CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING
Wednesday, June 17, 2026 at 6:30 PM

Notice is hereby given that the Zoning and Planning Commission (ZAPCO) of the City of West Lake Hills, Texas, will hold a Regular Meeting on the 17th day of June 2026 at 6:30 p.m., in the Council Chamber, Municipal Building, 4010 Bee Cave Road, West Lake Hills, Texas, at which time the following items will be discussed, to-wit:

REMOTE ACCESS - Join Zoom Meeting at https://us02web.zoom.us/j/3499549035
Or via telephone: Dial (346) 248-7799
Meeting ID: 349 954 9035

If you wish to speak during the meeting or provide written comments, please email your name, phone number, comments, and the item number you wish to speak on to planner@westlakehills.gov by 1:00 P.M. on June 17, 2026.

1. Call to Order. Chairman Robert Meisel.

2. Citizen Communications The Commission welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the Commission later in the meeting. The Commission cannot respond to or discuss matters not listed on the agenda. The Commission may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

3. Consent Agenda The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.

    1. Approval of the May 20, 2026 Zoning and Planning Commission minutes
    2. Report of previous cases presented to ZAPCO acted on by BOA/City Council

4. Public Hearing **300 Block of Laurel Valley Rd.:**Discuss and make recommendations to the Board of Adjustment on proposed variances:

    1. For the construction of a driveway 12 feet, 6 inches above natural grade where 6 feet is the maximum allowed by code (Section 22.03.175(e)(1)).
    2. To use the 30-foot zoning front setback along Yaupon Valley Road instead of the 50-foot platted front setback (Section 22.03.271)
    3. For grading of up to 5 feet, 6 inches on a grade of greater than 35% where no grading is allowed by code (Drainage and Erosion Control Design Manual Section 9.4.1).

    Applicant: Matt Garcia, Matt Garcia Design

5. Public Hearing **911 Westlake Drive:** Discuss and make a recommendation to City Council for the rezoning of Lot 1 of Village Green Sec 1 Resub from GUI, Governmental, Utility and Institutional to B-2, Business 2 District with a Conditional Overlay District (Section 38.05.092 of the West Lake Hills Code).

    Applicant: Jennifer C. Bills, Interim City Administrator

6. Public Hearing Discuss and make recommendations to City Council for the adoption of proposed amendments, per Section 20.02.005 and Section 38.05.094, to the following Code of Ordinance sections:

    a. General Provisions - Section 1.01.003
    b. Administration and Personnel - Section 2.02.031
    c. Administration - Chapter 20
    d. Building Regulations - Article 22.03
    e. Subdivision – Chapter 36
    f. Zoning – Chapter 38

7. Adjournment. Chairman Robert Meisel.

By Jennifer C. Bills, Director of Building and Development

Certificate

I certify that the above Notice of the June, 17 20226 Zoning & Planning Commission Meeting was posted on the bulletin board at the Municipal Building, 4010 Bee Cave Road, West Lake Hills, Texas on Thursday, June 11, 2026 at 5:00 pm. and will remain posted continuously until said meeting is convened.

By Joel Sherrouse, Development Coordinator

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodations and equal access to communications will be provided upon request.

All items on the agenda are for discussion and/or action. ZAPCO reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

City of West Lake Hills

MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO)
REGULAR MEETING
Wednesday, May 20, 2026 at 6:30 PM

1. **Call to Order: Chair Robert Meisel**
    a. Meeting begins at 6:32pm
    b. Roll Call
        1. Chair Robert Meisel: Present
        2. Vice-Chair Jim Pledger: Present
        3. Commissioner Karen Bartoletti: Absent
        4. Commissioner Patrick Stewart: Present
        5. Commissioner Laurie Maccini: Present
        6. Commissioner: Vacant Seat

2. **Citizen Communications:**
    a. No comments

3. **Consent Agenda:** The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.
    a. Approval of the April 15, 2026 Zoning and Planning Commission Minutes.
    b. Approval of the May 4, 2026 Zoning and Planning Commission Workshop minutes
    c. Report of previous cases ZAPCO acted on by BOA/City Council.

    Action: Commissioner Pledger moves for approval of the Consent Agenda

        i. Commissioner Stewart Seconds
        ii. Motion carries unanimously (3–0)

4. Public Hearing **614 Westbrook Drive**. Discuss and make a recommendation to the Board of Adjustment on proposed variance to allow a four-foot encroachment into the 30-foot rear setback (Section 22.03.276 & Section 22.03.281)

    Applicant: Steven Campos, Contemporary Tile Design LLC

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a. **Staff Report:** Director Bills spoke about the previous approved variance at the property. The requested variance would follow the building line of the previously approved encroachment
    1. Commissioner Maccini asked about the height of the structure
        1. Director Bills explained that the applicant was present and could address design questions.
b. **Public Comment:**
    1. Steven Campos– Applicant
        1. Spoke in favor of variance request
c. **Discussion:**
    1. Commissioner Stewart asked the applicant which CRZ the encroachment would avoid.
        1. The applicant indicated the proposed design would leave the ¼ critical root zone undisturbed.
    2. Commissioner Maccini inquired about if drainage from the accessory structure would impact the tree.
        1. The applicant stated that the drainage would not flow toward the tree.
    3. Commissioner Pledger asked about the hardship of the variance
        1. The applicant stated the desired size of the accessory structure would only be feasible if the encroachment were granted.
    4. Chair Meisel asked if there were any further encroachment into the setback further than the pool.
        1. The applicant indicated the structure would not encroach further into the setback than the pool.

d. **Action:** Commissioner Stewart moves to recommend that the variance be forwarded to the Board of Adjustment with a recommendation of **approval.**
    1. Commissioner Pledger seconds
    2. Motion **carries** 3-0

The recommendation will be forwarded to the June 10th Board of Adjustment meeting

5. Public Hearing: **406 Redbud Trail**. Discuss and consider a recommendation to Board of Adjustment on proposed variances:
    a. To reduce the 50-foot front building setback along Skyline Drive to use the previously platted 35-foot building line (Section 22.03.275 and Section 22.03.281)
    b. To allow grading up to 6 feet on slopes of greater than 35% where no grading is allowed (Drainage and Erosion Control Design Manual Section 7.4.1)

    Applicant: Bhavani Singal, Workship No 5

Notes:

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- **Agenda items 5 and 6 are related to the same proposed project but are separate items due to the division of City Council and Board of Adjustment authority over the requested code sections in the variance requests. Since both items require ZAPCO recommendation, the items were discussed concurrently and recorded in the minutes for item 5.**
- **Multiple emailed public comments were provided on these items after the agenda and packet were posted. They were provided to the Commission on the dais and are appended to the end of the minutes.**

a. **Staff Report:**
    1. Director Bills describes the history of the variances at the property and the proposed additional variance requests related to grading, setback encroachment, and tree removal.
    2. Commissioner Maccini asks if the previous variance of the tree removal was still active.
        1. Director Bills explains that variance requests expire after 1 year if the applicant does not act on the variances, but that since the applicants applied for a building permit within the expiration window and have been actively in the review process that the 2024 variances have not expired.
    3. Commissioner Stewart asks if the building footprint has changed since the last variance request.
        1. Director Bills indicates that the square footage has been decreased slightly.

b. **Public Comment:**
    1. Bhavani Singal: Applicant
        1. Spoke in favor of the variance request
    2. Chris Gunter: Neighbor
        1. Spoke in opposition to the variance request
    3. Steve Barron: Neighbor
        1. Spoke in opposition to the variance request
    4. Gale Brundrett: Neighbor
        1. Spoke in opposition to the variance request
    5. Ashwini Raja – Owner
        1. Spoke in favor of the variance request

c. **Discussion:**
    1. Commissioner Stewart asks the applicant if pier and beam bas been considered

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1. The applicant indicated that they spoke with their structural engineer to find a solution for the home, and pier and beam was not determined to be an ideal solution
2. Commissioner Pledger shares that the previous plans should work with the previously approved variances and minimize the need for variances
3. Chair Meisel shares their belief that the structure is oversized for the lot
4. Commissioner Stewart indicates that there may be a fundamental problem with the design when further deviations is required in addition to the previously-granted variances.

d. **Action:** Commissioner Pledger moves to recommend the variance request be forwarded to the Board of Adjustment with a recommendation of **denial.**
    1. Commissioner Stewart seconds
    2. The motion **carries** (3-0)

The recommendation will be forwarded to the May 13th City Council meeting

6. Public Hearing: **406 Redbud Trail**. Discuss and make a recommendation to City Council on proposed variances:
    a. To allow for the removal of a 17-inch cedar and 14-inch live oak (Section 22.03.304(a)(4))

Applicant: Bhavani Singal, Workshop No. 5

Notes:

- **Agenda items 5 and 6 are related to the same proposed project but are separate items due to the division of City Council and Board of Adjustment authority over the requested code sections in the variance requests. Since both items require ZAPCO recommendation, the items were discussed concurrently and recorded in the minutes for item 5.**
- **Multiple emailed public comments were provided on these items after the agenda and packet were posted. They were provided to the Commission on the dais and are appended to the end of the minutes.**

a. **Action:** Commissioner Pledger moves to forward the variance request to City Council with a recommendation of **denial**.
    3. Commissioner Maccini seconds
    4. The motion **carries** unanimously (3-0)

The recommendation will be forwarded to the June 10th City Council meeting

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7. Public Hearing: Discuss and consider action to make a recommendation to City Council on amendments to the following Code of Ordinances Sections:

    a. General Provisions – Section 1.01.003
    b. Administration and Personnel – Section 2.02.031
    c. Administration – Section 20.02.055
    d. Building Regulations – Article 22.03
    e. Subdivision – Sections 36.01.003-004, 36.01.007, 36.01.009, 36.01.012-013
    f. Zoning – Sections 38.03.032-038, 38.04.031-032, 38.04.034-035, 38.05.032-037, 38.05.098

    a. **Staff Report:**
        a. Director Bills and Mayor Vaughan briefed ZAPCO on code changes related to building and development and adjustments to the proposed changes made in response to ZAPCO feedback from the April ZAPCO meeting and May ZAPCO workshop.
        b. Commissioner Pledger asks about primary and secondary street setbacks as they apply to buildings and fences
            1. A potential issue was identified allowing solid walls to be placed closer than intended due to the transparency requirement of fences being tied to the building setback and not the fence setback. Mayor Vaughan indicated the proposed changes would be revised accordingly.
        ii. Commissioner Pledger points out grammar mistakes and suggests that it be corrected for clarity on page 9 of the amendments.
        iii. Commissioner Maccini shares concerns about the front yard fence setbacks and the screening of the front yard fences with bushes as a hazard for parking in the front of houses.
        iv. Commissioner Pledger urges the Mayor to add clarification directly within the body of the Code of Ordinances regarding which project types are exempt from permitting.
            1. Commissioner Stewart suggests it may be better to simply have a page on the City website clarifying which projects require permitting and which do not.

8. **Adjournment**

    Chair Meisel adjourns the meeting at 8:10pm

    APPROVED:

    _____

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Robert Meisel, Chair

ATTEST:

_____

Joel Sherrouse, Development Coordinator

These minutes were approved on _____, 2026.

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Appendix - Public Comment Emails

From: Ivan Brescic
To: Planner
Cc: sbarron6
Subject: 406 redbud May 20th ZAPCO Meeting
Date: Sunday, May 17, 2026 7:10:52 PM
Attachments: f_lo7s6lfv0.png

You don't often get email from [redacted]. Learn why this is important

hello there

I am the neighbour the above mentioned property.

I own 411 skyline Drive, West Lake Hills.

unfortunately I wont be able to make the hearing this Wednesday 20th may.

I hereby would like to object completely to the alterations and request for variances for the application.

The request to construct within 50ft - object.

The additional tree removal requests - especially the oak near my property line.

Overall the requests to build a 8500-10k size home on this lot is in my view completely against code.

Any questions please dont hesitate to respond

Many thanks

Ivan brescic

Ivan Brescic
(+1) 310 804 8502
[redacted]

BRESCIC COACHING

EXCELLENCE - LEADERSHIP - LIFESTYLE

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Appendix - Public Comment Emails

May 12, 2026

Stephen and Michelle Barron
1 Valbella Drive
West Lake Hills, TX 78746

To:
Robert Meisel, ZAPCO Chair
City of West Lake Hills
911 Westlake Drive
West Lake Hills, TX 78746

Subject: Opposition to 406 Redbud Trail Variance Request

Dear Mr. Meisel and Members of the Zoning and Planning Commission,

I have attended or listened to every zoning board meeting regarding this applicant's repeated requests for variances. At each meeting, the Board and neighborhood residents have consistently raised the same specific concerns about the proposed development.

The last meeting was particularly clear: this is a challenging, long-standing parcel that has remained unchanged since the property's original platting. Despite this, we are now reviewing a fourth or fifth resubmission. It appears the applicant views the City of West Lake Hills zoning code not as a binding regulation, but as a starting point for negotiation. The code is their hardship per the comments of the applicant in the variance application.

On multiple occasions, the applicant has requested that the Board pause or defer a ruling. This approach prevents any concrete decision from being placed on the record and simply prolongs the process.

It is time to end this cycle. We should adhere to our adopted code and deliver a clear message: the proposed home will not be approved unless it is substantially reduced in size so that no variances are required. The topography and size of this lot do not support the applicants proposed development plans. Our zoning regulations exist to protect the character of West Lake Hills and the interests of all residents, not to accommodate oversized development on difficult lots.

Continuing to entertain repeated requests wastes valuable Board time and taxpayer resources. I respectfully urge the Board to uphold our code and deny any further variances for this project in its current form.

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Appendix - Public Comment Emails

Below is a part memorial of my previous letters, and updates relative to the new variance requests.

As residents of West Lake Hills since 2014, we built our home at 1 Valbella Drive in 2017 without requesting any variances, despite making significant sacrifices to our original plans to comply with city codes. We are concerned about the repeated variance requests for the proposed development at 406 Redbud Trail, particularly the current application for four additional variances. We respectfully urge the commission to deny this request and address the following issues.

Concerns Regarding Variances

The proposed development at 406 Redbud Trail appears to require variances due to a home footprint that exceeds the capacity of this one-acre parcel. The property owners were aware of the lot's limitations at the time of purchase, and claims of hardship due to improper planning are unjustified. Specifically:

1. **Tree Removal and Replacement:** Previous variances permitted the removal of over 220-300 replacement inches of trees, yet the updated plans lack provisions for replanting or adequate planting areas given the **extreme slope, shallow soil and rocky conditions**. Without dedicated retaining walls in areas with 35pct slope I do not see how the applicant can replace up to 300 inches of trees on this property. The claim to replace inches is just that, a hypothetical claim. The property in existing condition does not lend to replanting. We request that the commission require a concrete replanting plan inclusive of soil depths study to preserve the neighborhood's aesthetic and environmental integrity, rather than relying solely on the city tree fund, which does not directly benefit our community. Has a soil depth study for each aspect (Septic, Tree Replacement, etc.) of development been completed for this project? The balance of the area outside of the building zone has 35% or greater slopes.

   Removal of two new Trees On top of the eight trees already requested for variance, the applicant is now requesting two new large specimen trees to be removed. One is an extremely large oak tree on top of the three specimen oak trees in previous variance requests. This is the type of tree West Lake seeks to preserve. The tree looks to be 70plus years old. Do we just destroy our natural environment for the sake of oversized development. We are against granting any further tree variances to the applicant.

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2. **Septic System and Setback Compliance:** The septic system design appears to encroach on setback areas, raising concerns about future variance requests. If the plan is to located the septic in the septic along Skyline Drive, then the issue is how does install of drain field work amongst all those trees. We ask the commission to scrutinize this issue to prevent further non-compliance.

3. **Slope Regulations**: The construction on slopes exceeding 35% violates city codes. A smaller home design could eliminate the need for this variance, and we urge strict adherence to these regulations to protect the area's natural landscape. The slope map does not have enough definition of actual slope. 1–2-foot intervals are needed on the map to really assess the slope severity of the property.

4. **Encroaching into the 50ft Skyline Drive setback:** Our home at 1 Valbella Drive has five separate setback requirements due to multiple street frontages, the Skyline Drive right-of-way, and the adjacent greenbelt. When we built our home, we did not request any variances. Instead, we modified our design to fully comply with the City's zoning code.

   Setbacks in this area serve a critical purpose: preserving the natural character of the neighborhood and maintaining privacy between properties. I strongly oppose any encroachment into the setback area along the Skyline Drive right-of-way. This is particularly concerning given that the board and citizens suggested the property does not support the scale of proposed home, and to be successful in their application to significantly reduce the home footprint. That was ignored by the applicant.

5. **Driveway**: The proposed driveway looks to be challenging due to the required U-turn in such a short space back to the house. Will this become another modification or variance request? A straight driveway further south down Redbud seems feasible, but due to slopes the applicant may require another variance.

6. **Front of Home Perspective**: Based on the 3D renderings provided it appears the home has a 12-foot wall at the front of the property, which is quite visible from the street. How is this wall to be effectively screened?

Given these concerns, we oppose the approval of additional variances and request a thorough review of previously granted variances to ensure compliance with mitigation measures.

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Construction Parking and Safety Concerns

The proposed development also poses significant parking and safety challenges. The limited space on the property will likely force construction workers and delivery trucks to park on surrounding streets, creating unsafe conditions. During recent city work on Redbud Trail, parking in front of fire hydrants at the Skyline Drive and Redbud Trail intersection created a hazardous situation, particularly given our area's high fire risk. Additionally, construction equipment and debris littered the Skyline Drive right-of-way, and replanted vegetation along Skyline Drive has died due to inadequate irrigation—a situation likely to worsen with two years of construction traffic.

As leader of the Juniper Ridge Subdivision HOA, representing six properties, I have heard majority concerns from homeowners about this variance request and the construction overflow parking on Valbella Drive, Sweet Sky, and Skyline Drive. These narrow streets already face traffic issues, disrupting garbage pickup and delivery services. Mass parking could also impede fire truck access, exacerbating fire safety risks.

We strongly request that, if the development is approved, the commission mandate within the condition of issuing the construction permit a parking plan prohibiting construction-related parking or equipment storage along Skyline Drive (from the top to Redbud Trail), Valbella Drive, and Sweet Sky. This plan should ensure safe passage for emergency vehicles and maintain neighborhood accessibility.

Conclusion

We respectfully oppose the variance request for 406 Redbud Trail due to its non-compliance with city codes, environmental impact, and potential safety hazards. We urge the commission to enforce existing regulations, require detailed mitigation plans for prior variances, and mandate a comprehensive parking plan to protect our community's safety and character. Should an alternative plan be proposed that addresses these concerns, we would be open to further discussion. Thank you for your attention to this matter. Please feel free to contact us at [redacted] if you require additional input.

Sincerely,

Stephen and Michelle Barron

Juniper Ridge HOA

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Appendix - Public Comment Emails

From: Planner
To: Jennifer Bills; Elizabeth McNamara
Subject: FW: 406 Redbud Trail - Opposition to Variance Requests.
Date: Wednesday, May 20, 2026 12:16:31 PM

From: Davin Fillpot [redacted]
Sent: Wednesday, May 20, 2026 12:13 PM
To: Planner <planner@westlakehills.gov>
Subject: Fwd: 406 Redbud Trail - Opposition to Variance Requests.

---------- Forwarded message ---------
From: **Davin Fillpot** [redacted]
Date: Wed, May 20, 2026 at 12:09 PM
Subject: 406 Redbud Trail - Opposition to Variance Requests.
To: Joel Sherrouse <jsherrouse@westlakehills.gov>, Jennifer Bills <jbills@westlakehills.gov>, Elizabeth McNamara <emcnamara@westlakehills.gov>

RE: 406 Redbud Trail - Variance Requests.

My wife and I are residents of 404 Redbud Trail.
We live on the property directly to the south of the subject property.
We are sending this email as opposition to these variance requests.

We have always known that 406 RedBud Trail would get developed, and a home would be built on this property.
We have absolutely zero problem with anything being built on the 406 RBT property.
However, we have always been curious how the property could get developed due to its' extremely rocky and steeply sloping terrain and difficult access.

We have quietly followed all of the previous zoning and planning presentations by listening to the meetings online, and have reviewed all of the documentation that were presented at the previous meetings.

In preparation for this week's meeting, I went to the CoWLH Agenda page, and downloaded all documents that were available for download through the city website. They only included a very basic site plan and slope map, and updated variance questionnaire. No Floor Plans, Elevations, or detailed site plan. I had to file an open

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records request to get a copy of the applicant's powerpoint, because it was the only exhibits on file that provided Floor Plans, Elevations and a detailed site plan.

I have had the opportunity to review these documents, not only as an adjacent neighbor, but also as an architect and WLH code consultant.
The exhibit that I thought was extremely eye opening was the slope map that the applicant provided.
It appears that 75% of the property contains slopes greater than 25%, and it appears that approx 30% of the property exists on slopes greater than 35%.
The only thing that is permitted on slopes greater than 35% are pier foundations. That's it. Septic drainfields can not even exist on slopes greater than 30%.

Simply stated. Due to the steep nature of the site's topography, and the significant reduction in the parts of the lot that are developable, This 1 acre parcel is essentially reduced to a lot size equivalent to approx .65 Acre.

I do believe that a house that is 5 or 6,000 SF of conditioned space could work on this property. It would still be tricky. It might even require a variance to remove a cedar tree or two.

Is the topography on this lot a hardship? Clearly.
Does the topography on this lot greatly restrict its ability to be developed? Somewhat.
But I do not believe that hardship of the topography warrants the granting of multiple variances so that a 9,000 SF house can be built on a lot that is essentially .65 acres in size.
I believe it is just simply too big of a house for this significantly burdened piece of property to be able to support.

Also, I do not believe that it is the responsibility of ZAPCO or BOA to feel that they have an obligation to contort themselves around the building code to justify granting variances for a house that is simply too big for this severely impacted property.

Thank you all for your service to the city.

Kind Regards,
Davin Fillpot
Resident of 404 Red Bud Trail

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Appendix - Public Comment Emails

May 12, 2026

Stephen and Michelle Barron
1 Valbella Drive
West Lake Hills, TX 78746

To:
Robert Meisel, ZAPCO Chair
City of West Lake Hills
911 Westlake Drive
West Lake Hills, TX 78746

Subject: Supplemental Opposition to Variance Requests for 406 Redbud Trail – New Site Plans and Slope Data

Dear Chair Meisel and Members of the ZAPCO Commission,

We are writing to supplement our previous letter of opposition regarding the variance requests submitted for the property at 406 Redbud Trail. The recently provided slope maps and revised site design plans supplied by the applicant and the City further demonstrate that the proposed project is incompatible with the City's existing codes and the physical constraints of the site.

Key Concerns:

1. **Inappropriate Scale for the Lot**
   Approximately 33% of this one-acre parcel consists of slopes exceeding 35%. Under current City of West Lake Hills regulations, such steep slopes significantly restrict the allowable size and footprint of any residence. The proposed 9,000 square feet of conditioned space exceeds what the lot can reasonably support while remaining in compliance with code. We respectfully request that the Commission require the applicant to redesign the project to fit within the limitations established by the slope restrictions.

2. **Changed Project Scope Requires Restart of Variance Process**
   The substantial changes to the size, location, and design of the proposed structure render the original variance assumptions obsolete. In fairness to both the Commission and neighboring properties, the applicant should be required to begin the variance process anew with the current plans.

3. **Tree Removal and Replacement Variance**
   The applicant proposes the removal of 12 trees and requests a variance to replant replacement inches elsewhere. Given that one-third of the property has steep slopes

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and shallow soils, successful replanting is highly questionable without a detailed, site-specific replanting plan. We request that the Commission deny any additional tree variance unless the applicant submits — and the City approves — a realistic replanting strategy that identifies protected planting zones capable of sustaining the required 300 replacement inches.

4. **Encroachment into the 50-Foot Skyline Drive Setback**
   The request to reduce the required setback from 50 feet to 35 feet along Skyline Drive remains strongly opposed. This setback exists to protect neighboring properties and the character of the neighborhood. Reducing it is unnecessary if the home is appropriately sized to the lot. We fully support maintaining the full 50-foot setback as required by code.

5. **Septic System Location and Compliance**
   The proposed septic field location does not comply with City code requirements, particularly the mandatory 7-foot separation from the base of any tree. The current plan places the system in an area densely populated with trees, creating long-term risk to tree health and system functionality. Additionally, a residence of this scale will require approximately 8,000–9,000 square feet of drain field, which appears constrained by both the trees and the steep topography. We object to any variance that would allow the septic system to deviate from established code standards.

Conclusion
We urge the ZAPCO Commission to uphold the City's codes and deny the requested variances. The combination of steep slopes, tree protections, setback requirements, and septic limitations make the current proposal incompatible with the standards that apply to all property owners in West Lake Hills — including ourselves when we built our home.

Thank you for your time and careful consideration of this matter.

Sincerely,

Stephen and Michelle Barron
1 Valbella Drive
West Lake Hills, TX 78746

Juniper Ridge HOA

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City *of* West Lake Hills
Zoning & Planning Commission
AGENDA REPORT

Meeting Date:	Jun 17, 2026	**Item Number:**	3b
Department:	Building & Development Services		
Prepared By:	Jennifer C. Bills	**Cost / Budget:**	None
Exhibits:	N/A	**Source of Funds:**	N/A

Subject

Report of Previous ZAPCO cases acted on by the BOA/City Council.

Discussion

Since the May 20, 2026 ZAPCO meeting, the following cases forwarded by ZAPCO were considered at City Council/BOA.

Board of Adjustment:

1. **614 Westbrook Drive** – Variance for rear setback encroachment
    a. At the June 10 Board of Adjustment meeting, the variance was **approved.**
2. **406 Redbud Trail:** - Variances for front setback encroachment on Skyline Drive and grading over slopes greater than 35%.
    a. Following the May 20 ZAPCO meeting, the applicant withdrew the request for the setback encroachment and moved forward with the grading variance request. At the June 10 BOA meeting, the applicant requested the item be postponed.

