

**CITY OF HIGHLAND PARK**

**ORDINANCE NO. O46-2020**

**AN ORDINANCE AMENDING TITLE XVII OF "THE HIGHLAND PARK CODE OF 1968," AS AMENDED, REGARDING THE CITY'S DRAINAGE, GRADING, AND RESIDENTIAL INFILL CONSTRUCTION REGULATIONS**

**WHEREAS**, on January 27, 2020, the City Council adopted Ordinance No. O17-2020 amending "The Highland Park Code of 1968," as amended ("**City Code**"), in order to update and consolidate the City's various building codes and regulations; and

**WHEREAS**, Ordinance No. O17-2020 inadvertently omitted the City's regulations pertaining to drainage and grading under the former Section 170.025 of the City Code and pertaining to residential infill construction under the former Section 170.052 of the City Code; and

**WHEREAS**, the City Council now desires to further amend the City Code in order to restore the City's drainage, grading, and residential infill construction regulations to the City Code; and

**WHEREAS**, the City Council has determined that it will serve and be in the best interests of the City to amend the City Code pursuant to this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HIGHLAND PARK, LAKE COUNTY, ILLINOIS**, as follows:

**SECTION ONE:**     **RECITALS.** The foregoing recitals are incorporated into, and made a part of, this Ordinance as the findings of the City Council.

**SECTION TWO:**     **DRAINAGE AND GRADING CODE.** Title XVII, titled "Building Regulations," of the City Code is hereby amended to adopt a new Chapter 171, titled "Drainage and Grading Code," which will hereafter read as set forth in **Exhibit A** attached to and, by this reference, made a part of this Ordinance.

**SECTION THREE:**     **RESIDENTIAL INFILL CONSTRUCTION CODE.** Title XVII, titled "Building Regulations," of the City Code is hereby amended to adopt a new Chapter 172, titled "Residential Infill Construction Code," which will hereafter read as set forth in **Exhibit B** attached to and, by this reference, made a part of this Ordinance.

**SECTION FOUR:**     **PUBLICATION.** The City Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

**SECTION FIVE:**     **EFFECTIVE DATE.** This Ordinance will be in full force and

effect from and after its passage, approval, and publication in the manner provided by law.

[SIGNATURE PAGE FOLLOWS]

**AYES:** Mayor Roteriing, Councilmen Stolberg, Kaufman, Blumberg, Knobel, Holleman

**NAYS:** None

**ABSENT:** Councilwoman Stone

**PASSED:** May 26, 2020

**ADOPTED:** May 26, 2020

PUBLISHED IN PAMPHLET FORM: May 27, 2020

**ORDINANCE NO. O46-2020**

ATTEST:

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Nancy R. Roteriing, Mayor

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Ghida S. Neukirch, City Clerk

## TITLE XVII - BUILDING REGULATIONS

### Chapter 171 – DRAINAGE AND GRADING

#### Sec. 171.101. - Drainage and grading of lots; earth moving.

(A) No person shall, by changing the natural or existing grade of any lot, tract or parcel of land, alter or obstruct, partially or otherwise, the flow of natural drainage in a manner which wholly or partially obstructs the natural or usual flow of surface or subsurface waters, or which causes or contributes, or tends to contribute to temporary or permanent pooling, ponding or collection of waters upon the property of another, or which concentrates or intensifies the discharge of surface water upon the property of another; provided, however, that changes in the natural grade which would otherwise have the effect prohibited hereinabove, may be permitted if the person making such change shall drain said waters by drain tile or pipe to a connection with a City storm sewer or in any other manner as may be approved by the City Engineer or his designee.

(1) Existing drainage nuisance: Any surface or roof drainage which creates a structural or health hazard, or any other nuisance, to the owners or occupants of adjoining premises, or to the public thoroughfare, shall be abated by the owner of the improperly drained area. Drainage shall be disposed of in a manner approved by the City Engineer or his designee.

(B) The applicant for a building permit involving new construction shall certify to the Code Official on a form provided by the Official that the landscape plan for the new construction was developed with cognizance and in consideration of drainage and grading regulations of the City. The certification shall also apply to persons involved in major landscaping (any landscaping which would require application for and issuance of an earth moving permit). If the design of the proposed landscaping improvements leads to a change in the grade of a lot, approved drainage must be provided by way of the installation of drain tile, or other appropriate means.

