generators consistent with the building, electrical and manufacturer's installation and maintenance requirements in the side yard setback. Visual screening from the right-of-way and adjacent property shall be provided on single family lots with a 7.5 foot side yard setback. Visual screening from the adjacent property shall be provided on single family residential lots with a 5.0 foot side yard setback where space is available and safety permits installation of plant materials. Screening shall be opaque in nature, blends in with the architecture of the building, and be constructed in conformity with materials approved by the Florida Building Code, or shall be composed of vegetation.
- i. Moveable Recreational equipment and structures in the rear yard setback, subject to a minimum three (3) feet setback in the rear yard.
- j. Sculptures and other similar objects of art in the rear yard, subject to a three (3) feet minimum.
- k. Landscape planted in the ground or in planters in the rear and side yard.

Ordinance No. 2022-04 | Setbacks for SF Residential Structures

Page No. 3

- l. Basketball goals provided there is a minimum of three foot setback from the rear and side property lines, and a minimum of ten (10) foot setback from the front and side street property lines.
 - m. Utility, Electric and Gas, cable and similar transmission lines, distribution lines, meters and associated structures.
- (b) *Porches.* A porch open on only one (1) side and having a roof shall be considered a part of the building for the determination of lot coverage and zoning setbacks.
- (c) *Pools, terraces, and patios/decks.* A pool, terrace or patio/deck shall not be considered in the determination of yard sizes or lot coverage provided that such area is unroofed and without walls or parapets or other forms of enclosure. Such areas shall not project into any yard to a point closer than five (5) feet from any lot line. In no instance shall there be less than five (5) feet of pervious area sodded or otherwise landscaped with plant material between the pool, terrace or patio/deck and the property line(s). However, when located within a zero lot line development a patio may extend up to the subject property's zero side property line provided a six-foot high solid opaque fence and/or wall is constructed on the zero lot line and it does not conflict with a previously approved development order. Townhouse developments with approved site plans providing specific yard requirements are exempt from this sub-section.
- (d) *Fire escapes and stairways.* Fire escapes and outside stairways shall not project into any front or side yard setback nor more than five (5) feet into any rear yard setback.
- (e) *Residential Accessory buildings.* Accessory buildings, structures or uses shall be compatible with the principal building and shall not be established prior to the completion of the construction of a principal building. Buildings, structures or uses accessory to dwelling units or a principal use must observe the following standards:
 - (1) A maximum of two (2) detached accessory buildings shall be permitted on any residential lot and in total shall not exceed the size established in subsection 16-630(e)(5).
 - (2) No detached accessory building, structure or use shall be erected within the front and side yards of the zoning lot.
 - (3) No accessory building, structure or use shall encroach on a drainage or utility easement. Accessory buildings shall be located completely within the rear yard and shall be located not less than five (5) feet from the property line.
 - (4) No detached accessory building, structure or use shall exceed a height of fifteen (15) feet.
 - (5) An accessory building, structure or use shall be no greater than two hundred (200) square feet. Single-family lots which do not have attached garages are exempted from the above two hundred-square foot maximum and shall be allowed to construct up to a maximum six hundred (600) square feet of detached garage structure within all residential zoning districts except Agricultural Residential (AR), Residential Low—1 (RL-1) and Residential Estate (RE).
 - (6) No detached accessory building, structure or use shall be erected, altered or moved within five (5) feet of the nearest wall of an accessory or principal building except

Ordinance No. 2022-04 | Setbacks for SF Residential Structures

Page No. 4

where the proposed accessory structure meets or exceeds the required yard setbacks for the zoning district.

- (7) No detached or attached accessory building may be rented or used as a separate dwelling unit.
- (8) Accessory buildings located within mobile home parks shall adhere to the following guidelines:
 - a. Shall not be erected within the front yard of the individual mobile home site.
 - b. Must be located five (5) feet from any lot line of the individual mobile home site.
- (9) Accessory structures on a corner lot shall not be erected nearer to the side street than the minimum front setback line of the adjoining lot to the rear of the corner lot.
- (10) Accessory buildings located within Agricultural Residential (AR), Residential Estate (RE) and Residential Low—1 (RL-1) zoning districts shall be separated from the main structure by not less than five (5) feet and are of a nature customarily incidental and clearly subordinate to a permitted or permissible principal use or structure. Unless otherwise provided herein, accessory structures shall be located on the same lot as the principal structure. Accessory structures or uses shall be compatible with the zoning district where located and shall comply with the standards listed below:
 - a. Shall not be erected in the front or side yard.
 - b. Shall be located five (5) feet from any lot line of the rear yard, both sides and rear property lines.
 - c. A detached accessory building, structure or use on lots less than 0.5 acres shall be no greater than six hundred (600) square feet of detached garage/shed structure and structure or use on lots greater than 0.5 acres shall be no greater than one thousand two hundred (1200) square feet of detached garage/shed structure within the RL-1, AR, and RE zoning district.

[(f) thru (i) Omitted for Brevity]

* * * * *

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 holdings of invalidity shall not affect the remaining portion of this

Ordinance No. 2022-04 | Setbacks for SF Residential Structures

Page No. 5

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 five (5) days after it is adopted.

Ordinance No. 2022-04 | Setbacks for SF Residential Structures

Page No. 6

Passed on the first reading this 21st day of March, 2022.**PASSED AND ADOPTED on the second reading this 4th day of April, 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-22-04 (Ord. 2022-04)
 Exhibit "A"
 Date: February 14, 2022

Revised: 02/24/2022
03/21/2022



LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

Ordinance 20022-04: Yards

Second Reading & Adoption: A City-initiated text amendment to the Zoning Code in order to address allowable structures in the setback and accessory structures within residential zoning districts.

☒ 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

Dates: 2/10/22, 3/24/22

Papers: Lake Worth Herald

Mailing

☐ Required

☒ Not Required

Notice Distance: _____

Attachments:

City Council Action:

☐ Approval

☐ Approve with conditions

☐ Denial

☐ Continued to: _____

I. Executive Summary

A City-initiated request to amend the City's Zoning Code to provide for amendments to address issues with current Yard regulations. The Code is being amended to address accessory unit structures within larger lots in the City where the existing regulations are not adequate due to the size of the lot. In addition, the Code is being updated to address mechanical, architectural, and structural appurtenances within the setbacks, especially generators for single-family homes.

II. Background

The yards criteria was adopted in 1966. Since that time, there have been three (3) amendments; Ordinance 1995-01, Ordinance 2010-09, and most recently Ordinance 2019-03. The proposed amendment will address architectural and mechanical features that project or are placed in the setback. This includes generators, which due to effects of a hurricane, are being installed on many single-family lots. The city has been applying the codes used for air conditioners, trellis features, etc., but is currently addressing them specifically within the code. In addition, the City is addressing accessory structures on large lots within the city. Previously, the code was changed to address large lot zoning districts that have more area to accommodate larger accessory structures. Currently, staff is proposing to increase the square footage allowed for accessory structure at a ratio consistent with smaller single family lots, as opposed to the current maximum for smaller single-family lots of 600 square feet.

III. 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.

Proposed Change #1

Sec. 16-630. Yards.

- (a) *Projecting architectural and anchored mechanical features.* The space in any required yard shall be open and unobstructed except for the ordinary architectural projections of windowsills, belt course, cornices, eaves and other architectural features provided that such features shall not project more than four (4) feet into any required yard.
 - (1) The following structures, projections and improvements may be allowed within the required setbacks for single family residential properties located in the residential zoning districts.
 - a. Arbors and trellises less than ten (10) feet in height, subject to a minimum three (3) feet setback in the rear yard.

- b. Balconies with support structures projecting a maximum of four (4) feet into the rear yard setback.
 - c. Bay windows projecting a maximum of three feet into a rear yard setback, measured at the point at which the face of the building or structure touches the ground.
 - d. Chimneys projecting a maximum of three feet into a rear yard setback.
 - e. Fountains, subject to a minimum three (3) feet setback in the rear yard.
 - f. Heating, ventilation and air conditioning units, including compressors and condensers in the side yard setback. Visual screening from the right-of-way and adjacent property shall be provided. Screening shall be opaque in nature, blends in with the architecture of the building, and be constructed in conformity with materials approved by the Florida Building Code, or shall be composed of vegetation.
 - g. Pool equipment, pumps, heating units and related mechanical equipment in the side yard setback. Visual screening from the right-of-way and adjacent property shall be provided. Screening shall be opaque in nature, blends in with the architecture of the building, and be constructed in conformity with materials approved by the Florida Building Code, or shall be composed of vegetation.
 - h. Permanent standby generators consistent with the building, electrical and manufacturer's installation and maintenance requirements in the side yard setback. Visual screening from the right-of-way and adjacent property shall be provided on single family lots with a 7.5 foot side yard setback. Visual screening from the adjacent property shall be provided on single family residential lots with a 5.0 foot side yard setback where space is available and safety permits installation of plant materials. Screening shall be opaque in nature, blends in with the architecture of the building, and be constructed in conformity with materials approved by the Florida Building Code, or shall be composed of vegetation.
 - i. Moveable Recreational equipment and structures in the rear yard setback, subject to a minimum three (3) feet setback in the rear yard.
 - j. Sculptures and other similar objects of art in the rear yard, subject to a three (3) feet minimum.
 - k. Landscape planted in the ground or in planters in the rear and side yard.
 - l. Basketball goals provided there is a minimum of three foot setback from the rear and side property lines, and a minimum of ten (10) foot setback from the front and side street property lines.
 - m. Utility, Electric and Gas, cable and similar transmission lines, distribution lines, meters and associated structures.
- (b) *Porches.* A porch open on only one (1) side and having a roof shall be considered a part of the building for the determination of lot coverage and zoning setbacks.
- (c) *Pools, terraces, and patios/decks.* A pool, terrace or patio/deck shall not be considered in the determination of yard sizes or lot coverage provided that such area is unroofed and without walls or parapets or other forms of enclosure. Such areas shall not project into any yard to a point closer than five (5) feet from any lot line. In no instance shall there be less than five (5) feet of pervious area sodded or otherwise landscaped with plant material between the pool, terrace or patio/deck and the property line(s). However, when located within a zero lot line development a patio may extend up to the subject property's zero side

property line provided a six-foot high solid opaque fence and/or wall is constructed on the zero lot line and it does not conflict with a previously approved development order. Townhouse developments with approved site plans providing specific yard requirements are exempt from this sub-section.