City Council:

1. **406 Redbud Trail**: Variances for the removal of 2 trees greater than 14" in diameter.
    a. Following the May 20 ZAPCO meeting, the applicant withdrew the request for additional tree removal.
        i. While not a variance request, the applicant did request City Council for approval of a fee in lieu of on-site mitigation for trees removed in the construction process. The hearing on this item was scheduled for consideration on June 10, 2026, but the applicant requested to postpone to the hearing.

City *of* West Lake Hills
Zoning and Planning Commission
AGENDA REPORT

Meeting Date:	June 17, 2026	**Item Number:**	4
Department:	Building & Development		
Prepared By:	Jennifer C. Bills	**Cost / Budget:**	None
Exhibits:	See Attached	**Source of Funds:**	N/A

Subject

300 Block of Laurel Valley Rd.: Discuss and make recommendations to t**he** Board of Adjustment on proposed variances:

1. For the construction of a driveway 12 feet, 6 inches above natural grade where 6 feet is the maximum allowed by code (Section 22.03.175(e)(1)).
2. To use the 30-foot zoning front setback along Yaupon Valley Road instead of the 50-foot platted front setback (Section 22.03.271)
3. For grading of up to 5 feet, 6 inches on a grade of greater than 35% where no grading is allowed by code (Drainage and Erosion Control Design Manual Section 9.4.1).

Applicant: Matt Garcia, Matt Garcia Design

Recommendation

Discuss and provide a recommendation to the Board of Adjustment including the analysis of the following criteria:

1. The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and

2. The variance may have an adverse effect on neighborhood properties or interfere with the respective owners' enjoyment thereof.

The Zoning and Planning Commission, in performing their respective duties in reference to applications for variances, may be guided by the interpretative criteria listed in the variance criteria in the report.

The Zoning and Planning Commission can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance.

The applicant's findings of facts are attached in Exhibit A.

This item will be forwarded to the July 8, 2026 Board of Adjustment meeting for consideration.

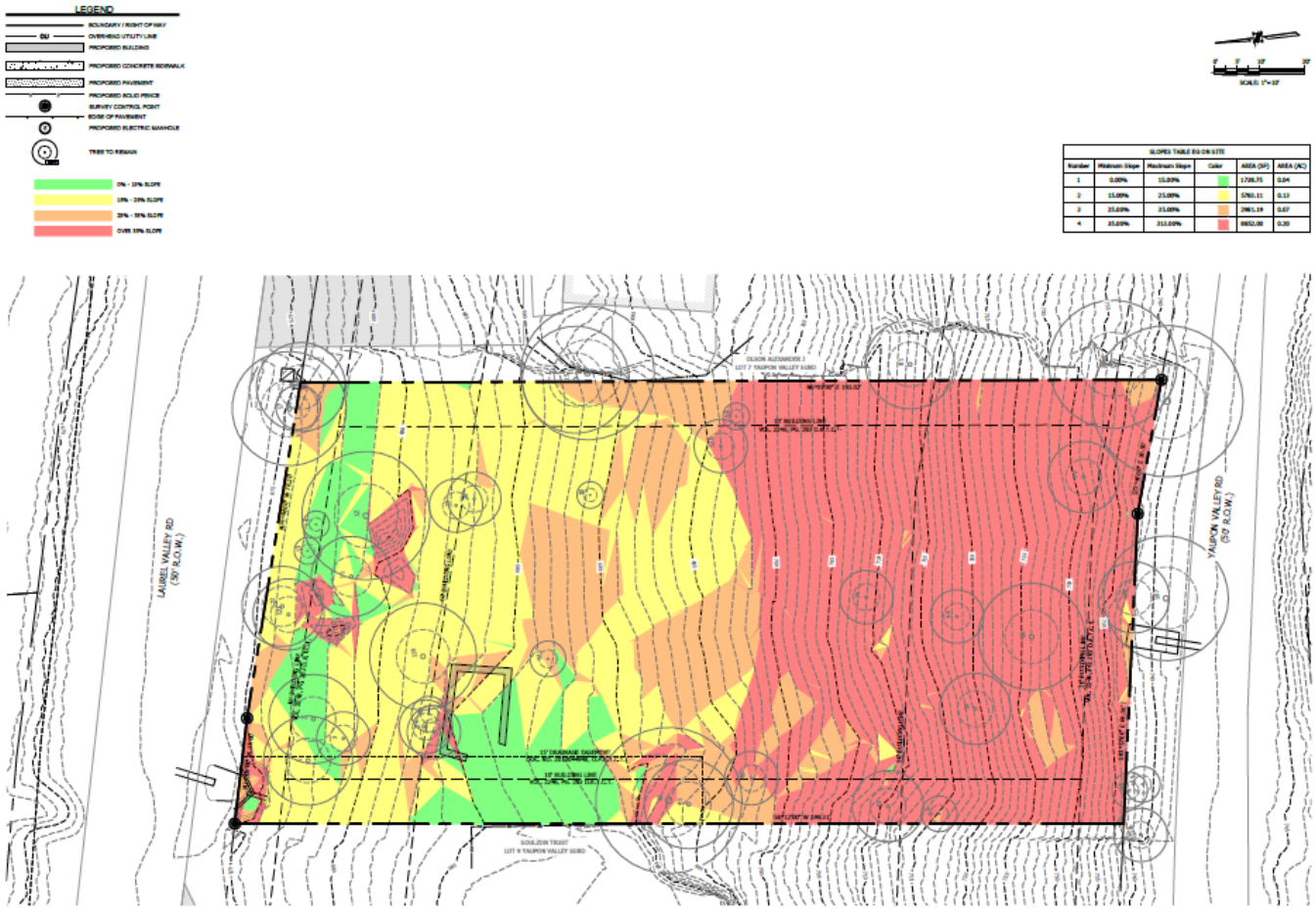
Discussion

Property Information, Zoning & Site Characteristics:
Owner: Graham Schmergel
Legal Description: Yaupon Valley Subdivision, Lot 8
Lot Size: 0.4371 acres
Zoning: R-1 One Family
Wastewater: On-site Sewage Facility (Septic)

The properties surrounding the subject property are zoned R-1, One Family Residential.

Background:
The applicant is proposing to build a new 4,320 sf house (Attachment 1). The site is 0.4371 acres in size, which was platted in 1962. The total impervious cover in the concept plan is 4,486 sf (23.1%). The property was issued a permit for new residential construction on March 12, 2022. The house was never started and due to more than six months of inactivity, the permit was marked as expired October 24, 2024.

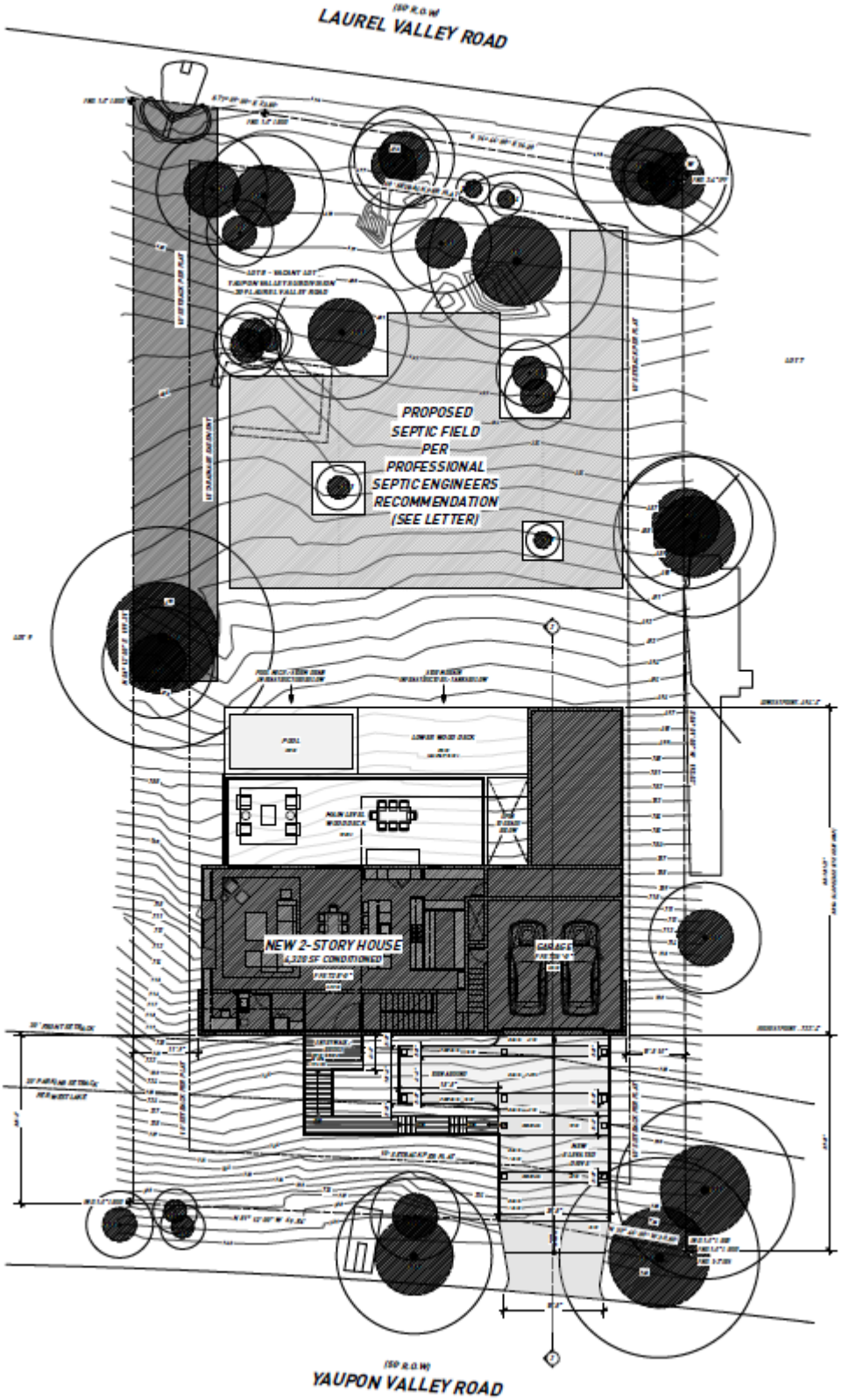
The previous approved project had the house located more central to the lot and took access from Yaupon Valley with a switch back driveway. The applicant is proposing to take access off Yaupon Valley and place the house on the top of the hill, due to the slope of the property. The existing houses adjacent to this lot take access from Laurel Valley and are situated at bottom of the hill.



(Attachment 3)

The applicant received variances in April 2026 to encroach 10 feet into the 20-foot side setbacks and allow replacement trees for unpermitted removal to be planted at the end of the construction of the home, if the permit was issued within 365 days of the variance approval. Additionally, two variances requesting a driveway height above 6 feet from natural grade (15 feet 10 inches) and grading up to 18 inches in areas greater than 35% were both denied by the Board of Adjustment at the same meeting (Attachment 6).

The applicant is requesting to use the 30-foot zoning setback along Yaupon Valley, rather than the 50-foot platted setback (Attachment 7). The applicant provided a survey including 10-foot building lines on all sides recorded in Travis County Clerk records, but no document was provided showing how those were established (Attachment 2). It is likely that they are deed restrictions, which are private civil arrangements to which the City is not a party. The Yaupon Valley Subdivision depicts the 50-foot platted setback (Attachment 7).



(Attachment 3 Proposed Site Plan)

Analysis:

1. Driveway Height

Code Requirements

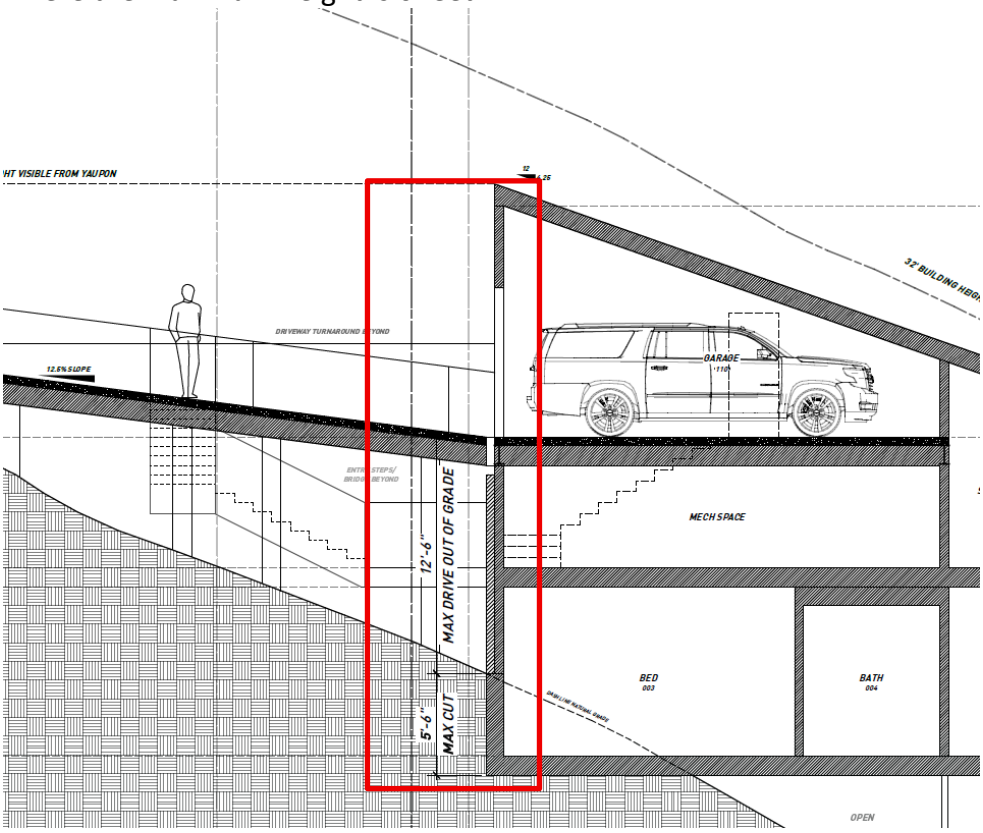
- 22.03.175. Off-street parking and parking pad requirements in residential areas.

(e) Every driveway entrance/exit shall be at roadway grade level where the driveway intersects the city's right-of-way except as otherwise approved by the city inspector.

(1) Each dwelling shall be on a lot abutting a public street or having access to an improved public street, and all structures shall be so located on lots as to provide safe, convenient access for servicing, police protection, fire protection and required off-street parking. Driveways shall not exceed a maximum of 20 percent grade at any point after construction. **No part of a driveway shall rise more than 6' above natural ground grade directly below.**

Request

The applicant is requesting a variance for a driveway 12 feet, 6 inches feet above natural grade where the maximum height is 6 feet.



2. Encroachment into Setbacks

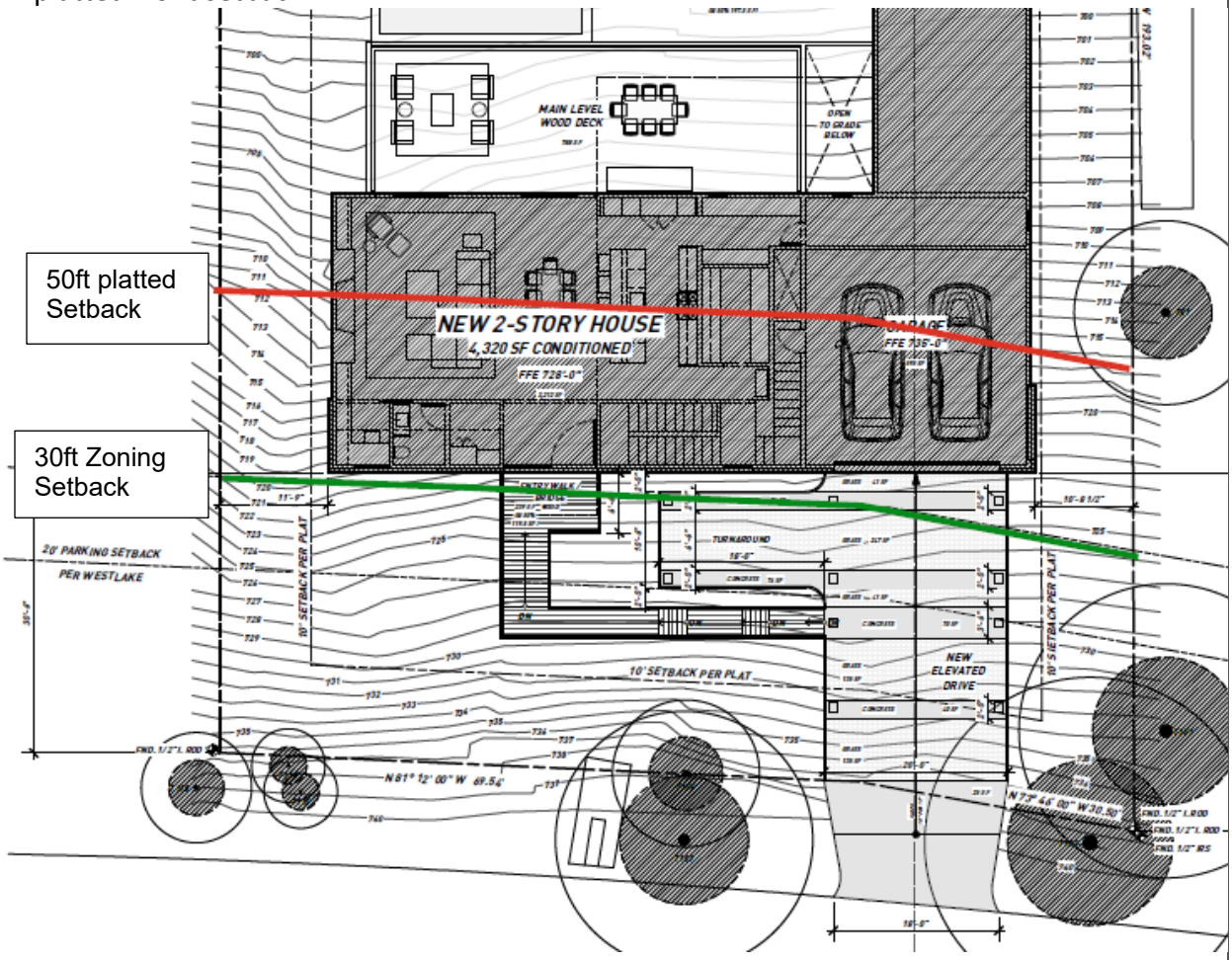
Code Requirements

- Section 22.03.271

The dimensional specifications in this division shall apply to all existing properties and to the: (1) construction, erection, expansion, and remodeling of all structures; and (2) the platting, replatting, subdivision, or resubdivision of all lots/tracts within the incorporated municipal boundaries of the city. Section 36.01.008(2)(D) and table 36-1 contain dimensional specifications exclusively for the platting, replatting, subdivision, or resubdivision of lots/tracts/properties within the city's ETJ (extraterritorial jurisdiction). When a dimensional specification depicted on the recorded plat for an existing property differs from a dimension in this division, the more stringent/restrictive provision shall apply.

Request

- To use the 30-foot zoning front setback along Yaupon Valley Road instead of the 50-foot platted front setback



3. Maximum Grading on Slopes over 35%

Code Requirements

- Drainage and Erosion Control Design Manual, Section 7.4.1 Cut/Fill Limits.

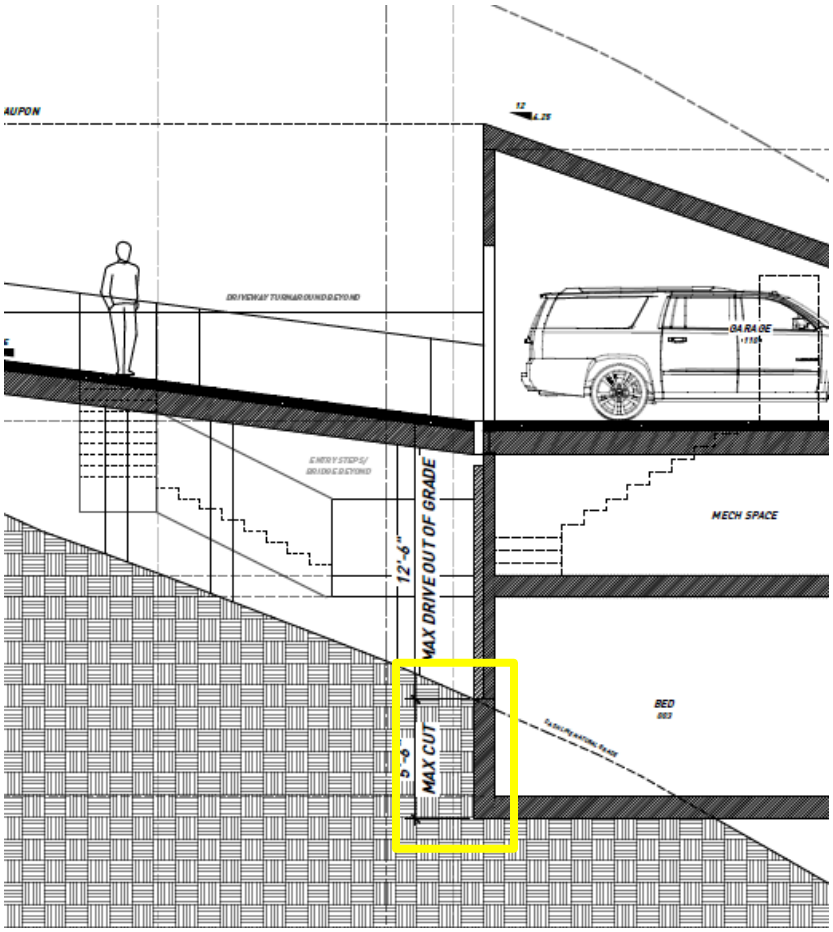
In order to reduce stormwater runoff, resulting in erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area disturbed during construction. The maximum cut and fill limits are shown in Table 7-1.

Table 7-1: Maximum Cut and Fill Limits

Slope	Open Cuts and Fills	Closed Cuts	Closed Fill
0 - 15%	3 feet	20 feet	6 feet
15 - 25%	1 foot	15 feet	6 feet
25% - 35%	0 feet	10 feet	6 feet
> 35%	0 feet	0 feet	0 feet

Request:

- Allow 5 feet 6 inches of cut and fill in areas with slope over 35% where none is allowed



Public Comment:
As of the date of the report, no comments have been received for this new request.

Variance Criteria Review:

Per Section 22.03.511 (c) Procedure and notice, Section 22.03.171: Site disturbance (residential buildings), and Section 22.03.276: Setbacks for accessory structures shall be administered in compliance with the rules established by sections 38.05.031 through 38.05.034.

- Section 38.05.031. Provisions subject to variance.

Variances may be granted by the board of adjustment to the provisions of this chapter in accordance with the rules and conditions of this division. A variance may not be granted, however,

to authorize a change of use. Variances run with the land, but each variance is specific to the project for which it was granted.

- Section 38.05.032. Conditions required for granting variance.

No variance shall be granted unless the following conditions are fulfilled:

- The applicant has established by competent evidence that:
    - The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
    - There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
    - There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
    - The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
- The recommendation of zoning and planning commission shall include an analysis of whether:
    - The variance may violate the intent of this chapter or the goals of the city's comprehensive plan.
    - (Reserved).
    - (Reserved).
    - The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof.

- Section 38.0.033. Interpretative criteria.

The board of adjustment and the zoning and planning commission, in performing their respective duties in reference to applications for variances, may be guided by these interpretative criteria:

- Variances from the terms of this chapter should be granted sparingly.
- Deviations from the requirements of this chapter are justified only where the hardship resulting from their application is substantial.
- Usually, the granting of a variance must be predicated on a finding that the applicant's hardship arises from unusual conditions or circumstances, such as exceptional irregularity of shape or topography, which are peculiar to the parcel of land involved and not shared generally by other parcels in the neighborhood or district, or because no other reasonable alternative is available that will alleviate the unnecessary hardship complained of.

- Normally, a variance is to be denied if conditions or circumstances relied on for a variance were self-created by the person having an interest in the property in disregard of city regulations.
- The variance shall not violate the goals of the master plan for the city.
- The variance shall not have an adverse effect on neighborhood properties or unreasonably interfere with the respective owners' enjoyment thereof.
- The fact that lots, structures, uses or dimensional conditions on properties or structures within 200 feet of the property involved are, because they are nonconforming or because of previously granted variances, similar to the condition which would be created by the variance requested shall be relevant to, but not determinative of, the granting of the requested variance.
- See section 22.03.009(c) for variances to enable the efficient use of solar energy devices.
- When considering variance requests for nonresidential projects, whether granting the variance furthers achievement of the land planning principles set forth in the City's Master Plan, Attachment "B," as codified in the Code of Ordinances.
- Section 38.05.035. Conditions.

The city council can impose, and the zoning and planning commission can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential projects, whether, the City can recommend the imposition of reasonable conditions that are necessary to achieve one or more of the land planning principles set forth in the City's Master Plan, Attachment "B", as codified in chapter 28 of the Code of Ordinances.

Outdoor Lighting

Outdoor lighting is not proposed with this variance request. Any outdoor lighting will need to comply with the City's Code.

Compliance with Adopted International Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

There is no change to the subdivision proposed with this application.

