

## **ORDINANCE NO. 2021-20**

**AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING GREENACRES CODE OF ORDINANCES AT, CHAPTER 16, ZONING REGULATIONS, ARTICLE II, ADMINISTRATION, DIVISION 10, AMENDMENTS TO APPROVED SPECIAL EXCEPTIONS AND SITE PLANS, SECTION 2-212 THROUGH SECTION 2-216, BY REPLACING CLASS I, II AND III SITE PLAN AND SPECIAL EXCEPTION AMENDMENTS WITH MINOR AND MAJOR SITE PLAN AND SPECIAL EXCEPTION AMENDMENTS, MAKING SIMILAR TERMINOLOGY CHANGES IN OTHER SECTIONS FOR CONSISTENCY; 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, Division 10, Section 16-212 through Section 2-216 addresses amendments to approved special exceptions and site plans with tiered structure currently using only Class I and Class III with Class II having been eliminated by the city in 2011: and

**WHEREAS**, with the elimination of a Class II Site Plan and Special Exception Amendment petition, the City Council desires to create a two-tier amendment process rather than a three-tiered process; and

**WHEREAS**, it is the desire of the City Commission of the City of Greenacres to prevent confusion with the elimination of the Class II Site Plan and Special Exception Amendment process; and

**WHEREAS**, it is further the desire of the City Council of the City of Greenacres to consolidate update processes and procedures within the City of Greenacres; and

**WHEREAS**, the City Council of the City of Greenacres has conducted duly advertised public hearings to receive comments on the Zoning Text Amendments proposed by ZTA 21-04 and has considered all comments received concerning the proposed amendments to the Plan as required by state law and local ordinance; and

**WHEREAS**, the City Council finds that the proposed Zoning Text Amendments is consistent with the City's Comprehensive Plan; and is in the best interest of the citizens of the City of Greenacres.

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

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

## **CHAPTER 16, ARTICLE II- ADMINISTRATION**

### **DIVISION 10. - AMENDMENTS TO APPROVED SPECIAL EXCEPTIONS AND SITE PLANS**

#### **Sec. 16-211. - Purpose.**

From time to time, in response to changing market conditions, social and economic circumstances, fashion, and changing desires of the property owner, it is necessary to change the materials, physical appearance, layout, intensity, and/or uses called for in approved special exceptions and site and development plans. The purpose of this division 10 is to establish procedures for modifying these previous approvals, including planned commercial developments and/or special exceptions which have been used at times as the functional equivalent of site and development plans, and providing an appropriate level of review and input by the bodies which provided the original approval.

#### **Sec. 16-212. - ~~Class I scope and process.~~ Minor special exception and site plan amendment process**

~~(a) A written application for an amendment shall be submitted when ready on forms provided by the planning and engineering department, shall indicate what changes are desired, and shall include all documents, of a nature similar to that called for if it was an~~

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~~application for a new approval, necessary to evaluate the proposal. The application shall be signed by the owner and the applicant, shall include agent authorization for the applicant to represent the owner, and shall include the application fee as established by the city council.~~

~~(b) The following types of changes shall be categorized as a Class I amendment:~~

~~(1) Modification to signage and lighting plans.~~

~~(2) Additional landscape species and structure screening.~~

~~(3) Outdoor coolers.~~

~~(4) Exterior modification to approved residential models or addition of new models.~~

~~(5) Addition or relocation of refuse areas.~~

~~(6) Protection of existing vegetation.~~

~~(7) A one-time or cumulative decrease in non-residential floor area of less than ten (10) percent.~~

~~(8) A one-time or cumulative decrease in residential floor area of less than ten (10) percent.~~

~~(9) A one-time or cumulative increase or decrease in non-residential parking or open space of less than ten (10) percent.~~

~~(10) Exterior residential or non-residential appearance modifications, including color.~~

~~(11) Any other proposed change which is deemed by the planning and engineering director to be a Class I amendment.~~

~~(c) Upon a determination that the application is sufficient to process, the planning and engineering department shall review the proposed changes in comparison to the original approval, original conditions of approval, and current Zoning Code requirements. If the proposal is to be approved, a memorandum shall be prepared explaining the request and containing any conditions of approval. It shall be signed by the planning and engineering director to indicate official approval and the memorandum and supporting documents placed into the property's file. In the event the applicant does not agree with the conditions of approval or if the application is denied, the applicant may appeal to the city council at their next meeting subject to the city council's agenda policy. The council's decision will be final.~~

(a) The following types of changes shall be categorized as a minor site plan and special exception amendment:

(1) Modification to signage and lighting plans when such changes are consistent with the intent of the approved master sign plan or lighting plan.