(C) Earth moving. It shall be unlawful to move earth by creating any excavations, cuts, filling, or otherwise, which, singly or in combination:

(1) Alter the existing natural grade by more than one foot in vertical height; or

(2) Alter any stormwater conveyance system; or

(3) Cover more than 50 square feet in area without first filing with the Department of Community Development an application in writing and obtaining an earth moving permit therefor from said Department.

(D) Required plans. No permit for earth moving shall be issued unless and until an application therefor shall be submitted to the Department of Community Development and approved by the City Engineer. An application for an earth moving permit shall contain the following:

(1) Plot plan. A plot plan drawn to scale, with all dimensions figured, showing accurately the size and exact location of any contemplated excavation, cut or till, including topographic detail to a level satisfactory to the City Engineer.

(2) Drainage plan. A drainage plan showing methods and facilities for the control and discharge of storm water, in such detail as determined satisfactory to the City Engineer.

(3) Least natural disruption. Facts demonstrating that the proposed earth moving plan, when compared to possible alternative plans which would serve the same function, shall result in the most natural appearance and the least possible disruption of natural terrain and water courses.

(4) Payment of a drainage and grading review fee, in the amount set forth in the Annual Fee Resolution.

(E) The property owner or permit applicant for any new single-family residence shall engage a licensed surveyor or civil engineer to visit the site after the completion of construction and prepare and submit to the City an as-built plan showing the features listed in Sections 171.101(D)1 and 171.101(D)2 of

this Chapter as they were actually constructed. The Certificate of Occupancy for a new single-family home shall not be approved until the as-built plan is received and approved by the City.

(F) Environmental and safety precautions. All persons performing any earth work under an earth moving permit shall put into effect all necessary safety precautions to minimize erosion, protect any watercourses and other natural features including trees, protect the health and welfare of all persons, and protect private and public property from damage of any kind.

(G) Conditions on permit. The Director of Community Development and the City Engineer may place such conditions on the time limits, drainage controls, safety measures, and necessary site restoration associated with an earth moving permit as will ensure compliance with Paragraph (E) above, and may require a cash deposit, escrow deposit or letter of credit approved by the Corporation Counsel to guarantee satisfactory performance of such conditions.

(H) Persons responsible. Any person who shall violate any of the provisions of this Chapter 171, and any owner of the property upon which violations occur who has suffered or permitted such violations, shall be liable therefor, and shall be held subject to the remedies and penalties provided for violations of this Chapter.

#### 171.999. – Penalties

Any person who violates a provision of this Chapter or fails to comply with any of the requirements thereof shall be fined in an amount set forth in the Annual Fee Resolution. Each day that a violation continues shall be deemed a separate offense.

## Chapter 172 – Residential Infill Construction

### ARTICLE I. – General.

#### Sec. 172.101. - Purpose and Short Title.

The purpose of these Infill Construction regulations is to provide minimum standards to ensure the public health, safety, and welfare in so far as they are affected by Infill Construction projects and shall be in addition to, and not a substitute for, any and all other applicable regulations contained in The Highland Park Building Code. These Infill Construction regulations shall control all matters concerning construction, alteration, repair, removal, demolition, and excavation activities on Infill Construction Sites.

#### Sec. 172.102. - Definitions.

Whenever the following words and phrases are used, they shall, for the purposes of this Chapter 172, have the following meanings respectively ascribed to them, except when the context otherwise indicates.

*Applicant* shall mean the person or entity that applies for any permit required to be issued under the Building Code for any work to be conducted on any portion of an Infill Construction Site. For the purposes of this Chapter, "Applicant" shall include the owner of an Infill Construction Site.

*Construction* shall have the meaning ascribed to it in the Zoning Code.

*Hazardous Construction Materials* shall mean any existing construction materials on an Infill Construction Site, including without limitation asbestos containing materials, lead based paint, and creosote treated materials.

*Impervious Surface* shall have the meaning ascribed to it in the Zoning Code.

*Incomplete Infill Construction* shall mean any building or structure, or any part thereof, for which (i) a lawfully issued building permit has expired and has not been renewed within three months after the date of expiration, and (ii) no certificate of occupancy can lawfully be, or has lawfully been, issued.

*Infill Construction* shall mean any construction that will cause, or result in, a change in the grade, or an increase in the impervious surface coverage, of an area that is either (i) located within a Residential Zoning District or (ii) located adjacent to a lot or parcel of land that is either (a) within a Residential Zoning District or (b) lawfully used for residential purposes.