- (d) *Fire escapes and stairways.* Fire escapes and outside stairways shall not project into any front or side yard setback nor more than five (5) feet into any rear yard setback.
- (e) *Residential Accessory buildings.* Accessory buildings, structures or uses shall be compatible with the principal building and shall not be established prior to the completion of the construction of a principal building. Buildings, structures or uses accessory to dwelling units or a principal use must observe the following standards:
 - (1) A maximum of two (2) detached accessory buildings shall be permitted on any residential lot and in total shall not exceed the size established in subsection 16-630(e)(5).
 - (2) No detached accessory building, structure or use shall be erected within the front and side yards of the zoning lot.
 - (3) No accessory building, structure or use shall encroach on a drainage or utility easement. Accessory buildings shall be located completely within the rear yard and shall be located not less than five (5) feet from the property line.
 - (4) No detached accessory building, structure or use shall exceed a height of fifteen (15) feet.
 - (5) An accessory building, structure or use shall be no greater than two hundred (200) square feet. Single-family lots which do not have attached garages are exempted from the above two hundred-square foot maximum and shall be allowed to construct up to a maximum six hundred (600) square feet of detached garage structure within all residential zoning districts except Agricultural Residential (AR), Residential Low—1 (RL-1) and Residential Estate (RE).
 - (6) No detached accessory building, structure or use shall be erected, altered or moved within five (5) feet of the nearest wall of an accessory or principal building except where the proposed accessory structure meets or exceeds the required yard setbacks for the zoning district.
 - (7) No detached or attached accessory building may be rented or used as a separate dwelling unit.
 - (8) Accessory buildings located within mobile home parks shall adhere to the following guidelines:
 - a. Shall not be erected within the front yard of the individual mobile home site.
 - b. Must be located five (5) feet from any lot line of the individual mobile home site.
 - (9) Accessory structures on a corner lot shall not be erected nearer to the side street than the minimum front setback line of the adjoining lot to the rear of the corner lot.
 - (10) Accessory buildings located within Agricultural Residential (AR), Residential Estate (RE) and Residential Low—1 (RL-1) zoning districts shall be separated from the

main structure by not less than five (5) feet and are of a nature customarily incidental and clearly subordinate to a permitted or permissible principal use or structure. Unless otherwise provided herein, accessory structures shall be located on the same lot as the principal structure. Accessory structures or uses shall be compatible with the zoning district where located and shall comply with the standards listed below:

- a. Shall not be erected in the front or side yard.
- b. Shall be located five (5) feet from any lot line of the rear yard, both sides and rear property lines.
- c. A detached accessory building, structure or use on lots less than 0.5 acres shall be no greater than six hundred (600) square feet of detached garage/shed structure and structure or use on lots greater than 0.5 acres shall be no greater than one thousand two hundred (1200) square feet of detached garage/shed structure within the RL-1, AR, and RE zoning district.

[(f) thru (i) Omitted for Brevity]

* * * * *

IV. Staff Analysis:

After reviewing the City's current standards, staff determined that there was a need to revise the current yards language of the Zoning Code by providing regulations to address architectural and mechanical appurtenances that are permitted to encroach into the setback area. Additionally, it has been determined that the size limitations accessory structures are not adequate for lot greater than 0.5 acres.

Land Development Staff Comments:

The petition was reviewed by the Development Review Committee with no adverse comments.

Planning and Engineering Department:	Incorporated into Staff Report.
Building Department:	No objections.
PBSO District 16	No objections.
Fire Rescue Department:	No objections.
Public Works Department:	No objections.

V. 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 for unified standards that can be applied within multiple zoning districts.

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. The change promotes and improves the public health, safety, comfort, good order, appearance and general welfare of the citizens of the city.

VI. Staff Recommendation:

Approval of ZTA-22-04 through the adoption of Ordinance 2022-04.

PLANNING AND ZONING BOARD OF APPEALS RECOMMENDATION–February 24, 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 Zoning Text Amendment **ZTA-22-04** (*Yards*) as presented by staff.

CITY COUNCIL ACTION First Reading – March 21, 2022

The City Council on a motion made by Councilmember Noble and seconded by Deputy Mayor Tharp, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-04** (*Yards*) on first reading as presented by staff.

CITY COUNCIL ACTION Adoption Hearing – April 4, 2022



ITEM SUMMARY

MEETING DATE: April 4, 2022

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

SUBJECT: **Ordinance 2022-05, ZTA-22-03**
Public Hearings

BACKGROUND

City Staff is proposing to add a chart to the Zoning Code to provide approvals and notice requirements for development applications in a visually appealing and easy format to understand. The chart will supplement the language that is already contained within the Zoning Code; not change any of the requirements that exist today.

Zoning Codes are often based on copious amounts of data that can be summarized and easily read through tables and graphs. Visual elements such as graphs, charts, tables, photographs, diagrams, and maps capture a readers' attention and helps them to understand a Zoning Code requirement more fully. They are like the illustrations that help tell the story. These visuals help to augment the written ideas and simplify complicated textual descriptions. They can help the reader understand a complicated process or visualize trends in the data. The key concept to remember here is that visuals *clarify*, *illustrate*, and *augment* a written text; they are not a replacement for written text. The old adage, "a picture is worth a thousand words" may not always hold true in technical writing but adding visuals may save a hundred words or so of additional explanation and clarification.

The Development Review Committee has reviewed these text amendments and is recommending approval. The Planning and Zoning Board of Appeals reviewed this staff-initiated text amendment on March 10, 2022, and recommended approval by a vote of 3-0. On March 21, 2022, City Council approved Ordinance 2022-05 on first reading with a vote of 5-0.

ANALYSIS

City staff initiated this code change after investigating the requirements for development petition and notice requirements. After searching through the Zoning Code, City Staff realized that there are multiple locations within the Zoning Code that an applicant would have to review to determine what is required. City Staff is reviewing the Zoning Code to see where, if possible, amendments can be made so the Zoning Code is more customer service friendly. The addition of a chart will provide a visual element that will allow users of the City's Zoning Code to obtain an answer to their question on development petition approvals and notice requirements quicker and easier.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2022-05 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of ZTA-22-03 through the adoption of Ordinance 2022-05.

ORDINANCE NO. 2022-05

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING GREENACRES CODE OF ORDINANCE AT CHAPTER 16 ZONING REGULATIONS, ARTICLE II ADMINISTRATION, SECTION 33 PUBLIC HEARINGS TO INCLUDE A DEVELOPMENT APPLICATION APPROVAL AND NOTICE REQUIREMENT CHART; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, Chapter 16, Article II, Section 16-33 discusses public hearing notice requirements; and

WHEREAS, zoning Codes are often based upon amounts of data that can be summarized and easily read through tables and graphs; and

WHEREAS, visual elements such as graphs, charts, tables, photographs, diagrams, and maps capture a reader’s attention and helps them to understand a Zoning Code requirement more fully; and

WHEREAS, City staff is proposing to add a chart that supplements existing language within the Zoning Code to provide approvals and notice requirements for development applications in a visually appealing and easy format to understand; and

WHEREAS, the City Council finds that this Ordinance is in the best interest of the 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:

Ordinance No. 2022-05| ZTA-22-03 Public Hearings

Page No. 2

SECTION 1. Chapter 16 of the City of Greenacres Code of Ordinance is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by strikeout type):

CHAPTER 16, ZONING REGULATIONS**ARTICLE II- ADMINISTRATION****Sec. 16-33. – PUBLIC HEARING****Sec. 16-33. - Public hearing.**

Public hearings required or called under the provisions of this chapter shall be conducted in accordance with this section.

(1) In accordance with F.S. § 166.041, requirements for advertisement, the city clerk shall publish notice of hearing in a newspaper of general circulation, shall post such notice in a prominent location at the city hall, and shall give notice by mail to the developer, property owner and/or applicant of the subject property; and

(2) At least ten (10) days in advance of a hearing or as otherwise required by Florida Statutes, the city shall notify all owners of property within a three-hundred-foot radius of the boundary lines of the subject property of the hearing by mail. The list of property owners within the stated radius shall be provided by the applicant from the most recent tax roll information as provided by the county property appraiser's office and the applicant must furnish an affidavit signed by the person responsible for providing the aforementioned list. Notwithstanding any other provision herein contained, failure to provide written notice to any adjacent property owners shall not constitute a procedural defect provided that proper legal notice has been published.

(3) The public notice shall:

- a. Give the time and place of the hearing;
- b. Contain a statement identifying the specific request of the applicant, the type of change requested, and the section of this chapter to be changed;
- c. Location description of the subject property and, if available, the street address; and
- d. Specify the official or employee of the city from whom additional information can be obtained.

(4) The city clerk shall make a record of the hearing. Such record shall be made available to any person upon reasonable notice to the clerk.

