

CITY OF AUBURN HILLS
ORDINANCE NO. 07-806

AN ORDINANCE TO AMEND THE CITY CODE BY REPEALING EXISTING ARTICLE III IN ITS ENTIRETY AND ADOPTING A NEW ARTICLE III TO PROVIDE FOR REQUIREMENTS AND FEES FOR ANY LAND PARCEL IMPROVEMENTS SUCH AS WATER MAINS, SANITARY AND STORM SEWERS, PAVING, STORM WATER RETENTION PONDS, GRADING AND SURFACE DRAINAGE, IN BOTH THE SUBDIVISION OF LAND AND UNPLATTED LAND DEVELOPMENT, AND TO PROVIDE REVIEW PROCEDURES FOR UNPLATTED LAND DEVELOPMENT IN THE CITY OF AUBURN HILLS, OAKLAND COUNTY, MICHIGAN.

The City of Auburn Hills Ordains:

SECTION 1

That the Auburn Hills City Code is amended by repealing existing Article III, Land Parcel Improvements in its entirety and adopting a new Article III, Construction Plans to read as follows:

ARTICLE III. CONSTRUCTION PLANS

DIVISION 1. GENERALLY

Sec. 66-56. Short Title. This ordinance shall be known and may be cited as the City of Auburn Hills Construction Plan Ordinance.

Sec. 66-57. Purpose. The purposes of this ordinance are to protect the public health, safety and general welfare of the residents of the City; provide for the orderly growth and harmonious development of the community; to secure adequate traffic circulation through coordinated street systems; to secure adequate provisions for water supply, drainage and sanitary sewerage, and other health requirements; to establish standards for the construction of any and all improvements as herein required.

Sec. 66-58. Definitions. All applicable definitions of the Land Division Act, Act 288 of Public Acts of 1967, as amended, are hereby included and made a part of this ordinance. In addition, the following definitions apply to the meanings of respective terms as they are to be construed in this Ordinance:

1. Improvements: Any addition to or change of the natural state of the land which increases its value, utility or habitability. Improvements include street pavements, with or without curbs and gutters, sidewalks, grading, water mains, storm and sanitary sewers, street trees and other appropriate and similar items.
2. Grading: Any change or alteration of existing ground surface elevations of any parcel of land by excavating or filling.

3. Surface Drainage: Any storm water collecting on and flowing over the surface of the ground.
4. Easement: An irrevocable grant by the property owner of the use of a parcel of land by public or a public utility, a corporation, or private person(s) for a specific purpose(s).
5. Public Walkway: A public right-of-way dedicated for the purpose of a pedestrian access, and located so as to connect to two or more streets, or a street and a public land parcel.

DIVISION 2. PROCEDURES, REQUIREMENTS, FEES AND STANDARDS

The review of unplatted land development shall follow the steps below:

Sec. 66-59. Pre-Site Plan Investigation. The applicant shall meet with the City Planner and applicable City Departments to investigate the procedures and standards of the City with reference to this ordinance. The applicant shall review the following documents:

1. City's Zoning Ordinance, Woodlands Ordinance, Wetlands Ordinance, engineering specifications, and other similar ordinances or controls relative to the subdivision and improvement of land.
2. Plans for roadway widening relative to the development parcel location.
3. City standards for utilities, including but not limited to sewage disposal, water supply and drainage.

Sec. 66-60. Site Plan.

1. Filing.
 - a. The applicant shall file with the Community Development Department ten (10) copies of complete site development plans, together with a completed development application and campaign disclosure form. Drawings must be signed, sealed, and folded and meet the requirements of the City's site plan checklist.
 - b. The applicant shall pay the sum required to cover the cost of reviewing the application at the time the site development plan is submitted for site plan approval to the Community Development Department.
 - c. The City Planner shall transmit copies of the site development plan to applicable city Department for their technical review and recommendation.
 - d. The City Planner shall check the proposed site development package for completeness. All relevant documentation shall be submitted (e.g., Tree Removal Permit, Wetland Permit, Land Division and/or Land Exchange) along with the required drawings with the first submittal. If any of the data required by this ordinance or any applicable city ordinance is omitted, the City Planner shall inform the applicant of the data required. Failure to submit all appropriate documents may cause an unnecessary delay in the processing of the project.

