

**ORDINANCE NO. 2021-005**

**AN ORDINANCE OF THE CITY OF WEST LAKE HILLS, TEXAS, AMENDING CHAPTER 22, ARTICLE 22.03 OF THE CODE OF ORDINANCES, TO REDUCE THE LENGTH OF CERTAIN PERMITS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; PENALTY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE & MEETING (AS AMENDED).**

**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**, the West Lake Hills City Council desires to reduce the length of certain permits; and

**WHEREAS**, the City Council finds that it is necessary and proper for the good government, peace or order of the City of West Lake Hills to adopt an ordinance amending Chapter 22: Building Regulations.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST LAKE HILLS, TEXAS, THAT:**

**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**

Chapter 22, Article 22.03, Division 5, Section 22.03.173 of the West Lake Hills Code of Ordinances is hereby amended to read in accordance with *Attachment "A"* which is attached hereto and incorporated into this Ordinance and the City Code for all intents and purposes. Underlined and italicized text shall be added and struck-through and bracketed text shall be deleted as indicated in *Attachment "A"*.

Chapter 22, Article 22.03, Division 9, Section 22.03.303 of the West Lake Hills Code of Ordinances is hereby amended to read in accordance with *Attachment "B"* which is attached hereto and incorporated into this Ordinance and the City Code for all intents and purposes. Underlined and italicized text shall be added and struck-through and bracketed text shall be deleted as indicated in *Attachment "B"*.

**3. REPEALER**

All ordinances, 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Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.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. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

**6. EFFECTIVE DATE**

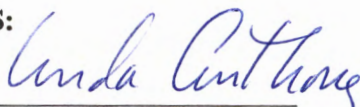
This Ordinance shall be effective immediately upon passage and publication.

**7. PROPER NOTICE & MEETING**

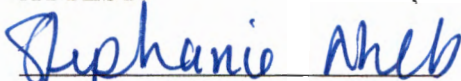
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED THIS, THE 23 DAY OF June, 2021**

**CITY OF WEST LAKE HILLS:**

  
Linda Anthony, Mayor

**ATTEST:**

  
Stephanie Mills, City Secretary



ATTACHMENT "A"

## CHAPTER 22 BUILDING REGULATIONS

### ARTICLE 22.03 CONSTRUCTION CODE

#### Division 5. Minimum Standards for Residential Buildings

##### Sec. 22.03.173 Fences

(a) In approving permits to construct fences, the city shall be guided by their appropriateness to the character of the neighborhood and the rights of adjacent landowners to views and prevailing breezes.

(b) Unless required by an applicable international, national, or uniform code adopted by the city, fences in general, and "front-yard" fences in particular, are discouraged or limited by the city with due regard to the rights of privacy and security inherent in the ownership of property. This policy derives from the desire to preserve the rural nature and aesthetic attractiveness of the environs and to facilitate the safe movement of people, wildlife, and vehicles about the city.

(c) Definitions.

Fence. A barrier enclosing or bordering a field, yard, etc., usually made of posts and wire or wood, used to prevent entrance, to confine, or to mark a boundary.

Front-yard fence. A fence that runs generally parallel to property lines abutting any public or private streets and is constructed or serves to prevent or hinder ingress onto or through a property from the direction of the public or private street.

Gate. A door or frame that closes an opening in a wall or fence.

Retaining wall. A wall for holding in place a mass of earth or the like, as at the edge of a terrace or excavation.

Security access box. A small, wall-mounted safe that holds building keys for fire departments, emergency medical services, and sometimes police to retrieve in emergency situations. Local fire companies can hold master keys to all boxes in their response area, so that they can quickly enter a building without having to force entry or find individual keys held in deposit at the station. Also known as a Knox Box® Rapid Entry System.

Walls. A masonry structure enclosing space (e.g., field, yard); for purposes of this section, a wall is considered a type of fence.

(d) Requirements.