Ordinance No. 2022-05| ZTA-22-03 Public Hearings

Page No. 3

(5) The development application approvals and notice requirements for each development application are as listed below in Table 16-33:

TABLE 16-33: SUMMARY TABLE OF DEVELOPMENT APPLICATION APPROVALS AND NOTICE REQUIREMENTS D-Decision R-Recommendation S-Staff Review #-Mandatory Pre-application Conference					
<u>Review Procedure</u>	<u>City Council</u>	<u>Planning and Zoning Board of Appeals (PZAB)</u>	<u>DNS Director</u>	<u>DRC</u>	<u>NOTICE REQUIRE MENTS</u>
<u>Petitions</u>					
<u>Abandonment of Easement or ROW-# (Cross Access, Drainage and LAE do not require newspaper notice and only require first class mail)</u>	<u>D</u>			<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
<u>Annexation, voluntary and involuntary - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
<u>Comprehensive Plan Amendment (text) - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
<u>Comprehensive Plan Amendment small scale - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
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<u>Master Plan - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Master Plan Amendment - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Master Sign Plan Program - #</u>				<u>S</u>	<u>Posting City Hall</u>
<u>Plat – Preliminary- #</u>				<u>S</u>	
<u>Plat -Final- #</u>	<u>D</u>			<u>S</u>	<u>Newspaper Posting City Hall</u>
<u>Site and Development Plan - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Site and Development Plan Amendment (Minor) - #</u>			<u>D</u>	<u>S</u>	
<u>Site and Development Plan Amendment (Major) - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Special Exception (Developed) - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
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<u>Unity of Title - #</u>				<u>S</u>	
<u>Variance (Administrative) - #</u>			<u>D</u>	<u>S</u>	

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<u>Variance (single family) - #</u>		<u>D</u>		<u>S</u>	<u>Newspaper</u> <u>Mail</u> <u>Posting City Hall</u>
<u>Variance (residential but single family) - #</u>		<u>D</u>		<u>S</u>	<u>Newspaper</u> <u>Mail</u> <u>Posting City Hall</u>
<u>Variance (non-residential) - #</u>		<u>D</u>		<u>S</u>	<u>Newspaper</u> <u>Mail</u> <u>Posting City Hall</u>
<u>Zoning Map Amendment - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper</u> <u>Mail</u> <u>Posting City Hall</u>
<u>Zoning Text Amendment (general) - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper</u> <u>Mail</u> <u>Posting City Hall</u>

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 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

Ordinance No. 2022-05| ZTA-22-03 Public Hearings

Page No. 5

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. Effective Date.

The provisions of this Ordinance shall become effective five (5) days after it is adopted.

(Remaining page is intentionally left blank)

Ordinance No. 2022-05| ZTA-22-03 Public Hearings

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Passed on the first reading this 21st day of March 2022.**PASSED AND ADOPTED on the second reading this 4th day of April 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-22-03 (Ordinance 2022-05)

Revised: 3/10/2022

Date: January 20, 2022

3/22/2022



DEVELOPMENT REVIEW COMMITTEE STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

Ordinance 2022-05: ZTA-22-03 Public Hearings

Second Reading & Adoption: A City-initiated request for a text amendment that add a chart which will provide the application approvals and notice requirements for each Planning and Zoning Division petition.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator	Reviewed By: Director of Development and Neighborhood Services _____ Kara L. Irwin-Ferris, AICP
Approved By: City Manager _____ Andrea McCue	Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: 2/24/2022; 3/24/22 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 2022-05 	City Council Action: <input type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____

I. Executive Summary

Zoning Codes are often based on copious amounts of data that can be summarized and easily read through tables and graphs. Visual elements such as graphs, charts, tables, photographs, diagrams, and maps capture a readers' attention and helps them to understand a Zoning Code requirement more fully. They are like the illustrations that help tell the story. These visuals help to augment the written ideas and simplify complicated textual descriptions. They can help the reader understand a complicated process or visualize trends in the data. The key concept to remember here is that visuals clarify, illustrate, and augment a written text; they are not a replacement for written text. The old adage, "a picture is worth a thousand words" may not always hold true in technical writing but adding visuals may save a hundred words or so of additional explanation and clarification.

City Staff is proposing to add a chart to the Zoning Code to provide approvals and notice requirements for development applications in a visually appealing and easy format to understand. The chart will supplement the language that is already contained within the Zoning Code; not change any of the requirements that exist today.

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

Sec. 16-33. - Public hearing.

Public hearings required or called under the provisions of this chapter shall be conducted in accordance with this section.

(1) In accordance with F.S. § 166.041, requirements for advertisement, the city clerk shall publish notice of hearing in a newspaper of general circulation, shall post such notice in a prominent location at the city hall, and shall give notice by mail to the developer, property owner and/or applicant of the subject property; and

(2) At least ten (10) days in advance of a hearing or as otherwise required by Florida Statutes, the city shall notify all owners of property within a three-hundred-foot radius of the boundary lines of the subject property of the hearing by mail. The list of property owners within the stated radius shall be provided by the applicant from the most recent tax roll information as provided by the county property appraiser's office and the applicant must furnish an affidavit signed by the person responsible for providing the aforementioned list. Notwithstanding any other provision herein contained, failure to provide written notice to any adjacent property owners shall not constitute a procedural defect provided that proper legal notice has been published.

(3) The public notice shall:

- a. Give the time and place of the hearing;
- b. Contain a statement identifying the specific request of the applicant, the type of change requested, and the section of this chapter to be changed;
- c. Location description of the subject property and, if available, the street address; and
- d. Specify the official or employee of the city from whom additional information can be obtained.

(4) The city clerk shall make a record of the hearing. Such record shall be made available to any person upon reasonable notice to the clerk.

(5) The development application approvals and notice requirements for each development application are as listed below in Table 16-33:

<u>TABLE 16-33: SUMMARY TABLE OF DEVELOPMENT APPLICATION APPROVALS AND NOTICE REQUIREMENTS</u> <u>D-Decision R-Recommendation S-Staff Review #-Mandatory Pre- application Conference</u>					
<u>Review Procedure</u>	<u>City Council</u>	<u>Planning and Zoning Board of Appeals (PZAB)</u>	<u>DNS Director</u>	<u>DRC</u>	<u>NOTICE REQUIRE MENTS</u>
<u>Petitions</u>					
<u>Abandonment of Easement or ROW- # - (Cross Access, Drainage and LAE do not require newspaper notice and only require first-class mail notice)</u>	<u>D</u>			<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
<u>Annexation, voluntary and involuntary - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
<u>Comprehensive Plan Amendment (text) - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper Posting City Hall</u>
<u>Comprehensive Plan Amendment small scale - #</u>	<u>D</u> <u>2 meetings</u>	<u>R</u>		<u>S</u>	<u>Newspaper Mail Posting City Hall</u>
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<u>Master Plan - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Master Plan Amendment - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Master Sign Plan Program</u>				<u>S</u>	
<u>Plat – Preliminary - #</u>				<u>S</u>	

<u>Plat -Final - #</u>	<u>D</u>			<u>S</u>	<u>Newspaper</u> <u>Posting City Hall</u>
<u>Site and Development Plan - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
<u>Site and Development Plan</u> <u>Amendment (Minor) - #</u>			<u>D</u>	<u>S</u>	
<u>Site and Development Plan</u> <u>Amendment (Major) - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Posting City Hall</u>
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<u>Special Exception Amendment</u> <u>Minor) - #</u>			<u>D</u>	<u>S</u>	
<u>Special Exception Amendment</u> <u>(Major) - #</u>	<u>D</u>	<u>R</u>		<u>S</u>	<u>Newspaper</u> <u>Mail</u> <u>Posting City Hall</u>
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IV. Staff Analysis:

City staff initiated this code change after investigating the requirements for development petition and notice requirements. After searching through the Zoning Code, City Staff realized that there are multiple locations within the Zoning Code that an applicant would have to review to determine what is required. City Staff is reviewing the Zoning Code to see where, if possible, amendments can be made so the Zoning Code is more customer service friendly. The addition of a chart will provide a visual element that will allow users of the City's Zoning Code to obtain an answer to their question on development petition approvals and notice requirements quicker and easier.

The Development Review Committee Staff met on February 10, 2022, to discuss the proposed amendment. No objections were received.

Planning and Engineering Department:
Building Department
Fire Rescue Department

No objections
No objections
No objections

Public Works Department
PBSO District #16

No objections
No objections

IV. Staff Recommendation:

Approval of ZTA- 22-03 through the adoption of Ordinance 2022-05.

PZAB – March 10, 2022

The Planning and Zoning Board of Appeals on a motion made by Board Member Edmundson and seconded by Board Member Robarts, by a vote of three (3) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-03** as presented by staff.

CITY COUNCIL ACTION First Reading – March 21, 2022

The City Council on a motion made by Councilmember Dugo and seconded by Councilmember Diaz, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-03** through Ordinance 2022-05 on first reading as presented by staff.

CITY COUNCIL ACTION Adoption Hearing – April 4, 2022



ITEM SUMMARY

MEETING DATE: April 4, 2022

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

SUBJECT: **Ordinance 2022-06**
Noise

BACKGROUND

A City-initiated request for a text amendment that reduce the hours for construction and machinery activity and to add regulations on commercial sanitation operations, heating, ventilation, and air conditioning (HVAC) equipment on residential property and landscaping and yard maintenance power tools or motorized equipment where the Zoning Code is presently silent.

Noise pollution is a natural part of construction. The term “noise pollution” includes any type of sound that affects the health and well-being of humans and wildlife. The human ear does not judge sound in absolute terms, but instead senses the intensity of how many times greater one sound is to another. The severity of noise pollution is measured through decibels. A decibel is the basic unit of sound level; it denotes a ratio of intensity to a reference sound. Most sounds that humans are capable of hearing have a decibel (dB) range of 0 to 140. A whisper is about 30 dB, conversational speech 60 dB, and 130 dB is the threshold of physical pain. Generally, excessive noise is considered anything causing or exceeding 85 decibels of sound over an eight-hour period.

ANALYSIS

City staff initiated this code change after review of construction activity within the city and complaints received from residents. After reviewing the city’s current standards, staff determined that there was a need to revise the hours in which construction activity is allowed and to add noise restrictions on commercial sanitation operations, heating, ventilation, and air conditioning (HVAC) equipment on residential property and landscaping and yard maintenance power tools or motorized equipment where the Code is presently silent.

Since first reading of the ordinance, Staff is suggesting the following modifications:

1. Added language which will allow a property owner to perform home repair or maintenance from 9:00am-6:00pm on Sunday.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2022-06 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of the adoption of Ordinance 2022-06.