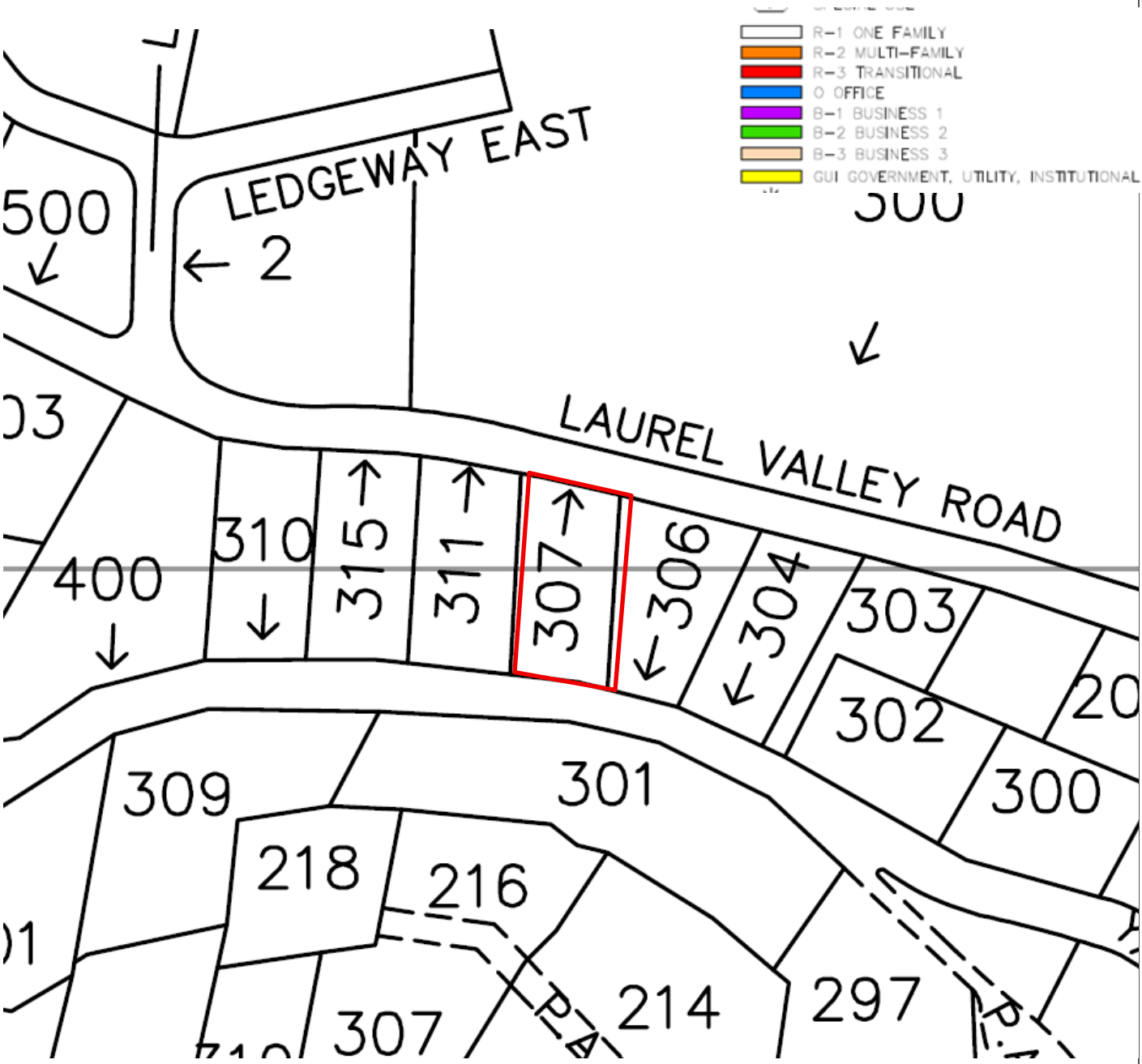
Comprehensive Planning Analysis

The existing and future land use is in conformance with the City of West Lake Hills Master Plan.

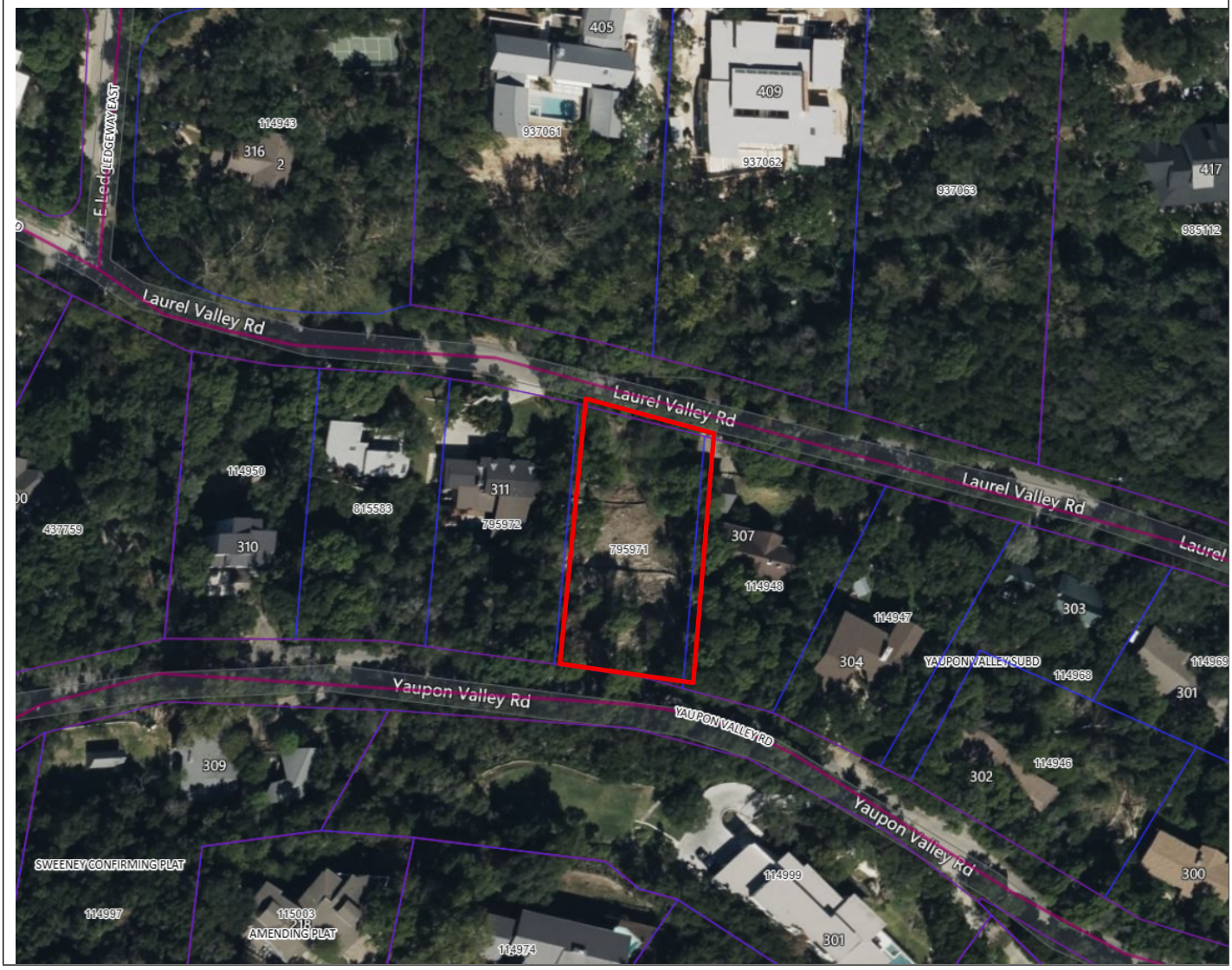
Links to Relevant Code:

- **Section 22.03.170 Site Disturbance (Excavation, grading or filling)**
- **Drainage and Erosion Control Manual**
- **Section 22.03.175 Driveway Height**
- **Section 22.07.271 Dimensional Regulations Applicability**
- **Section 22.03.514 Criteria and process required for granting variance**
- **Section 38.05.031 Variances**

Zoning:


R-1 ONE FAMILY
R-2 MULTI-FAMILY
R-3 TRANSITIONAL
O OFFICE
B-1 BUSINESS 1
B-2 BUSINESS 2
B-3 BUSINESS 3
GUI GOVERNMENT, UTILITY, INSTITUTIONAL
LEDGEWAY EAST
LAUREL VALLEY ROAD
500
400
310
315
311
307
306
304
303
302
300
309
301
218
216
214
297
307

Aerial:


405
409
937061
937062
937063
417
985112
114943
316
2
EDGEWAY EAST
Laurel Valley Rd
Laurel Valley Rd
Laurel Valley Rd
Laurel
114950
311
815583
795972
795971
307
310
437759
114948
303
114947
304
YAUPON VALLEY SUBD
114968
114969
301
Yaupon Valley Rd
YAUPON VALLEY RD
309
302
114946
Yaupon Valley Rd
SWEENEY CONFIRMING PLAT
114999
300
114997
115003
AMENDING PLAT
301
114974

May 8, 2026

Schmergel Residence
309 Laurel Valley (R1, .4371 acres)

ZAPCO members,

Based on feedback from multiple meetings with ZAPCO, BOA and City of Westlake Hills staff we have come up with a new design and driveway structure, materially different than the last submittal, thus satisfying the terms and conditions of chapter 38 of the City of West Lake Hills development code. This new design consists of a repositioning of the home structure to a different area of the lot, raising the finish floor elevation by 6'-9", shortening the driveway length by 20'-0" and reducing the driveway amount out of natural grade by 3'-3", thus making the driveway +/- 3' lower than the previous design. Based on an investigation of a neighboring property at 304 Yaupon and new facts which include the discovery of 304 Yaupon's street setback of 30', we have come up with a new design which is in line with our neighbor's footprint and front setback. This new design will also further limit the disruption of the land and will align with the city's vision and goals.

A note on the proposed site plan. Yaupon Valley is being used as the main entrance due to the extreme complexities of this lot. As established back in 2022, due to the extreme slope, **see heat map exhibit**, there is only one area for a septic field. After consultation and recommendations from multiple licensed septic engineers and installers, a new system should only be installed downhill from the home, on the flatter part of the property. This is the only location for a low maintenance and properly functioning field and overall system. Terrible seep issues could occur placing the building off Laurel Valley and placing the septic field above. Our building was designed based on these recommendations. This requires the entrance to the property coming from Yaupon Valley. **Please see attached letter from Stephon Jetton, licensed septic engineer.**

The property's survey shows that the original Travis County deeded setbacks are 10'-0" on all four sides of the property (**see attached survey**). With that being said, we are proposing using a 30'-0" front setback to comply with the City of Westlake Hills guidelines on lots less than one acre. The house at 304 Yaupon Valley is also using a 30' front setback. **See exhibit 1 and 3**. 304 Yaupon is two lots down to the east and is very similar in topography and size.

In 2022 the BOA unanimously approved **three** variances for this property, and the three variances were all centered around a different driveway design. Hardship has already been established and recorded on this lot, due to the natural steep topography, **see heat map exhibit**. The approved requests in 2022 allowed cut and fill and retaining wall in the front setback, construction on slopes greater than the maximum allowed and a front driveway setback encroachment (WLH Code Section 22.03.175, 22.03.170 and DCM Section 7.4.1). A fourth request was missed by the BOA, to construct a driveway with a slope greater than the code maximum 20%. Four variances required for one driveway due to topography hardship. **We are attaching the approved variance letter and engineering exhibit from 2022 for reference.**

Ultimately, that approved driveway became the reason the associated home was not built. The property owners were told by multiple builders bidding the project, that the driveway was unbuildable and dangerous. It would be a daily struggle given its steep grade and excessive sharp turn radius. All recommended against it. ***The approved driveway was designed at a slope of 45%.***

Our new design is at 12.5% slope. Our proposed drive also requires only one variance and significantly minimizes disruption to the native land. We have reviewed this unimproved property and grade extensively,

and our design is not only the least intrusive option to the land, but it is also the only safe way to access this property.

REQUEST #1 – ALLOW A DRIVEWAY HEIGHT OF 12'-6" ABOVE NATURAL GRADE WHERE 6 FEET ABOVE NATURAL GRADE IS THE MAXIMUM § **22.03.175 (E-1)**

We are proposing a raised drive from street to building. Due to the natural topography, we are 12'-6" out of grade at the highest point only. This driveway design limits impervious coverage, site disturbance and meets City of Westlake code goals and vision for development on lots of this natural grade. We also took in ZAPCO and BOA's feedback from our prior submittal, and this driveway is +/- 3' lower than the previous design.

REQUEST #2 – ALLOW FOR GRADING UP TO 66" IN AREAS OF SLOPES GREATER THAN 35% WHERE NONE IS ALLOWED § **Drainage/Erosion Control Manual 7.4.1, table 7-1**

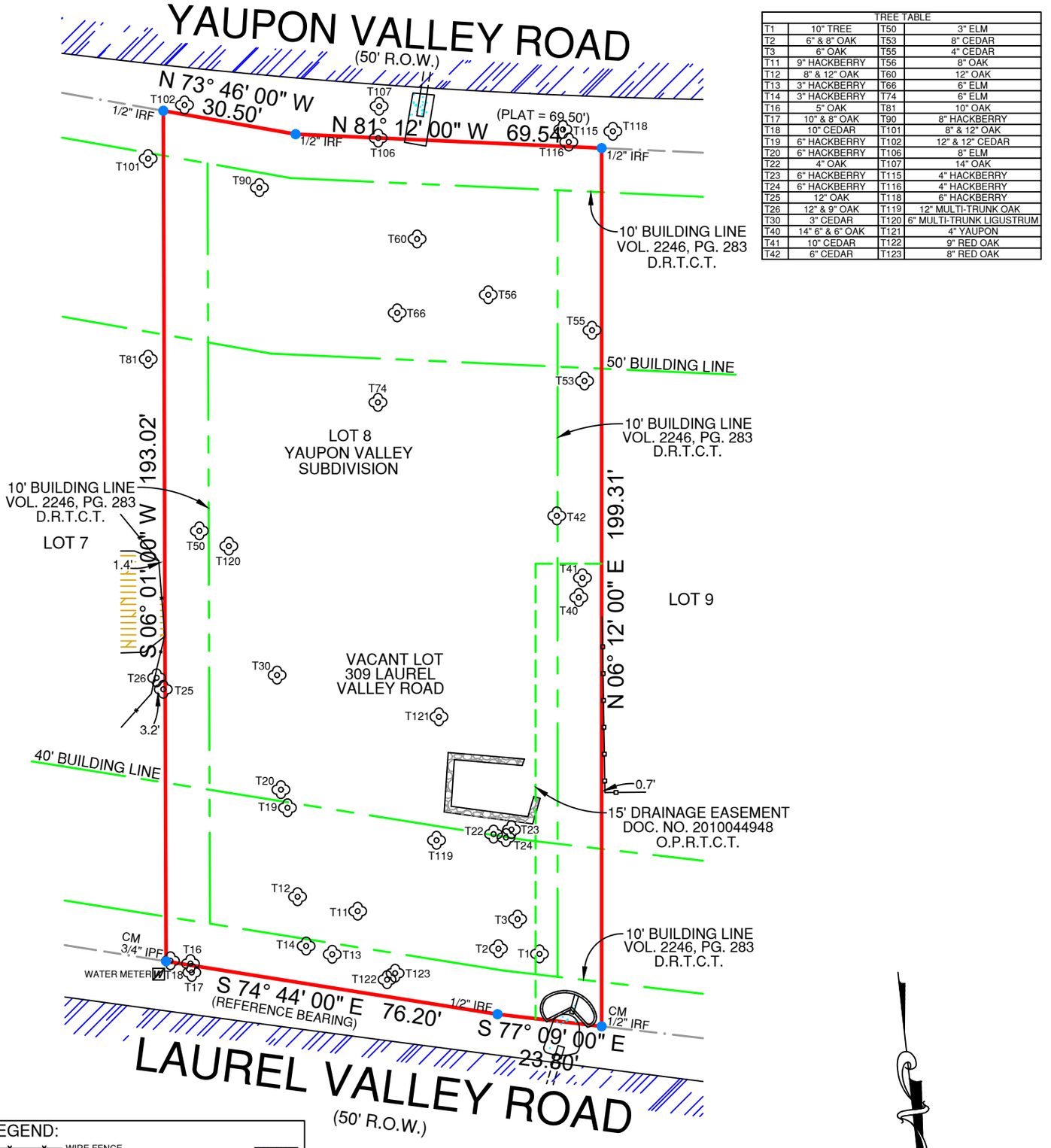
This cut request comes from reverse engineering our building structure from the maximum allowed building height of 32' and working down. As you can see in **exhibit 2**, our roof and floor structures are at the minimal requirement in size for structural and mechanical needs. Our ceiling heights are 9'-0" on both floors. The cut is simply a result of where the building lands on natural topography using these minimal dimensions.

REQUEST #3 – ALLOW FOR A 30' FRONT SETBACK

We are proposing using a 30'-0" front setback to comply with the City of Westlake Hills guidelines on lots less than one acre. The house at 304 Yaupon Valley is also using a 30' front setback. **See exhibit 1 and 3**. 304 Yaupon is two lots down to the east and is very similar in topography and size. A 30' setback allows for a decreased driveway slope, thus a safer and less intrusive driveway, +/- 3' lower than the previous design.

Thank you for the consideration.

Matt Garcia
Principal, Matt Garcia Design



TREE TABLE			
T1	10" TREE	T50	3" ELM
T2	6" & 8" OAK	T53	8" CEDAR
T3	6" OAK	T55	4" CEDAR
T11	9" HACKBERRY	T56	8" OAK
T12	8" & 12" OAK	T60	12" OAK
T13	3" HACKBERRY	T66	6" ELM
T14	3" HACKBERRY	T74	6" ELM
T16	5" OAK	T81	10" OAK
T17	10" & 8" OAK	T90	8" HACKBERRY
T18	10" CEDAR	T101	8" & 12" OAK
T19	6" HACKBERRY	T102	12" & 12" CEDAR
T20	6" HACKBERRY	T106	8" ELM
T22	4" OAK	T107	14" OAK
T23	6" HACKBERRY	T115	4" HACKBERRY
T24	6" HACKBERRY	T116	4" HACKBERRY
T25	12" OAK	T118	6" HACKBERRY
T26	12" & 9" OAK	T119	12" MULTI-TRUNK OAK
T30	3" CEDAR	T120	6" MULTI-TRUNK LIGUSTRUM
T40	14" 6" & 6" OAK	T121	4" YAUPON
T41	10" CEDAR	T122	9" RED OAK
T42	6" CEDAR	T123	8" RED OAK

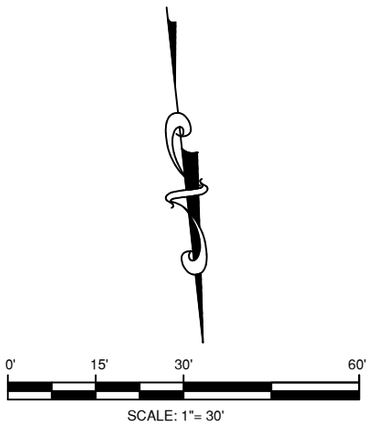
LEGEND:

- WIRE FENCE
- CHAINLINK FENCE
- METAL FENCE
- WOOD FENCE
- VINYL FENCE
- ELECTRIC LINE

GM = GAS METER
EM = ELECTRIC METER
IPF = IRON PIPE FOUND
IRS = IRON ROD SET WITH "PREMIER" CAP
IRF = IRON ROD FOUND
CM = CONTROLLING MONUMENT

- ASPHALT =
- CONCRETE =
- GRAVEL =
- TILE =
- WOOD =
- BRICK =
- STONE =
- (WOOD) RAILROAD TIE =

NOTES:
BEARINGS ARE BASED ON THE RECORDED PLAT.
BUILDING LINES ARE BASED ON THE RECORDED PLAT UNLESS OTHERWISE NOTED.



SCALE: 1"= 30'

LEGAL DESCRIPTION:
BEING LOT 8, YAUPON VALLEY SUBDIVISION, AN ADDITION TO TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 44, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

SURVEYOR'S CERTIFICATION:
THIS IS TO CERTIFY THAT ON THIS DATE A SURVEY WAS MADE ON THE GROUND, UNDER MY SUPERVISION AND REFLECTS A TRUE AND CORRECT REPRESENTATION OF THE DIMENSIONS AND CALLS OF PROPERTY LINES AND LOCATION AND TYPE OF IMPROVEMENTS. THERE ARE NO VISIBLE AND APPARENT EASEMENTS, CONFLICTS, INTRUSIONS OR PROTRUSIONS, EXCEPT AS SHOWN. THIS SURVEY IS NOT TO BE USED FOR CONSTRUCTION PURPOSES AND WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT PROVIDED BY A TITLE COMPANY. THERE MAY BE EASEMENTS AND OTHER MATTERS OF RECORD AFFECTING THE PROPERTY SHOWN HEREON THAT ONLY A PROPER TITLE SEARCH WOULD REVEAL. THIS SURVEY IS SUBJECT TO ANY AND ALL COVENANTS AND RESTRICTIONS PERTAINING TO THE RECORDED PLAT REFERENCED HEREON.

TECH	MSP
FIELD	TM

FLOOD INFORMATION:
THE SUBJECT PROPERTY DOES NOT APPEAR TO LIE WITHIN THE LIMITS OF A 100-YEAR FLOOD HAZARD ZONE ACCORDING TO THE MAP PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND HAS A ZONE "X" RATING AS SHOWN BY MAP NO. 48453C0445 K, DATED JANUARY 22, 2020.

DATE: 08/31/22 JOB NO.: 19-02287TS
FIELD: 08/25/22 REV.: 09/01/22

STATE OF TEXAS
REGISTERED
ROBERT T. PAUL, JR.
4984
PROFESSIONAL
LAND SURVEYOR

Robert T. Paul, Jr.
Registered Professional Land Surveyor

309 LAUREL VALLEY ROAD, WEST LAKE HILLS, TX 78746
LOT 8, YAUPON VALLEY SUBDIVISION

Premier Surveying LLC
5700 W. Plano Parkway
Suite 1200
Plano, Texas 75093
972-612-3601 (O) | 855-892-0468 (F)
www.premiersurveying.com
premierorders@premiersurveying.com

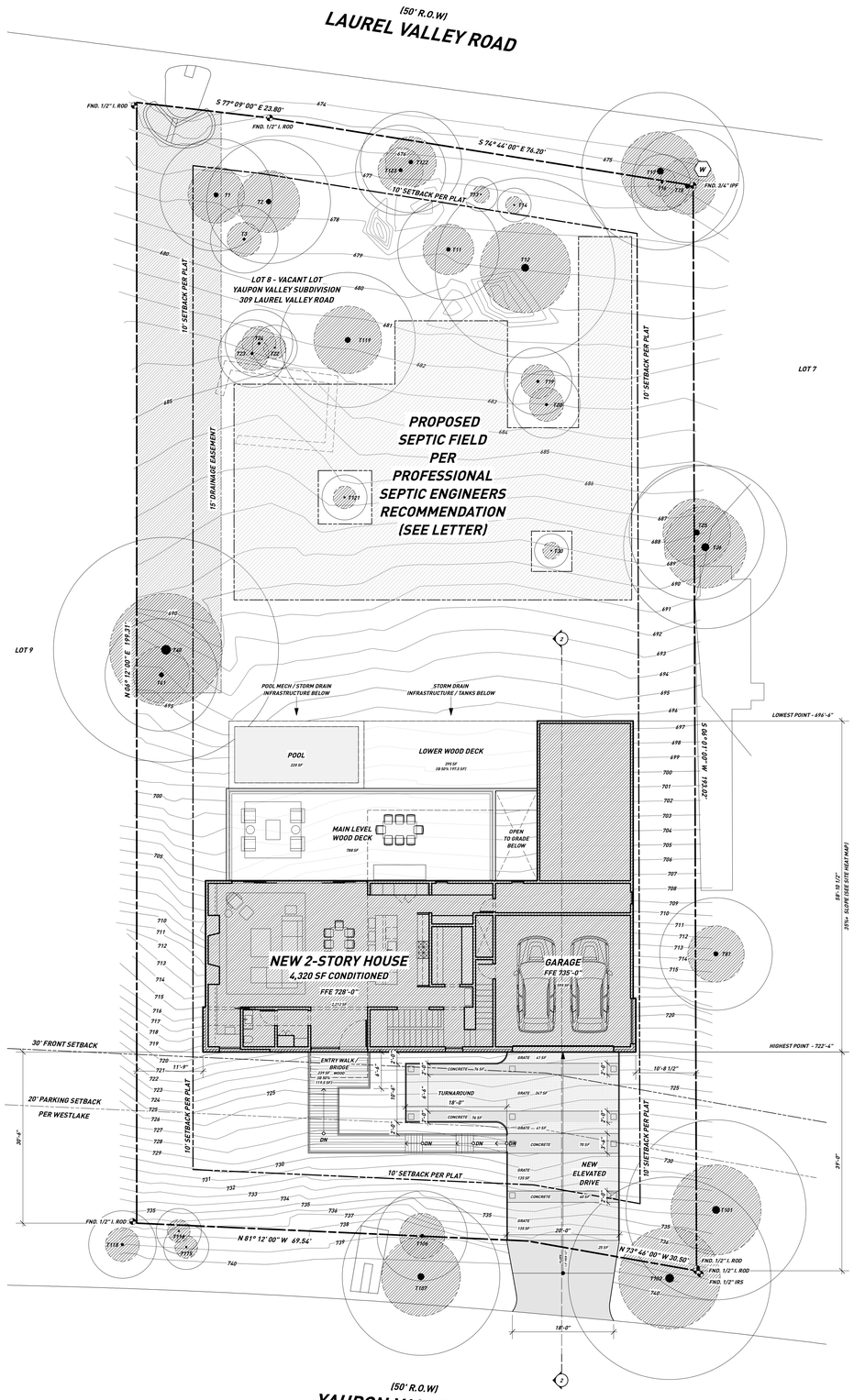
DATE: _____

ACCEPTED BY:

_____

_____

Premier Surveying LLC
5700 W. Plano Parkway
Suite 1200
Plano, Texas 75093
Office: 972-612-3601
Fax: 855-892-0468
Firm Registration No. 10146200



1 SITE PLAN
1" = 10 ft

PROJECT DATA

309 LAUREL VALLEY RD
WEST LAKE HILLS, TX 78746

JURISDICTION: WESTLAKE
ZONING: R-1
COUNCIL DISTRICT: ?
COUNTY: TRAVIS
MAP GRID: ?

LEGAL DESCRIPTION

???