(1) General requirements. All fences, especially and particularly those built along streets or on common property lines, shall be well maintained and pleasing to the eye. Fences shall be constructed so that both sides are finished and identical or so that the finished side is the exterior side, that is, the side facing adjacent lots or streets. For fences that have support posts or structures on only one side of the fence, that side shall be the interior side, that is, the side facing toward the property and structure. Fences shall be muted in color to prevent domination of the landscape or the structures they contain. Fences constructed of materials with a bright or shiny finish must be primed and painted a natural color to comply with this provision.

(2) Prohibited materials. The use of barbed wire or any other sharp, pointed, or penetrating materials to build new fences is prohibited. Existing fences made of barbed wire, or any sharp, pointed, or penetrating material may not be lengthened or altered except to redesign them in accordance with this regulation.

(3) Subdivision fence. A subdivision fence/wall or one designed to enclose more than one lot is prohibited unless there is common ownership of the lots or parcels of land sought to be fenced. Fencing of subdivisions or of more than one lot prior to the sale of individual lots is prohibited also.

(4) Swimming pool barriers. Swimming pool barriers must conform to sections 22.03.167, 22.03.207 and any applicable international, national, or uniform code adopted by the city.

(5) Gated driveways. Gated driveways shall be constructed so that entering/exiting vehicles will be completely off the street when stopped to open/close the gate. Driveway gates shall open parallel to, or away from, the street and shall comply with the setback distances provided for in subsection (6)(B) below. Electric or electronically controlled driveway gates shall have an emergency power source as an integral component of the system. All gates that are capable of being locked, and that are constructed after the effective date of this section shall be equipped with a security access box approved by the county emergency services district No. 9. All gates that are capable of being locked and that are in existence on or prior to the effective date of this section must be retrofitted to be equipped with a security access box approved by the county emergency services district No. 9 within 6 months of the effective date of this section.

(6) Front-yard fence requirements.

(A) Front-yard fences shall:

(i) Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plant list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view;

(ii) Be constructed to allow a minimum of 80% visibility through the front-yard fence prior to the installation of the landscaping required in subsection (6)(A) above;

(iii) Blend in with their natural surroundings in both color (e.g., brown, black, rust, etc.) and texture and by means of landscaping.

(iv) Have columns, posts, supports, or other components that are made of metal (excepting chain-link), brick, rock, stone, or wood in order to complement the principal structure on the property and the natural surroundings.

(B) Except as may be required by subsection (5) above, the setback distance for a front-yard fence shall be determined as follows:

(i) For lots less than 0.75 acre, the minimum front setback distance for front-yard fences shall be 20 feet from the nearest pavement edge of the public or private street, provided that no fence shall be constructed in the right-of-way.

(ii) For lots 0.75 acre and larger, the minimum front setback distance for front-yard fences shall be 30 feet from the nearest pavement edge of the public or private street, provided, that no fence shall be constructed in the right-of-way.

(iii) Rear and side setbacks set forth in section 22.03.281 do not apply to front-yard fences.

(7) Side and rear fences. Fences may be located on side and rear property lines that do not face or abut public or private streets. If a fence on a side property line extends toward a public or private street, the side yard fence shall end at a point along the side property line so as to conform to the setback distances stated in subsection (6)(B) above.

(8) Walls. Walls are considered a type of fence. Walls used as front-yard fences are treated as accessory structures and shall:

(A) Have the same front setback requirements as a principal building under the appropriate category in section 22.03.281;

(B) Meet all front-yard fence requirements stated in subsection (6) of this section, except for subsection (6)(A)(ii).

(9) Height of fences.

(A) Fences shall not exceed of 6 feet in height per side on or parallel to each property line measured from existing natural ground level.

(B) A fence that is electrified shall be no more than 4 feet in height measured from existing natural ground level.

(10) Fence permit.



(A) Front-yard fences that comply with the front-yard fence criteria may be approved by the city administrator. The city administrator may approve permits for “side-yard” or “rear-yard” fences, i.e. those that are behind the front-yard fence setback and that are on or parallel to side or rear property lines. The city administrator may also approve the use of temporary fences for limited and specific purposes for time periods of a year or less. All fence applications not approved by the city administrator or fences that require variances require ZAPCO review and city council approval.