ORDINANCE NO. 2022-06

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 7, HEALTH, SANITATION AND NUISANCES, ARTICLE III, NOISE, IN GENERAL, SECTION 7-56; TO REDUCE CONSTRUCTION HOURS PERMITTED, PERMIT THE CITY MANAGER THE RIGHT TO APPROVE NOISE OUTSIDE THE PERMITTED HOURS, CREATE NEW SANITATION OPERATION HOURS, AND CREATE NEW NOISE LIMITATIONS ON HEATING, VENTILATION AND AIR CONDITIONING EQUIPMENT, AND LANDSCAPING AND YARD MAINTENANCE POWER TOOLS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR 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 7, Article III in regard to noise; and

WHEREAS, it has been determined, in accordance with the Development Review Committee that certain amendments to the City’s Code of Ordinance are appropriate; and

WHEREAS, the proposed amendments will improve the quality of life for the residents of Greenacres by ensuring that noise is at a level and permitted at appropriate times so as not to interrupt the residents’ daily activities; 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 RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. Chapter 7 of the City of Greenacres Code of Ordinance is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by strikeout):

CHAPTER 7, HEALTH, SANITATION AND NUISANCES

ARTICLE III- NOISE

Sec. 7-56. - Prohibited acts.

General prohibition. It shall be unlawful and a violation of this article for any person to make, cause or allow the making of any unreasonably loud, excessive, unnecessary, or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary, or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

(1) *Horns and signal devices.* No person shall sound any horn or audible signal device on any automobile, motorcycle, or other vehicle under any circumstances except as required by law or as a danger warning; nor shall such horn or signal device be sounded for any unnecessary or unreasonable period of time.

(2) *Radios, televisions, electronic audio equipment, musical instruments, and similar devices.* The using, operating, or permitting to be played, used or operated any radio, "boom box," tape player, CD player, television, electronic audio equipment, musical instrument, sound amplifier or other mechanical, electronic, or similar sound making device that produces, reproduces or amplifies sound (collectively, "sound devices") in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants or visitors or at any time louder than is necessary for the convenient hearing of the person or persons who are in the room, vehicle, chamber or other area in which such machine or device is operated and who are voluntary listeners thereto. The operation of any sound device between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to be plainly audible shall be prima facie evidence of a violation of this section. Even if the plainly audible standard is not met, the city may otherwise prove that the noise was unreasonably loud, excessive, unnecessary, or unusual.

(3) *Loudspeakers and advertising devices.* No person shall use, operate, or play any loudspeaker, sound amplifier or musical instrument which produces or reproduces sound which is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public to any building, structure, or place or to the activity which is being conducted thereon.

(4) *Machinery and construction activities.* The using, operating, or permitting to be used or operated any machinery, demolition equipment, construction equipment, excavating equipment, power tool, equipment of semi-mechanical device or the undertaking of

Ordinance No. 2022-06 | Noise

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construction work in a manner that disturbs the peace, quiet and comfort of neighboring inhabitants or visitors between the hours of ~~9:00 p.m. and 7:00 a.m.~~ 8:00pm and 7:00am Monday through Saturday the following day. Work is prohibited on Sundays and Federal Holidays except property owners are permitted to perform home repairs and maintenance on Sundays between the hours of 9:00am and 6:00pm. This subsection shall not prohibit emergency work. ~~This subsection shall not prohibit the normal use of domestic power tools, lawn maintenance devices and repairs between the hours of 7:00 a.m. to 8:00 p.m. by the property owner.~~ However, the City Manager is authorized to approve demolition and construction outside the permitted hours upon a finding that additional hours are required for the reasonable completion of a demolition or construction task and deemed in the best interest of the City. Nothing in this section shall prohibit the use of temporary pumps or machinery which, because of their very nature and purpose, are required to be operated 24 hours a day. However, these temporary pumps or machinery may not operate at a decibel level higher than allowed by this chapter.

(5) *Animals and birds.* The owning, harboring, possessing, or keeping of any animal, including, but not limited to, dogs, cats, birds, reptiles, etc., which causes frequent, habitual, or long continued noise that disturbs the peace, quiet and comfort of the neighboring inhabitants or visitors.

(6) *Commercial sanitation operations.* No person shall cause, allow, or permit the loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage cans, or recyclable containers, between the hours of 10:00 p.m. and 7:00 a.m. daily when such operations are conducted on a property located within two hundred fifty (250) feet of a residential use.

(7) *Heating, ventilation, and air conditioning (HVAC) equipment on residential property.* No person shall operate or cause to be operated any HVAC equipment on residential property which exceeds forty (40) dBA between the hours of 10:00 p.m. and 7:00 a.m. daily when measured within the premises of a complainant.

(8) *Landscaping and yard maintenance power tools or motorized equipment.* No person shall operate or cause to be operated any landscaping or yard maintenance power tools or motorized equipment Monday through Friday before 7:00 a.m. or after 8:00 p.m. and Saturday and Sunday before 8:00 a.m. or after 6:00 p.m. No person shall operate or cause to be operated any landscaping or yard maintenance power tools or motorized equipment or appurtenances thereto with sound-control devices less effective than those provided on the original equipment.

SECTION 2. Changes in the Law.

To the extent the provisions of this Ordinance or § 381.986, Florida Statutes, are declared unconstitutional or are superseded, the City would adhere to its current regulations, including

continuing to adhere to the federal prohibition on marijuana. Should the federal law on marijuana change, this Ordinance shall be reviewed and amended as appropriate.

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. 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 unconstitution; 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-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 6. Effective Date

The provisions of this Ordinance shall become effective upon adoption.

(Remaining page is intentionally left blank)

Passed on the first reading this 21st day of Month, 2022.

PASSED AND ADOPTED on the second reading this 4th day of April 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: April 4, 2022

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

SUBJECT: **Ordinance 2022-08** Amending City Code Chapter 11 "Streets, Sidewalks and Other Public Places"

BACKGROUND

On December 18, 2017, a city-initiated request to amend Chapter 11 - Streets, Sidewalks and Other Public Places, was approved through the adoption of Ordinance 2017-31. The ordinance addressed House Bill 687; "Advanced Wireless Infrastructure Deployment Act" signed into law by then Governor Scott. The state law, which was codified at Section 337.401, *Florida Statutes*, became effective July 1, 2017. The Act substantially amended Section 337.401, *Florida Statutes*, relating to the use of public (municipal or county) ROW, and specific structures located in the ROW, for broadband or wireless facility infrastructure. The Act provided for the installation of small wireless facilities on government-owned poles and other poles and structures located in the ROW, installation of ground-mounted equipment in the ROW, installation of new poles in the ROW, and the installation of micro wireless facilities.

The ordinance established regulations consistent with Section 337.401, *Florida Statutes* that established a process by which wireless providers may place certain "small wireless facilities" in the local right-of-way and provided regulations for design standards, sight-lines, insurance coverage, indemnification, performance bonds, security bonds, force majeure, abandonment, authority liability or authority warranties. The city has enforced the ordinance and issued permits for the structures within the rights-of-way located within the city boundary.

Currently, the city has determined a need to provide opportunities for city co-location of equipment on the infrastructure within the right-of-way for communication and/or surveillance equipment as required for city use. This can be negotiated during the permitting process.

On March 21, 2022, City Council approved Ordinance 2022-08 on first reading with a vote of 5-0.

ANALYSIS

City staff initiated this code change after investigating the requirements for requesting the co-location on existing micro towers within the right-of-way. The tower owner's have not permitted co-location requests from the city, even though the request were to address public safety concerns.

Currently, Communication Facilities, such as cell towers, located on city property are required to accommodate city communication needs, so extending the requirement to micro towers would address the deficiency within the city's rights-of-way.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2022-08 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of Ordinance 2022-08.

ORDINANCE NO. 2022-08

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 11, STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, ARTICLE V, PLACEMENT OF COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY, SECTION 11-101, PLACEMENT OR MAINTENANCE OF A COMMUNICATIONS FACILITY IN PUBLIC RIGHTS-OF-WAY , IN ORDER TO ADDRESS THE REQUIREMENT FOR CITY CO-LOCATION OPPORTUNITIES ON MICRO TOWER INFRASTRUCTURE WITHIN CITY RIGHTS-OF-WAY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Greenacres has determined that a need exists to amend and clarify the regulations that govern the use of the City's streets, sidewalks, and certain other public places; and

WHEREAS, City staff has determined that preventive measures must be taken to protect the continuous functionality of the City's sidewalks, public rights-of-way, and other public property; and

WHEREAS, in the 2017 Legislative Session, the Florida Legislature enacted the Advanced Wireless Infrastructure Deployment Act, House Bill 687, which provides authorization for wireless carriers to install devices in public rights-of-way pursuant to a permit obtained from the local government authority; and

WHEREAS, the "Advanced Wireless Infrastructure Deployment Act" became effective on July 1, 2017, under Chapter 2017-136, Laws of Florida; and

WHEREAS, on December 18, 2017, the City Council adopted Ordinance 2017-31, establishing regulations consistent with Section 337.401, *Florida Statutes* that established a process by which wireless providers may place certain "small wireless facilities" in the local

right-of-way and provided regulations for design standards, sight-lines, insurance coverage, indemnification, performance bonds, security bonds, force majeure, abandonment, authority liability or authority warranties; and

WHEREAS, the Neighborhood and Development Services Department has submitted a request for a code text amendment to revise Chapter 11, Streets, Sidewalks and Other Public Places to require the ability for the city to co-locate on the towers for communication and technical equipment as required for city use; and

WHEREAS, the City Council of Greenacres finds that the amendments contained within this ordinance will promote the health, safety and welfare of the citizens of Greenacres and the public at large.

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

SECTION 1. Section 1. Chapter 11, Article V, Section 11-101 is hereby amended ; follows:

* * * * *

Article V. Placement of Communications Facilities in Public Rights-of-Way

Sec. 11-101. Placement or maintenance of a communications facility in public rights-of-way.

(a) A registrant shall at all times comply with and abide by all applicable provisions of the state and federal law and city ordinances, codes, and regulations in placing or maintaining a communications facility in public rights-of-way.