AREA CALCULATIONS

LOT (PER SURVEY)	**19,397 SF (.44 ACRES)**
IMPERVIOUS ALLOWED	**25% (4,839 SF)**

BUILDING COVERAGE

BUILDING FOOTPRINT (MAIN LEVEL)	2,212 SF
GARAGE	595 SF
MAIN LEVEL DECK	788 SF
POOL COPING	67 SF
LOWER WOOD DECK (@ 50%)	197.5 SF
TOTAL BUILDING COVERAGE	**3,859.5 SF**
BUILDING COVERAGE %	(19.9%)

IMPERVIOUS COVERAGE

BUILDING COVERAGE	3,859.5 SF
ENTRY STEPS / BRIDGE (WOOD @ 50%)	115.5 SF
DRIVEWAY (CONCRETE ONLY)	287 SF
POOL	220 SF
TOTAL IMPERVIOUS COVERAGE	**4,484 SF (23.1%)**
IMPERVIOUS COVERAGE ALLOWED	**4,839 SF (25%)**

SITE GENERAL NOTES

1. NO UNDERGROUND UTILITY TRENCHES PERMITTED IN THE 1/2 CRITICAL ROOT ZONE OR WITHIN 12' OF THE TRUNK, WHICHEVER DISTANCE IS GREATER.

2. TREE PROTECTION FENCING TO BE INSTALLED AT THE 1/2 CRZ OF TREES WITHIN THE AREAS OF CONSTRUCTION, STORAGE OR TRANSPORT IMPACT.

3. CONTRACTOR TO SET UP ON-SITE PRE-CONSTRUCTION MEETING WITH ARBORIST AND MATT GARCIA DESIGN TO REVIEW TREE PROTECTION.

4. NO PIERS WITHIN 5' OF TREE TRUNKS.

5. NO ACCESS, PARKING OR MATERIAL STORAGE WITHIN LIMITS OF TREE PROTECTION FENCE.

6. ALL ROOT CUTS TO BE CLEAN (NO FRAYED EDGES).

7. FERTILIZE TREE ROOTS AND PROVIDE IRRIGATION DURING CONSTRUCTION ON A REGULAR BASIS.

8. APPLY MULCH AT CRITICAL ROOT ZONES OF ALL TREES.

9. MINIMIZE DISTURBANCE OF EXISTING GRADE AND LANDSCAPE WHEREVER POSSIBLE, WHILE PROVIDING POSITIVE DRAINAGE AWAY FROM THE HOUSE.

10. AFTER CONSTRUCTION, AIRSPADE ALL TREES WHERE CONSTRUCTION ACTIVITIES HAVE COMPACTED SOIL WITHIN THE CRITICAL ROOT ZONE.

11. COORDINATE AREAS FOR MATERIAL STORAGE AND DELIVERY WITH MGD AND PREPARE SUCH AREAS SO THAT THEY CAN BE EFFECTIVELY USED FOR DELIVERIES.

12. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING AND REGULARY INSPECTING THE SILT FENCE DURING CONSTRUCTION/DEMOLITION INCLUDING THE REMOVAL AND PROPER DISPOSAL OF ANY ACCUMULATED SILT AND DEBRIS.

13. CONTRACTOR WILL NOT BEGIN WORK UNTIL THE SILT FENCE AND TREE PROTECTION HAVE BEEN INSTALLED.

14. NOTIFY "ONE-CALL" OR APPROPRIATE AUTHORITY TO LOCATE EXISTING UTILITY LINES AND PROTECT ALL UTILITIES FROM EXCAVATION OR SIMILAR HAZARDS.

15. PROTECT STRUCTURES, SIDEWALKS, PAVEMENTS AND OTHER FACILITIES FROM DAMAGE CAUSED BY SETTLEMENT, LATERAL MOVEMENT, UNDERMINING, WASHOUT AND OTHER HAZARDS CREATED BY EARTHWORK OPERATIONS.

16. LIMITS OF CONSTRUCTION - THIS SITE IS NOT SUBJECT TO LIMITS OF CONSTRUCTION. ALL AREAS OF THE SITE CAN BE UTILIZED FOR CONSTRUCTION ACTIVITY EXCEPT AREAS REQUIRED FOR TREE PROTECTION.

ABBREVIATIONS

TPF - TREE PROTECTION FENCE
PSRW - PLATE STEEL RETAINING WALL
TOW - TOP OF WALL

TREE PLAN NOTES

MAIN SITE ACCESS ROUTE

HALF CRZ OF PROTECTED TREES

TEMPORARY TREE PROTECTION FENCING (CHAIN LINK, 5' TALL)

8" MULCH LAYER

1. PRIOR TO TO DEVELOPMENT, CONTRACTOR TO PROVIDE A ROOT ZONE MULCH LAYER AND MAINTAIN TREE PROTECTION FENCING (CHAIN LINK, FIVE FOOT TALL) FOR ALL PROTECTED TREES ON THE SITE FOR THE DURATION OF THE PROJECT. SEE DIAGRAM IMAGE BELOW.

2. A 8" LAYER OF MULCH WITHIN THE ENTIRE AVAILABLE ROOT ZONE AREA IS REQUIRED FOR TREES WHICH HAVE ANY DISTURBANCE INDICATED WITHIN ANY PORTION OF THE CRITICAL ROOT ZONE. SEE DIAGRAM BELOW.

3. THERE SHALL BE NO UTILITY ROUTES OR METERS WITHIN THE 1/2 CRZ OF PROTECTED TREES ON THE SITE.

4. THERE SHALL BE NO ACCESS ROUTES, MATERIAL STAGING, CONCRETE WASHOUTS, DUMPSTERS, SCAFFOLDING, OR PORTABLE TOILETS WITHIN THE CRZ OF PROTECTED TREES ON THE SITE.

5. 2x4 PLANKS, 6' TALL MIN, TO BE STRAPPED SECURELY AROUND ALL PROTECTED TREE TRUNKS AND ROOT FLARES WHEN PROTECTIVE FENCING DOES NOT INCORPORATE THE ENTIRE 1/2 CRZ FOR ANY REASON AT ANY TIME IN THE PROJECT. SEE DIAGRAM BELOW.

6. THERE SHALL BE NO PRUNING OF PROTECTED TREES WITHOUT THE ASSESMENT BY A PRIVATE CERTIFIED ARBORIST. PAID RECEIPTS FOR ANY NEEDED WORK ON PROTECTED SIZE TREES WILL BE REQUIRED BY THE FINAL TREE INSPECTOR.

7. AT LEAST 50% OF THE TOTAL AREA OF THE OF THE CRITICAL ROOT ZONE OF PROTECTED TREES MUST BE PRESERVED AT NATURAL GRADE WITH NATURAL GROUND COVER PER ECM SECTION 3.5.2.

EXIST TREE LIST

T1	10" TREE	T81	10" OAK
T2	4" & 8" OAK	T101	8" & 12" OAK
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T11	9" HACKBERRY	T106	8" ELM
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T17	10" & 8" OAK	T119	12" MULTI-TRUNK OAK
T18	10" CEDAR	T121	4" YAUPON
T19	6" HACKBERRY	T122	9" RED OAK
T20	6" HACKBERRY	T123	8" RED OAK
T22	4" OAK		
T23	6" HACKBERRY		
T24	6" HACKBERRY		
T25	12" OAK		
T26	12" & 9" OAK		
T30	3" CEDAR		
T40	14" & 6" & 4" OAK		
T41	10" CEDAR		

N

MATT GARCIA
DESIGN

3609 BONNIE ROAD
AUSTIN, TEXAS, 78703

TELEPHONE 512.522.5401

www.mattgarciadesign.com

PROJECT

SCHMERGEL RESIDENCE

309 LAUREL VALLEY RD
WEST LAKE HILLS, TEXAS 78746

CLIENTS
GRAHAM & PAIGE SCHMERGEL

DESIGN
MATT GARCIA DESIGN
CONTACT: MATT GARCIA
EMAIL: mattgarciadesign@gmail.com
PHONE: 210.861.0978

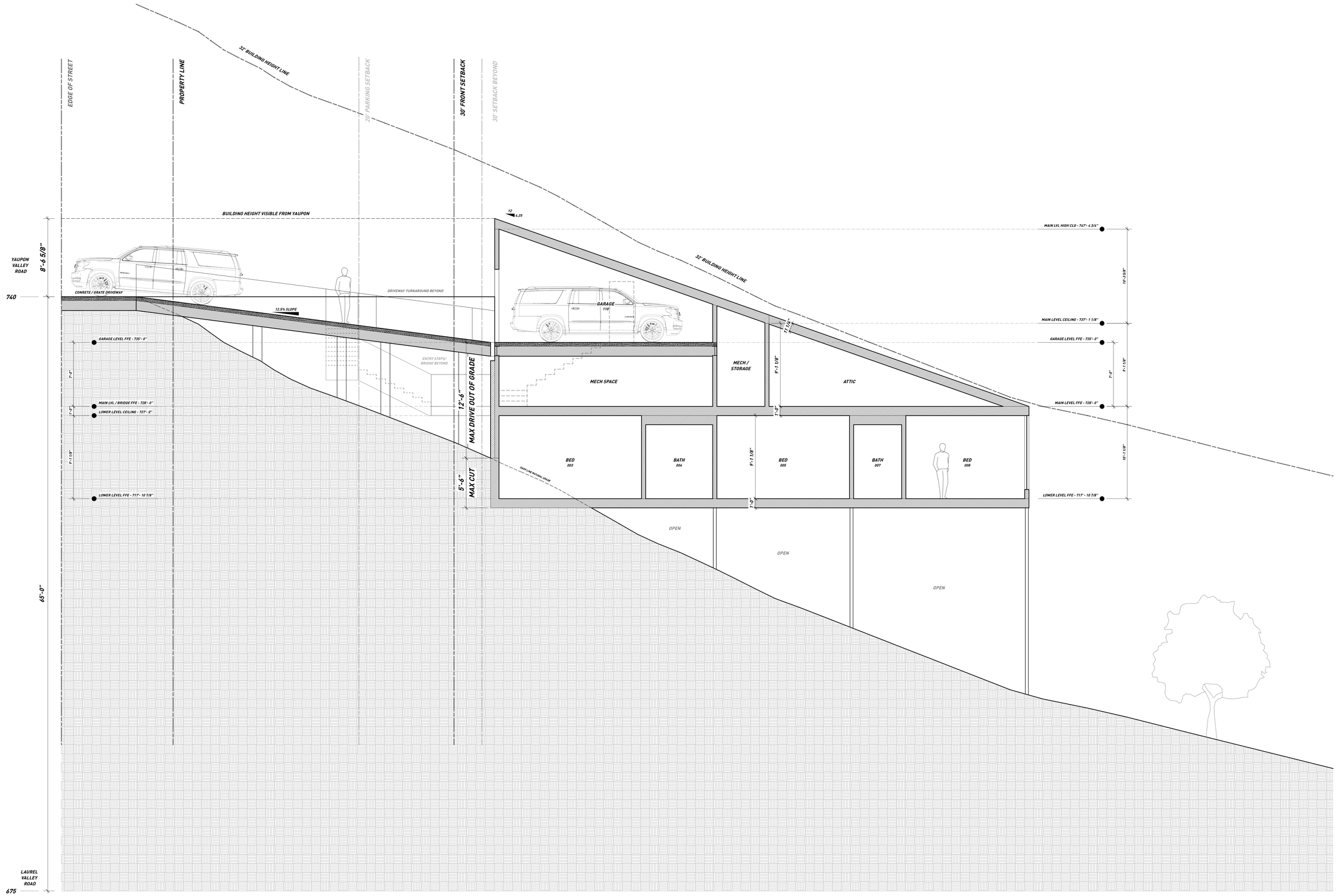
ISSUE
VARIANCE SUBMITTAL - 2025 DEC 15
VARIANCE SUBMITTAL - 2026 JAN 30
VARIANCE SUBMITTAL - 2026 MAR 04
VARIANCE SUBMITTAL - 2026 MAR 11
VARIANCE SUBMITTAL - 2026 MAY 11

TITLE ***SITE PLAN***

DATE ***MAY 11 2026***

SHEET

1



1 EAST SECTION

1/4" = 1'-0"

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TITLE SECTION

DATE MAY 11 2026

SHEET 2

1 SITE PLAN W/ NEIGHBORING PROPERTIES

1/16" = 1'-0"

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VARIANCE SUBMITTAL - 2026 MAY 11

TITLE ***SITE PLAN W/ NEIGHBOR PROP.***

DATE ***MAY 11 2026***

SHEET

3

1 LOWER FLOOR PLAN

1/4" = 1'-0"

MAIN LEVEL (CONDITIONED)	**1,685 SF**
LOWER LEVEL (CONDITIONED)	**2,635 SF**
GARAGE	**595 SF**
TOTAL CONDITIONED	**4,320 SF**

5 BEDROOM/5.5 BATH

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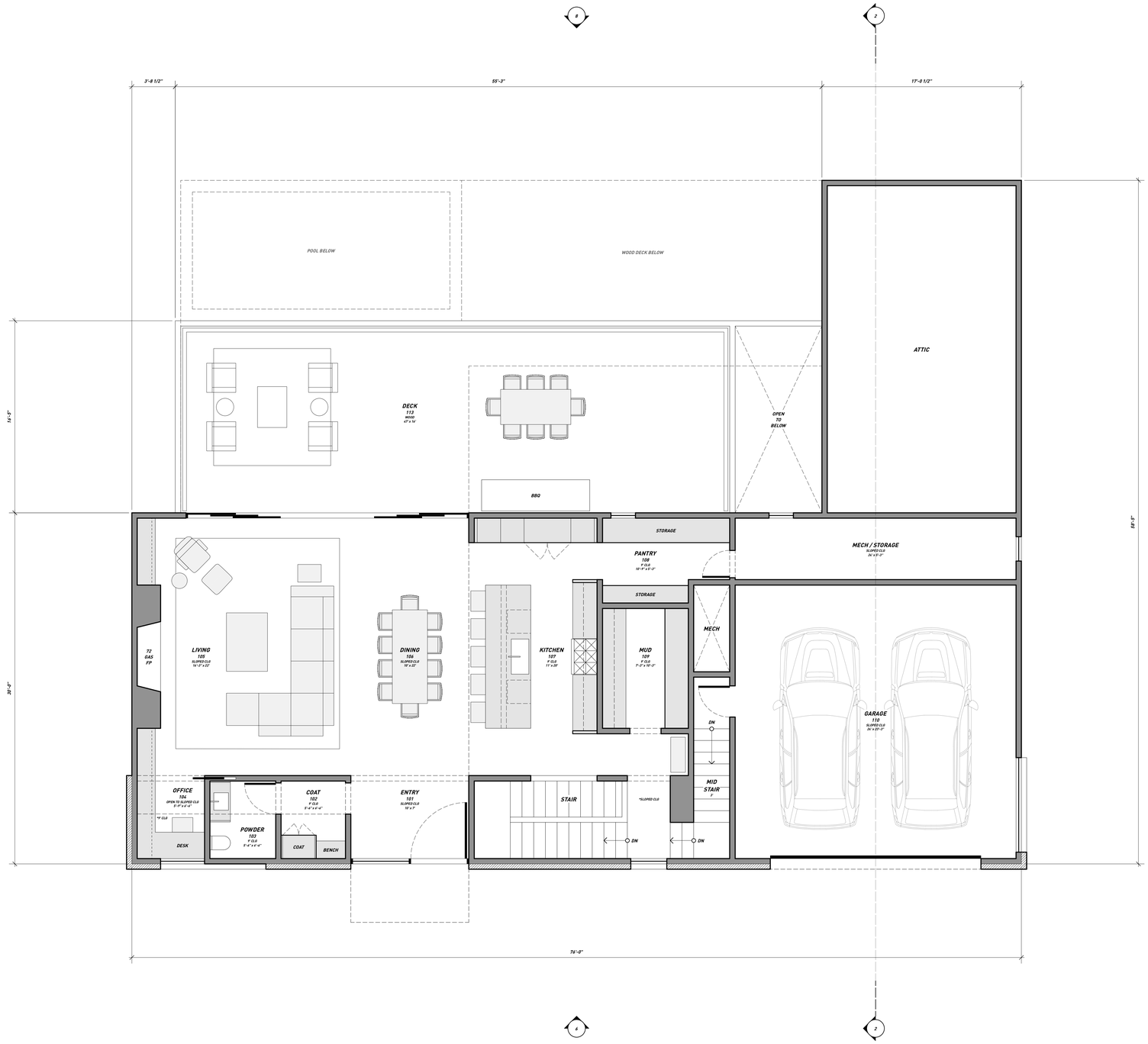
VARIANCE SUBMITTAL - 2026 MAY 11

TITLE LOWER LEVEL PLAN

DATE MAY 11 2026

SHEET 4



1 MAIN FLOOR PLAN

1/4" = 1'-0"

MAIN LEVEL (CONDITIONED)	1,685 SF
LOWER LEVEL (CONDITIONED)	2,635 SF
GARAGE	595 SF
TOTAL CONDITIONED	4,320 SF

5 BEDROOM/5.5 BATH

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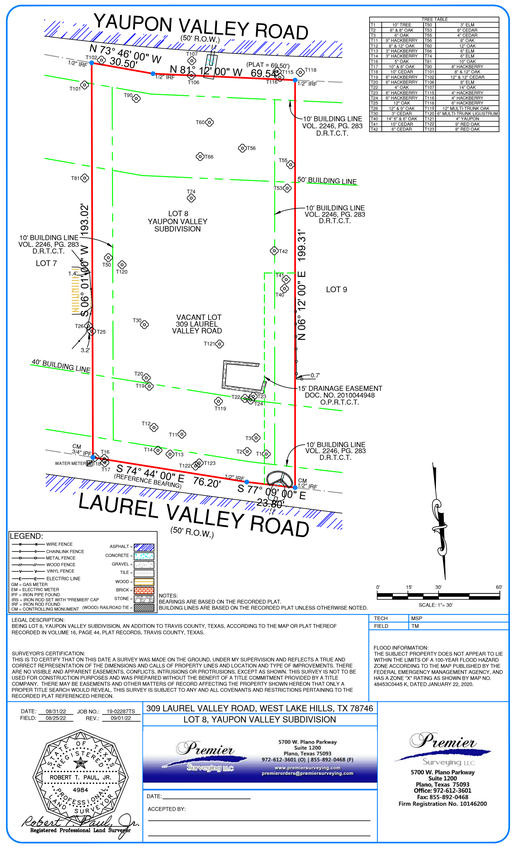
TITLE MAIN LEVEL PLAN

DATE MAY 11 2026

SHEET

5



TREE TABLE		
T1	10" PINE	T63	9" ELM
T2	8" ELM	T64	8" HACKBERRY
T3	7" ELM	T65	8" CEDAR
T11	8" HACKBERRY	T66	8" ASH
T12	8" & 7" ASH	T67	12" OAK
T13	8" HACKBERRY	T68	8" ELM
T14	8" HACKBERRY	T69	8" ELM
T15	11" OAK	T70	12" OAK
T17	10" & 9" OAK	T95	8" HACKBERRY
T18	8" HACKBERRY	T96	8" HACKBERRY
T19	8" HACKBERRY	T105	10" & 9" CEDAR
T20	8" HACKBERRY	T106	8" ELM
T21	8" ELM	T107	14" OAK
T22	8" HACKBERRY	T110	8" HACKBERRY
T23	8" HACKBERRY	T111	8" HACKBERRY
T24	11" OAK	T112	8" HACKBERRY
T25	10" & 9" OAK	T113	12" & 10" CEDAR
T26	10" & 9" OAK	T115	12" MULTI TRUNK OAK
T27	10" & 9" OAK	T116	10" MULTI TRUNK OAK
T28	10" & 9" OAK	T117	10" OAK
T41	10" CEDAR	T120	8" REDOAK
T42	8" CEDAR	T121	8" REDOAK

LEGEND:

WIRE FENCE
CHAINLINK FENCE
METAL FENCE
WOOD FENCE
VINYL FENCE
ELECTRIC LINE
GM = GAS METER
WM = WATER METER
IPF = IRON PIPE FOUND
IRS = IRON ROD SET WITH "PREMIER" CAP
PP = POWER POLE
CM = CONTROLLING MONUMENT (WOOD/ RAILROAD TIE)

ASPHALT
CONCRETE
GRAVEL
TILE
WOOD
BRICK
STONE

NOTES:
BEARINGS ARE BASED ON THE RECORDED PLAT.
BUILDING LINES ARE BASED ON THE RECORDED PLAT UNLESS OTHERWISE NOTED.

LEGAL DESCRIPTION:
BEING LOT 8, YAUPON VALLEY SUBDIVISION, AN ADDITION TO TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 16, PAGE 44, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

SURVEYORS CERTIFICATION:
THIS IS TO CERTIFY THAT ON THIS DATE A SURVEY WAS MADE ON THE GROUND, UNDER MY SUPERVISION AND REFLECTS A TRUE AND CORRECT REPRESENTATION OF THE DIMENSIONS AND CALLS OF PROPERTY LINES AND LOCATION AND TYPE OF IMPROVEMENTS. THERE ARE NO VISIBLE AND APPARENT EASEMENTS, CONFLICTS, INTRUSIONS OR PROTRUSIONS, EXCEPT AS SHOWN. THIS SURVEY IS NOT TO BE USED FOR CONSTRUCTION PURPOSES AND WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT PROVIDED BY A TITLE COMPANY. THERE MAY BE EASEMENTS AND OTHER MATTERS OF RECORD AFFECTING THE PROPERTY SHOWN HEREON THAT ONLY A PROPER TITLE SEARCH WOULD REVEAL. THIS SURVEY IS SUBJECT TO ANY AND ALL COVENANTS AND RESTRICTIONS PERTAINING TO THE RECORDED PLAT REFERENCED HEREON.

TECH	MSP
FIELD	TM

FLOOD INFORMATION:
THE SUBJECT PROPERTY DOES NOT APPEAR TO LIE WITHIN THE LIMITS OF A 100-YEAR FLOOD HAZARD ZONE ACCORDING TO THE MAP PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND HAS A ZONE "X" RATING AS SHOWN BY MAP NO. 48453C0445 K, DATED JANUARY 22, 2020.

DATE: 08/31/22 JOB NO.: 19-0209TS
FIELD: 09/25/22 REV.: 09/01/22

STATE OF TEXAS
REGISTERED
ROBERT T. PAUL, JR.
6984
PROFESSIONAL
LAND SURVEYOR
SURVEY

Robert T. Paul, Jr.
Registered Professional Land Surveyor

309 LAUREL VALLEY ROAD, WEST LAKE HILLS, TX 78746
LOT 8, YAUPON VALLEY SUBDIVISION

Premier Surveying LLC
5700 W. Plano Parkway
Suite 1200
Plano, Texas 75093
972-612-3601 (O.) 855-892-0468 (F)
www.premiersurveying.com
premiersurvey@premiersurveying.com

DATE: _____

ACCEPTED BY: _____

Premier Surveying LLC
5700 W. Plano Parkway
Suite 1200
Plano, Texas 75093
Office: 972-612-3601
Fax: 855-892-0468
Firm Registration No. 10146200

LEGEND

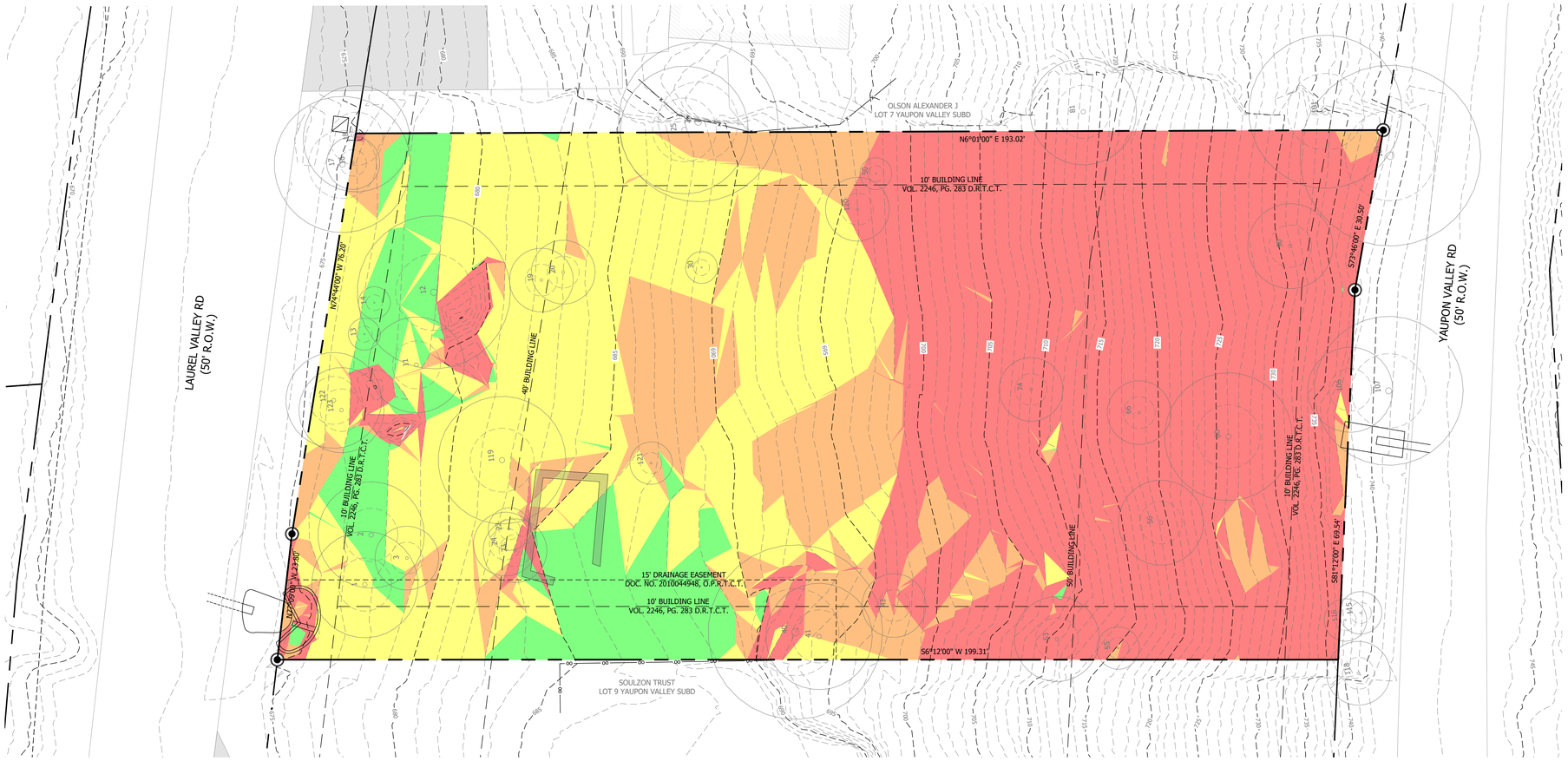
- BOUNDARY / RIGHT OF WAY
- OU — OVERHEAD UTILITY LINE
- PROPOSED BUILDING
- PROPOSED CONCRETE SIDEWALK
- PROPOSED PAVEMENT
- PROPOSED SOLID FENCE
- SURVEY CONTROL POINT
- EDGE OF PAVEMENT
- E — PROPOSED ELECTRIC MANHOLE
- TREE TO REMAIN

