

CITY OF WEST LAKE HILLS

AMENDMENT No. 329

ZONING PROCEDURES

AN ORDINANCE OF THE CITY OF WEST LAKE HILLS, TEXAS ("CITY"), AMENDING DIVISION 4-AMENDMENTS, ARTICLE 38.05, CHAPTER 38-ZONING, CITY CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE & MEETING.

WHEREAS, the City Council of the City of West Lake Hills ("City Council") seeks to promote orderly land use and development within the City; and

WHEREAS, the City Council finds to be reasonable and necessary the amendment of the City of West Lake Hills' ("City") zoning procedures described more fully in *Attachment "A"*; and

WHEREAS, the City Council recognizes that the proposed amendment is reasonable, necessary, and proper for the good government of the City of West Lake Hills; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the West Lake Hills Zoning and Planning Commission on June 15, 2016, to consider the proposed amendment and the Zoning and Planning Commission recommended approval of the proposed change; and

WHEREAS, after public hearing held by the City Council on June 22nd, 2016, the City Council voted to accept the recommendation of the Zoning and Planning Commission; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of West Lake Hills:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Article 38.05, Section 38.05.094, and Section 38.05.095 of the City of West Lake Hills Code of Ordinances is hereby amended so to read in accordance with Attachment "A", which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment "A"*.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

6. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, a public hearing was held, and that public notice of the time, place and purpose of said hearing and meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the 22nd day of June 2016, by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of West Lake Hills, Texas.

CITY OF WEST LAKE HILLS:

by: *Linda Anthony*
Linda Anthony, Mayor

ATTEST:

Lacie Hale
Lacie Hale, City Secretary



Attachment 'A'

CITY OF WEST LAKE HILLS CODE OF ORDINANCES

CHAPTER 38: ZONING

ARTICLE 38.05 ADMINISTRATION AND ENFORCEMENT

Division 4. Amendments

Sec. 38.05.094 Report and recommendation from zoning and planning commission

(a) Required. No amendment to this chapter shall be enacted without a report and recommendation from the zoning and planning commission.

(b) Changing a zoning regulation or boundary. Changes to the zoning ordinance, including zoning regulations, restrictions, and boundaries, may from time to time be adopted at the request of a property owner (or the owner's designated agent, tenant, or a prospective buyer), or initiated by the zoning and planning commission, city council, or city staff.

~~(b)~~ (c) Public hearing required. The zoning and planning commission shall hold a public hearing on its preliminary report prepared by the city administrator/staff for all zoning changes or general amendments to this chapter proposed.

(1996 Code, sec. 94-234)

~~(c)~~ (d) Notice of public hearing.

(1) Publication. Notice of a public hearing before the commission to consider a proposed zoning classification change or a proposed general amendment to this chapter shall be published on the city's official website before the 15th day before the date set for such hearing. The notice shall state the time and place of the hearing and contain a description of the matter to be considered. (Ordinance 312 adopted 9/9/15)

(2) Written notice to property owners. When the public hearing is to consider a proposed zoning district classification change, written notice of such hearing shall be sent to the property owner(s) of the tract which is the subject of the zoning district classification change and to the owners of all real property located within 300 feet of the property on which the change in classification is proposed. (Ordinance 188, att. A, adopted 2/10/10)

~~(d)~~ (e) Action by zoning and planning commission.

(1) Recommendation. After all public input has been received and the public hearing is closed, the zoning and planning commission shall make its final report to the city council

on the proposed zoning request and state its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the comprehensive plan. The zoning and planning commission may recommend:

- (A) Approval of the request as submitted by the applicant;
- (B) Approval of the request subject to specified conditions; or
- (C) Disapproval of the request.