(b) A registrant shall not commence to place or maintain a communications facility in public rights-of-way until all applicable permits, if any have been issued by the city or other appropriate authority, except in the case of an emergency. The term "emergency" shall mean a condition that affects the public's health, safety, or welfare, which includes an unplanned out-of-service

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condition of a pre-existing service. The registrant shall provide prompt notice to the city of the placement or maintenance of a communications facility in public rights-of-way in the event of an emergency and shall be required to obtain an after-the-fact permit if a permit would have originally been required to perform the work undertaken in public rights-of-way in connection with the emergency. The registrant acknowledges that, as a condition of granting such permits, the city may impose reasonable rules or regulations governing the placement, relocation, or maintenance of a communications facility in public rights-of-way. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The city may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities that may otherwise require individual permits.

(c) As part of any permit application to place a new or replace an existing communications facility in public rights-of-way, the registrant shall provide the following:

- (1) The location of the proposed facilities including a description of the facilities to be installed, where the facilities are to be located, and the approximate size of the facilities that will be located in public rights-of-way;
- (2) A description of the manner in which the facility will be installed (i.e. anticipated construction methods or techniques);
- (3) A maintenance of traffic plan for any disruption of the public rights-of-way, in accordance with the standards promulgated by the Florida Department of Transportation;
- (4) Information on the ability of the public rights-of-way to accommodate the proposed facility, if available (such information shall be provided without certification as to correctness, to the extent obtained from other persons);
- (5) If appropriate, given the facility proposed, a certified estimate of the cost of restoration to the public rights-of-way, subject to approval by the planning and engineering director and the public works director or designees(s);
- (6) The timetable for construction of the project, or each phase thereof, and the areas of the city which will be affected; and
- (7) Such additional information as the city finds reasonably necessary with respect to the placement or maintenance of the communications facility that is the subject of the permit application to review such permit application.

(d) To the extent not otherwise prohibited by state or federal law, the city shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of public rights-of-way.

(e) All communications facilities shall be placed or maintained so as not to unreasonably interfere with the use of the public rights-of-way by the public and with the

rights and convenience of property owners who adjoin any of the public rights-of-way. The use of trenchless technology (i.e., directional bore method) for the installation of facilities in the public rights-of-way, as well as joint trenching or the collocation of facilities in existing conduit, is strongly encouraged and should be employed wherever feasible. The building official, public works director and ~~city planning & engineering~~ neighborhood and development services director or their designees may promulgate reasonable rules and regulations concerning the placement or maintenance of a communications facility in public rights-of-way consistent with this article and other applicable law.

(f) All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities.

(g) After the completion of any placement or maintenance of a communications facility in public rights-of-way or each phase thereof, a registrant shall, at its own expense, restore the public rights-of-way to their original condition before such work. If the registrant fails to make such restoration within thirty (30) days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such placement or maintenance, the city may perform restoration and charge the costs of the restoration against the registrant in accordance with Section 337.402, Florida Statutes, as it may be amended. For twelve (12) months following the original completion of the work, the registrant shall guarantee its restoration work and shall correct, at its own expense, any restoration work that does not satisfy the requirements of this article.

(h) Removal or relocation at the direction of the city of a registrant's communications facility in public rights-of-way shall be governed by the provisions of Sections 337.403 and 337.404, Florida Statutes, as they may be amended.

(i) A permit from the city constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

(j) A registrant shall maintain its communications facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.

(k) In connection with excavation in the public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, Florida Statutes, as it may be amended.

(l) The registrant shall use and exercise due caution, care, and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work-site areas.

(m) Upon the request of the city, and as notified by the city of the other work, construction, installation, or repairs referenced below, a registrant may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation, or repairs that may be occurring or scheduled to occur within a reasonable time frame in the subject public rights-of-way, and the registrant may be required to reasonably alter its placement or maintenance schedule as necessary so as to minimize disruptions and

disturbance in the public rights-of-way.

(n) A registrant shall not place or maintain its communications facilities so as to interfere with, displace, damage, or destroy any facilities including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables, or conduits of the city or any other entity's facilities lawfully occupying the public rights-of-way of the city.

(o) The city makes no warranties or representations regarding the fitness, suitability, or availability of the city's public rights-of-way for the registrant's communications facilities, and any performance of work, costs incurred, or services provided by the registrant shall be at the registrant's sole risk. Nothing in this article shall affect the city's authority to add, vacate, or abandon public rights-of-way, and the city makes no warranties or representations regarding the availability of any added, vacated, or abandoned public rights-of-way for communications facilities.

(p) The city shall have the right to make such inspections of communications facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article.

(q) A permit application to place a new or replace an existing communications facility in public rights-of-way shall include plans showing the location of the proposed installation of facilities in the public rights-of-way. If the plans so provided require revision based upon actual installation, the registrant shall promptly provide revised plans. The plans shall be in a hard copy format or an electronic format specified by the city, provided such electronic format is maintained by the registrant. Such plans in a format maintained by the registrant shall be provided at no cost to the city.

(r) The city reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables, or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the city in public rights-of-way occupied by the registrant. The city further reserves, without limitation, the right to alter, change, or cause to be changed the grading, installation, relocation, or width of the public rights-of-way within the limits of the city and within said limits as same may from time to time be altered. Should the registrant be required to relocate its facilities in conjunction with such installation and alteration, the registrant shall be required to pay all costs associated with such relocation.

(s) A registrant shall, on the request of any person holding a permit issued by the city, temporarily raise or lower its communications facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than thirty (30) days advance written notice to arrange for such temporary relocation.

(t) A wireless facility that is a portion of a communication facility, such as an antenna ("wireless facility(ies)"), which is attached to a legally maintained vertical structure in the public rights-of-way, such as a light pole or utility pole ("vertical structure(s)"), shall be subject to the following criteria below and processed in accordance with the timeframes specified in Chapter 337.401, Florida Statutes:

- (1) Such Wireless facilities may not extend more than ten (10) feet above the highest point of the vertical structure (i.e., utility pole). The height of a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, measured from grade in place within 500 feet of the proposed location. If there is no utility pole within 500 feet, the height of the new utility pole shall be limited to 50 feet;
- (2) Such wireless facilities that are attached to a vertical structure located in public rights-of-way that is fifteen (15) feet or less in width and is located adjacent to real property used as a single-family residence shall be flush mounted to the vertical structure;
- (3) Such wireless facilities shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation, or law;
- (4) Such wireless facilities shall comply with any applicable Federal Communications Commission Emissions Standards;
- (5) The design, construction, and installation of such wireless facilities shall comply with any applicable local building codes;
- (6) No commercial advertising shall be allowed on such wireless facilities;
- (7) Any accessory equipment and related housing in the public rights-of-way that are used in conjunction with such a wireless facility shall comply with any applicable local rules, regulations, ordinances, or laws governing the placement and design of such equipment;
- (8) Any new or replacement poles shall be of similar design, material, and color to the utility poles within 250 feet in the same right-of-way, or as approved;
- (9) Wireless facilities, including ground-mounted equipment shall be placed so as to not interfere with the safe operation of traffic control equipment, sight lines or clear zones for transportation, pedestrians, public safety purposes, or the free flow of vehicular and pedestrian traffic;
- (10) The City may request that ground-mounted equipment use materials, colors, textures, screening, and landscape that will blend into the natural setting and surrounding built environment to minimize the visual impact as permitted by Section 337.401, Florida Statutes:

- (11) The City may request ground-mounted equipment be placed no closer than 500 feet from existing ground-mounted equipment servicing the same carrier, as permitted by Section 337.401, Florida Statutes;
- (12) Ground-mounted equipment shall be placed so as to not interfere with the intended purpose of the right-of-way, swales, or stormwater drainage features and appurtenances.
- (13) The City may deny a proposed collocation of a new small wireless facility in the public rights-of-way if the proposed collocation materially interferes with compliance with the Americans with Disabilities Act (ADA) or similar federal or state standards regarding pedestrian access or movement;
- (14) The City may deny a proposed collocation of a new small wireless facility the public rights-of-way if it materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.
- (u) Vertical structures, such as towers, having a sole purpose to serve as a mounting device for antennae, are expressly prohibited from being placed in the public rights of-way, except as permitted by Section 337.401, Florida Statutes.
- (v) Shared use. To discourage the proliferation of new small wireless facilities, shared use of structures is both permitted and encouraged.
- (w) Dedication of use to the City of Greenacres. During the permit review process and after, as a condition of approval, the city may require the dedication of space on the tower for communication and/or surveillance equipment as required for city use.

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 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 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. 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 21st day of March, 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



ITEM SUMMARY

MEETING DATE: April 4, 2022

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

SUBJECT: **Ordinance 2022-10** Amending City Code Chapter 2 “Administration, Article VIII Code Compliance”
Code Enforcement Revisions

BACKGROUND

On September 22, 2021, the City’s attorney, Christy Goddeau, presented to City Council regarding the City’s Code compliance policy and changes proposed for an improved process. The City Council has requested the update at a previous meeting, as well as changes to the process for reducing liens placed on properties in city. The City Council wanted a 10% minimum lien reduction for properties that had been brought into compliance.

Currently, the city code regulates code enforcement under Chapter 2 Administration, Article III, Boards, Committees, Commissions, Division 2, Code Enforcement. Previously, the city had a Code Enforcement Board that was comprised of appointed residents to make determinations for all code enforcement issues. The board was disbanded and a Special Magistrate that had been previously enacted was responsible for all code violations moving forward. The Special Magistrate was included under Boards and Committees, which needed to be revised. The City Attorney has provided those changes in coordination with the changes requested by City Council to set a minimum reduction for liens.

The following changes are being proposed to the code:

1. The draft ordinance proposes to delete the entire code compliance provision from its current location (under city boards) and create a new article in Chapter 2 solely for code compliance.
2. The draft ordinance sets forth some basic provisions and definitions (Division 1); the typical process under Chapter 162, Part 1, Florida Statutes (Division 2); and a new alternatively citation process (Division 3).
3. Under Division 2, the more efficient process of not having a second hearing (but allowing the violator to request a fine challenge hearing) is included.
4. Under Division 3, the new alternative citation process is a much more streamlined version of the process and removes some of the oddities in the current citation process. The current violation and fines schedule has been re-adopted into this version.
5. Finally, the proposed revisions allows for an amnesty period by resolution if the City Council desires to do that at any time; and, allows for a property improvement

account to be set up to have funding for property improvements (by resolution as well).