- 0% - 15% SLOPE
- 15% - 25% SLOPE
- 25% - 35% SLOPE
- OVER 35% SLOPE

0' 5' 10' 20'

SCALE: 1"=10'

SLOPES TABLE EG ON SITE					
Number	Minimum Slope	Maximum Slope	Color	AREA (SF)	AREA (AC)
1	0.00%	15.00%		1738.75	0.04
2	15.00%	25.00%		5783.11	0.13
3	25.00%	35.00%		2981.19	0.07
4	35.00%	313.00%		8852.00	0.20



NO.	DATE	DESCRIPTION

MILIAN
ALEJANDRA@MILIANENGINEERING.COM
FIRM REG# F-22686
830.513.9451

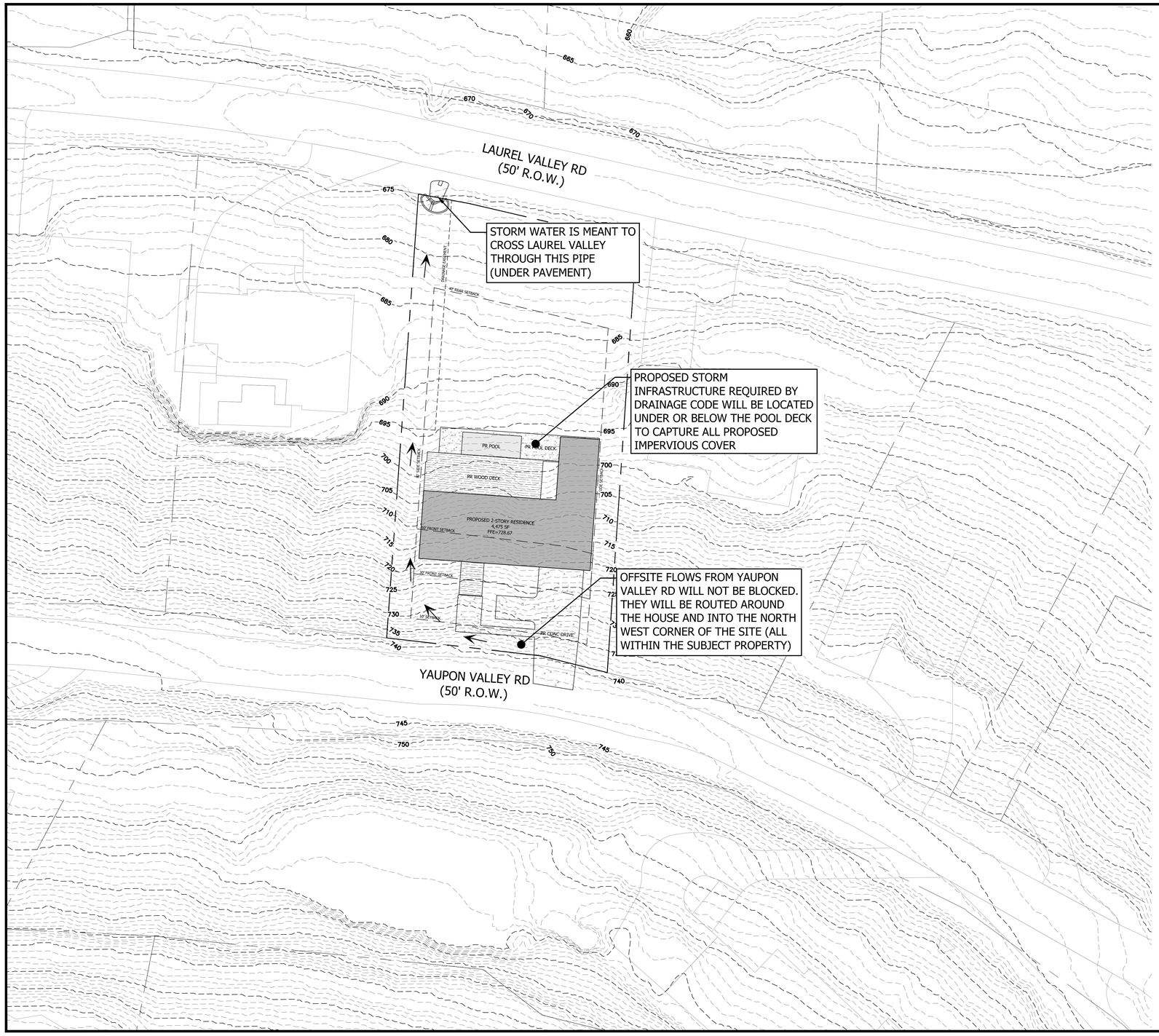
STATE OF TEXAS
ALEJANDRA FLORES S.
149401
LICENSED PROFESSIONAL ENGINEER
03/06/2026

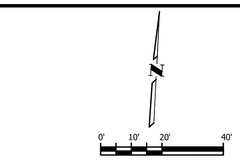
RESIDENTIAL DRAINAGE PLAN

309 LAUREL VALLEY RD
WEST LAKE HILLS, TRAVIS COUNTY, TEXAS 78746

SLOPE MAP EXHIBIT

1 OF 1





LEGEND

- BOUNDARY / RIGHT OF WAY
- OU — OVERHEAD UTILITY LINE
- PROPOSED BUILDING
- PROPOSED CONCRETE SIDEWALK
- PROPOSED PAVEMENT
- PROPOSED SOLID FENCE
- SURFACE FLOW DIRECTION ARROW

NO.	DATE	DESCRIPTION

MILIAN
ALEJANDRA@MILIANENGINEERING.COM
FIRM REG# F-22686
830.513.9451

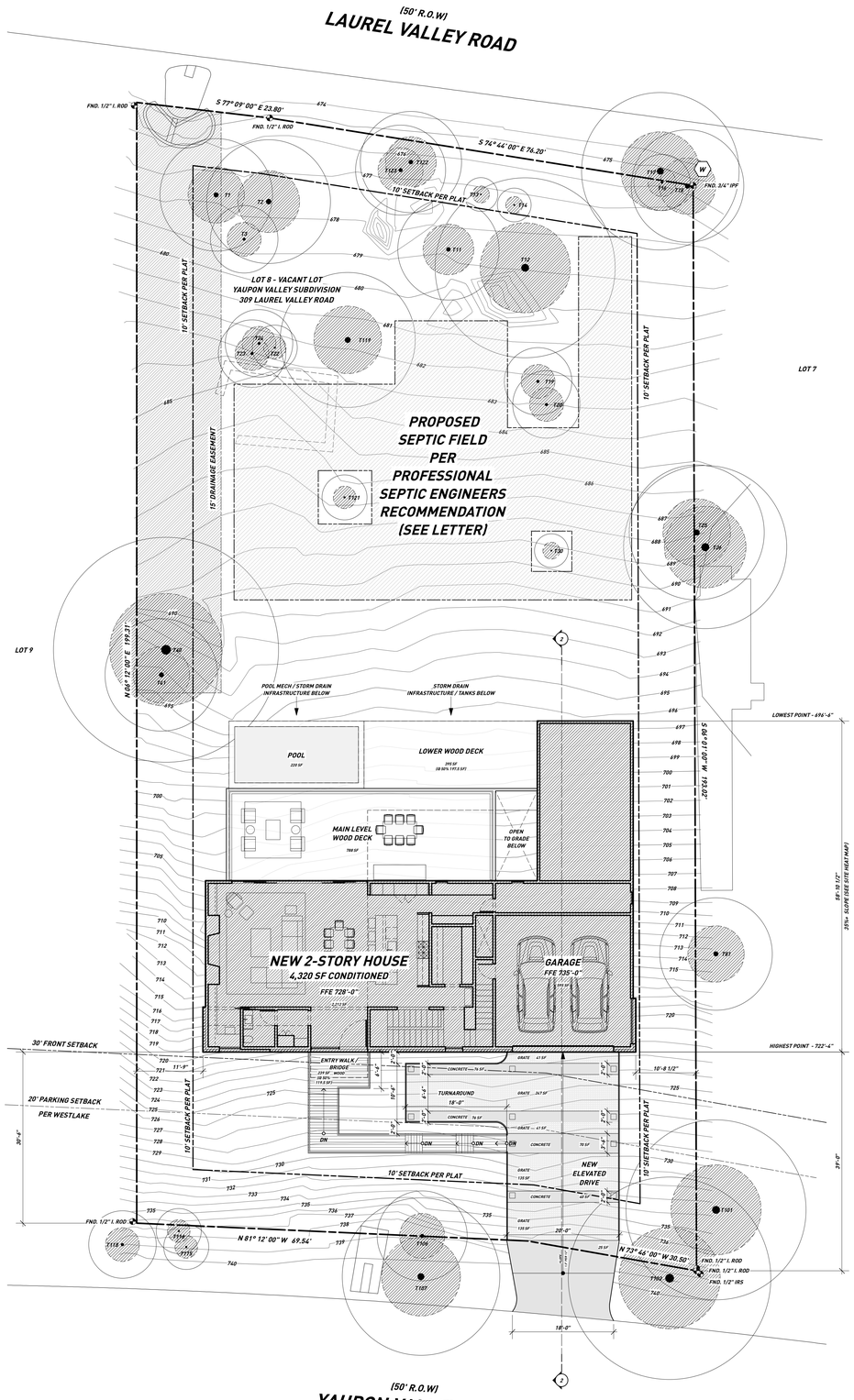
STATE OF TEXAS
ALEJANDRA FLORES S.
148401
LICENSED
PROFESSIONAL ENGINEER
12/09/2025

RESIDENTIAL DRAINAGE PLAN

309 LAUREL VALLEY RD
WEST LAKE HILLS, TRAVIS COUNTY, TEXAS 78746

DRAINAGE PLAN EXHIBIT

1 OF 1



1 SITE PLAN
1" = 10 ft

N

PROJECT DATA

309 LAUREL VALLEY RD
WEST LAKE HILLS, TX 78746

JURISDICTION: WESTLAKE
ZONING: R-1
COUNCIL DISTRICT: ?
COUNTY: TRAVIS
MAP GRID: ?

LEGAL DESCRIPTION

???

AREA CALCULATIONS

LOT (PER SURVEY)	**19,397 SF (.44 ACRES)**
IMPERVIOUS ALLOWED	**25% (4,839 SF)**

BUILDING COVERAGE

BUILDING FOOTPRINT (MAIN LEVEL)	2,212 SF
GARAGE	595 SF
MAIN LEVEL DECK	788 SF
POOL COPING	67 SF
LOWER WOOD DECK (@ 50%)	197.5 SF
TOTAL BUILDING COVERAGE	**3,859.5 SF**
BUILDING COVERAGE %	(19.9%)

IMPERVIOUS COVERAGE

BUILDING COVERAGE	3,859.5 SF
ENTRY STEPS / BRIDGE (WOOD @ 50%)	115.5 SF
DRIVEWAY (CONCRETE ONLY)	287 SF
POOL	220 SF
TOTAL IMPERVIOUS COVERAGE	**4,484 SF (23.1%)**
IMPERVIOUS COVERAGE ALLOWED	**4,839 SF (25%)**

SITE GENERAL NOTES

1. NO UNDERGROUND UTILITY TRENCHES PERMITTED IN THE 1/2 CRITICAL ROOT ZONE OR WITHIN 12' OF THE TRUNK, WHICHEVER DISTANCE IS GREATER.

2. TREE PROTECTION FENCING TO BE INSTALLED AT THE 1/2 CRZ OF TREES WITHIN THE AREAS OF CONSTRUCTION, STORAGE OR TRANSPORT IMPACT.

3. CONTRACTOR TO SET UP ON-SITE PRE-CONSTRUCTION MEETING WITH ARBORIST AND MATT GARCIA DESIGN TO REVIEW TREE PROTECTION.

4. NO PIERS WITHIN 5' OF TREE TRUNKS.

5. NO ACCESS, PARKING OR MATERIAL STORAGE WITHIN LIMITS OF TREE PROTECTION FENCE.

6. ALL ROOT CUTS TO BE CLEAN (NO FRAYED EDGES).

7. FERTILIZE TREE ROOTS AND PROVIDE IRRIGATION DURING CONSTRUCTION ON A REGULAR BASIS.

8. APPLY MULCH AT CRITICAL ROOT ZONES OF ALL TREES.

9. MINIMIZE DISTURBANCE OF EXISTING GRADE AND LANDSCAPE WHEREVER POSSIBLE, WHILE PROVIDING POSITIVE DRAINAGE AWAY FROM THE HOUSE.

10. AFTER CONSTRUCTION, AIRSPADE ALL TREES WHERE CONSTRUCTION ACTIVITIES HAVE COMPACTED SOIL WITHIN THE CRITICAL ROOT ZONE.

11. COORDINATE AREAS FOR MATERIAL STORAGE AND DELIVERY WITH MGD AND PREPARE SUCH AREAS SO THAT THEY CAN BE EFFECTIVELY USED FOR DELIVERIES.

12. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING AND REGULARY INSPECTING THE SILT FENCE DURING CONSTRUCTION/DEMOLITION INCLUDING THE REMOVAL AND PROPER DISPOSAL OF ANY ACCUMULATED SILT AND DEBRIS.

13. CONTRACTOR WILL NOT BEGIN WORK UNTIL THE SILT FENCE AND TREE PROTECTION HAVE BEEN INSTALLED.

14. NOTIFY "ONE-CALL" OR APPROPRIATE AUTHORITY TO LOCATE EXISTING UTILITY LINES AND PROTECT ALL UTILITIES FROM EXCAVATION OR SIMILAR HAZARDS.

15. PROTECT STRUCTURES, SIDEWALKS, PAVEMENTS AND OTHER FACILITIES FROM DAMAGE CAUSED BY SETTLEMENT, LATERAL MOVEMENT, UNDERMINING, WASHOUT AND OTHER HAZARDS CREATED BY EARTHWORK OPERATIONS.

16. LIMITS OF CONSTRUCTION - THIS SITE IS NOT SUBJECT TO LIMITS OF CONSTRUCTION. ALL AREAS OF THE SITE CAN BE UTILIZED FOR CONSTRUCTION ACTIVITY EXCEPT AREAS REQUIRED FOR TREE PROTECTION.

ABBREVIATIONS

TPF - TREE PROTECTION FENCE
PSRW - PLATE STEEL RETAINING WALL
TOW - TOP OF WALL

TREE PLAN NOTES

MAIN SITE ACCESS ROUTE

HALF CRZ OF PROTECTED TREES

TEMPORARY TREE PROTECTION FENCING (CHAIN LINK, 5' TALL)

8" MULCH LAYER

1. PRIOR TO TO DEVELOPMENT, CONTRACTOR TO PROVIDE A ROOT ZONE MULCH LAYER AND MAINTAIN TREE PROTECTION FENCING (CHAIN LINK, FIVE FOOT TALL) FOR ALL PROTECTED TREES ON THE SITE FOR THE DURATION OF THE PROJECT. SEE DIAGRAM IMAGE BELOW.

2. A 8" LAYER OF MULCH WITHIN THE ENTIRE AVAILABLE ROOT ZONE AREA IS REQUIRED FOR TREES WHICH HAVE ANY DISTURBANCE INDICATED WITHIN ANY PORTION OF THE CRITICAL ROOT ZONE. SEE DIAGRAM BELOW.

3. THERE SHALL BE NO UTILITY ROUTES OR METERS WITHIN THE 1/2 CRZ OF PROTECTED TREES ON THE SITE.

4. THERE SHALL BE NO ACCESS ROUTES, MATERIAL STAGING, CONCRETE WASHOUTS, DUMPSTERS, SCAFFOLDING, OR PORTABLE TOILETS WITHIN THE CRZ OF PROTECTED TREES ON THE SITE.

5. 2x4 PLANKS, 6' TALL MIN, TO BE STRAPPED SECURELY AROUND ALL PROTECTED TREE TRUNKS AND ROOT FLARES WHEN PROTECTIVE FENCING DOES NOT INCORPORATE THE ENTIRE 1/2 CRZ FOR ANY REASON AT ANY TIME IN THE PROJECT. SEE DIAGRAM BELOW.

6. THERE SHALL BE NO PRUNING OF PROTECTED TREES WITHOUT THE ASSESMENT BY A PRIVATE CERTIFIED ARBORIST. PAID RECEIPTS FOR ANY NEEDED WORK ON PROTECTED SIZE TREES WILL BE REQUIRED BY THE FINAL TREE INSPECTOR.

7. AT LEAST 50% OF THE TOTAL AREA OF THE OF THE CRITICAL ROOT ZONE OF PROTECTED TREES MUST BE PRESERVED AT NATURAL GRADE WITH NATURAL GROUND COVER PER ECM SECTION 3.5.2.

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T40	14" & 6" & 4" OAK		
T41	10" CEDAR		

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VARIANCE SUBMITTAL - 2026 MAY 11

TITLE ***SITE PLAN***

DATE ***MAY 11 2026***

SHEET

1

May 8, 2026

RE:

Septic Site Suitability Letter
309 Laurel Valley Road
West Lake Hills, Texas 78746

To whom it may concern,

Reviewing the architectural plans and performing a site visit. It is in my professional opinion, that the best area for a septic for new construction on 309 Laurel Valley Road, would be downslope in the flatter area between contour lines 680 and 690. I also believe that putting the septic field uphill from the home on the steeper slope, could pose potential seep issues in the future.

Please let me know if I can provide more information.

Thanks,

Stephen Jetton

RECORD OF ACTION FOR A BOARD OF ADJUSTMENT VARIANCE

File No.: 2025-1300
Date of Hearing: 4/8/2026
Applicant: Matt Garcia, Mattt Garcia Design
Owner: Graham Schmergel
Address: Unaddressed property on the 300 Block of Laurel Valley
Legal: Yaupon Valley Subdivision, Lot 8

Variance Request: Encroach 10 feet into both 20-foot side setbacks (Section 22.03.281)

Conditions Required for a Variance No variance shall be granted unless the Board of Adjustment finds that each of the following conditions exist in accordance with Section 38.05.032 of the West Lake Hills Code of Ordinances.

	Agree	Disagree
1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.	X	
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.	X	
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.	X	
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.	X	
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.	X	
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.	X	

Special Circumstances: The applicant requests encroaching 10 feet into the 20-foot side setbacks to decrease the length of the house down the slope. Over half of the lot has a grade greater than 35% See Exhibit A – staff report for more information.

Zoning & Planning Commission Recommendation:
This item was considered by ZAPCO on February 18, 2026. The Commission voted 5-0 to recommend denial of the variance for lack of hardship.

Special Conditions for Variance Approval:
1. None

Decision Findings:
In deciding whether to grant or deny a variance in this case, and in establishing special conditions, if any, for approval, the Board of Adjustment considered: (1) the testimony and evidence of the applicant and any other affected parties; and (2) recommendations and information provided by staff. The Board of Adjustment hereby adopts and incorporates any evidence presented in support or denial of the variance as part of this decision. A granting of a variance shall mean that the Board of Adjustment made specific findings of fact in this case that the evidence presented established each of the conditions of Section 38.05.032 required for a variance in this case. A denial of a variance by the Board of Adjustment shall mean that the Board of Adjustment found that the evidence presented did not support a finding that the requested variance met all of the conditions listed in Section 38.05.032 for the granting of the variance in this case.

Board Action: Grant X **Deny** _____ **Grant with Conditions:** _____

Expiration of Approval: 365 days from date of approval if construction has not commenced.

PASSED AND AFFIRMED this 8 day of April, 2026, by the Board of Adjustment of the City of West Lake Hills, Texas, by a vote of 5 (Ayes) 0 (Nays) 0 (Abstain).

CITY OF WEST LAKE HILLS
Board of Adjustment

By: _____
James Vaughan, Chair

ATTEST:

_____
Makayla Rodriguez, Recording Secretary

RECORD OF ACTION FOR A BOARD OF ADJUSTMENT VARIANCE

File No.: 2025-1300
Date of Hearing: 4/8/2026
Applicant: Matt Garcia, Matt Garcia Design
Owner: Graham Schmergel
Address: Unaddressed property on the 300 Block of Laurel Valley
Legal: Yaupon Valley Subdivision, Lot 8

Variance Request: Allow for a driveway height of 15 feet 10 inches above natural grade, where 6 feet above natural grade is the maximum (Section 22.03.175(e)(1)).

Conditions Required for a Variance No variance shall be granted unless the Board of Adjustment finds that each of the following conditions exist in accordance with Section 38.05.032 of the West Lake Hills Code of Ordinances.

	Agree	Disagree
1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.		X
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.		X
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.		X
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.		X
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.		X
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.		X

Special Circumstances: The applicant states that a driveway elevated more than 15 feet above natural grade. See Exhibit A – staff report for more information.

Zoning & Planning Commission Recommendation:
This item was considered by ZAPCO on February 18, 2026. The Commission voted 5-0 to recommend denial of the variance for lack of hardship.

Special Conditions for Variance Approval:
1. None

Decision Findings:
In deciding whether to grant or deny a variance in this case, and in establishing special conditions, if any, for approval, the Board of Adjustment considered: (1) the testimony and evidence of the applicant and any other affected parties; and (2) recommendations and information provided by staff. The Board of Adjustment hereby adopts and incorporates any evidence presented in support or denial of the variance as part of this decision. A granting of a variance shall mean that the Board of Adjustment made specific findings of fact in this case that the evidence presented established each of the conditions of Section 38.05.032 required for a variance in this case. A denial of a variance by the Board of Adjustment shall mean that the Board of Adjustment found that the evidence presented did not support a finding that the requested variance met all of the conditions listed in Section 38.05.032 for the granting of the variance in this case.

Board Action: Grant _____ **Deny** X **Grant with Conditions:** _____

Expiration of Approval: 365 days from date of approval if construction has not commenced.

PASSED AND AFFIRMED this 8 day of April, 2026, by the Board of Adjustment of the City of West Lake Hills, Texas, by a vote of 5 (Ayes) 0 (Nays) 0 (Abstain).

CITY OF WEST LAKE HILLS
Board of Adjustment

By: _____
James Vaughan, Chair

ATTEST:

_____
Makayla Rodriguez, Recording Secretary

RECORD OF ACTION FOR A CITY COUNCIL VARIANCE

File No.: 2025-1300
Date of Hearing: 4/8/2026
Applicant: Matt Garcia, Mattt Garcia Design
Owner: Graham Schmergel
Address: Unaddressed property on the 300 Block of Laurel Valley
Legal: Yaupon Valley Subdivision, Lot 8

Variance Request: Allow replacement trees for unpermitted removals to be planted at the end of the project, more than 601 days since the final order (Section 22.03.304(c)(5)).

Conditions Required for a Variance No variance shall be granted unless the City Council finds that each of the following conditions exist in accordance with Section 22.03.514 of the West Lake Hills Code of Ordinances.

	Agree	Disagree
1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.	X	
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.	X	
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.	X	
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.	X	
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.	X	
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.	X	

Special Circumstances: The applicant is requesting to delay the mitigation for the illegally removed tree so they are not disturbed during construction. See Exhibit A – staff report for more information.

Zoning & Planning Commission Recommendation:
This item was considered by ZAPCO on February 18, 2026. The Commission voted 5-0 to recommend denial of the variance for lack of hardship.

Special Conditions for Variance Approval:
Delay the enforcement of the order for 365 days. If a building permit is issued within 365 days, enforcement will be delayed until the end of the building permit.

Decision Findings:
In deciding whether to grant or deny a variance in this case, and in establishing special conditions, if any, for approval, the City Council considered: (1) the testimony and evidence of the applicant and any other affected parties; and (2) recommendations and information provided by staff. The City Council hereby adopts and incorporates any evidence presented in support or denial of the variance as part of this decision. A granting of a variance shall mean that the City Council made specific findings of fact in this case that the evidence presented established each of the conditions of Section 22.03.514 required for a variance in this case. A denial of a variance by the City Council shall mean that the City Council found that the evidence presented did not support a finding that the requested variance met all of the conditions listed in Section 22.03.514 for the granting of the variance in this case.

Board Action: Grant _____ **Deny** _____ **Grant with Conditions:** X

Expiration of Approval: 365 days from date of approval if construction has not commenced.

PASSED AND AFFIRMED this 8 day of April, 2026, by the City Council of the City of West Lake Hills, Texas, by a vote of 4 (Ayes) 0 (Nays) 0 (Abstain).

CITY OF WEST LAKE HILLS
City Council

By: _____
James Vaughan, Mayor

ATTEST:

_____
Makayla Rodriguez, Recording Secretary

RECORD OF ACTION FOR A BOARD OF ADJUSTMENT VARIANCE

File No.: 2025-1300
Date of Hearing: 4/8/2026
Applicant: Matt Garcia, Mattt Garcia Design
Owner: Graham Schmergel
Address: Unaddressed property on the 300 Block of Laurel Valley
Legal: Yaupon Valley Subdivision, Lot 8

Variance Request: Allow grading up to 18 inches on an area greater than 35% slope where none is allowed (Section 22.03.170(b) Drainage and Erosion Control Manual Section 7.4.1 – Cut/Fill Limits)

Conditions Required for a Variance No variance shall be granted unless the Board of Adjustment finds that each of the following conditions exist in accordance with Section 38.05.032 of the West Lake Hills Code of Ordinances.

