

CITY OF WEST LAKE HILLS

AMENDMENT 347 TO THE WEST LAKE HILLS CODE

**AMENDMENT OF ZONING PROCEDURES  
AN AMENDMENT TO ZONING CHANGE APPLICATIONS**

AN ORDINANCE AMENDING CHAPTER 38, SECTIONS 38.04.032 (SPECIAL USE PERMITS); 38.05.002 (POSTING OF SIGNS); 38.05.036 (VARIANCES); 38.05.094 (ZONING CHANGES) AND 38.06.129 (PLANNED DEVELOPMENT) EXTENDING THE TIME FOR NOTICES IN THE FORM OF SIGNS AND LETTERS FOR ANY APPLICATION FOR ZONING CHANGE OR VARIANCE; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; AMENDMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE AND 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 for increased notice 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 Planning and Zoning Commission on November 15, 2017, to consider the proposed amendments and the Planning and Zoning Commission recommended approval of the proposed change; and

**WHEREAS,** after public hearing held by the City Council on November 21, 2017, the City Council voted to accept the recommendation of the Planning and Zoning 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**

Section 38.04.032, Section 38.05.002, Section 38.05.036, Section 38.05.094, and Section 38.06.129 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, but shall only apply to applications that are filed after the effective date..

### **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 21<sup>st</sup> day of November 2017, by a vote of 5 (*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 38.04 SUPPLEMENTARY REGULATIONS

###### Division 2. Special Uses

###### Sec. 38.04.032 Special use permit

(a) Required. No special use shall be established, operated or maintained except as authorized by a special use permit issued in accordance with the requirements of this section.

(b) Issuance. A special use permit may be issued only for the special uses specified in this division, and only for the district where it is authorized. Unless for a home-based business, a special use permit may only be issued by the board of adjustment acting after a public hearing. The city administrator may issue special use permits for home-based businesses without public hearings if the applicant: (1) complies with subsection (c) of this section and with sections 38.04.033 and 38.04.034\_(a); (2) provides written notice in accordance with the applicable provisions of subsection (e); and (3) provided that the city administrator receives no written protests from owners of all real property located within 300 feet in all directions of the applicant's property on which the home-based business is sought, regardless of whether the neighboring property is within the city limits or ETJ.

In considering any application for a special use permit, the board of adjustment shall give due regard to the nature and condition of all adjacent land, uses, and structures. The board of adjustment may disapprove an application for a special use permit, or approve same subject to such requirements and conditions, in addition to the regulations of the district in which the particular use is located, as it may deem necessary for the protection of adjacent properties and the public interest.

(c) Application. An application for a special use permit shall be made in writing in a form prescribed by the city administrator and shall be accompanied by such information as may be requested, including a site plan, if required, in order to properly review the proposed use. Such information may include but is not limited to site and building plans, drawings and elevations, and operational data. All applicants for a special use permit for a nonresidential use in a residential district shall provide the city with a signed letter from a licensed attorney verifying that the proposed use will not be violating deed restrictions.

(d) Report by city administrator or city inspector. Either the city administrator or the city inspector shall visit the site of the proposed special use and the surrounding area and shall prepare findings to be delivered to the board of adjustment.

(e) Notice of public hearing before board of adjustment.

(1) The board shall hold a public hearing on each application for a special use permit.

(2) Written notice of such hearing shall be given to the owners of all real property located within 300 feet in all directions of the property that is the subject of the hearing, regardless of whether

the neighboring property is within the city limits or ETJ. Notice shall be given not less than thirty (30) days prior to the date of the hearing.

(3) Such notice shall state the purpose, date, time and place of the hearing and shall contain a brief description of the proposed development, including its nature, scope and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.

(4) Notice in the form of weather resistant signs provided by the city shall be posted by the applicant. The sign shall state the purpose, date, time and place of the hearing before the commission, and shall contain a brief description of the proposed development. Signs placed on the property involved must be within 10 feet of any property line paralleling any established or proposed street, and must be visible from that street. Signs must be posted at least ~~10~~ 30 days prior to hearing. All required signs shall remain on the property until final disposition of the matter by the city. The applicant must remove all signs required by this section within 24 hours of final disposition by the city. An affidavit of proof of posting shall be filed by the applicant with the city at or prior to the hearing, accompanied by legible photographs of the sign as-posted.