- (2) Additional landscape species and structure screening.
- (3) Outdoor coolers.
- (4) Exterior modification to approved residential models or addition of new models.
- (5) Addition or relocation of refuse areas.
- (6) Protection of existing vegetation.
- (7) A one-time or cumulative decrease in non-residential floor area of less than ten (10) percent.
- (8) A one-time or cumulative decrease in residential dwelling units of less than ten (10) percent.
- (9) A one-time or cumulative increase or decrease in non-residential parking or open space of less than ten (10) percent.
- (10) Exterior residential or non-residential appearance modifications, including color.
- (11) Shared parking agreement for mixed use zoning districts.
- (12) Alteration of the location of road, walkway, or structure by not more than five (5) feet.
- (13) Decrease in the height or number of stories of a structure
- (14) Relocation of parking/signage/landscaping due to loss of site area to accommodate widening of public rights-of-ways or intersections.
- (15) Particular amendments may not meet the criteria for minor site plan or special exception amendments but due to their uniqueness or meeting goals of the city, the following amendments will be processed as a minor site plan or special exception amendment:
  - (i) Amendment makes a significant positive impact on the City's employment
  - (ii) Amendment is a significant financial generator
  - (iii) Amendment involved innovative and high-quality design, architecture, site layout or sustainability features or
  - (iv) Amendment significantly furthers establishment of a City Council approved plan.
  - (v) Modifications to any conditions of approval

(15) Any other proposed amendment which is deemed by the development and neighborhood director or his/her designee to be a minor amendment.

(b) The following process shall apply to all minor site plan and special exception amendments:

(1) A pre-application meeting shall be scheduled and conducted with the development and neighborhood services department prior to the submission of a minor site plan or special exception amendment.

(2) A written application for an amendment shall be submitted when ready on forms provided by the development and neighborhood services department, shall indicate what changes are desired, and shall include all documents, of a nature similar to that called for if it was an application for a new approval, necessary to evaluate the proposal. Such information shall include but not be limited to, as applicable, a site plan, landscape and buffer plan, proposed hours of operations, parking standards and proposed use limitations. The application shall be signed by the owner and the applicant, shall include agent authorization for the applicant to represent the owner, and shall include the application fee as established by the city council. It shall be the applicant's burden of proof to satisfy all applicable requirements for the proposed request.

(3) The development and neighborhood services department shall review the proposed changes in comparison to the original approval, original conditions of approval, and current Zoning Code requirements.

(4) Once the development and neighborhood services department shall schedule the application for the next available development review committee (DRC) meetings. The DRC shall consider each application, shall complete a technical evaluation of the application, shall identify any deficiencies or discrepancies, and for each comment shall either indicate that the comment involves a code, safety, or engineering requirement or that the comment is advisory. Comments shall consist of the draft comments and items discussed at the DRC meeting. Complete and final comments on all applications considered at the DRC meeting shall be assembled and forwarded to the applicant. At the discretion of the DRC, applications with substantial deficiencies may, upon post-DRC re-submittal, be scheduled for re-review at another DRC meeting.

(6) Resubmission The applicant's response to the DRC comments shall include an itemized letter that recites each staff comment, details how each comment has been adequately addressed, and states where any corresponding plan revision can be located. Once all comments have been adequately addressed, all technical and informational requirements met, and the commenting members of the DRC have recommended approval or approval with conditions on the application, the application shall be sent to the development and neighborhood director or his/her designee for review.

(5) If the application is to be approved, a memorandum shall be prepared explaining the request and containing any conditions of approval. It shall be signed by the development and

neighborhood services director or his/her designee to indicate official approval and the memorandum and supporting documents placed into the property's file.

(6) In the event the applicant does not agree with the conditions of approval or if the application is denied, the development and neighborhood services director or his/her designee shall provide written notice of denial which shall be served to the applicant by certified registered mail. Said notice shall notify the applicant of the city's action and specify the reasons for denial, including applicable Code citations. The applicant may appeal to the city manager within thirty (30) days of the date of the written notice of denial. The city manager's decision will be final.

**Sec. 16-213. -Class II scope and process. Major site plan and special exception amendments review**

(a) Any deviation from a site plan or special exception that does not meet the criteria for a minor site plan or special exception amendment, as defined above shall be considered a major amendment. Major amendments shall follow the original site plan or special exception application process pursuant to this code.

The Class II amendment process is not currently in use.