	Agree	Disagree
1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.		X
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.		X
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.		X
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.		X
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.		X
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.		X

Special Circumstances: Over half of the lot has a grade greater than 35%. See Exhibit A – staff report for more information.

Zoning & Planning Commission Recommendation:
This item was considered by ZAPCO on February 18, 2026. The Commission voted 5-0 to recommend denial of the variance for lack of hardship.

Special Conditions for Variance Approval:
1. None

Decision Findings:
In deciding whether to grant or deny a variance in this case, and in establishing special conditions, if any, for approval, the Board of Adjustment considered: (1) the testimony and evidence of the applicant and any other affected parties; and (2) recommendations and information provided by staff. The Board of Adjustment hereby adopts and incorporates any evidence presented in support or denial of the variance as part of this decision. A granting of a variance shall mean that the Board of Adjustment made specific findings of fact in this case that the evidence presented established each of the conditions of Section 38.05.032 required for a variance in this case. A denial of a variance by the Board of Adjustment shall mean that the Board of Adjustment found that the evidence presented did not support a finding that the requested variance met all of the conditions listed in Section 38.05.032 for the granting of the variance in this case.

Board Action: Grant _____ **Deny** X **Grant with Conditions:** _____

Expiration of Approval: 365 days from date of approval if construction has not commenced.

PASSED AND AFFIRMED this 8 day of April, 2026, by the Board of Adjustment of the City of West Lake Hills, Texas, by a vote of 5 (Ayes) 0 (Nays) 0 (Abstain).

CITY OF WEST LAKE HILLS
Board of Adjustment

By: _____
James Vaughan, Chair

ATTEST:

_____
Makayla Rodriguez, Recording Secretary

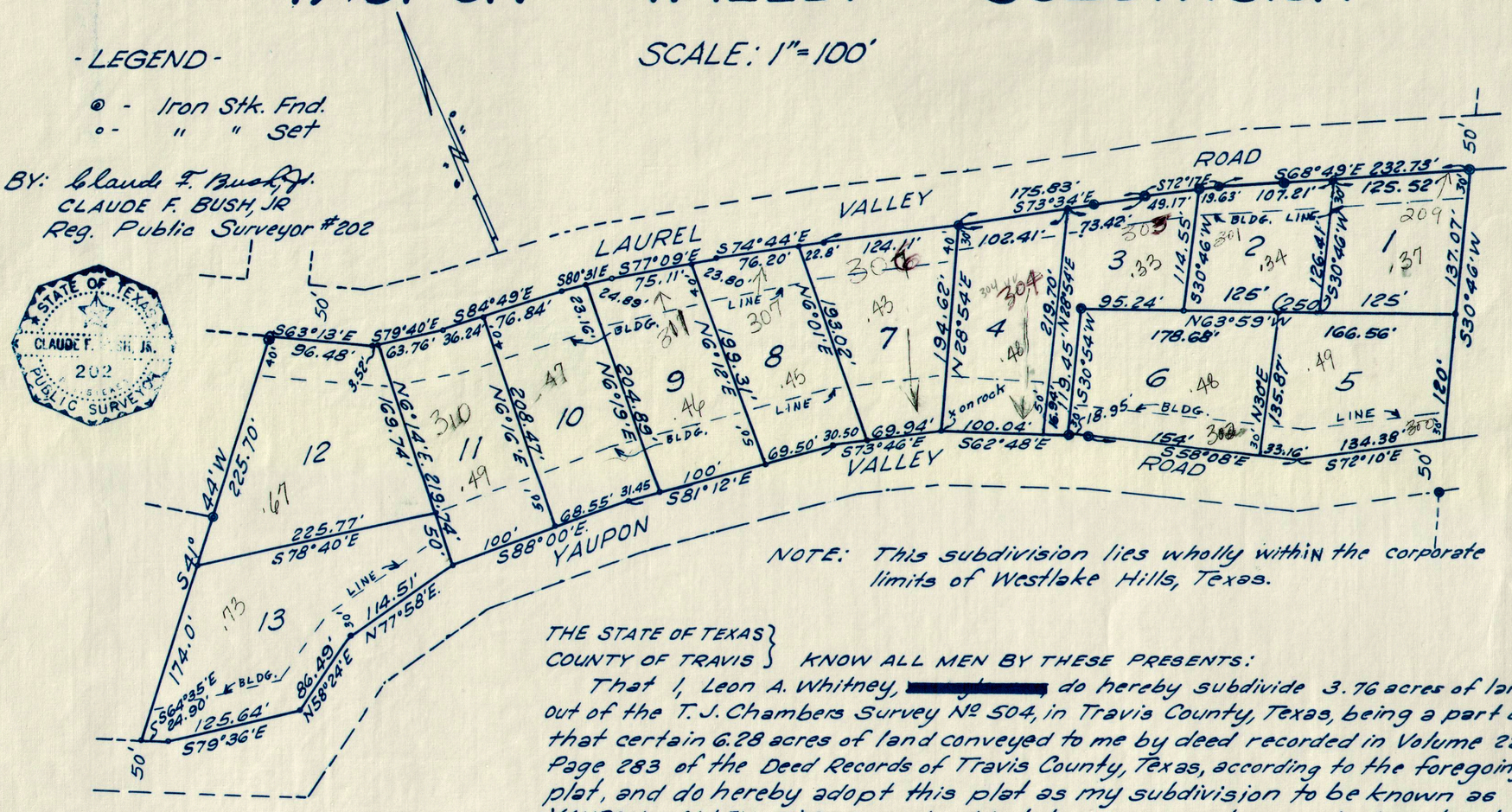
304 Yaupon Valley - 0.47 Ac

Yaupon Valley Sub. (16)

91

YAUPON VALLEY SUBDIVISION

SCALE: 1" = 100'



NOTE: This subdivision lies wholly within the corporate limits of Westlake Hills, Texas.

THE STATE OF TEXAS }
COUNTY OF TRAVIS } KNOW ALL MEN BY THESE PRESENTS:

That I, Leon A. Whitney, [redacted] do hereby subdivide 3.76 acres of land out of the T. J. Chambers Survey No 504, in Travis County, Texas, being a part of that certain 6.28 acres of land conveyed to me by deed recorded in Volume 2246 Page 283 of the Deed Records of Travis County, Texas, according to the foregoing plat, and do hereby adopt this plat as my subdivision to be known as YAUPON VALLEY SUBDIVISION, subject to any easements or restrictions heretofore granted.

WITNESS MY HAND THIS the 12 day of November A.D. 1962.

Leon A. Whitney
Leon A. Whitney

SEPTIC TANK NOTE: Each house constructed in this subdivision shall be connected to a septic tank of a design approved by the State Health Dept.

THE STATE OF TEXAS }
COUNTY OF TRAVIS }

Before me the undersigned authority on this day personally appeared Leon A. Whitney, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this the 12 day of November, A.D. 1962.

Walter L. Foxworth
Notary Public in/for Travis County, Texas

ACCEPTED AND AUTHORIZED FOR RECORD by the City of Westlake Hills, Texas this the 13 day of November AD. 1962.

Hugo L. Kuehne
Secretary

Robert H. Allen
Mayor

THE STATE OF TEXAS }
COUNTY OF TRAVIS } I, Miss Emilie Limberg, clerk of the county Court within and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the 14 day of Nov A.D. 1962 at 10:20 o'clock AM. and duly recorded on the 14 day of Nov A.D. 1962 at 10:25 o'clock A M. in the Plat Records of said county in Book 16 Page 44.

WITNESS MY HAND AND SEAL OF OFFICE the date last written above.

Miss Emilie Limberg, County Clerk, Travis County, Texas.
By: Ellen Pruitt Deputy

RESTRICTION: No lot in this subdivision shall be resubdivided or split without the written permission of Leon A. Whitney.

FB. 136 Pg. 108 LDC 2-145 Plat #C-14908

16

City *of* West Lake Hills
Zoning and Planning Commission
AGENDA REPORT

Meeting Date:	June 17, 2026	**Item Number:**	5
Department:	Building & Development		
Prepared By:	Jennifer C. Bills, Director	**Cost / Budget:**	None
Exhibits:	See Attached	**Source of Funds:**	N/A

Subject

911 Westlake Drive: Discuss and make a recommendation for the rezoning of Lot 1 of Village Green Sec 1 Resub from GUI, Governmental, Utility and Institutional to B-2, Business 2 District with a Conditional Overlay District (Section 38.05.092 of the West Lake Hills Code).

Applicant: Jennifer C. Bills, Interim City Administrator

Recommendation

Staff recommends approval of the rezoning request.

This item will be forwarded to the July 8, 2026 City Council meeting for review and a public hearing.

Discussion

Property Information, Zoning & Site Characteristics:
Owner: City of West Lake Hills
Legal Description: Lot 1 of Village Green Sec 1 Resub
Lot Size: 1.918 acres
Zoning: GUI, Governmental, Utility and Institutional
Wastewater: City sewer

The properties surrounding the subject property are zoned R-1, One-Family Residential and B-1, Business 1. The lot is occupied by the former City of West Lake Hills City Hall and Police Station.

Background & Analysis:
The city is requesting to rezone the property from GUI to B-2 with a conditional overlay district. The city has issued a Request for Proposal for a ground lease opportunity.

Permitted uses B-2
The commercial zoning is cumulative, so all permitted and special uses in the O – Office, and B-1 – Business 1 Districts are allowed in addition to the uses listed in B-2 – Business 2. This list of all uses allowed is in Attachment 1. The current uses of GUI are in Attachment 2. A Conditional Overlay District can be applied to specific properties to further restrict allowed uses or site development regulations. Listed below are the proposed allowed uses and additional height restrictions.

Proposed Allowed Uses:

Office and Professional

- Professional offices (accountant, architect, attorney, engineer, consultant, insurance agent, real estate agent, broker)
- Business office of a publishing or printing firm
- Business offices (no on-premises merchandise sales)

Institutional and Quasi-Public

- Churches
- Facility owned and operated by the federal government, the state or a political subdivisions thereof.

Food and Beverage

- Restaurant without drive-in service
- Grocery store
- Health food store
- Specialty food store
- Bakery
- Delicatessen or catering service
- Confectionary store
- Ice cream parlor

Service Uses

- Barbershop or beauty shop
- Health or athletic club
- Seamstress, dressmaker, or tailor shop

Specialty Retail

- Antique shop
- Arts and crafts supply store
- Fine arts and crafts gallery
- Florist or garden shop
- Gift shop
- Book or stationery store
- Jewelry shop
- Clothing or shoe store
- China or glassware shop

- Carpeting, floor covering, and rug store
- Nursery or greenhouse
- Optical goods store
- Toy store (5,000 square foot maximum)
- Sporting goods store (no boats, boat motors, or motor vehicles)
- Furniture store
- Hardware store
- Pet shop and pet grooming shop

Studio and Service

- Studio (art, dance, drama, music, martial arts, photography, interior decorating)

Special Use Permits

The only SUP opportunities retained under the CO are:

- Alcoholic beverages sold in a restaurant for on- or off-premises consumption.
- Alcoholic beverages sold in grocery stores for off-premises consumption.
- Wireless telecommunication facilities.

Any use not listed is not allowed on the parcel per the Conditional Overlay.

Proposed height restrictions:

- Maximum building height: 30 feet (the B-2 base district standard per Section 22.03.281 of the WLH Code).
- The footnote (VIII) height adjustment (additional 7 feet for parking configuration) is expressly prohibited for this site, regardless of parking arrangement.
- **Roof appurtenances** (HVAC, kitchen exhaust, plumbing vents) may exceed the 30-foot limit by up to 6 feet per Section 22.03.279(d), but all rooftop mechanical equipment must be screened from view from Westlake Drive and from adjacent residential properties by parapets, equipment screens, or architectural enclosures consistent with the building's exterior materials and colors.

Lot Development Standards:

The development standards for GUI and B-2 are the same, so the zoning change will not change the setback or impervious cover code requirements.

Dimensional Minimums of Lots		
Dimension	**GUI**	**B-2**
Acreage (acres) (A)	2	2
Depth (feet)	200	200
Width (feet) (B)	150	150

Dimension	GUI	B-2
Greater than or equal to .5 acre	50	50
Less than .5 acres	30	30
Lot Size	**Minimum Building Setback Distance in Feet From Rear Lot Line**	
Greater than or equal to .5 acre	40	40
Less than .5 acres, greater than or equal to .375 acres	30	30
Less than .375 acres–zero	30	30
Lot Size	**Minimum Building Setback Distance in Feet From Side Lot Lines**	
Greater than or equal to .5 acre	(I)	(I)
Less than .5 acres, greater than or equal to .375 acres	(II)	(II)
Less than .375 acres–zero	(II)	(II)
Lot Size	**Maximum Impervious Cover in Percent of Lot Area**	
Greater than or equal to .5 acre	(III)	(III)
Less than .5 acres, greater than or equal to .2 acres	(III)	(III)

Code Requirements:

Zoning Amendment

Section 38.05.094 (e) (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.

Conditional Overlay District

Section 38.03.041 (b) Use and site development regulations in the conditional overlay district.

The conditional overlay district designation modifies and restricts the use and site development regulations otherwise applicable to basic zoning districts of “O” Professional and Business Office District, “B-1” Business 1 District, “B-2” Business 2 District, “B-3” Business 3 District, and “GUI” Governmental, Utility and Institutional

District as set forth in section **38.03.001** of the Code. All requirements of a conditional overlay district are in addition to and supplement all other applicable requirements of the Code applicable to the basic zoning district. Terms that may be imposed by the conditional overlay district shall include, but not limited to, the following:

1. Prohibiting permitted uses, special uses and accessory uses otherwise authorized in the base district, or making a permitted use a conditional use;
2. Decreasing the number or average density of dwelling units which may be constructed on the property;
3. Increasing minimum lot size or minimum lot width requirements;
4. Decreasing maximum floor area per building;
5. Decreasing the maximum height permitted;
6. Increasing the setback requirements;
7. Decreasing the maximum building or impervious coverage permitted;
8. Restrictions on access to abutting and nearby roadways, including specific design features intended to ameliorate potentially adverse traffic impacts;
9. Alleviate the need for variances on the site; and
10. Any other specific site development or subdivision regulations required or authorized by this code.

Public Comments:
The city provided mailed notice to property owners within 300 feet of the site, posted a sign at the access to the property, posted the notice to the city website and placed a public notice in the Austin American Statesman, in compliance with the West Lake Hills Code of Ordinance and Chapter 211 of the Texas Local Government Code. At the time of this report, no comments have been received.

Outdoor Lighting
Outdoor lighting is not proposed with this variance request. Any outdoor lighting will need to comply with the City's Code.

Compliance with Adopted International Building Code
The property and future construction will have to comply with all applicable City codes.

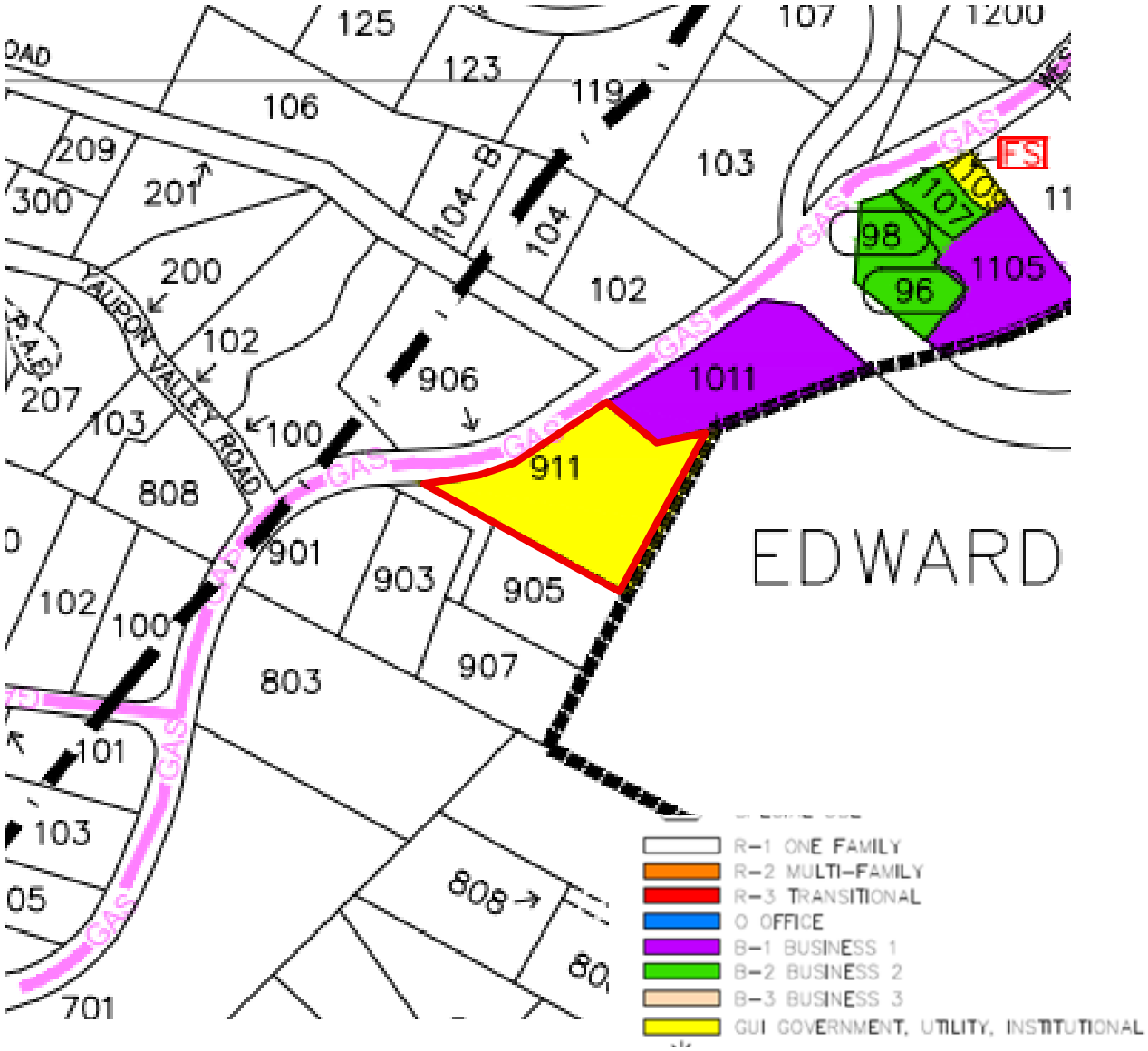
Subdivision
There is no change to the subdivision proposed with this application.

Comprehensive Planning Analysis
The proposed use is in conformance with the City of West Lake Hills Master Plan.

Links to Relevant Code:

- **Request for Proposal – 911 Westlake Drive**
- **Section 22.03.281 Schedule of Regulations**
- **Section 38.03.037 B-2 business 2 district.**
- **Section 38.03.039 GUI governmental, utility and institutional district.**
- **Section 38.05.092: Procedure for changing zoning classification of particular parcels of land.**
- **Texas Local Government Code Section 211.006 Procedures Governing adoption of Zoning Regulations and District Boundaries.**
- **Section 38.03.041 Conditional overlay district**

Zoning: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EDWARD
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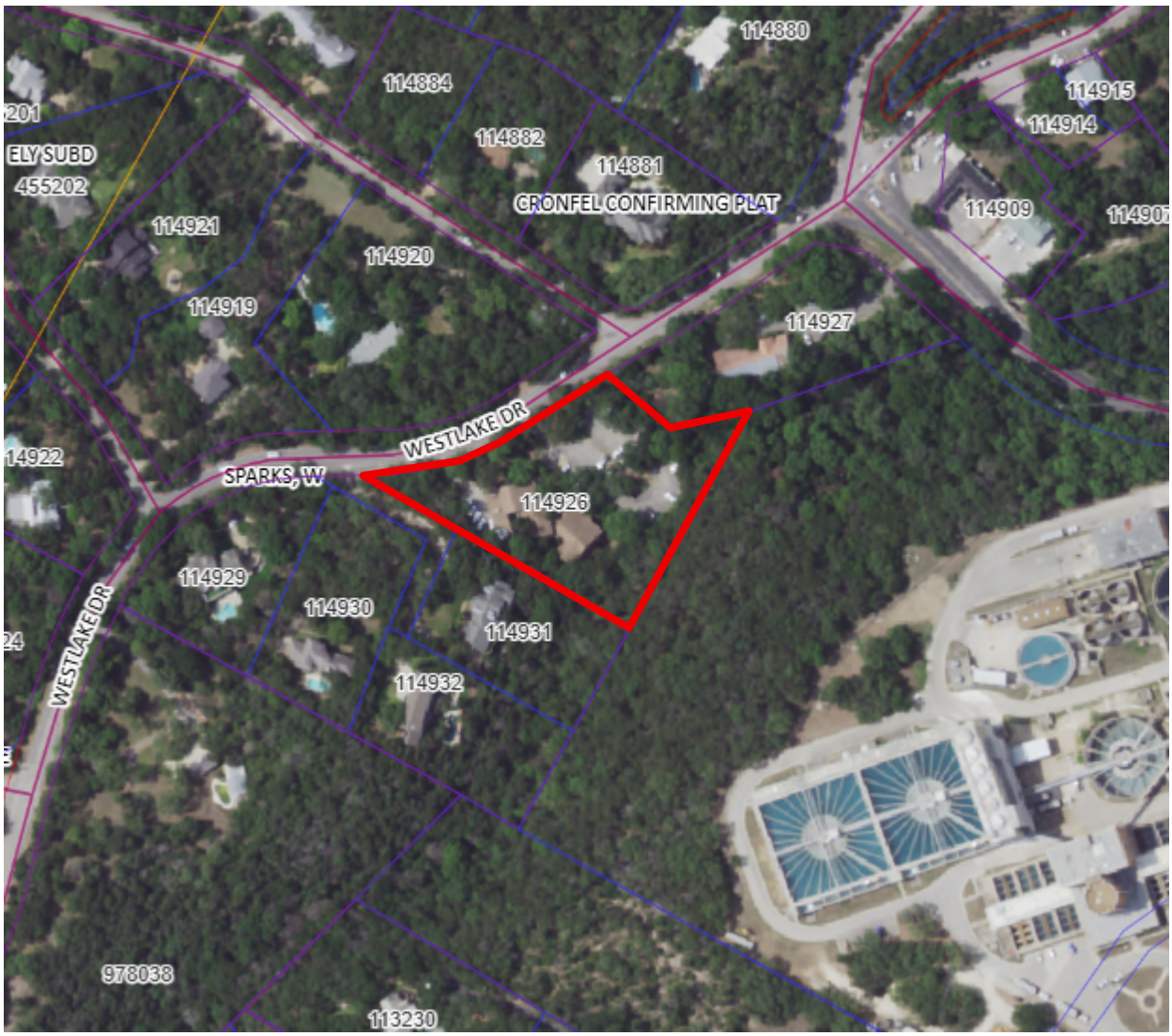
R-2 MULTI-FAMILY
R-3 TRANSITIONAL
O OFFICE
B-1 BUSINESS 1
B-2 BUSINESS 2
B-3 BUSINESS 3
GUI GOVERNMENT, UTILITY, INSTITUTIONAL

Aerial: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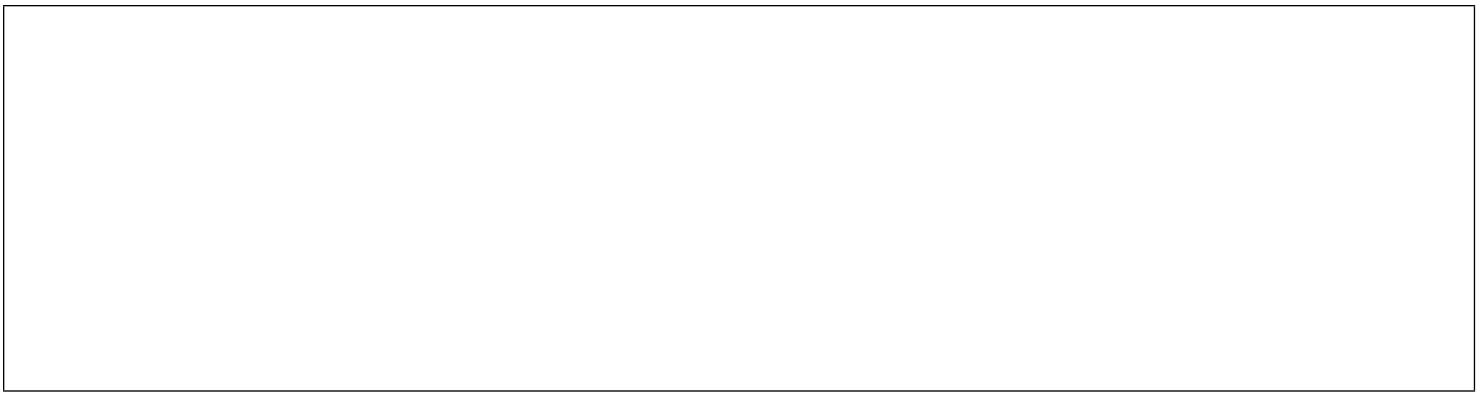

§ 38.03.035. O professional and business office district.

(a) Purpose.The O district is intended to provide sites for quiet low-density commercial office uses.

(b) Permitted uses.The following uses are permitted, provided that there is no nuisance factor:

(1) Office of an accountant, architect, attorney, engineer, physician, broker, consultant, insurance agent, real estate agent, massage therapy clinic, or similar professional or semiprofessional occupation.

(2) The business office of a publishing or printing firm not involving the production or distribution of printing materials. For purposes of this subsection, production or distribution of printing materials means the printing, manufacture, assembly, cutting, folding, binding, packaging or sorting of finished copies or portions thereof, for purposes of distribution or mailing. Printing includes plate production and offset printing, as well as other high-speed photocopying techniques. The discharge of chemicals associated with a photographic process, plate production or offset printing, as well as any other type of photocopying techniques, into a private sewage facility will be in accordance with chapter 18, article 18.03.

(3) Business offices where no sales of merchandise stored on the premises and money exchange occurs.

(4) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses.Special uses permitted upon approval of the board of adjustment are:

(1) Assembly and testing of electronic components.