(2) Concerning each zoning change or amendment to this chapter. Commission recommendation of zoning change or amendment. The commission may recommend enactment of such zoning change or amendment if it finds that the change or amendment is in the public interest, conforms to the provisions of this chapter and the comprehensive plan of the city, and is designed to:

- ~~(1)~~ (A) Lessen congestion in the streets; or
- ~~(2)~~ (B) Secure safety from fire, panic, and other dangers; or
- ~~(3)~~ (C) Promote health and the general welfare; or
- ~~(4)~~ (D) Provide adequate light and air; or
- ~~(5)~~ (E) Prevent the overcrowding of land; or
- ~~(6)~~ (F) Avoid undue concentration of population; or
- ~~(7)~~ (G) Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

(3) Hearing deferral. The zoning and planning commission may, on its own motion or at the applicant's request, defer its decision to make a recommendation until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the zoning and planning commission elects to defer its decision on the request, such action shall state the time period of the deferral by citing the meeting date whereon the request will reappear on the zoning and planning commission's agenda.

Sec. 38.05.095 Review and action by city council

(a) Public hearing required. The city council shall hold a public hearing on all proposed zoning classification changes and general amendments to this chapter before acting thereon. This hearing shall not be held until a final report is received from the zoning and planning commission.

(b) Notice of public hearing.

(1) Notice of a public hearing before the city council to consider an amendment to this chapter shall be given in the same manner as required for notice of a public hearing before the zoning and planning commission to consider a similar amendment.

(2) Notice of the hearing before the city council may be combined with the notice given for the hearing on the same matter before the zoning and planning commission.

(c) Council action.

(1) Generally. The city council may enact a proposed general amendment or zoning change if it finds that such amendment or change is in the public interest, conforms to the provisions of this chapter and the comprehensive plan of the city, and meets the criteria set forth in section 38.05.094(d)(e)(2).

(2) Denial by zoning and planning commission.

(A) An application recommended for denial by the zoning and planning commission shall not be forwarded to city council unless the applicant files a written appeal with the city secretary within ten (10) business days after the zoning and planning commission's decision. Said appeal will, in that instance, be forwarded to the city council along with the zoning and planning commission's final report.

(B) The appeal shall be scheduled for the next possible city council agenda, following appropriate public notification as prescribed in section 38.05.095(b).

(C) Approval of a request for a zoning amendment will require a simple majority vote of the city council present and voting, unless the zoning and planning commission unanimously recommends denial. In that case, the approval by the city council shall require an affirmative vote of three-fourths of all members of the city council.

(D) No zoning change shall become effective until after the adoption of an ordinance for same.

(E) An applicant will be timely informed in writing of the applicant's right to appeal to the city council upon denial by the zoning and planning commission.

(F) An applicant will be timely informed in writing of the applicant's right, when appearing before the city council, to discuss or contest any conditions for approval recommended by the commission.

(3) Approved by zoning and planning commission. Every application which is recommended for approval or approval with conditions by the zoning and planning

commission shall be automatically forwarded, along with the written recommendation of the zoning and planning commission, to the city council for setting and holding of a public hearing thereon following appropriate public hearing notification, as prescribed in section 38.05.095(b). The city council may then approve the request, approve it with conditions, or disapprove it by a simple majority vote of the city council members present and voting.

~~(2)~~(4) Protests. If a written protest is submitted against a proposed change of zoning classification signed by all the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the lots or land included in such proposed change or extending 200 feet therefrom, such proposed change of zoning classification shall not become effective except by the favorable vote of three-fourths of all the members of the city council, ~~including the mayor.~~

~~(3)~~(5) Representations by Applicant. All representations, whether oral or written, made by the applicant or the applicant's agent on behalf of the zoning change become a condition upon which the zoning change is granted. It shall be unlawful for the applicant to vary from any such representations unless the applicant first obtains the approval of the city council.

~~(4)~~(6) Parcel of land. As used in this section, "parcel of land" shall mean that area designated by the ~~owner~~/applicant, even though such parcel of land may contain more than one lot subdivided in compliance with the subdivision ordinance of the city ([chapter 36](#)).

~~(5)~~(7) Postponement. The city council may postpone any action proposed under the provisions of this chapter.

(1996 Code, sec. 94-235)

(d) Factual findings. Within 45 days of approving or denying a zoning change, the city council shall, in writing, explain its factual findings for the decision to approve or deny the request for rezoning. The written factual findings shall be filed in the office of the city secretary. The city council shall send a letter containing the factual findings to the applicant.