(5) Notice of the hearing must be published in the city's official newspaper 15 days prior to the hearing before the board.

## **CHAPTER 38: ZONING**

### **Article 38.05 ADMINISTRATION AND ENFORCEMENT**

#### **Division 1. Generally**

Sec. 38.05.002 Posting of signs on property being considered for special use permit, variance, zoning change or subdivision approval

The applicant shall cause one or more signs to be erected in conspicuous locations on property for which a special use permit, variance, zoning change, or subdivision approval has been requested. Such signs shall be erected no later than ~~ten~~ thirty (30) days before the request is to be considered at a public hearing before the zoning and planning commission or board of adjustment, whichever is earlier, and shall remain until final disposition of the request by the city council. The applicant shall remove all such signs within 24 hours after the council's final decision.

Sec.38.05.036 Notice of public hearing before zoning and planning commission

(a) The commission shall hold a public hearing on certain applications for a variance.

(b) Written notice of such hearing shall be given to the owners of all real property located within three hundred (300) feet in all directions of the property that is the subject of the hearing, regardless of whether the neighboring property is within the city limits or ETJ. For nonresidential variances, written notice of the hearing shall be given to the owners of all real property located within 300 feet in all directions of the property that is the subject of the hearing,



regardless of whether the neighboring property is within the city limits or ETJ. Notice shall be given not less than ~~ten~~ thirty (30) days prior to the date of the hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner at the owner's address shown on the last approved city tax roll, with postage paid.

(c) Such notice shall state the purpose, date, time and place of the hearing and shall contain a brief description of the proposed development, including its nature, scope and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the board of adjustment will be available at a later date.

(d) Notice in the form of a weather resistant sign provided by the city shall be posted by the applicant. The sign shall state the purpose, date, time and place of the hearing before the commission, and shall contain a brief description of the proposed development. Signs placed on the property involved must be within 10 feet of any property line paralleling any established or proposed street, and must be visible from that street. Signs must be posted at least ~~40~~ thirty (30) days prior to hearing. All required signs shall remain on the property until final disposition of the matter by the city. The applicant must remove all signs required by this section within 24 hours of final disposition by the city. An affidavit of proof of posting shall be filed by the applicant with the city at or prior to the hearing, accompanied by legible photographs of the sign as-posted.

(e) Notice shall not be sent out until a city official (e.g., city inspector or city engineer) has reviewed the submitted and completed application for a variance.

## **CHAPTER 38: ZONING**

### **Article 38.05 ADMINISTRATION AND ENFORCEMENT**

#### **Division 4. Amendments**

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.

(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.

(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 30<sup>th</sup>-day before the hearing. The notice shall state the time and place of the hearing and contain a description of the matter to be considered.

(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—at least thirty (30) days before the hearing.

(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) 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, and is designed to:

- (A) Lessen congestion in the streets;
- (B) Secure safety from fire, panic, and other dangers;
- (C) Promote health and the general welfare;
- (D) Provide adequate light and air;
- (E) Prevent the overcrowding of land;
- (F) Avoid undue concentration of population; or
- (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.

## **CHAPTER 38: ZONING**

### **Article 38.06 PLANNED DEVELOPMENT DISTRICTS**

#### **Division 4. Submission and Review Process**

Sec. 38.06.129 Public hearing and notice

(a) The zoning and planning commission shall hold at least one public hearing on proposed amendments to the PD ordinance.

(b) Notice of the zoning and planning commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the city before the 15th day before the date of the public hearing.

(c) Written notice of the public hearing to occur before the zoning and planning commission shall also be sent to all owners of property, as indicated by the most recently approved city tax roll, that is located within the area of application and within three hundred feet (300') of any property affected thereby, said written notice to be sent before the ~~40<sup>th</sup>~~ 30<sup>th</sup> day before the hearing date. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, with first class postage paid, in the United States Mail.