(2) Child day care facility provided the use is in a separate structure on the lot and will not adversely affect other tenants.

(3) Employee dining facility (private dining facility for employees only) without drive-in service, and excluding establishments serving food for consumption off-premises, commonly referred to as fast food establishments. No intoxicating liquors may be sold for on-premises consumption unless authorized by a special use permit.

(4) Bank or savings and loan association permitted prior to May 1, 2005.

(5) Churches, excluding areas devoted to the residential housing of persons employed or associated with the church and areas devoted to a day care center for the care of children not during hours of regular worship unless otherwise authorized by this chapter.

(6) Massage therapy school.

(7) Charter school or private school provided the use is in a separate structure on the lot

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and will not adversely affect other tenants.

(8) Wireless telecommunication facilities.

(Ordinance 362 adopted 3/28/18)

§ 38.03.036. B-1 business 1 district.

(a) Purpose.The B-1 district is intended to provide sites for quiet, low-density retail businesses providing goods and services (with merchandise contained within the building or enclosure approved for such use, except for florist or garden shops and nurseries or greenhouses, where live vegetation may be kept outdoors) to meet the needs of the residents of the city in a manner and on a scale that is in harmony with the semi-rural character of the community.

(b) Permitted uses.The following uses are permitted, provided that there is no nuisance factor:

(1) Those uses permitted in O districts.

(2) Antique shop.

(3) Arts and crafts supply store.

(4) Bakery.

(5) Barbershop or beauty shop.

(6) Book or stationery store.

(7) Carpeting, floor covering and rug store.

(8) China or glassware shop.

(9) Clothing or shoe store.

(10) Confectionary store.

(11) Delicatessen or catering service.

(12) Fine arts and crafts gallery.

(13) Florist or garden shop.

(14) Gift shop.

(15) Ice cream parlor.

(16) Jewelry shop.

(17) Laundry and dry cleaning substation, with no actual cleaning work being performed on the premises except by special use permit in the B-3 district only.

(18) Nursery or greenhouse.

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(19) Optical goods store.

(20) Pool supply and service.

(21) Seamstress, dressmaker or tailor shop.

(22) Studio for art, dance, drama, music, martial arts, photography or interior decorating.

(23) Tobacco shop.

(24) Toy store (5,000 square feet maximum floor area).

(25) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses.Special uses permitted upon approval of the board of adjustment are:

(1) Other quiet, low-density retail business uses to serve the needs of residents of the city, which may be permitted as special uses in accordance with the procedure for granting such uses upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or to the adjoining land uses.

(2) Child day care facility.

(3) Hospital.

(4) Rehabilitation/wellness center.

(5) Special uses permitted in O professional and business office districts.

(Ordinance 362 adopted 3/28/18)

§ 38.03.037. B-2 business 2 district.

(a) Purpose.The purpose of the B-2 district is the same as for the B-1 district. District B-2 allows a more intense use, however, than is permitted in district B-1. The B-2 district should be reserved for areas where the anticipated impact of the permitted commercial uses is unlikely to have an adverse effect on residential uses or other elements of the community. All merchandise shall be contained under or within buildings or enclosures approved for such use.

(b) Permitted uses.The following uses are permitted, provided there is no nuisance factor:

(1) Those uses permitted in O and B-1 districts.

(2) Auto parts store.

(3) Furniture store.

(4) Grocery store.

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(5) Health food store.

(6) Specialty food store.

(7) Hardware store.

(8) Pet shop and pet grooming shop.

(9) Pharmacy.

(10) Photocopying, typing or printing service.

(11) Restaurant without drive-in service. No intoxicating liquor may be sold for on- or off-premises consumption unless authorized by a special use permit. Drive-in/drive-through service authorized by a special use permit only.

(12) Sporting goods store, excluding the sale or servicing of boats, boat motors and motor vehicles.

(13) Variety store.

(14) Veterinary clinic.

(15) Health or athletic club.

(16) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses.Special uses permitted upon approval of the board of adjustment are:

(1) Other quiet, low-density retail business uses providing goods and services to meet the needs of the residents of the city, which may be permitted as special uses in accordance with the procedure for granting such uses upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or the adjoining land uses.

(2) Commercial kennel.

(3) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.

(4) Alcoholic beverages sold in grocery stores for off-premises consumption.

(5) Research, development or clinical laboratory.

(6) Liquor store.

(7) Publishing business.

(8) Restaurants with drive-in/drive-through facilities.

(9) Special uses permitted in O professional office and B-1 business 1 districts.

(Ordinance 362 adopted 3/28/18)

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§ 38.03.039. GUI governmental, utility and institutional district.

(a) Purpose.The GUI district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the GUI district generate a large amount of traffic. Only land abutting a collector or arterial street that can be used for access shall be considered appropriate for GUI classification. An appropriate site should also contain adequate space for required off-street parking and buffering.

(b) Permitted uses.The following uses are permitted, provided that there is no nuisance factor:

(1) Church.

(2) Facility owned and operated by the federal government, the state or a political subdivisions thereof.

(3) Fire station.

(4) School, either public, private or nonprofit.

(5) Uses required by public utilities.

(6) Philanthropic or fraternal associations.

(7) Accessory uses customarily incidental to any of the uses permitted under this subsection.

(8) The renting for profit or nonprofit of heated and air conditioned space, used for conventions, art and craft shows, antique/collectible shows, weddings, private parties, seminars and other similar events. Maximum rental time limit for any one event shall be three days. No simultaneous scheduling of events shall be allowed.

(c) Special uses.Special uses permitted upon authorization of the city council are as follows:

(1) Child day care facility.

(Ordinance 362 adopted 3/28/18)

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City *of* West Lake Hills
Zoning and Planning Commission
AGENDA REPORT

Meeting Date:	May 20, 2026	**Item Number:**	6
Department:	Building & Development		
Prepared By:	Jennifer C. Bills	**Cost / Budget:**	n/a
Exhibits:	See attached	**Source of Funds:**	n/a

Subject

Discuss and make recommendations to City Council for the adoption of proposed amendments, per Section 20.02.005 and Section 38.05.094, to the following Code of Ordinance sections:

a. General Provisions - Section 1.01.003
b. Administration and Personnel - Section 2.02.031
c. Administration – Chapter 20
d. Building Regulations - Article 22.03
e. Subdivision – Chapter 36
f. Zoning – Chapter 38

Recommendation

Review and forward recommendation on adoption to City Council on June 24, 2026.

Discussion

The architectural committee started meeting in June 2025. Since, the committee met and provided recommendations for staff to make incremental but meaningful changes to the City Code related to development outcomes and the development process. The intent is to ease requirements imposed upon routine development projects and allow for modification of existing homes rather than inadvertently encourage demolition and reconstruction through greater administrative authority approval based on adopted criteria.

Proposed code amendments were initially reviewed by the ZAPCO on April 15, May 4 and May 20, providing feedback to staff and the Architecture Committee.

Attached for review is summary of the proposed amendments (Attachment 1 – Revised Code Changes) and the redline edits of the following chapters:

- Chapter 1 – General Provision
- Chapter 20 – Administration
- Chapter 22 – Building Regulations
- Chapter 36 – Subdivisions
- Chapter 38 – Zoning

Reading the markup:

- Black strikethrough – deleted
- Red – new text
- Blue – existing text moved within the code

Attachments:

- Attachment 1 – Revised Code Changes (6-12-2026)
- Attachment 2 – Chapter 1 – General Provision markup
- Attachment 3 – Chapter 20 – Administration markup
- Attachment 4 – Chapter 22 – Building Regulations
- Attachment 5 – Chapter 36 – Subdivisions
- Attachment 6 – Chapter 38 – Zoning

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Part I: Definitions — § 1.01.003

Amendments to the general definitions section of the West Lake Hills Code of Ordinances

Administrative Exception

Rationale:

Administrative exceptions give the City Administrator a narrow, bounded tool to resolve minor issues.

Definition:

Administrative Exception. A minor modification of a standard established by this code, reviewed and approved by the City in accordance with this code. Eligible standards, limits on relief, and application procedures are established in the operative sections of this code that authorize specific administrative exceptions. An administrative exception is not a variance.

Change Can Be Found On Following Page(s):

- Ch. 1, Page 4

Contextual Standard

Rationale:

Where BOA and ZAPCO have historically approved the same types of relief over and over — street setbacks consistent with adjacent homes, fence setbacks matching the neighbors — the underlying standard is too rigid for those situations. Contextual standards convert that predictable, repeated outcome into a clear, administrable rule.

Definition:

Contextual Standard. A standard whose applicable value is derived from existing conditions specific to the site, from the established pattern of development in the surrounding area, or from both. Contextual standards may govern setbacks, lot orientation, driveways, and fences as designated by the operative sections of this code. The City Administrator determines the applicable standard using the methodology prescribed in the applicable section of this code. A contextual standard is not a variance.

Change Can Be Found On Following Page(s):

- Ch. 1, Page 7

Impervious Cover Subsection

Rationale:

Applicants shouldn't have to cross-reference multiple documents to determine how impervious cover is defined and calculated.

Definition:

For the definition of impervious cover and the calculation of impervious cover percentages, including the classification of materials and surfaces and their applicable impervious cover values, see the Drainage and Erosion Control Design Manual.

Change Can Be Found On Following Page(s):

- Ch. 1, Page 10

Part II: Building and Site Development Standards

Amendments to Chapter 22 of the West Lake Hills Code of Ordinances

§ 22.03.275(d)(1) — Contextual Street Building Setbacks –

Rationale:

BOA and ZAPCO have historically often approved variances for homes proposing setback adjustments consistent with neighborhood development. This converts that petition into an administrative process with objective, bounded standards.

Final Language

(A) Applicability. This subsection applies only where the Schedule of Regulations marks the street building setback with an asterisk (*) and the subject lot is less than one (1) acre. The setback may be reduced only when at least three (3) of the four (4) adjacent lots contain a qualifying comparison building located closer to the street than the district standard.

(B) Definitions. As used in this subsection:

(i) *Adjacent lots* means the four (4) nearest lots on the same side of the same street as the subject lot's proposed building, measured along that street. If fewer than four (4) such lots exist, this subsection does not apply to that frontage.

(ii) A *comparison building* is a building on an adjacent lot that fronts the same street as the subject lot's proposed building, is located closer to the street than the district standard otherwise requires, and matches it in type: principal buildings are compared only to principal buildings; accessory structures are compared only to accessory structures of the same type.

(C) Permitted setback**.** The street building setback may be reduced to the average of the measured street setbacks of all comparison buildings on the adjacent lots, plus or minus five (5) feet, but in no case closer to the street than the most forward comparison building.

(D) Multiple street frontages.

(i) Where the subject lot fronts more than one street, subsections (A) through (C) apply separately to each frontage. A reduction along one frontage does not affect the setback along any other.

(ii) A setback already reduced under § 22.03.275(d)(3) is not eligible for further reduction under this subsection.

(iii) For a corner lot, the four adjacent lots are counted in the direction extending into the block from the subject lot along the relevant frontage.

(E) Written determination. The City Administrator shall issue a written determination identifying each comparison building and its measured setback, the calculated average and permitted range, and — for corner lots — the applicable frontage. The determination shall be entered into the property file for the subject lot.

Change Can Be Found On Following Page(s):

- Ch. 22, Pages 71-72

§ 22.03.173(d)(10) — Contextual Front-Yard Fence Setback

Rationale:

Similar to contextual street setbacks for building. BOA and ZAPCO have historically often approved variances for homes proposing setback adjustments consistent with neighborhood development.

Final Language

(10) Contextual front-yard fence setback.

(A) Applicability. This subsection applies only to lots of less than one (1) acre. The front-yard fence setback otherwise required by this section may be reduced only when at least three (3) of the four (4) adjacent lots have existing front-yard fences along the same street as the proposed fence that are located closer to the street than this section otherwise requires.

(B) Adjacent lots. *Adjacent lots* means the four (4) nearest lots on the same side of the same street as the proposed fence, measured along that street. If fewer than four (4) such lots exist, this subsection does not apply to that frontage.

(C) Permitted setback. The front-yard fence setback may be reduced to the average of the measured fence setbacks of the qualifying adjacent-lot fences that are located closer to the street than this section otherwise requires, plus or minus five (5) feet, but in no case closer to the street than the most forward front-yard fence among those lots.

(D) Height, transparency, and design criteria not affected. This subsection provides setback relief only.

(E) Corner lots. Where the subject lot fronts more than one street, this subsection applies separately to each frontage. The four adjacent lots are counted in the direction extending into the block from the subject lot along the relevant street.

(F) Application and decision. The applicant shall submit a site plan or survey showing the measured fence setback of each adjacent lot and identifying the most forward front-yard fence. The City Administrator may require additional documentation or conduct independent field inspection to verify submitted measurements. The City Administrator shall issue a written determination identifying the adjacent lots, each measured setback, the calculated average and permitted range, and — for corner lots — the applicable frontage. The determination shall be entered into the property file for the subject lot.

Change Can Be Found On Following Page(s):

- Ch. 22, Page 53

§ 22.03.175(g) — Driveway Grading Standards –

Rationale:

Driveways need to meet grading standards for emergency services access. In such cases, where the applicant has reasonably proven that they had no alternative, we have historically approved cut/fill modifications. This makes that an administrative process.

Final Language:

(g) Contextual Driveway Grading Standards.

(1) Where compliance with the cut-and-fill limitations of § 22.03.170(f) would prevent a driveway from meeting the safe design standards of this subsection, the following alternative standards apply to driveway construction within building setback zones established under § 22.03.170(f) and driveway setback zones established under § 22.03.175(a):

(i) The proposed driveway alignment shall result in the least cut and fill among the feasible alignments identified in the engineer's narrative required by subsection (ii);

(ii) The applicant shall submit a narrative prepared and sealed by a licensed professional engineer. The narrative shall: (a) identify at least two driveway alignments that comply with applicable driveway requirements of this code, including but not limited to cut-and-fill and setback limitations, but that cannot meet safe driveway grading standards given the lot's physical constraints; (b) for each, provide a grade profile demonstrating it cannot comply with § 22.03.170(f) while meeting safe design standards; and (c) demonstrate the proposed alignment produces the least cut and fill among alternatives;

(iii) The grade shall not exceed ten percent (10%) within the first twenty (20) feet from the pavement edge, and shall not exceed twenty percent (20%) at any point thereafter;

(iv) No cut or fill shall exceed six (6) feet from natural grade;

(v) All retaining walls constructed in connection with driveway grading under this subsection shall comply with the retaining wall provisions of this code.

(2) The city engineer shall review the sealed narrative and proposed alignment at or prior to the building permit stage. The city engineer's review shall confirm that the narrative satisfies the requirements of subsection (1)(ii) and that the proposed alignment is consistent with the least-cut-and-fill standard.

(3) A driveway lawfully existing before the effective date of the ordinance adopting this subsection may be maintained, repaired, or repaved without complying with this

subsection, provided that the maintenance, repair, or repaving does not increase the extent of cut or fill beyond the existing condition.

Change Can Be Found On Following Page(s):

- Ch. 22, Page 57

§ 22.03.275(d)(2) — Side and Rear Setback Encroachments

Rationale:

Allow renovations and small expansions of existing homes using grandfathered building lines that, presumably, neighbors have become accustomed to over the grand course of time rather than effectively forcing demolition.

Update from Last ZAPCO Meeting:

Adding language limiting full project scope within the buildable area to assure the provision encourages renovations and small scale expansion.

Final Language:

(2) Side and Rear Setback Encroachments.

(A) When the applicable Schedule of Regulations specifies the building setback distance and includes asterisks (*), it allows for an encroachment in the required setback based on the existing building encroachment.

(B) The side or rear setback may be encroached upon by an addition to a primary building when the primary building already encroaches into the applicable setback and the following conditions are met:

> (i) The portion of the addition located within the required setback shall not exceed 300 square feet of lot coverage. “Lot coverage” includes conditioned area, cantilevered built area that extends over open ground, and unconditioned built area (i.e., porch covered by roof or pergola).
>
> (ii) The total addition to the primary structure — including both the portion within the required setback and any portion within the buildable area constructed under the same building permit or any building permit issued within twenty-four (24) months of the determination under this subsection — shall not exceed 1,000 square feet of lot coverage, as defined in subsection (B)(i).
>
> (iii) The elevation of the top of any exterior wall of the addition that lies within the required setback shall not exceed the elevation of the top of the existing exterior wall of the primary structure within the same setback.
>
> (iv) The new exterior wall of the addition shall be aligned with or set back from the existing exterior wall of the existing encroaching primary structure. No

portion of the addition shall encroach more than halfway into the required setback, measured from the building setback line toward the property line. Where the existing exterior wall of the primary structure already encroaches more than halfway into the required setback, the addition shall be stepped back so that no portion of the addition is closer to the property line than the halfway point of the required setback. Where the existing exterior wall runs at an angle or follows an irregular line through the setback, the addition may follow that line, provided no portion of the addition crosses the halfway point. Note that required setbacks differ for first and second floors.

(v) The length of any new wall within the encroachment area may not exceed 25' in length.

(C) The side or rear setback may be encroached upon for the reconstruction of a pool and/or associated patio or decking when the following conditions are met:

(i) A pool may be reconstructed in its existing location at the same size or up to a ten percent (10%) increase in overall pool size, provided the pool does not encroach beyond the existing encroachment of the pool being replaced.

(ii) Patio or decking associated with a reconstructed pool may encroach up to three (3) feet beyond the existing encroachment of the pool being replaced.

(D) This allowable encroachment is only applicable to additions made to primary structures existing as of the date of this adopted amendment and already encroaching beyond the setback lines. The encroachment authorized under this subsection must factor into the calculation of the total lot coverage and applicable impervious cover for the lot. The terms of this code exception are linked to the existing encroaching primary structure and in no way are applicable should the existing structure be demolished.

(E) Relief under subsection (B) is available only once per primary structure. Once a determination has been issued under subsection (B) for a primary structure, no further determination under subsection (B) may be issued for that primary structure, regardless of any change in ownership or subsequent construction. The City Administrator shall maintain a registry of determinations issued under subsection (B), indexed by street address and Travis County parcel identification number, and shall consult the registry as part of the review of each application. Each determination shall also be filed in the City's property file for the subject lot.

Change Can Be Found On Following Page(s):

- Ch. 22, Pages 72-73

§ 22.03.173(d)(9) — Fence Height Standards

Rationale:

Currently, within the buildable area a building is subject to our home/accessory structure height limits of 30 feet, but fences were governed by our fence rules at 6 feet, causing both confusion and consternation.

Final Language

(9) Height of fences.

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

(B) A fence that is electrified shall not exceed four (4) feet in height, measured from existing natural ground level.

(C) Fences outside the setback shall not exceed eight (8) feet in height per side, measured from existing natural ground level, and shall be at least eighty percent (80%) transparent.

(D) Within the buildable area, a fence that is at least eighty percent (80%) transparent may be erected to a maximum height of twelve (12) feet, measured from existing natural ground level, where such fence encloses a sports court. A “sports court” means an improved outdoor surface designed and used for recreational athletic activity, including but not limited to tennis, pickleball, and basketball.

(E) Within the buildable area, solid freestanding walls may be erected to a maximum height of twelve (12) feet, measured from existing natural ground level, to enclose a courtyard, provided that: (i) The freestanding walls constitute no more than thirty-three percent (33%) of the total perimeter of the courtyard; (ii) The courtyard is contiguous to and functionally integrated with the principal structure on the lot; and (iii) The walls shall be of materials and colors consistent with the principal structure or natural surroundings.

(F) For purposes of subsections (C) through (E) of this paragraph, “buildable area” means the area of a lot that lies within all applicable building setback lines established under the applicable setback and schedule of regulations provisions of this code. Fences erected under subsections (C) through (E) shall not be permitted within any required setback yard.

(G) The height allowances in subsections (C) through (E) do not modify the height, transparency, setback, or landscaping requirements applicable to front-yard fences under subsection (d)(6) of this section.

Change Can Be Found On Following Page(s):

- Ch. 22, Pages 52-53

§ 22.03.275(d)(3) — Lots Encumbered by Multiple Street Setbacks

Rationale:

Multi-front setbacks is one of the most common variance requests ZAPCO encounters, and one which has often received a variance presuming the applicant has minimized the scope of the request.

Update from Last ZAPCO Meeting:

Adding language clarifying that the adjustment does not apply to freestanding walls – see (c)(v).

Final Language

(A) Applicability. A lot with two or more street setbacks is eligible for a contextual setback determination under this subsection when the buildable area remaining after application of all required setbacks is less than three-quarters (¾) of the buildable area that would result if the lot had only its primary street setback and the applicable side and rear setbacks.

(B) Definitions.

(i) The primary street setback is the setback applicable to the street to which the principal building on the lot is oriented, as determined by the location of the building's primary façade and principal entrance.

(a) Where the principal building's orientation cannot be unambiguously determined from the primary façade and principal entrance, or where no principal building yet exists on the lot, the primary street setback is the setback applicable to the street from which the lot's driveway takes or is proposed to take access.

(b) Where neither (i) nor (a) yields a determinate result, the City Administrator may designate the primary street setback based on the lot's address of record or other indicia of orientation, supported by written findings.

(ii) All street setbacks not identified as primary under this subsection are non-primary street setbacks.

(C) Relief available. The City Administrator may approve a reduction of one or more non-primary street setbacks, subject to:

(i) No setback reduced below fifty percent (50%) of the distance otherwise required by the applicable Schedule of Regulations;

(ii) Primary street setback not reduced;

(iii) No new nonconformity created;

(iv) Not combined with a contextual reduction under (d)(1) for the same setback;

(v) A reduction under this subsection adjusts the building setback applicable to the principal structure. It does not modify the setback, height, transparency, or design requirements applicable to fences or walls under § 22.03.173.

(D) Determining the approved setback distance. The three-quarters (¾) comparison sets the maximum available reduction. The City Administrator determines the approved distance using four factors: neighbor impact, development pattern consistency, topography and tree cover, and orientation relative to adjacent lots. The approved reduction may be less than the maximum if the factors warrant it.

(E) Application requirements. The application shall include a scaled site plan, both buildable area calculations (with all required setbacks and with only the primary street setback), and a depiction of the requested reduction.

(F) Decision. The City Administrator's determination shall be in writing, shall specify the approved setback distances, and shall include findings addressing each factor in subsection (D). The determination may include conditions for building placement, landscaping, or screening. The written determination shall be entered into the property file maintained by the city for the subject lot.

Change Can Be Found On Following Page(s):

- Ch. 22, Pages 73-74

§ 22.03.170(f) — Grading in Setbacks

Rationale:

The 18-inch limit snarls drainage mitigation, erosion controls, driveways, and considerate landscaping. The Architecture Committee debated this over the course of hours and landed at 30 inches as no handrail.

Update from Last ZAPCO Meeting:

Clarified stone instead of masonry – masonry includes concrete walls. Cut the requirement for vegetative screening so we have uniform requirements across code for walls at 36" rather than creating two standards. Clarified building & driveway setbacks.

Final Language:

(f) Grading in setbacks.

(1) The cut-and-fill limits of this subsection apply within the setback applicable to the improvement being constructed.

> (A) For buildings and structures, the building setback established under § 22.03.281.
>
> (B) For driveways and parking areas, the driveway and parking setback established under § 22.03.175(a) or § 22.03.249.

(2) Cut or fill within the applicable setback shall not exceed eighteen (18) inches from natural grade, or thirty (30) inches from natural grade where the grading is retained by a stone retaining wall.

(3) As used in this subsection, *stone* means natural stone, including but not limited to limestone, sandstone, and fieldstone. The term does not include concrete, concrete masonry units, brick, or manufactured stone veneer.

(4) A stone retaining wall permitted under subsection (2) shall incorporate the use of native materials or be earth-tone colors to match native soils.

(5) Unless constructed in connection with a driveway permitted under this code, a stone retaining wall permitted under subsection (2) shall not be located closer to the street than the greater of (a) the edge of the city right-of-way, or (b) ten (10) feet from the edge of the street.

Change Can Be Found On Following Page(s):

- Ch. 22, Page 49

§ 22.03.275(a)(6) — Septic in Setbacks

Rationale:

They are buried and, other than the caps, generally invisible. This mirrors new rules around AC/pool equipment/rainwater collection. No changes from the ZAPCO packet.

Final Language:

(6) Septic tanks may encroach up to five (5) feet into street, side, and rear setbacks, but in no case be closer than five (5) feet from the property line.

Change Can Be Found On Following Page(s):

- Ch. 22, Page 71

§ 22.03.003(b) — Scope Clarification

Rationale:

Clerical cleanup.

Final Language:

(b) Additions, alterations, repairs and changes of use or occupancy in all buildings and structures shall comply with the provisions for new buildings and structures except as otherwise provided in the Codes adopted in Article 22.03, Division 3.

Change Can Be Found On Following Page(s):

- Ch. 22, Page 14

§ 22.03.061 — Construction Schedules

Rationale:

Clarity around exemption language, additional milestones added to schedule to facilitate inspections.

Final Language:

(a) Purpose. The purpose of requiring construction schedules is to facilitate the city's coordination of inspections and communication with adjacent property owners.

(b) Construction schedules required. Except as provided in subsection (f), it is an offense for any person to perform construction work subject to this section unless the person has submitted a construction schedule at time of building permit application. Construction schedules shall be submitted for each six months that a construction project is ongoing and shall continue to be submitted until the project is completed.

(c) Target dates for milestones. The construction schedule shall provide target dates for milestones, which include, but are not limited to:

1. Site prep;
2. Demolition;
3. Removal of any variance trees;
4. Foundation pouring;
5. Framing;
6. Installation of sheetrock;
7. Electrical rough-ins;
8. Plumbing rough-ins;
9. Flatwork;
10. Grading;
11. and All final inspections.

(d) Review of schedule. Upon request, the contractor for the project shall meet with city staff to review the construction schedule.

(e) Inspections. The contractor or subcontractor registered with the city under this code for the project must be present at each inspection required by the building code as adopted by the city. The city inspector may allow the master electrician or master plumber to be present in lieu of the registered contractor for inspections related to electrical or plumbing work.

(f) Exemptions.