*Infill Construction Site* shall mean any lot or parcel of land, or portion thereof, upon which Infill Construction is to be conducted.

*Residential Structure* shall have the meaning ascribed to it in the Zoning Code.

*Unsafe Infill Construction* shall mean any building or structure, or any part thereof, that either (i) falls within the definition of unsafe structure as set forth in the applicable section of the most current adopted edition of the International Building Code, or (ii) is or has been vacant or abandoned for a period of 30 days or more and is inadequately guarded from unauthorized entry.

#### Sec. 172.103. – Appeal Process.

Any person directly impacted by the issuance or the denial of a permit required under this Chapter by the Director of Community Development shall have the right to appeal such action, but only pursuant to and in accordance with the procedures set forth in Section 170.103 of this Code.

#### Sec. 172.104. - Notice requirements.

(A) Prior to the commencement of any Infill Construction on any Infill Construction Site that contemplates a net increase in Impervious Surface of more than 250 square feet, the Applicant shall provide written notice of his or her filing of an application for a permit to the owners or occupants of all lots or parcels of land that abut the Infill Construction Site and to any other persons or entities that the Director of

Community Development determines appropriate. Such notice shall be in a form provided by the City and shall be given by regular first-class U.S. Mail. For purposes of this Section 172.104, a notice addressed to the name and address on the most recent Lake County tax records shall be deemed a satisfaction of the notice requirement. Furthermore, for purposes of this Section 172.104, a lot or parcel of land shall be deemed to "abut" an Infill Construction Site if the lot or parcel of land shares a common boundary or point with the Infill Construction Site, or is separated from the Infill Construction Site by only a public or private right-of-way. The Applicant shall file with the City, within 14 days after the filing of the permit application, written certification that such notice has been properly delivered. Such certification shall be in a form provided by the City. The City shall not process, and shall return to the Applicant, any permit application for which such notice was not given or for which such certification was not filed as provided in this Section 172.104(A)(1). Nothing in this Section 172.104(A) shall be deemed as prohibiting the Director of Community Development from providing notice of contemplated Infill Construction work that is not specifically covered or required by this Section 172.104(A).

(B) In the event that written notice has been provided pursuant to Section 172.104(A) and the Applicant desires to make any changes that significantly alter the amount of impervious surface on the approved final engineering plan or the approved grading and drainage plan submitted pursuant to Section 172.201(A) of this Chapter, which changes are necessitated by on-site conditions not reasonably anticipated when the final engineering plan was submitted for review and approval by the Director of Community Development, the Applicant shall provide written notice of such changes in a manner conforming with Section 172.104(A).

#### Sec. 172.105. - Perimeter fencing.

(A) An Applicant shall erect protective perimeter fencing as the Director of Community Development may determine to be necessary and appropriate given the nature and extent of the Infill Construction, the size, location, and topography of the Infill Construction Site, and the feasibility of erecting such fencing on the Infill Construction Site. The protective perimeter fencing shall be installed by the Applicant not less than seven days prior to the commencement of work under a permit.

(B) In addition to any perimeter fencing installed pursuant to Section 172.105(A), and in addition to any other protective measures for Protected Trees required pursuant to Section 94.404 of this Code, an Applicant for any construction permit on any Infill Construction Site shall erect protective perimeter fencing around the Root Zone for any Protected Tree either wholly or partially located on the Infill Construction Site. In no event may any work occur or materials related to the Infill Construction be stored within the Root Zone of any Protected Tree either wholly or partially located on the Infill Construction Site.

#### Sec. 172.106. - Construction traffic and parking.

The Applicant shall submit for review and approval by the Director of Community Development a construction traffic routing and parking plan that shall designate certain prescribed routes of access to the Infill Construction Site for all construction traffic and the designated areas for the parking of construction vehicles, which shall provide for the protection of pedestrians and shall minimize disruption of traffic and damage to paved street surfaces. At all times during work on the Infill Construction Site, the Applicant shall keep all routes used for construction traffic to be free and clear of mud, dirt, debris, obstructions, and hazards and shall repair any damage caused by such construction traffic.