The proposed changes will be effective upon adoption. In addition, staff shall also prepare a resolution that sets forth the administrative charges that may be assessed in each case and the fees to be charged for various services. The resolution will be adopted concurrent with this ordinance.

ANALYSIS

This is a city-initiated code change as directed by City council. City staff initiated this code change after direction from the City Council on September 22, 2021.

Staff has concerns regarding adding the minimum lien reduction to 10%, which will have an impact on those that purchase properties to improve and bring into compliance after the accrual of liens on the property. In order to reduce the lien further, the City Council will have property owner's directly petitioning them for reductions and will have to make determinations regarding whether or not a reduction should be approved.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2022-10 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of Ordinance 2022-10.

ORDINANCE NO. 2022-10

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, REPEALING CHAPTER 2 "ADMINISTRATION", ARTICLE III "BOARDS, COMMITTEES, COMMISSIONS", DIVISION 2 "CODE ENFORCEMENT"; ADOPTING A NEW ARTICLE VIII "CODE COMPLIANCE"; PROVIDING FOR SEVERABILITY, PRESERVATION, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Chapter 162, Part I, Florida Statutes, sets forth the process the City has been utilizing for traditional code compliance for properties which violate the City's code of ordinances within the City; and

WHEREAS, the City also currently uses its code compliance citation process in order to more efficiently and effectively address day-to-day simple violations; and

WHEREAS, the City Council recognizes the need to update its ordinances regarding code compliance in order to make the entire process more efficient, effective, and address the reduction of liens when properties are brought into compliance; and

WHEREAS, the City Council recognizes that by updating its code compliance processes as set forth herein such updates should help to encourage voluntary code compliance by all property owners; and

WHEREAS, the City Council of the City of Greenacres legislatively determines and declares that creation of a new code compliance ordinance 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 obtain voluntary compliance with the City's code of ordinances and efficiently and effectively pursue violations when voluntary compliance is not achieved.

SECTION 2. BOUNDARIES.

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

SECTION 3. REPEAL OF CHAPTER 2 ADMINISTRATION, ARTICLE III BOARDS, COMMITTEES, COMMISSIONS, DIVISION 2 CODE ENFORCEMENT.

The City Council hereby repeals, in full, Chapter 2. Administration, Article III. Boards, Committees, Commissions, Division 2. Code Enforcement.

SECTION 4. CREATION OF CHAPTER 2 ADMINISTRATION, ARTICLE VIII CODE COMPLIANCE.

The City Council hereby amends the Greenacres Code by adding Chapter 2 Administration, Article VIII Code Compliance, which shall read as follows:

* * * * *

ARTICLE VIII. – CODE COMPLIANCE

DIVISION 1. – GENERALLY

Sec. 2-287. – Intent, applicability and jurisdiction.

(a) It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the city by authorizing the appointment of one (1) or more special magistrates with authority to impose administrative fines and other noncriminal penalties, to provide an equitable, expeditious, effective and inexpensive method of obtaining compliance with the city's codes and ordinances, and obtaining enforcement where a pending or repeated violation continues to exist.

(b) This article creates the city's code compliance process consistent with the Chapter 162, Part I, the Local Government Code Enforcement Boards Act, as set forth in sections 162.01 – 162.13, Florida Statutes (as amended from time to time).

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(c) As an alternative to the enforcement procedures authorized under Chapter 162, Part I, Florida Statutes, and pursuant to sections 162.13 and 162.22, Florida Statutes, the city hereby adopts a civil citation procedure as set forth in this article at division 3.

(d) The city hereby authorizes its special magistrate(s) to hold hearings and assess fines against violators of the city's code of ordinances in accordance with the terms and conditions set forth in this article and with the Local Government Code Enforcement Boards Act (not applicable to division 3).

(e) The jurisdiction of the city's special magistrate(s) shall not be exclusive. Any alleged violation of the city's code of ordinances may be pursued by appropriate remedy in court or other appropriate venue at the option of the city.

(f) The city council reserves the right to establish a code compliance board consistent with the Local Government Code Enforcement Boards Act.

Sec. 2-288. – Special magistrate appointed.

(a) The city council may appoint one (1) or more special magistrates who shall have the authority to hold hearings and assess fines against violators of the ordinances of the city, as provided in Chapter 162, Part I, Florida Statutes, and in this article. The special magistrate shall serve in an ex officio capacity if the appointed special magistrate serves other local governments as a special magistrate. Such service to other local governments does not create duties inconsistent with serving as special magistrate to the city.

(b) A special magistrate shall be an attorney admitted to the Florida Bar who possesses experience in zoning and land use law, building regulations, code enforcement, and/or administrative law.

(c) A special magistrate shall not be a city employee, but shall enter into an agreement to provide professional services at a rate established by the city.

(d) The city shall provide necessary and reasonable clerical and administrative support to enable a special magistrate to perform his or her duties. A special magistrate shall not be authorized to hire or use the services of any person except those provided by the city to assist him or her in the performance of his or her duties.

Sec. 2-289. - Powers of special magistrate.

A special magistrate shall have the power to:

(a) Adopt rules for the conduct of hearings.

(b) Subpoena alleged violators and witnesses to special magistrate hearings. Subpoenas may be served by the sheriff of the county or police department of the city.

(c) Subpoena evidence to special magistrate hearings.

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(d) Take testimony under oath.

(e) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

Sec. 2-290. - Definitions.

Except as otherwise clarified herein, the terms used in this article shall have the same definition as set forth in Chapter 162, Part I, Florida Statutes:

(a) *Special magistrate* means an attorney admitted to the Florida Bar who possesses experience in zoning and land use law, building regulations, code enforcement and/or administrative law, and has been appointed by the city council to hold hearings and assess fines against violators of the city ordinances.

(b) *Code compliance administrator* means the city employee or his or her designee having the responsibility for providing administrative support for special magistrates, accepting applications, giving notices, presenting cases and otherwise supporting the code compliance program.

(c) *Code officer* means any authorized agent or employee of the city whose duty it is to assure code compliance.

(d) *Repeat violation* means a violation of a provision of an ordinance by a person who has been previously found through a code enforcement board, special magistrate or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding the violations occurred at different locations. All repeat violations shall be subject to an administrative fee which reasonably represents the costs to the city for original and repeat enforcement of its code of ordinances. The administrative fee shall be set by resolution and shall be included in a lien authorized under this division.

Secs. 2-291 – 2-294. – Reserved.**DIVISION 2. – NOTICE OF VIOLATION PROCEDURE (CHAPTER 162, PART I, FLORIDA STATUTES)****Sec. 2-295. - Compliance procedure.**

(a) *Generally.* It shall be the duty of the code officer to initiate enforcement proceedings of the various codes; no special magistrate shall have the power to initiate such proceedings.

(b) *Notification of violation; hearing; written notice of hearing.* Except as provided in subsections (c) and (d), if a violation of the codes is found, the code officer shall notify the violator and give him or her a reasonable time to correct the violation. The notice may also include the notice of hearing should the violation continue beyond the time specified for correction; or, code compliance may issue a separate notice of hearing should the violation continue beyond the time specified for correction. The written notice of violation and notice of hearing shall be served as provided in this article to the violator. If the violation is corrected and then recurs or if the

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violation is not corrected by the time specified for correction by the code officer, the case may be presented to the special magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.

(c) Repeat violations. If a repeat violation is found, the code officer shall notify the violator, but is not required to give the violator a reasonable time to correct the violation. This notice may include a notice of hearing if an upcoming hearing date is known. The code officer, upon notifying the violator of a repeat violation, shall notify a special magistrate and request a hearing. The code officer shall schedule a hearing and shall provide notice pursuant to this article to the violator (unless already provided). The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

(d) When code officer may immediately notify a special magistrate. If the code officer has reason to believe a violation presents a serious threat to the public health, safety or welfare or if the violation is irreparable or irreversible in nature, the code officer shall make a reasonable effort to notify the violator and may immediately notify a special magistrate and request a hearing. The original notice to the violator may include the notice of hearing if an upcoming hearing date is known.

Sec. 2-296. - Conduct of hearing.

(a) Manner of calling hearing; open to public. Upon request of the code officer, or at such other times as may be necessary, a special magistrate may call a hearing. All hearings and proceedings shall be open to the public.

(b) Presenting cases. Each case before a special magistrate shall be presented by the city attorney or designee or by the code compliance administrator or designee.

(c) Testimony; rules of evidence. The special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the code officer, alleged violator and such other witnesses as may be necessary in the special magistrate's determination. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(d) Findings of fact; order of compliance.

(1) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The order may include a notice that it must be complied with by a specified date, and that if the order is not complied with by said date, the following may be imposed: a daily accruing fine and the assessment of the costs of repair (if applicable). The order may, upon the request of the city, authorize the city to enter onto the property to make the necessary repairs if the violator fails to timely do so. The order may also impose the city's administrative costs of prosecution. A certified copy of such order may be recorded in the official records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, subsequent purchasers, successors

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in interest, or assigns. If an order is recorded in the official records pursuant to this subsection and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the official records. A hearing is not required to issue such an order acknowledging compliance.

(2) Further, if a violation is found, the violator shall be given twenty (20) days within which to request a hearing to challenge the fine amount imposed by the order. If such a hearing is not timely requested and if the violation is not corrected by the time established in the order and/or all administrative costs are not timely paid, the city may record a certified copy of the order in the official records of the county and thereafter the order shall constitute a lien under section 162.09, Florida Statutes. The hearing to challenge the fine amount imposed by the order shall be requested in writing to the code compliance administrator and shall be limited to a consideration of only those new findings necessary to impose a fine. The violator shall bear the burden of proof at such hearing to show cause why the fine imposed in the order is not appropriate. If a request for hearing to challenge the fine amount is timely received by the code compliance administrator, a hearing will be set and notice of the hearing date and time shall be sent by regular U.S. mail to the address provided on the written request for the hearing. All orders entered by the special magistrate at this hearing which impose a fine and/or administrative costs may be recorded in the official records of the county by the city and thereafter the orders shall constitute a lien under section 162.09, Florida Statutes.