- e. The site plan must comply with all applicable provisions of the Zoning Ordinance, excepting any variances obtained from the Zoning Board of Appeals, before it can be considered for review by the Planning Commission and City Council. ZBA variances need to be obtained prior to appearing before the Planning Commission.
2. Planning Commission Review.
- a. The applicant shall file ten (10) additional copies of the complete site development plan with the Community Development Department for Planning Commission review. Additional plans necessary for staff review will be coordinated with the applicant.
 - b. The City Planner shall notify the Planning Commission of the staff's recommendation for either approval or rejection of the site development.
 - c. The Community Development Department shall provide public notice in accordance with Section 1815 of the Zoning Ordinance and the Planning Commission shall review the site development plan for compliance with the following:
 - i. Applicable ordinances and regulations.
 - ii. Availability and adequacy of utilities.
 - d. The Planning Commission shall also hold a public hearing and review the Tree Removal Permit, if necessary, at this stage of the process, in accordance with the Woodlands Preservation Ordinance.
 - e. The Planning Commission shall recommend, in a timely manner, site approval, site approval with conditions, or disapproval of the site development plan and tree removal permit.
3. City Council Review.
- a. The applicant shall file seven (7) additional copies of the complete site development plan with the Community Development Department for City Council review.
 - b. The City Council shall not review a site development plan and/or tree removal permit until it has received the review and recommendation of the Planning Commission. Following receipt of such recommendation, the City Council shall consider the site development plan and take action on the site development plan within ninety (90) days of the date of filing application, in complete form, with the Community Development Department.
 - c. The City Council shall approve, conditionally approve, or disapprove the site plan and the tree removal permit. The applicant shall not remove any tree until after the following: 1) the site development plan is finally approved by the City Council; 2) site improvement drawings are approved by the City Engineer; and 3) a pre-construction meeting is held with the City.
 - d. The applicant shall not install or construct or permit the installation or construction of any improvements at this time.

Sec. 66-61. Site Improvement Plans.

1. Filing. After final approval of the site development plan is granted by the City Council, the applicant shall submit three (3) sets of detailed engineering construction drawings, along with the associated application and fees to the Community Development Department. The plans shall indicate exactly how the streets, public walkways, storm sewer, water main, and sanitary sewer would be installed to service the development in accordance with this and other applicable City ordinances.
2. City Engineer Review. In the event that any or multiple item(s) do not comply with applicable City ordinances, correspondence regarding plan deficiencies shall be sent to land developer, owner or agents thereof. Upon correction of the deficiencies, the applicant shall submit two (2) sets of detailed engineering construction drawings directly to the City's consulting engineer. Once the plans are approved by the City Engineer, the applicant may proceed to remove trees in accordance with approved permit and install the streets and underground utilities on the site. A pre-construction meeting with the City is required before any site work is performed, including tree removal, together with the submittal of the required inspection fees into escrow.

DIVISION 3. DESIGN AND CONSTRUCTION STANDARDS

Sec. 66-62. Design Standards. The design and location of all streets, public walkways, easements, topographic conditions, storm sewer, water main, and sanitary sewer shall conform to at least the minimum requirements set forth in the Engineering Standards, revised September 25, 2007, more specifically referencing the General Plan Submittal Requirements and Review Procedures – Sections I thru IV, Engineering Plan Requirements – Sections I thru XIII and Appendices A thru J, as approved by City Council, which Engineering Standards are incorporated herein by reference. The Engineering Standards shall be updated and/or revised by the City from time to time through an administrative process. The most recent version of the Engineering Standards shall be available at the City Clerk's office.

Sec. 66-63. Construction Standards. The construction and installation of all storm sewer, water main and sanitary sewer shall conform to at least the minimum requirements set forth in the Construction Standard Details for Water Main, Sanitary Sewer, and Storm Sewer, revised November 7, 2007, as approved by City Council, which Construction Standard Details are incorporated herein by reference. The construction and installation of all streets and public walkways shall conform to at least the minimum requirements set forth in the Engineering Standards, more specifically referencing the Engineering Plan Requirements – Section XIII and Appendices H thru J, which Engineering Standards are incorporated herein by reference. The Construction Standard Details and the Engineering Standards shall be updated and/or revised by the City from time to time through an administrative process. The most recent version of the

Construction Standard Details and the Engineering Standards shall be available at the City Clerk's office.

DIVISION 4. CONSTRUCTION INSPECTION

Sec. 66-64. Construction Inspection. No construction or grading work shall be undertaken without City inspection. Any facilities installed without inspection will be required to be removed and reinstalled at land developer's expense with proper City construction inspection.

Sec. 66-65. Construction Inspection Fees. Prior to commencement of construction the developer or owner shall deposit with the City a sum established by resolution of the City Council, to cover the construction inspection costs. The construction inspection fees will be drawn from the monies deposited with the City. The actual inspection cost will be normal hourly billing rate of the City's consulting engineer plus 10% for the City's administrative costs. If the construction escrow is not sufficient to cover the project costs, an additional fee shall be required prior to the acceptance of the water main, sanitary sewer, roads and/or other improvements by the City or issuance of a final certificate of occupancy. Any unused monies will be refunded upon final acceptance of the site development.

