

ORDINANCE NO. 2023-006

AN ORDINANCE OF THE CITY OF WEST LAKE HILLS, TEXAS (“CITY”) AMENDING CHAPTER 30 PROPERTY MAINTENANCE, ARTICLE 30.02 NUISANCES, SECTION 30.02.001 DECLARATION AND ARTICLE 30.03 CONDITIONS OF LOTS AND SIDEWALKS, SECTION 30.03.001 DUTY OF PROPERTY OWNER, SECTION 30.03.003 ENFORCEMENT DECLARING THE HARBORING OF DEAD FLAMMABLE VEGETATION AND BRUSH A PUBLIC NUISANCE, AMENDING THE DUTY OF PROPERTY OWNER, AMENDING THE AUTHORIZATION OF THE CITY TO ABATE AND CAUSE A LIEN UPON PROPERTY; PROVIDING A SEVERABILITY CLAUSE; SAVINGS CLAUSE; A REPEAL CLAUSE; NOTICE OF OPEN MEETING CLAUSE; PENALTY AND AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Chapter 217 authorizes a municipality to abate and remove a nuisance, punish by fine the person responsible for the nuisance, define and declare what constitutes a nuisance, authorize, and direct the summary abatement of the nuisance, and abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort; and

WHEREAS, the Governor of Texas issued a disaster proclamation for 191 Texas Counties including Travis County based on the existence of wildfires that pose an imminent threat of widespread or severe damage, injury or loss of life and further certifying that such conditions continue to exist.

WHEREAS, Texas Health and Safety Code Chapter 342 provides a municipality may require the owner of real property in the municipality to keep the property free from weeds, brush and a condition constituting a public nuisance.

WHEREAS, The Council wishes to amend Section 30.02.001 for the protection and promotion of the health, safety and welfare of the citizens of West Lake Hills, Travis County Texas to declare that it is a public nuisance for any property owner or tenant to harbor dead trees, dead vegetation, dead brush piles, and other flammable dead organic material on their property.

WHEREAS, The Council wishes to amend Section 30.03.001 to require the property owner to comply with City of West Lake Hills Code Ordinances when causing the abatement of dead trees, dead vegetation, dead brush piles, and other flammable dead organic material.

WHEREAS, The City Council wishes to amend Section 30.03.003 to grant the city authority to abate and remove nuisance brush and vegetation and cause the expense thereof to be assessed on the real estate or lot upon which such expense is incurred.

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

SECTION I. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of West Lake Hills and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. Chapter 30 Property Maintenance, Article 30.02 Nuisances, Section 30.02.001 Declaration and Article 30.03 Conditions of Lots and Sidewalks, Section 30.03.001 Duty of Property Owner, Section 30.03.003 Enforcement shall be amended and replaced to read as follows:

§ 30.02.001. Declaration.

- (a) Whatever is dangerous to human health or welfare, whatever renders the ground, water, air or food a hazard or injury to human health, and the following specific acts, conditions and things, are, each and all of them, declared to constitute public nuisances:
- (1) The disposal or accumulation of any garbage, trash, foul, decaying or putrescent substances or other offensive material dangerous to public health or welfare, in or upon any lot, street or highway, or the escape of any gases to such an extent that the same or any of them shall by reason of offensive odors become a source of discomfort to persons living or passing in the vicinity.
 - (2) The maintenance or use of any privy, except for temporary use during construction, such a privy to be subject to approval of the city inspector.
 - (3) The presence of polluted water in a well, cistern, spring or any accumulation of water in which mosquito larvae breed.
 - (4) The overflowing of septic tanks.
 - (5) Unapproved cesspools or disposal pits.
 - (6) Failure to remove stable and animal refuse.
 - (7) Any act that would be reasonably calculated to be or become offensive to adjacent neighbors or to the public.
 - (8) The drainage or permitting of drainage of any manmade water storage tanks or cisterns, swimming pools, etc. on adjoining property either public or private.
 - (9) The harboring of dead trees, dead vegetation, dead brush piles, and other flammable dead organic material on their property by any property owner, occupant, or tenant, except for contained compost piles and stacked and stored firewood.
- (b) It shall be unlawful for any person owning or occupying a lot or tract of land in the city limits to permit, suffer or allow a nuisance, as described in this Section 30.02.001, to remain on the lot or tract in violation of this Code of Ordinances. In the event that the owner, tenant or occupant fails to remedy the nuisance within 10 days from the date the City issues a notice of violation to the owner, tenant or occupant, the city shall have the power to remedy any