(3) If fines accrue under the order by the special magistrate prior to the order becoming a lien, the special magistrate may reduce the fines consistent with this article for the reduction of liens.

Sec. 2-297. - Waiver of hearing procedure; stipulation and agreed order.

(a) *Voluntary stipulation option.* In the event that a violator agrees with the violation(s) contained on the notice of violation(s), but needs more time to correct the violations, the violator shall have the option to enter into a voluntary stipulation wherein the violator agrees to the violation(s) and waives the violator's right to all further hearings before the special magistrate. The violator shall then have additional time as agreed to between the violator and the code officer to correct the violation(s) before any fine begins to accrue.

(b) *Stipulation form.* The stipulation must be in writing and on a form provided to the violator by the code officer. The stipulation shall indicate that the waiver of hearing is solely at the option of the violator, and that the violator has an absolute right to have a hearing before the special magistrate. The stipulation shall further contain the date that the violator must correct the violation(s) before a fine begins to accrue, and shall state the amount of the daily fine if the violation(s) is not corrected by the correction date.

(c) *Agreed order.* By signing the stipulation, the violator agrees to the entry of an agreed order approving the stipulation. The violator is not required to be present at the hearing at which the stipulation is reviewed by the special magistrate. The order shall provide that the stipulation shall have the same effect as an order entered by the special magistrate imposing a fine and creating a lien in the event that the violator does not correct the violation(s) by the correction date or

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otherwise fails to timely and fully comply with the terms of the stipulation. The city may record the stipulation in the official records of the county if the violator does not correct the violation(s) by the correction date or otherwise fails to timely and fully comply with the terms of the stipulation.

(d) *Agreed order not entered.* In the event the special magistrate does not approve the stipulation, the violator shall not be prejudiced for not appearing at the hearing and shall be given additional reasonable time for compliance and shall be issued a notice of hearing to appear at the next available hearing. Said notice shall be sent by regular U.S. Mail to the address contained on the stipulation.

(e) *Lien reduction rights not waived.* The stipulation shall not waive the violator's right to request a lien reduction hearing if a lien is imposed as a result of the stipulation.

Sec. 2-298. - Administrative fines; liens.

(a) *Generally.* A special magistrate may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code officer.

(b) *Amount of fines.*

(1) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and, in addition, may include all costs of repairs incurred in accordance with this article. However, if a special magistrate finds the violation to be irreparable or irreversible in nature, the special magistrate may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.

(2) In determining the amount of the fine, if any, the special magistrate shall consider the following factors:

- a. The gravity of the violation;
- b. Any actions taken by the violator to correct the violation; and
- c. Any previous violations committed by the violator.

(c) *Administrative fee related to the prosecution of code compliance cases.* Costs incurred by the city in the successful prosecution of a code compliance case, including a repeat violation, may be assessed against the violator pursuant to section 162.07, Florida Statutes. The amount of these costs may be set from time to time by resolution of the city council. Such costs may be included in the lien authorized under this division.

(d) *Fine imposed.* Unless a fine has already been converted to a lien under section 2-296, a certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the official records of the county by the city and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order and an order recorded under section 2-296 may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy

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against personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this article shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien or in a suit to recover a money judgment, pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this article runs in favor of the city, and the special magistrate and/or the city may execute a release of lien or partial release of lien as specifically authorized under this article. After three (3) months from the filing of any such lien which remains unpaid, the special magistrate may authorize the city attorney or designee to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this article may be foreclosed on real property which is homestead under Section 4, Article X of the Florida State Constitution.

Sec. 2-299. - Duration of lien.

No lien provided under this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing fine or an order recorded under section 2-296 has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including reasonable attorney fees, incurred in the foreclosure. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 2-300. - Appeals.

An aggrieved party, including the city, may appeal a final administrative order of a special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed. The city attorney or designee is hereby authorized to defend such appeals on behalf of the city and/or special magistrate. Except for an appeal filed by the city, notice of the appeal shall be sent to the city's code compliance division.

Sec. 2-301. - Applications for lien reductions, release of liens and partial releases of liens; lien caps; waiver of hearing; amnesty; and, property improvement account.

(a) *Applicability.* The procedures set forth in this division for lien reductions, releases of liens and partial releases are applicable to any violator whose case has been heard before the city's code compliance special magistrate or board.

(b) *Application.* The code compliance administrator shall furnish the form for an application for a lien reduction, a release of lien and a partial release of lien. In order to be considered, the application form must be fully completed and submitted to the code compliance administrator with the applicable fees set by city council resolution. The application fees are non-refundable.

(c) *Waiver of lien reduction hearing.* Upon receipt of a completed application for a lien reduction which satisfies the criteria set forth in section 2-302 below, the code compliance administrator

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or designee shall calculate the amount of the reduction consistent with this division. The code compliance administrator or designee shall notify the applicant of the proposed reduction amount and, if the applicant agrees with the proposed reduction amount, the applicant may enter a voluntary reduction stipulation with the code compliance administrator. The form of the voluntary reduction stipulation shall be determined by the code compliance administrator in consultation with the city attorney. A fully executed voluntary reduction stipulation may be approved by the special magistrate administratively, without a hearing. Upon payment of the reduction amount set forth in the voluntary reduction stipulation as approved by the special magistrate, the city shall execute and record a release of the lien in the official records of the county. If the applicant does not agree with the proposed reduction amount, or the special magistrate does not approve the executed voluntary reduction stipulation, the code compliance administrator or designee shall set the reduction application for a hearing before the special magistrate consistent with this division.

(d) *City council amnesty.* The city council may from time to time by resolution approve an amnesty program to incentivize property owners to bring their properties into compliance and obtain a release of lien(s) from the city. The amnesty program may reduce the maximum lien reduction percentage set forth in section 2-302(f). The amnesty program resolution shall set forth a temporary timeframe for the amnesty program to be available to property owners by written application.

(e) *Property Improvement Account.* City council may from time to time by resolution authorize a Property Improvement Account in which a percentage of all code compliance fees, fines, liens and other charges paid to the city shall be deposited. If authorized, the City Manager or designee shall establish policies and programs for utilization of the Property Improvement Account funds to assist homestead property owners and to assist those other property owners seeking to improve the overall appearance of their property and the city.

Sec. 2-302. - Lien reductions.

(a) *Criteria.* The following criteria must be complied with prior to a lien reduction hearing before a special magistrate:

(1) The property in question must be in total compliance and an affidavit of compliance must be issued for the case(s) being considered.

(2) The property in question must be free of all outstanding debts (including taxes) due to the city.

(3) The request for lien reduction application must be completed and submitted to the code compliance administrator along with the applicable fee as set by city resolution. All outstanding administrative fees owed to the City, as ultimately determined by the code compliance administrator, shall also be paid at the time of application; however, the code compliance administrator may allow the outstanding administrative fees to be paid, in full, as part of a reduced lien amount.

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(4) All other properties owned by the violator within the city must not have any active code compliance case(s). The applicant shall provide the city a list of all properties owned by the applicant within the city along with the application.

(b) *Hearing scheduled; option to postpone.* Except as otherwise set forth herein, if the reduction application is complete and the above criteria have been met, a lien reduction hearing shall be scheduled before a special magistrate. The applicant will be notified in writing of the scheduled hearing at least five (5) days prior to the hearing date by regular U.S. Mail to the address provided on the application. In its sole discretion, the city may postpone such hearing if it wishes to pursue the collection of the lien(s) through an alternate remedy at law or in equity, and the city shall notify the applicant of such postponement in writing. If the postponement is anticipated to last longer than three (3) months, the City may in its sole discretion deny the reduction application and return any fee paid for the same.

(c) *Lien reduction hearing.* The special magistrate at a lien reduction hearing shall make one (1) of the following determinations: The lien may be reduced to a specified amount, or the request for lien reduction may be denied. The special magistrate shall review all the facts set forth in the application to determine if the applicant is eligible for the requested relief prior to making a decision and entering an order. The lien reduction hearing shall not be a hearing de novo of the original case, but shall be limited solely to the issue of whether the lien assessed should be reduced. The burden of proof shall be on the applicant to show cause for reducing the lien. The city attorney, code compliance administrator and/or their designee may make recommendations regarding any lien reduction. Any lien reduction made pursuant to this section is not applicable to any administrative fees or costs assessed at any prior hearing.

(d) *Factors considered.* In determining how much to reduce the outstanding lien, the special magistrate shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any action taken by the violator to correct the violation; and,
- (3) Any previous violations committed by the violator.

(e) *City debts to be paid.* The cost of the lien reduction application fee and any code compliance administrative fees associated with the property and any other city debts (including taxes) that are required to be paid, as ultimately determined by the code compliance administrator, shall not be included in any lien reduction and must be paid.

(f) *Maximum reduction.* The special magistrate shall not reduce any lien to less than ten (10) percent of the remaining outstanding balance of the lien.

(g) *Release of lien.* Upon full compliance with the special magistrate's order reducing the lien, the city shall prepare a release of lien and record the release of lien in the official records of the county.

(h) *Reversion of original lien amount.* If a respondent fails to timely and fully pay the reduced lien amount, the lien shall automatically revert back to the original, pre-reduced amount and the special magistrate's order reducing the lien shall not be recorded.

Sec. 2-303. – Unenforceable lien releases.