#### Sec. 172.107. - Liability insurance and indemnification.

(A) An Applicant shall be required to include with its permit application a certificate of general liability insurance establishing that the Applicant has general liability insurance coverage for all damage, injury, and casualty to persons or property, including public property and private property, that may result from the proposed work on the Infill Construction Site by the Applicant, or the Applicant's contractor, or by any subcontractor of the Applicant's contractor, as well as any materialmen. Such insurance coverage shall be in the amount of not less than \$1,000,000.00 per occurrence for licensed general contractors and licensed subcontractors; provided, however, that where the Applicant is both the owner of the Infill Construction Site as well as the party performing the Infill Construction work, the insurance coverage need not be more than \$500,000.00. Such certificate of insurance shall provide that such insurance coverage shall

be maintained during the entire time that work is being performed on the Infill Construction Site pursuant to the permit, and that the City shall be named as an additional insured under the terms of the certificate of general liability insurance.

(B) An Applicant shall, as a condition to the issuance of any permit for any work on an Infill Construction Site, hold harmless and indemnify the City, and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with (i) the City's review and approval of any plans for the Infill Construction Site; (ii) the issuance of any approval, permit, certificate, or acceptance for the Infill Construction Site; and (iii) the development, construction, maintenance, or use of any portion of the Infill Construction Site.

Sec. 172.108. - Location of construction dumpsters and portable toilet facilities.

The Applicant shall submit for review and approval by the Director of Community Development a location plan for any and all construction dumpsters and portable toilet facilities proposed to be used on the Infill Construction Site. No construction dumpsters or portable toilet facilities shall be located on an Infill Construction Site without such approval by the Director of Community Development. The Applicant shall empty, or cause to be emptied, and ensure for the proper disposal, or shall cause the proper disposal, of waste, in accordance with all local, state, and federal laws, from all such construction dumpsters and portable toilet facilities on the Infill Construction Site on a periodic schedule of not less than three days per any seven-day period. Any construction dumpster or portable toilet facility located on any Infill Construction Site shall be located not less than ten feet from any public right-of-way, and shall, where practicable, be hidden from the sight of any public right-of-way.

ARTICLE II. – Residential Infill Construction.

Sec. 172.201. - Infill Construction storm water management.

(A) In addition to the requirements set forth in Chapter 171 of this Code, no work requiring a permit under the Building Code shall be issued for any Infill Construction on any Infill Construction Site without the Applicant first submitting an Infill Construction Site grading and drainage plan for review and approval by the Director of Community Development.

(B) The grading and drainage plan submitted pursuant to Section 172.201(A) of this Chapter shall provide sufficient detail and information for storm water management on the Infill Construction Site based upon the following standards:

(1) Where the net increase in Impervious Surface on the Infill Construction Site is less than 250 square feet, the Applicant shall construct and install, or cause to be constructed and installed, downspouts, yard drains, and driveway drains with unobstructed pathways to an existing stormwater conveyance system located in the immediate vicinity of the Infill Construction Site.

(2) Where the net increase in Impervious Surface on the Infill Construction Site is more than 250 square feet, and, in the determination of the City Engineer, an existing stormwater conveyance system with available capacity is located in the immediate vicinity of the Infill Construction Site, the Applicant shall construct and install, or cause to be constructed and installed, storm water drainage pipes and all related appurtenances on the Infill Construction Site and directly connect such pipes and appurtenances, to the stormwater conveyance system, as required by Section 172.201(C).

(3) Where the net increase in Impervious Surface on the Infill Construction Site is more than 250 square feet, and, in the determination of the City Engineer, no stormwater conveyance system with available capacity is located in the immediate vicinity of the Infill Construction Site, the Applicant shall construct and install, or cause to be constructed and installed, all necessary storm water management systems on the Infill Construction Site, including without limitation construction to off-site storm water detention facilities and all related appurtenances, as required by Section 172.201(C).

(4) Any Applicant required to construct and install off-site storm water management systems pursuant to Section 172.201(B)(3) may apply for recapture fees related to the construction and installation of such off-site storm water management systems pursuant to the provisions set forth in Chapter 51 of this Code.

(C) Any and all construction and connections required pursuant to Section 172.201(B) that are located on public property, will become public property, or will connect to off-site public infrastructure shall be approved in advance by, and performed to the satisfaction of, the City Engineer.

(D) Notwithstanding anything to the contrary in this Chapter 172, in no event shall the grade of an Infill Construction Site be increased without first obtaining a determination from the Director of Community Development, in his sole and absolute discretion, that the increased grade either:

(1) Is necessary for the protection of the building or structure to be constructed, altered, or repaired on such Infill Construction Site; or

(2) Will have a beneficial impact on the lots and parcels of land located adjacent to the Infill Construction Site.