(B) Applications for a permit to erect a fence, besides a front-yard fence, shall include a site plan, a detailed description and dimensions of the proposed fence. Front-yard fence permit applications shall include:

(i) A street-view elevation drawing at one-quarter scale equals one foot, showing the proposed fence and related improvements, the entire street frontage, and any related structures;

(ii) A site/landscape plan, at no less than ten scale, showing all structures, existing and proposed vegetation, and the materials and colors of the proposed fence;

(iii) A depiction of the growth and size of the vegetation three years from planting;

(iv) A scale drawing of a typical elevation of fence from post to post, showing the support structure, picket/slat size and shape, the amount of visible space between each picket/slat, and any other design details or features that will be visible from the exterior or street frontage side of the fence.

(C) A permit for a fence and associated screening vegetation shall expire if construction of the fence and the planting of the associated screening vegetation has not commenced within [~~90~~] 60 days or a date specified by the city council to accommodate the next favorable growing season, whichever is later. Notwithstanding the preceding sentence, a permit for a fence and associated screening vegetation expires if the fence is not completed and the screening vegetation is not entirely established according to the approved plans and specifications within [~~12~~] 6 months of the approval date of the permit. Before resuming work, a new permit must be obtained in accordance with section 22.03.137(b).

(11) Reconstruction of fence. Should 50% or more of any fence, as determined by the city inspector, be destroyed by any means, reconstruction of such fence shall conform to the provisions of this section.

(12) Vacant lot. Fences are prohibited on a vacant lot.

*ATTACHMENT "B"*

## CHAPTER 22 BUILDING REGULATIONS

### ARTICLE 22.03 CONSTRUCTION CODE

#### Division 9. Trees and Vegetation

##### Sec. 22.03.303 Required permits and tree survey

(a) Prohibition. No trees or vegetation may be removed from any property except as allowed under subsections (b), (c) or (d) below. Anyone wishing to remove trees or vegetation under any other conditions must receive a variance from the city.

(b) No-fee permit. A no-fee permit issued by a city inspector is required to remove:

(1) Single tree. A single tree with a trunk diameter of less than ten (10) inches (as measured at a point 54 inches above the ground) once per calendar year.

(2) Understory vegetation. In order to establish a small yard or septic field only when deemed appropriate by the city inspector, except as allowed in subsection (3) below.

(3) New construction. Trees or vegetation for any new construction or expansion of structures, driveways, parking areas or a small yard not visible from streets or adjacent properties at an elevation consistent with a site plan and/or building permit previously approved/issued by the city. In such cases, an additional building permit is required under article 22.03 of this code. Please see subsection (4) below for additional replacement requirements related to new construction.

(4) Fire safety buffer zone.

(A) Trees less than twelve (12) inches in diameter (as measured at a point fifty-four (54) inches above the ground) and understory vegetation to establish a "fire safety buffer zone" (FSBZ) as part of firescaping according to Firewise Landscape Design and The Texas Forest Service at Texas A&M, which is defined as an area of land extending up to thirty (30) feet from the perimeter of habitable structures established for fire prevention purposes.

(B) This FSBZ may be expanded, upon approval of the city inspector, to include an area up to one hundred (100) feet from the perimeter of habitable structures for those lots having down slopes in excess of 25% below the habitable structure only for the removal of Ashe Junipers (commonly referred to as "cedars") if less than twelve (12) inches in diameter as measured at a point fifty-four (54) inches above the ground.

(C) Trees removed to establish a FSBZ, as described in this subsection, do not require replacement, except:

(i) Full replacement inches are required for trees and vegetation removed to establish the FSBZ in the proposed footprint of any new construction or expansion of structures within a FSBZ within five (5) years of issuance of the permit for the FSBZ.

(ii) Full replacement inches are required for trees and vegetation removed to expand a FSBZ (related to new construction) within five (5) years of issuance of the permit for a prior FSBZ.

(5) Non-native invasive species tree(s) or plant(s). Non-native invasive species trees, plants and shrubs do not require replacement as long as the city arborist/inspector identifies them as such and stipulates that no adverse effect of erosion will occur from the removal. In the case of non-native invasive shrubs or understory that serve as understory vegetative screening at external perimeter of property, the city inspector may require replacement native vegetative screening to be installed along the periphery of the property when, at the city inspector's discretion, the screening is necessary and reasonable to mitigate the community impact of the loss of the removal and to maintain the rural feel of the neighborhood.