(a) *Unenforceable liens.* In addition to the reduction of liens described above, the city shall be authorized to execute a release of a code compliance lien which has been deemed in writing by the city attorney to be legally unenforceable or uncollectible as described below:

(1) The statute of limitations relating to the lien has otherwise expired;

(2) The lien was properly foreclosed by order of an appropriate court with jurisdiction;

(3) The lien was properly discharged in a bankruptcy proceeding by order of a bankruptcy court;

(4) The property encumbered by the lien is currently owned by the city; and/or,

(5) Any other reason as determined by the city attorney that establishes the lien is legally unenforceable or uncollectible.

(b) *Application.* An application for a release of lien shall be submitted to the code compliance administrator along with the application fee to cover the city's costs for the processing of the application and recording costs.

(c) *Recording of release.* If issued, the city shall record the release of lien in the official records for the county.

Sec. 2-304. – Partial release of liens.

An applicant may request a partial release of lien where the lien on the property inside the city's boundaries attaches to another property located inside or outside the city's boundaries pursuant to section 162.09, Florida Statutes. The following procedures shall apply to such request:

(1) The applicant shall complete an application for such partial release and pay all applicable application fees as set by city resolution.

(2) The property for which the partial release is requested must be free of all outstanding debts (including taxes) due to the city.

(3) All property owned by the applicant in whole or in part that is located in the city, including the property for which the lien originated, must be in compliance with all city ordinances prior to the granting of the partial release of lien. If the applicant's property within the city is not in compliance, the applicant may provide the city with a letter of credit to guarantee compliance within a set timeframe not to exceed 120 days. The form of the letter of credit shall be approved

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by the city attorney and the amount of the letter of credit shall be ten (10) percent of the total lien amount.

(4) Upon the applicant's payment of ten (10) percent of the total lien amount, the code compliance administrator shall notify the city attorney of the partial release of lien application and payment of the applicable fees.

(5) Upon notice from the code compliance administrator, the city attorney or designee shall prepare the partial release of lien for execution by the city and the city shall record the partial release of lien in the official records of the county.

Sec. 2-305. - Notices.

Notice delivery. Unless otherwise set forth in this article, all notices required by this article shall be provided to the alleged violator by:

(1) Certified mail, and at the option of the city return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The city may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within thirty (30) days after the postmarked date of mailing, notice may be provided by posting as described in subparagraphs (b)(1) and (2);

(2) Hand delivery by the sheriff or other law enforcement officer, code officer, or other person designated by the city council;

(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice; or

(4) In the case of a commercial premises, leaving the notice with the manager or other person in charge.

(b) *Additional notice options.* In addition to providing notice as set forth in subsection (a), at the option of the city, notice may also be served by publication or posting, as follows:

(1) Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in Palm Beach County. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements. Proof of publication shall be made as provided in sections 50.041 and 50.051, Florida Statutes.

(2) In lieu of publication as described above, such notice may be posted at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one of which shall be the property upon which the violation is

alleged to exist and the other of which shall be city hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

(c) Notice requirements met. Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

Sec. 2-306. - Disclosure requirements when transfer of ownership.

(a) Transfer of ownership. If the owner of property that is subject to an enforcement proceeding before the code enforcement board or special magistrate transfers ownership of such property between the time the notice of violation was served and the time of the hearing, such owner shall:

(1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(2) Deliver to the prospective transferee a copy of the notices and other materials relating to the code enforcement proceeding received by the transferor.

(3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(4) File a notice with the city manager of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

(b) Failure to provide notice. A failure to make the disclosures described in paragraphs (1), (2) and (3) above before the transfer, creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

Secs. 2-307 – 2-312. – Reserved.

DIVISION 3. – CIVIL CITATION PROCEDURE

Sec. 2-313. - Citation procedure.

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(a) Citation authorized. If a violation (or a repeat violation) of the city's code, for which the city has set specific fines, is believed to have occurred or to exist, a code officer may issue the violator a courtesy warning notice or a civil citation (hereinafter "citation").

(b) Reasonable cause. A code officer is authorized to issue a citation to an individual or entity (hereinafter "person") when based upon personal investigation, the officer has reasonable cause to believe that the person has committed a violation of the code for which the city has set a specific fine.

(c) Citation criteria. A citation issued by a code officer shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed, if known.
- (4) The facts constituting reasonable cause.
- (5) The number or section of the code violated.
- (6) The name of the code officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (8) The date, time and location of the hearing to be held if the citation fine is not paid or if the violation is not timely complied.
- (9) The applicable penalty if the person elects to contest the citation.
- (10) The applicable penalty if the person elects not to contest the citation.
- (11) The time set for compliance with the code and for payment of the fine.
- (12) A statement that if the person fails to appear before the special magistrate to contest the citation, he or she shall be deemed to have waived his or her right to contest the citation and that, in such case, an order may be entered against the person for an amount up to the maximum civil penalty plus the city's administrative costs.

(d) Delivery of citation. The citation shall be delivered to the violator in accordance with section 2-305 of this article.

(e) Compliance. A violator who has received a citation shall either:

- (1) Comply with the code section cited, if applicable, and pay the fine, on or before the time set forth in the citation; or
- (2) Appear at the hearing, as scheduled on the citation, and contest the violation cited. If the alleged violator elects to appear at the hearing and contest the violation, he or she shall bring any witnesses or evidence to the hearing.

(f) Waiver of rights. If the alleged violator fails to appear at the hearing, the alleged violator shall have waived all rights to a hearing and to otherwise contest the citation.

(g) Special magistrate hearing and order. The special magistrate, after a hearing on the citation, shall make a determination of whether or not a violation of the code has been committed. The hearing shall be conducted in accordance with section 2-296. If a violation is found to have occurred, the special magistrate may enter an order, as set forth in section 2-296, requiring the payment of the citation fine, payment of the administrative costs of the hearing, and the compliance of the violation, all by a date certain, along with the imposition of a daily fine and the

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authorization of the city to enter onto the property to make necessary repairs and the assessment of the costs of such repair (if applicable) if such compliance date is not met. A certified order assessing fines and/or administrative costs (and costs of repairs, if applicable) may be recorded as a lien against the subject property as set forth in section 2-296.

(h) *Payment constitutes admission.* Payment of a citation shall constitute admission of a violation for purposes of finding a repeat violation.

Sec. 2-314. - Schedule of violations and fines.

(a) The following schedule of violations and fines may be assessed by code officers and by the special magistrate in its review and adjudication of matters in accordance with this division.

<u>Violation:</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth* Offense**</u>
<u>County Ordinance*</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$300.00</u>	<u>\$300.00— \$500.00</u>
<u>City Code Chapter 3 Animals</u>	<u>\$150.00</u>	<u>\$250.00</u>	<u>\$350.00</u>	<u>\$335.00— \$500.00</u>
<u>City Code Chapter 4 Buildings</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$300.00</u>	<u>\$300.00— \$500.00</u>
<u>City Code Chapter 5 Fire Prevention</u>	<u>\$200.00</u>	<u>\$300.00</u>	<u>\$400.00</u>	<u>\$400.00— \$500.00</u>
<u>City Code Chapter 7 Nuisance</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$300.00</u>	<u>\$300.00— \$500.00</u>
<u>City Code Chapter 8 Licensing***</u>	<u>\$100.00</u>	<u>\$150.00</u>	<u>\$200.00</u>	<u>\$200.00— \$500.00</u>
<u>City Code Chapter 9 Miscellaneous</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$250.00</u>	<u>\$250.00— \$500.00</u>
<u>City Code Chapter 11 Streets, Sidewalks</u>	<u>\$150.00</u>	<u>\$200.00</u>	<u>\$250.00</u>	<u>\$250.00— \$500.00</u>
<u>City Code Chapter 12 Subdivisions***</u>	<u>\$150.00</u>	<u>\$200.00</u>	<u>\$250.00</u>	<u>\$250.00— \$500.00</u>
<u>City Code Chapter 14 Traffic****</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$300.00</u>	<u>\$300.00— \$500.00</u>
<u>City Code Chapter 15 Utilities</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$250.00</u>	<u>\$250.00— \$500.00</u>
<u>City Code Chapter 16 Zoning***</u>	<u>\$150.00</u>	<u>\$200.00</u>	<u>\$250.00</u>	<u>\$250.00— \$500.00</u>
<u>All other applicable local, state or federal***</u>	<u>\$150.00</u>	<u>\$200.00</u>	<u>\$250.00</u>	<u>\$250.00— \$500.00</u>

* or as specified by county ordinance.

** mandatory appearance for fourth offense.

*** or as specified by state statute or other applicable code or regulation.

**** \$35.00 per violation for parking violations from section 14-28.

(b) For violations of any section of this code for which a specific fine is not prescribed as set forth above, the code administrator may set a fine to be imposed of up to two hundred fifty dollars per day for a first violation and five hundred dollars per day for a second, third, or fourth violation.

* * * * *

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

That this Ordinance shall take effect immediately upon its final approval and adoption.

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Passed on the first reading this 4th day of April, 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:

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



ITEM SUMMARY

MEETING DATE: April 4, 2022

FROM: Andrea McCue, City Manager

SUBJECT: Designation of Deputy Mayor

BACKGROUND

City Code, Charter, Article II, Mayor, Section 2, Deputy Mayor states:

The City Council shall designate one (1) of its members as Deputy Mayor, who shall serve in such capacity at the pleasure of the Council. The Deputy Mayor shall perform all of the mayoral duties during the absence or disability of the Mayor.

In the event of the simultaneous absence of the Mayor and Deputy Mayor at a City Council meeting, and with the existence of a quorum, the Councilmembers present at such meeting shall elect one (1) of its members to preside over the meeting. That presiding Councilmember shall retain all voting powers during the duration of said meeting. Due to the rescinding of Council Policy 12 in 2016, there are no provisions regarding term of appointment or criteria to be eligible to serve as Deputy Mayor.

ANALYSIS

Councilmember Judith Dugo served from 2019-2021. Councilmember John Tharp served 2021-2022.

FINANCIAL INFORMATION

There are no adverse financial impacts associated with this item

LEGAL

The item has been reviewed for legal sufficiency.

STAFF RECOMMENDATION

Staff recommends a designation of a Deputy Mayor to serve from 2022-2023.