(E) The filling of floodplain property must be approved by the City Engineer.

Sec. 172.202. - Removal and disposal of hazardous construction materials.

Whenever an Applicant reasonably believes or knows that work on an Infill Construction Site will include the disturbance of, or removal of, Hazardous Construction Materials, the Applicant shall be required to submit a Hazardous Construction Materials remediation plan for the review and approval by the City Engineer and the Director of Community Development that shall (i) identify all known or anticipated Hazardous Construction Materials, and (ii) detail the measures the Applicant will undertake to avoid the disturbance of, or removal of, such Hazardous Construction Materials. At a minimum, where Hazardous Construction Materials may be disturbed, or where Hazardous Construction Materials are to be removed, the Applicant shall install, or cause to be installed, appropriate protective barriers to ensure for the containment of dust, or other airborne particulate matter that may arise from the disturbance of, or removal of Hazardous Construction Materials. The provisions of this Section 172.202 shall be in addition to any applicable local, state, or federal ordinances, regulations, or laws pertaining to the Hazardous Construction Materials, and the Applicant shall submit to the City Engineer and the Director of Community Development proof of compliance with any such local, state, or federal ordinances, regulations, or laws.



Sec. 172.203. - Unsafe or incomplete Infill Construction.

(A) The Director of Community Development shall examine any Infill Construction project that he has reason to believe is, or that is reported to be, Unsafe Infill Construction or Incomplete Infill Construction.

(B) The Director of Community Development shall deliver written notice to the Applicant by regular first-class U.S. Mail, specifying the required repairs or improvements to be made to render the Unsafe Infill Construction safe, or, in the case of Incomplete Infill Construction, specifying the required action to complete or demolish such Incomplete Infill Construction. Such notice shall require that the Applicant make the required repairs or improvements or take such action within a time period specified in the notice, which time period shall not exceed 15 days, unless in the sole and absolute discretion of the Director of Community Development, extreme circumstances warrant a shorter time period. For purposes of this Section 172.203(B), a notice addressed to the name and address on the most recent Lake County tax records shall be deemed a satisfaction of the notice requirement.

(C) The Applicant's failure to repair, improve, demolish, or complete the Unsafe Infill Construction or Incomplete Infill Construction, as the case may be, within the time specified in the notice, shall constitute a violation of the Building Code. In such event, the City may pursue any or all of the following remedies and courses of action in addition to all other remedies and courses of action available by law or equity:

- (1) Impose fines and penalties set forth in Section 172.999;
- (2) Take all necessary action to cause the Infill Construction Site, and all structures thereon, to be safe secure, and protected,
- (3) Take all necessary action to clear all construction material and debris from, and restore the ground cover through planting or seeding on, the Infill Construction Site, and charge the Applicant an amount sufficient to defray the entire cost of such clearing and restoration, including legal and administrative costs;
- (4) Seek a court order for completion, repair, or demolition pursuant to Section 11-31-1 of the Illinois Municipal Code, 65 ILCS 5/11-31-1 *et seq.*; and
- (5) Cause the demolition and removal of such Incomplete Infill Construction and charge the Applicant an amount sufficient to defray the entire cost of such demolition or removal work, including legal and administrative costs.

(D) If any fine or penalty imposed pursuant to Section 172.203(C)(1) is not paid when due, or if any amount charged pursuant to Section 172.203(C)(2), (3), and (5) is not paid within 30 days following a demand in writing by the City, the amount of such fine, penalty, or charge shall become a lien on the Infill Construction Site. Any such lien may be enforced and foreclosed by the City in the manner provided by statute for mortgages or mechanics liens. An Applicant, upon submission of an application for a permit for any work on an Infill Construction Site, shall be deemed to have agreed to the application of this Section 172.203 and, when applicable, to the imposition of a lien.

(E) Nothing in this Section 172.203 shall be deemed or construed to be a limitation on any existing or future agreement between the City and an Applicant concerning Unsafe Infill Construction or Incomplete Infill Construction.

172.999. – Penalties

An Applicant who violates any provision of this Section 172.203 shall be fined in the amount set forth in the Annual Fee Resolution for each offense. Each day that an Applicant is in violation of any provision of this Chapter 172 shall constitute a separate and distinct offense.