(6) When removing live conifers and Juniperus species (commonly referred to as "cedars") of three (3) inches in diameter or less as measured at a point fifty-four (54) inches above the ground as a fire prevention measure whether inside or outside of a fire safety buffer zone. Trees removed in accordance with this subsection do not require replacement.

(7) When removing diseased, dying or dead trees, or a tree that poses an imminent or immediate threat to persons or property as determined by the city inspector or city administrator, under the following conditions:

(A) The property owner must submit a request for the permit to the city inspector specifying the affected species, location, and trunk diameter, including a description of the threat if applicable.

(B) If the city inspector concurs with the property owner's assessment of the condition of the tree, then the permit shall be issued.

(C) If the city inspector does not concur with the property owner's assessment of the condition of the tree, then the property owner shall have the right to submit a signed letter from a certified arborist identifying the specific disease, condition from which the tree suffers, or the threat it poses and providing a professional justification for the tree's removal. The city administrator shall then consider the arborist's letter and determine if a permit is warranted. If the city administrator does not approve the permit, then the applicant may appeal the decision to the city council.

(D) In all cases, the permit for removal must be received prior to removal of the tree except as otherwise provided for in subsection (c) below.



(c) Timing for no-fee permit. The no-fee permit must be received prior to removal except when said trees or vegetation have naturally fallen onto a structure and/or are blocking a driveway, sidewalk or other means of egress from a property or structure. In such cases, the permit must be secured by the end of the next business day. Any tree stump(s) must be left in place until the city inspector has come on-site to measure the stump(s) for the purpose of determining the replacement requirements (if any).

(d) Exception.

(1) A permit is not required to remove trees or vegetation in the following instances:

(A) When the vegetation removal is considered common household gardening or ground care.

(B) When pruning live trees so that no more than 25% of a tree's live foliage shall be trimmed off or pruned per year. The Texas Forest Service at Texas A&M's best management practices recommends removing no more than 25% of the live foliage within the tree canopy in an annual growing season. Refer to article 24.04 regarding pruning times and methods for Oak Wilt prevention.

(C) When removing dead vegetation, dead brush piles, and other flammable dead organic material.

(D) Limbing-up. When removing dead or living limbs to reduce the fuel ladder effect as follows:

(i) Trees that are fifteen (15) feet or higher may be limbed up to nine (9) feet;

(ii) Trees that are twenty (20) feet or higher may be limbed up to twelve (12) feet if they are within 30 feet of a habitable structure;

(iii) In all cases, no more than 25% of the tree's live foliage may be removed per year.

(2) Exemption from the requirement to obtain a permit does not exempt a person from adhering to the Code of Ordinances.

(e) Permit application process. Each application for a tree removal permit shall be made by the owner of the property or by the owner's authorized agent. Applicants may contact the city by phone, U.S. mail, fax, email or in person to request an appointment with the city inspector who will conduct an on-site meeting with the applicant in order to document the size, species, location and condition of the tree(s) to be removed. If granted by the city inspector in accordance with subsection (f) below, the applicant will receive a copy of the approved application to serve as the permit for display per subsection (g) below and the city shall retain a copy for its records.

(f) Issuance. The city inspector shall issue the proper permit once the completed application providing the relevant criteria defined in this division have been met.

(g) Display. The property owner must display the permit near the mailbox or primary entrance to the property for the duration of the vegetation removal process.

(h) Expiration. Tree removal permits issued in accordance with this section for new construction shall expire [~~two (2) years~~] one (1) year from the date of issuance. If the associated building permit issued for the new construction expires or is revoked for any reason, then the tree removal permit shall expire as well. All other permits issued for removal in accordance with this section shall expire [~~ninety (90)~~] within sixty (60) days from the date such permit is approved.

(i) Tree survey. Applications for tree removal variances where no construction is involved, and thus bypasses ZAPCO going directly to the city council, must include a tree survey.