nuisance described herein by removing the materials, waste or other matter creating the nuisance at the expense of the owner and to cause the expense thereof to be assessed against the real property upon which the nuisance was located. The landowner, tenant or occupant shall have 10 days from the date that the City presents its request for reimbursement, to reimburse the City for the costs it incurred in remedying the nuisance. Failure of the owner, tenant or occupant to reimburse the City within the 10-day time period will authorize the City thereafter to file a lien on the real estate, tract or lot upon which such expense was incurred. This remedy is in addition to any other remedy provided herein, or state law, or any other ordinance of this city and is cumulative thereof.

§ 30.03.001. Duty of property owner.

- (a) It shall be the duty of every owner, tenant or occupant of any lot or parcel of ground within the city to keep the property owned or occupied by him free from stagnant water, weeds, tall grass, rubbish, brush, trash and any and all other objectionable, unsightly or unsanitary matter of whatsoever nature, and to keep the sidewalks in front of his property free and clear from weeds and tall grass from the line of such property to the established curblin next adjacent thereto, and to fill up, drain or regrade any lots, ground or yards and any other property owned or occupied by him which shall be unwholesome or have stagnant water therein, or which from any other cause, is in such condition as to be liable to produce disease, and to keep any and every house, building, establishment, lot, yard or ground owned by him at all times free from filth, carrion or impure or unwholesome matter of any kind.
- (b) To reduce the risk of fire on all properties, it shall be the duty of every owner of any lot or parcel of ground within the city to clear and remove all dead trees and brush piles, and other flammable dead organic material in accordance with section 22.03.303. In the case of dead trees and understory, the city inspector must confirm that the vegetation is dead prior to its removal in order for the owner to avoid replacement requirements as described in section 22.03.304(d).
- (c) It shall be unlawful for any person owning any vacant lot within the city to permit such lot to become a rendezvous for tramps, a shelter or dumping ground for garbage or debris, unhealthy, unsightly and unclean, to fail to clear off such premises and make same healthy and clean within ten days after being notified by the chief of police or any police officer or city inspector.

§ 30.03.003. Enforcement.

In addition to any other remedy provided in this article, or state law, or any other ordinance of this city and cumulative thereof, the city shall have the power to cause any of the work or improvements mentioned by section 30.03.001 or 30.02.001 to be remedied by the City at the expense of the owner and to cause the expense thereof to be assessed on the real estate or lot upon which such expense is incurred; including the filing of a lien against the property.

SECTION III. SEVERABILITY CLAUSE. If any provision, section, sentence, clause, or phrase of this ordinance or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions

of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of West Lake Hills in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provisions or regulation contained herein shall become inoperative or fall by reason of any unconstitutionally or invalidity of any portion, provision, or regulation.

SECTION IV. SAVINGS CLAUSE. The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION V. REPEALER CLAUSE. The provisions of the Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent by any other ordinance.


SECTION VI. NOTICE AND MEETING CLAUSE. 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, Chapter 551 of the Texas Government Code.

SECTION VII. PENALTY. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined as provided in Chapter 1. General Provisions, Article 1.01 Code of Ordinances, Section 1.01.013 General penalty for violations of code: continuing violations of the City of West Lake Hills Code, and/or applicable state law.

SECTION VIII. EFFECTIVE DATE. That this Ordinance shall take effect immediately from and after its passage as required by law.

DULY PASSED by the City Council of the City of West Lake Hills, Texas, on the _____ 23rd _____ day of _____ August _____, 2023.

CITY OF WEST LAKE HILLS, TEXAS


Linda Anthony, Mayor

ATTEST:


Terry Blanchard, City Secretary

[SEAL]