**Sec. 16-214. - Class III scope and process.**

~~(a) A written application for an amendment shall be submitted by the fifteenth of the month or previous regular business day on forms provided by the planning and engineering department, shall indicate what changes are desired, and shall include all documents, of a nature similar to that called for if it was an application for a new approval, necessary to evaluate the proposal. The application shall be signed by the owner and the applicant, shall include agent authorization for the applicant to represent the owner, and shall include the application fee as established by the city council.~~

~~(b) The following types of changes shall be categorized as a Class III amendment:~~

~~(1) A one-time or cumulative increase in non-residential floor area less than ten (10) percent.~~

~~(2) A one-time or cumulative increase in residential floor area of less than ten (10) percent.~~

~~(3) A one-time or cumulative increase or decrease in residential parking or open space of less than ten (10) percent.~~

~~(4) Addenda to planned unit development agreements.~~

~~(5) Special exception and planned unit development plan modifications.~~

~~(6) Relocation of curb cuts and street and parking lot driveway connection points.~~

~~(7) Expansion or relocation of retention areas and water bodies.~~

~~(8) Changes to platted lot areas.~~

~~(9) Building or recreational facility relocations or substitutions.~~

~~(10) Any other proposed changes that are deemed by the planning and engineering director to be a Class III amendment.~~

~~(c) Any proposed amendment which exceeds the scope allowed for a Class III amendment shall be processed as a new approval in accordance with the procedures of [chapter 16](#), article II, division 8 or division 9 as applicable, including the payment of the fees established by the city council and compliance with public hearing, advertising, and notice requirements.~~

~~(d) If it has been determined to have met the submittal requirements, the application shall be reviewed by the land development staff within thirty (30) days of the submission deadline. Upon completion of the land development staff review and analysis of all submitted materials, in comparison to the original approval, original conditions of approval, and current Zoning Code requirements, the planning and engineering department shall forward the land development staff report and recommendation to the members of the planning commission and city council for their individual review.~~

~~(e) The members of the planning commission and city council shall have seven (7) working days from the day the land development staff report and recommendation is distributed in which to raise any objection to the proposal or the conditions of approval.~~

~~(1) If no objections are raised, upon the expiration of the seventh day, the proposed amendment shall be considered approved.~~

~~(2) If an objection is raised by any member of the planning commission or city council and it cannot be resolved prior to the expiration of the seventh day, or if the applicant does not agree with the proposed conditions, or if the land development staff has recommended denial, the amendment request shall be scheduled for review by the city council at their next meeting, subject to the city council's adopted agenda procedures. The decision of the city council is final.~~

#### **Sec. 16-2145. - Exemptions and duration.**

(a) The following types of changes shall be exempt from the need to modify the approved special exception or site plan using these procedures:

(1) Floorplan layout changes to the interior of approved residential models or to non-residential buildings provided that the changes have no impact on the exterior appearance, density, or floor area ratio.

(2) Minor species substitution and minor location adjustments of landscaping.

(3) Items covered under the scope of the temporary use permit provisions of [section 16-718](#).

(4) Any other proposed change which is deemed by the development and neighborhood services department planning and engineering director to be exempt.

(b) Amendments made through the approval process of this division 10 shall be valid for the life of the underlying original special exception or site and development plan approval. Amendments made by filing for a new review shall have the duration of a new approval.

#### **Sec. 16-2156. - Fees.**

Application fees shall be as established by the city council and shall be paid at the time of application. No review or processing is to be conducted until the necessary fees have been paid.

#### **Secs. 16-2167—16-220. - Reserved.**

**Section 2.** The Zoning Code of the City of Greenacres is hereby amended as follows

(additions are indicated by underscoring and deletions are indicated by ~~strikeout~~ type):

Any reference to Class III site plan and special exception amendment in the following Code Sections will be changed to major site plan and special exception amendment:

1. Section 16-760
2. Section 16-997
3. Section 16-757
4. Section 16-588

#### **Section 3. 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 4. Repeal of Conflicting Ordinances**



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

**Section 5. 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 6. 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 7. Effective Date.**

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

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***Passed on the first reading this 13<sup>th</sup> day of December, 2021.***

***PASSED AND ADOPTED on the second reading this \_\_\_\_ day of \_\_\_\_, 2022.***

\_\_\_\_\_  
***Joel Flores, Mayor***

***Attest:***

\_\_\_\_\_  
***Quintella Moorer, City Clerk***

\_\_\_\_\_  
Voted:

***John Tharp, Deputy Mayor***

\_\_\_\_\_  
Voted:

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

\_\_\_\_\_  
Voted:

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

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Voted:

***Jonathan Pearce, Council Member, District IV***

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Voted:

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

***Approved as to Form and Legal Sufficiency:***

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***Glen J. Torcivia, City Attorney***