

ORDINANCE NO. 2022-19

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

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

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

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

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

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

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

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

GREENACRES, FLORIDA, THAT:

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

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

CHAPTER 12 - SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS

ARTICLE I. - IN GENERAL

Sec. 12-12. - Engineering permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) *General requirements.*

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

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

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

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

(f) Procedure for obtaining an engineering permit.

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

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

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

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

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

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

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

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

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

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

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

5. The facilities to be installed and their size;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) *Notification to other agencies.*

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

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

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

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

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

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

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

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

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

(k) Conditions.

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

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

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

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

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

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

(l) Compliance with applicable regulations and approved plans.

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

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

(m) General obligations.

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

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

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

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

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

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

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

SECTION 3. Repeal of Conflicting Ordinances.

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

SECTION 4. Severability.

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

the exclusion of such part or parts shall be deemed to be held valid as if such part or parts 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 Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word “Ordinance” may be changed to “Section”, “Article” or another word.

SECTION 6. Effective Date.

The provisions of this Ordinance shall become effective upon adoption.

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

PASSED AND ADOPTED on the second reading this 15th day of August, 2022.

Voted:

Joel Flores, Mayor

John Tharp, Deputy Mayor

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

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