DIVISION 5. ADMINISTRATION

Sec. 66-66. Variances. An appeal may be taken to the City Council by any person, firm or corporation or any officer, department, board or bureau affected by a decision of the City Engineer or Community Development Department made in the administration of this Ordinance. Such appeal may be taken by filing with the Community Development Department and with the City Council a notice of appeal, specifying the grounds thereof. The Community Development Department and City Engineers shall forthwith transmit to the City Council all of the papers constituting the record upon which the action appealed from was taken. The Community Development Department and City Engineers shall provide the City Council with a written report on the nature of the matter in dispute and provide a recommendation to City Council as to an appropriate disposition of the appeal.

City Council shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision within a reasonable period of time following the conclusion of the hearing. A fee shall be paid at the time the notice of appeal is filed to the City Treasurer to the credit of the General Revenue Fund of the City. The fees to be charged for appeals shall be set by resolution of the City Council.

The City Council may grant a variance from the provisions of this Ordinance when it has determined that the following conditions or factors are present:

1. There are unique circumstances affecting the subject property which makes compliance with the requirements of this Ordinance physically

impossible or economically unfeasible and the variance requested would not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

2. The conditions existing if the variance is granted would not constitute a violation of sound engineering principles.
3. The variance, if granted, shall not impair the ability of the adjacent properties to be developed in accordance with the minimum standards of this Ordinance nor impose any burden upon adjacent properties which would not be present if the variance were not granted.

The City Council may impose reasonable conditions with the approval of a variance. Those conditions shall be designed to protect the natural resources, health, safety, welfare and the economic and social wellbeing of those who will use the subject property and that property adjacent to the subject property and the community as a whole. Those conditions shall be related to the valid exercise of the police power for purposes which are affected by the proposed variance.

The variance shall be in effect for a stated period of time as determined by the City Council and, should the conditions which gave rise to the physical impossibility or economic unfeasibility change, variance may be rescinded or terminated after due notice and an opportunity to be heard is granted to the parties interested in the subject property.

Sec. 66-67. Bonds. The owner or contractor shall post a Performance Bond issued to the City for all grading work, either excavation or filling operations and turf restoration. The amount of the bond shall be equal to the construction cost as estimated by the City engineer or as set by the City engineer if the construction cost cannot be reasonably established.

Sec. 66-68. Fees. The applicant shall pay all site plan review fees, engineering review fees, attorney fees, inspection fees, and other applicable development charges as required by City Council resolution.

Sec. 66-69. Compliance Standards. The applicant shall obtain the approvals required under the provisions of this ordinance prior to the installation of any project improvements within the City, in public alleys, public rights-of-way, and public easements, and/or under the jurisdiction of the City and shall comply with all provisions and requirements of this or any other related City ordinance.

Sec. 66-70. Violations and Penalties. Any person who violates the provisions of this ordinance, as amended, is responsible for a municipal civil infraction, subject to the following penalties:

1. The following civil fines apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular city ordinance or city code provision.

- a. First Offense. The civil fine for a first offense violation is the amount set forth for the offense in the Schedule of Fines adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
 - b. First Repeat Offense. The civil fine for any offense which is a first repeat offense is the amount set forth for the offense in the Schedule of Fines adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
 - c. Second Repeat Offense. The civil fine for any offense which is a second repeat offense is the amount set forth for the offense in the Schedule of Fines adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
 - d. Third Repeat Offense. For a third repeat offense or subsequent offense, a defendant shall appear before the judge. The civil fine for any third repeat offense or subsequent offense is the amount set forth for the offense in the Schedule of Fines adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
2. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate may issue any judgment, writ or order necessary to enforce, or enjoin violation, of the provisions of this ordinance, as amended.
 3. Continuing Offense. Each act of violation, and each day upon which any such violation shall occur, constitutes a separate offense.
 4. Remedies Not Exclusive. In addition to any remedies provided for by this Section, any equitable or other remedies available may be sought.
 5. The judge or magistrate may impose costs, damages and expenses as provided by law.
 6. A municipal civil infraction shall not be a lesser included offense of a criminal offense or of a City code or other City ordinance violation which is not a civil infraction.

Sec. 66-71. Interpretation. The provisions of this Ordinance are the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the City. This Ordinance is not intended to repeal (except as noted), abrogate, annul or in any manner interfere with existing regulations or laws of the City, nor conflict with any statutes of the State of Michigan or Oakland County except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

SECTION 2 – REPEALER

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3 – SEVERABILITY