A construction project with a valuation of less than twenty-five thousand dollars ($25,000).

A construction project with a valuation of two hundred thousand dollars ($200,000) or less that is projected to be completed within six (6) months of permit issuance is exempt from the requirements of this section; provided, however, that if such project extends past six (6) months after the appropriate permit is issued, a construction schedule shall be required.

Change Can Be Found On Following Page(s):

- Ch. 22, Pages 24-25

§ 22.03.121(i) — Demolition Permit

Rationale:

Clerical cleanup.

Final Language:

Demolition permit. No person shall demolish any structure or any portion of a structure within the city unless a demolition permit has been issued first for such work.

Change Can Be Found On Following Page(s):

- Ch 22, Page 30

§ 22.03.175(f) — Residential Driveway Width Minimum

Rationale:

Clerical cleanup to ensure driveways meet emergency service requirements.

Final Language:

(f) Residential driveways, including ribbon driveways, shall not be less than twelve (12) feet in surface width, with a surface that meets the requirements for emergency service access.

Change Can Be Found On Following Page(s):

- Ch 22, Page 57

§ 22.03.175(e)(5) — Nonconforming Double Curb Cuts

Rationale:

There's no reason to tear up a double curb cut the entire neighborhood and nature have become accustomed to. Typically redoing driveways to bring them into conformity involves more natural disturbance rather than letting sleeping dogs lie.

Final Language:

(e)(5) A previously established second driveway shall be permitted to remain and be used, provided such driveway is maintained in a safe and operable condition. A nonconforming driveway under this subsection shall not be expanded, enlarged, relocated, or reconstructed in a manner that increases its nonconformity.

Change Can Be Found On Following Page(s):

- Ch 22, Page 55

§ 22.03.121(j) — Work Exempt from Permit

Rationale:

We need to be clear about what doesn't require a permit.

Update from last ZAPCO meeting:

The Mayor is working on a website redesign – goal is September delivery. Our processes/flows/what requires a permit should be much clearer upon launch.

Final Language:

(j) Work exempt from permit. The following items do not require a permit from the city:

(1) Exemptions listed in the 2015 IBC, IRC, IPC, IMC, IFGC, IECC, IFC and 2017 NEC.

(2) Replacement of up to 25% of the existing siding with the same material.

Change Can Be Found On Following Page(s):

- Ch 22, Page 30

Part III: Administrative Framework

Amendments to Chapter 38 of the West Lake Hills Code of Ordinances — Administrative Exceptions, Interpretive Criteria, and Special Use Permit Routing

§§ 38.05.098–101 — 5% Error Tolerance (Administrative Exceptions)

Rationale:

There's no reason to block a CO and then require a variance for a flub. This type of provision is common in cities, even strict ones, at higher levels. BOA recently saw a case where a fence was a few inches too high because the footer was either incorrectly measured or poured.

Final Language:

§ 38.05.098. Eligibility

An administrative exception may be granted by the City Administrator subject to the provisions of this chapter in accordance with the rules and conditions of this division. Administrative exceptions run with the land, but each exception is specific to the project for which it was granted. Only those administrative exceptions listed below are eligible for approval by the City Administrator:

Up to a maximum of 5% relief from any numerical standard for permitted work with identified "after-the-fact" construction errors. This relief is not available at the building permit stage, but only to correct construction errors.

§ 38.05.099. Conditions required for granting administrative exception.

(1) That granting the administrative exception serves an obvious and needed purpose.

(2) That granting the administrative exception will ensure an equal or better level of design or land use compatibility as the otherwise applicable standards.

(3) That granting the administrative exception will not materially and adversely affect adjacent land uses and the physical character of development in the immediate vicinity of the proposed project.

(4) That granting the administrative exception will be consistent with the purposes and intent of the zoning ordinance and comprehensive plan.

§ 38.05.100. Interpretive criteria.

(1) The condition is not intentionally self-created.

(2) The condition does not result from a disregard of the approved plans, specifications, or applicable code requirements.

§ 38.05.101. Procedure.

(1) Application. An application for an administrative exception must be made in writing in a form prescribed by the city administrator, accompanied by a site plan and additional information as may be requested in order to properly review the application. Such information may include but is not limited to survey, site and

building plans, and contour maps. If the applicant is not the legal owner of the property, a statement from the owner that the applicant is the authorized agent of the owner should be provided with the application.

(2) Report by city administrator or designee. Either the city administrator or the city administrator's representative may visit the site where the proposed administrative exception will apply and the surrounding area and prepare a site report on the conditions affecting the request for administrative exception.

(3) Review by city administrator. The city administrator will review each application for an administrative exception and the accompanying site report.

(4) Requirements for recommending approval. The city administrator must not recommend approval of an administrative exception unless they find, based on competent evidence, that each of the interpretive criteria herein have been established. The burden of establishing such conditions is on the applicant.

Change Can Be Found On Following Page(s):

- Ch 38, Page 66-67

BOA & Council Split, ZAPCO recommending role changed, SUP Applications Routed Correctly.

Rationale:

The elected body should not be in charge of variance review and ZAPCO needs to serve a purpose better aligned with its statutory role. Splitting the bodies will quicken the process by removing the recommendation by ZAPCO step in our most common cases – getting to no and, increasingly infrequently, yes faster. SUPs belong with zoning and our zoning flow is ZAPCO -> Council.

Change Can Be Found On Following Page(s):
Ch. 20

- Page 4 — § 20.02.005 Duties: items (7), (8), (9) updated and item (12) struck
- Page 6 — § 20.03.007 Definitions: BOA definition replaced

Ch. 28

- Page 15 — § 28.03.096 heading and body: ZAPCO/BoA → board of adjustment; ZAPCO recommendation language struck
- Page 18 — § 28.03.159 Additional recommendations required: ZAPCO recommendation language struck; § 28.03.160 Procedure: ZAPCO recommendation reference struck

Ch. 38

- Pages 7–8 — Article 38.02 (§§ 38.02.001–38.02.006): BOA composition restructured, alternates rewritten, chairperson/organization changed, SUP jurisdiction (item (3)) struck with cascading renumber
- Pages 10–11 — §§ 38.02.006(b)–38.02.006(b)(5): SUP appeals references struck, requirements for approving SUP applications (item (4)) struck, renumbering of remaining items, city-council-forwarding language struck from findings
- Page 12 — § 38.02.011: old reconsideration provision struck and replaced
- Pages 54–55 — § 38.05.001 "adjustments"→"adjustment"; § 38.05.032(2) "an"→"a"
- Page 56 — § 38.05.032(3): new "Alternative grounds for existing structures" provision added
- Pages 58–60 — § 38.05.037: old regulatory authority table struck and replaced with restructured two-category table (BOA Action / ZAPCO Recommendation & City Council Action)

Addendum - General Cleanup
The changes below either enact staff recommendations for general code cleanup (i.e. storage pods being able to stay onsite for 14 days while residents move out, no longer requiring 3 hard, paper copies of each plat submission, replacing the language "tree count" with "tree survey", reordering sections for legibility) or are complimentary of the changes detailed above (i.e. front setback -> street setback, BOA/Council split & SUP/Variance routing adjustments).

Chapter 1 — General Provisions (§ 1.01.003 Definitions)

- **§ 1.01.003 - "Board of adjustment" definition** (redline p. ≈4–5) — Old text struck ("The words 'board of adjustment' and 'board' mean the Board of Adjustment of the City of West Lake Hills, Texas.") and replaced with "The board of adjustment established under section 38.02.001 of this code." Note: the summary lists a BOA-definition replacement under Ch. 20 § 20.03.007, but this parallel change in Ch. 1 is not listed.

- **§ 1.01.003 - "Remodel" definition** (redline p. ≈10–11) — Entirely new multi-part definition added (Interior Changes; System Upgrades; Exterior Work; Conversion of existing space; plus a "does not include" exclusion list). Absent from the current code and not in the summary.

Chapter 20 — Administration:

- **§ 20.02.005 - new SUP-review duty** (redline p. 3) - A brand-new duty item was added ("Review special use permits and submit recommendations to the city council…"). Within the indexed section; not itemized.

- **§ 20.02.005 — moved duty item** (redline p. 3) - The "Perform such other duties…" item is marked as moved (dark blue).

Chapter 22 — Building Regulations

- **§ 22.03.001 — Definitions (multiple)** (redline p. 8) — "front-yard fence"→"street-yard fence" (Accessory building); "front building line"→"street setback line" (Building line); City inspector — adds "or building official," "council"→"administrator"; NEW "Contextual Standard. See Section 1.01.003."; Impervious cover now points to "Drainage and Erosion Control Design Manual" (struck "section 1.01.003"); NEW "Remodel. See Section 1.01.003"; Setback "front"→"street"; "Front yard"→"Street yard" definition.

- **§ 22.03.012 — Temporary storage units** (redline p. 16) — "72 continuous hours"→"14 days," with one city-inspector-authorized 14-day extension (fee); struck the prior "up to 90 days" extension; NEW sentence allowing a unit during construction with a valid permit.

- **§ 22.03.018 — Fire Code year** (redline p. 19) — "2012"→"2015" International Fire Code reference.

- **§ 22.03.054 — City inspector duties** (redline p. 23) — "city council"→"city administrator."

- **§ 22.03.056 — Construction hours** (redline p. 23) — Adds "official" before "city holidays."

- **§ 22.03.059 — Drainage/erosion manual amendments** (redline p. 24) — Amendment process rewritten: manual amendments are "adopted by ordinance," with ZAPCO forwarding a recommendation to City Council (replaces the prior staff-recommendation / website-posting procedure).

- **§ 22.03.060 — Vegetation removal** (redline p. 24) — "tree count" with the city inspector replaced by "provide a tree survey per section 22.04.504" plus a site inspection.

- **§ 22.03.121 — Building permit (other subsections)** (redline p. 30) — Beyond the indexed (i) demolition and (j) work-exempt items: struck "See the appendix to Ordinance 366…," and struck the residential-building-permit-fee / two-times deposit paragraph.

- **§ 22.03.122 — Residential vs. nonresidential** (redline p. 31) — "All residential buildings"→"One and two-family residential"; hyphenation "non-residential."

- **§ 22.03.170(f) — closing exception line** (redline p. 49)— Adds "Exceptions to this section may be permitted by the application of contextual standards…" at the end of the (indexed) grading-in-setbacks rewrite.

- **§ 22.03.173 — "Buildable area" definition** (redline p. 50) — NEW definition added: "Buildable area. The area outside of the building setback area." (separate from the indexed (d)(9)/(d)(10) fence items).

- **§ 22.03.175 — temporary-driveway setbacks + parking schedule** (redline p. 55) *[within indexed §]* — NEW: street-ROW and boundary driveway/parking setbacks "appl[y] to all temporary driveways (including construction access)" (two places); parking schedule gains rows for Two-family (2), Accessory dwelling unit (1), and Multi-unit (1.5) dwellings, with the One-family row marked as moved.

- **§ 22.03.176 — Driveways (new/renumbered section)** (redline p. 57) — Driveway provisions now appear under a "§ 22.03.176. Driveways" heading (summary refers to this content as 22.03.175(e)(5)/(f)/(g) — the renumber to .176 is not described). Additional substantive edits here: entrance setback "35"→"50" ft and "or curve greater than 45 degrees"; NEW driveway-apron standard detail RD-1/RD-2 requirement; "city inspector"→"engineer" (multiple).

- **§ 22.03.274 — Lot width** (redline p. 71) — "front building setback line"→"street building setback line."

- **§ 22.03.275 — additional edits** (redline p. 71) *[within indexed §]* — Beyond the indexed (a)(6)/(c)(1)/(c)(2)/(c)(3): (1) "front"→"street" setback; accessory-structure setback paragraph marked as moved in from § 22.03.276; roof overhangs add "including gutters if provided" and "unless otherwise allowed in this section"; allowed encroachments add "rainwater collection tanks"; "Front yards"→"Street yards" and struck "In the case of lots abutting on more than one street…".

- **§ 22.03.276 — Setbacks for accessory structures** (redline p. 75) — Section content struck and the section marked "Reserved" (the text is moved into § 22.03.275). Structural change not described.

- **§ 22.03.281 — Schedule of Regulations** (redline p. 76) — Column header "Front Lot Line"→"Street Lot Line"; "**" asterisks added to setback values; NEW footnote "**See contextual setbacks."

- **§ 22.03.511 — Penalty/enforcement cross-references** (redline p. 121) — Adds references to "Section 22.03.304: Tree and vegetation removal and replacement" and "Section 22.03.305: Tree care and maintenance."

- **§ 22.03.514 — Variance conditions** (redline p. 123) — Struck ZAPCO-recommendation language ("can impose, and the zoning and planning commission can recommend imposition of,"→"may impose"); commercial-overlay condition clause rewritten; struck the "Upon request" postponement paragraph.

Chapter 36 — Subdivisions

- **§ 36.01.003 — Definitions** — "Impervious cover" — old long definition struck (verify whether a replacement pointer to the Drainage/Erosion manual was intended, to match Ch. 1 / Ch. 22); "Setback distance" — "structure and the front"→"building setback and the street."

- **§ 36.01.004 — Special provisions (plat copies)** — "Three (3) half-sized copies to scale" struck → "An electronic copy properly scaled and formatted to 18 inches by 24 inches in pdf format"; struck "in a format deemed acceptable by city staff (i.e. PDF)."

- **§ 36.01.006 — Plat filing copies** — "Eight legible copies of the preliminary plat…" struck → electronic pdf copy (18×24).

- **§ 36.01.007 — Changes/updates; form & contents** — Struck the ZAPCO-meeting deadline / ZAPCO-recommendation / city-council package-count language → "after the deadline on the submittal calendars annually approved by city council," with new administrative-approval routing; under Form and contents, adds "paper," before "mylar." Minor: spacing/"the" added in the ZAPCO-and-city-council effluent-variance clauses (§ 36.01.007–.008).

- **§ 36.01.012 — Procedure for variances** — NEW variance-procedure language added (written request to ZAPCO; one postponement; commission makes a recommendation or forwards to council without one; undue-hardship findings). Struck the old "Procedure for variances shall be administered in compliance with sections 38.02.006(b) and 38.02.008." (Appears to relocate/rewrite variance language between § 36.01.012 and § 36.01.013 — confirm final placement.)
- **§ 36.01.013 — Criteria for variances** — Old variance language struck (referenced "board of adjustment/city council"); "may be appealed"→"shall be forwarded" (to city council); public-notice radius "200 feet"→"300 feet."

Chapter 38 — Zoning (SUP & Variances)

- **§ 38.02.007 — Interpretive criteria (struck)** (redline p. 9) — The old "Interpretive criteria for the granting of variances" section is struck; its hardship grounds (b) are moved up into § 38.02.006(c).

- **§ 38.02.007 — Procedure for appeals to the board (renumbered from .008)** (redline p. 10) — Substantially rewritten: new appeal-standing categories (a)–(d), automatic stay provision, and notice/hearing timelines.

- **§ 38.02.008 — Procedure for special exceptions (NEW)** (redline p. 11) — New section establishing applicability, approval criteria, and a six-month expiration for special exceptions.

- **§ 38.02.009 — Procedure for (zoning) variances (NEW)** (redline p. 11) — New section (incorporates the moved board-findings language).

- **§ 38.02.010 — Re-application** (redline p. 13) — "appeal under section 38.02.006"→"re-application"; struck subsection (b) (the 90-day building-permit/CO validity paragraph). Distinct from the indexed § 38.02.011.

- **§§ 38.03.032–.038 — Special-use authority** (redline p. 16–21) — SUP routing throughout the district sections: struck "or city administrator" authorizations; "board of adjustment"→"city council"; reordering/renumbering of listed special uses (alcohol items, etc.).

- **§ 38.04.031 — Table of special uses** (redline p. 44) *]* — Struck rows (alcohol in grocery / restaurants in B-2, B-3; home occupation in R-1, R-2, R-3).

- **§ 38.04.032 — Issuance of SUP** (redline p. 45— Issuance fully rerouted: "board of adjustment"→"city council upon recommendation of the zoning and planning commission"; dual ZAPCO/Council hearings; report delivered to ZAPCO and Council; commission recommends, council takes final action.

- **§ 38.04.034 — Specific SUP criteria** (redline p. 47) — Entire "Home-based business" criteria struck; alcohol-in-restaurant criteria struck; "(e) Alcoholic beverages sold in liquor [stores]" retained with "or grocery stores" struck.

- **§ 38.04.035 — Adherence / renewal / revocation** (redline p. 56) — "BOA"→"city council" for SUP adherence, renewal, and revocation authority.

- **§ 38.05.033 — Interpretive criteria for variances** (redline p. 60— Struck "and the zoning and planning commission"; struck "respective."
- **§ 38.05.034 — Procedure for variances** (redline p. 60) — ZAPCO review/recommendation steps struck and process rerouted to the board of adjustment; "plat plans"→"survey"; report delivered to "board of adjustment" (was ZAPCO & council); lapse-of-variance fee waiver "city council"→"city administrator."

- **§ 38.05.035 — Conditions on variances** (redline p. 62) — "city council"→"board"; struck ZAPCO-recommendation language; commercial-overlay clause rewritten.

- **§ 38.05.036 — Notice of public hearing** (redline p. 62) *[variance-routing theme; not itemized]* — Heading and body "zoning and planning commission"→"board of adjustment"; struck the separate city-council hearing-notice paragraph.

Chapter 1

GENERAL PROVISIONS

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§ 1.01.001. Adoption.
§ 1.01.002. Designation and citation of code.
§ 1.01.003. Definitions and rules of construction.
§ 1.01.004. Catchlines of articles, divisions and sections.
§ 1.01.005. History notes.
§ 1.01.006. Editor's notes and references.
§ 1.01.007. Code does not affect prior offenses, rights, or other acts.
§ 1.01.008. Effect of repeal of ordinances.
§ 1.01.009. Certain ordinances not affected by code.
§ 1.01.010. Severability of parts of code.
§ 1.01.011. Amendments to code; effect of new ordinances; amendatory language.
§ 1.01.012. Supplementation of code.
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ARTICLE 1.02 ELECTIONS

§ 1.02.001. Place system for councilmembers.
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ARTICLE 1.03 FINANCES

§ 1.03.001. Fiscal year.

ARTICLE 1.04 TAXATION

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§ 1.04.001. through § 1.04.030. (Reserved)

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§ 1.04.032. Same–Application.
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§ 1.04.035. through § 1.04.060. (Reserved)

Part II Assessments; Collections

§ 1.04.061. Designation of officials.
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DIVISION 3 Sales and Use Tax

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ARTICLE 1.05 MUNICIPAL COURT

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§ 1.05.002. Scope.
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§ 1.05.004. Definitions.
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ARTICLE 1.01
CODE OF ORDINANCES

§ 1.01.001. Adoption.

There is hereby adopted the Code of Ordinances of the City of West Lake Hills, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc.
(1996 Code, sec. 1-2; Ordinance adopting Code; Ordinance 334 adopted 10/26/16; Ordinance 361 adopted 3/28/18; Ordinance 2021-013, att. C, adopted 12/8/21)

§ 1.01.002. Designation and citation of code.

The ordinances embraced in this chapter and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, City of West Lake Hills, Texas," and may be so cited.
(1996 Code, sec. 1-2; Ordinance adopting Code; Ordinance 334 adopted 10/26/16; Ordinance 361 adopted 3/28/18; Ordinance 2021-013, att. C, adopted 12/8/21)

§ 1.01.003. Definitions and rules of construction.

In the construction of this code and of all ordinances passed by the city council, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the council. Words used in this code and not defined in this section shall have their ordinarily accepted meaning.

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

Accessory building or accessory structure. A building or structure, the activity or function of which is clearly integral to, or customarily incidental and subordinate to, the permitted use of the main or principal building/structure on the same lot, such as an air-conditioning and heating unit; cabana; carport; domestic quarters; a wall used as a front-yard fence; garage; greenhouse; guesthouse; sports court; swimming pool; tool shed; wood shed; workshop; and the like. (See also the definition of structure in this section).

Accessory use. A use customarily incidental and subordinate to the primary use of the main building or to the primary use of the premises.

Administrative Exception. A minor modification of a standard established by this code, reviewed and approved by the City in accordance with this code. Eligible standards, limits on relief, and application procedures are established in the operative sections of this code that authorize specific administrative exceptions. An administrative exception is not a variance.

Aircraft. Any device that is used or intended to be used for flight in the air, including but not limited to planes, gliders, ultralight airplanes, hot-air balloons, helicopters, and parachutes.

Alcoholic beverage. Any beverage containing more than one-half of one percent alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

Amusement center or parlor. Any establishment containing one or more pool or billiard tables, pinball and electronic games offered for hire to the public.

Applicant. A person or entity who submits an application for an approval required by the city. The term shall be restricted to include only property owner(s), or a duly authorized agent and representative of the property owner, as demonstrated in writing to the city in the form of a notarized agency letter or power of attorney.

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Authority of public body. A grant of authority to three or more persons as a public body confers the authority on a majority of the total membership fixed by ordinance.

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Automobile service station. An establishment selling fuel for motor vehicles or performing any of the following services on motor vehicles:

(1) Lubrication and oil change;

(2) Installing parts and accessories, including but not limited to radios, telephones, tires, batteries, brakes, mufflers;

(3) Tune-ups; and

(4) Any minor repair or adjustment work.

Bedroom. An area of a dwelling intended primarily as sleeping quarters. The term does not include a kitchen, dining room, bathroom, living room, utility room, or closet or storage area of a dwelling.

Board of adjustment. The words "board of adjustment" and "board" mean the ~~Board of Adjustment of the City of West Lake Hills, Texas.~~ board of adjustment established under section 38.02.001 of this code.

Building. Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

Building, main or principal. A building in which is conducted the principal use of the lot on which it is situated.

Camper. A structure designed to be mounted on a motor vehicle and to provide facilities for human habitation.

Child day care facility. Any facility that provides care, training, education, custody, treatment, or supervision for one or more children who are not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Church. A place of worship and religious training of a recognized religion where persons regularly assemble for worship.

City. The word "city" means the City of West Lake Hills, Travis County, Texas.

City administrator, city manager, city secretary, chief of police or other city officers. The term "city administrator," "city manager," "city secretary," "chief of police" or other city officer or department shall be construed to mean the city administrator, city manager, city secretary, chief of police or such other municipal officer or department, respectively, of the City of West Lake Hills, Texas.

City council, council. Whenever the term "city council" or "council" is used, it is construed to mean the city council of the City of West Lake Hills, Texas.

Code. Whenever the term "Code" or "this Code" is referred to, without further qualification, it shall mean the Code of Ordinances, City of West Lake Hills, Texas, as designated in section 1.01.002.

Commercial trailer. A vehicle, with or without motive power, occupied as an office or for a similar permitted construction use, on a temporary basis during and for the purpose of supervising building construction. The occupancy of a commercial coach requires a special use permit.

Comprehensive plan. The plan required by Texas Local Government Code, chapter 211. The comprehensive plan is an independent, long-term plan for use and development of land within the city and in the city's extraterritorial jurisdiction. The city's comprehensive plan is the Master Plan for the City of West Lake Hills adopted in January, 1979, as amended.

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Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Contextual Standard. A standard whose applicable value is derived from existing conditions specific to the site, from the established pattern of development in the surrounding area, or from both. Contextual standards may govern setbacks, lot orientation, driveways, and fences as designated by the operative sections of this code. The City Administrator determines the applicable standard using the methodology prescribed in the applicable section of this code. A contextual standard is not a variance.

Contour map. A map or plat prepared by a registered engineer, architect or land surveyor which accurately reflects the surface of the area surveyed with contour intervals of two feet within the building site area and in all areas where the slope exceeds 15 percent.

County. The words “the county” and “this county” mean Travis County, Texas.

Delegation of authority. Whenever a provision of this Code of Ordinances requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize such officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision specifically designate otherwise.

Designated representative. An individual duly authorized by a short-term rental property owner to act in their place.

Development. A “development” is any buildings, roads, and other structures, construction, and excavation, dredging, grading, filling and clearing or removing of vegetation.

Distilled spirits. Any alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor procured in whole or in part by the process of distillation, including all dilutions or mixtures of them.

Domestic employee quarters. An accessory dwelling located on the same lot as the principal dwelling and used for habitation of a person fully employed in domestic duties on the dwelling premises. Such accessory dwelling shall not be permitted on lots of less than one acre. The domestic quarters shall not exceed 600 square feet in size or as approved by the city council and shall contain only one bedroom.

Drive-in service. Serving a patron while in a motor vehicle or permitting consumption of food or drink while in a motor vehicle parked on the premises of an eating establishment.

Drive-through service. Providing for the sale and pickup of merchandise, food or drink orders which are not intended to be consumed on the premises of an eating or retail sales establishment by patrons situated in a motor vehicle.

Dwelling, one-family. A detached building designed and having facilities for year-round human habitation by one family only.

Dwelling, two-family. A detached building designed and having facilities for year-round human habitation by two families each in a separate dwelling unit.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family. An individual, or two or more persons related by blood, marriage, or adoption, or a group of not to exceed three persons not all related by blood, marriage, or adoption, occupying the premises and living as a single nonprofit housekeeping unit.

Floor area, nonresidential. The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior structural walls for the purpose of computing the maximum allowable

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floor area in a building unit.

Floor area, residential. The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior structural walls for the purpose of computing the minimum allowable floor area in a building unit. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed porches.

Gender. Words of one gender include the other genders.

Guesthouse. An accessory seasonal dwelling located on the same lot as the principal building and used occasionally for habitation for guests but not for remuneration. Such accessory dwelling shall not be permitted on lots of less than one acre. The guest quarters shall not exceed 800 square feet in size and shall contain only one bedroom.

Height of structures. See section 22.03.279.

Highway or street. The width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel.

Home occupation. The term “home occupation” means an activity, business, profession, or occupation customarily carried on for gain in a dwelling unit, or in an accessory structure (other than a carport) to a dwelling unit, by a bona fide resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes. Home occupations must meet the criteria contained in sections 38.04.033 and 38.04.034.

Homestead. A homestead as used in this chapter includes any property for which a residential homestead application has been filed with the county appraisal district.

Hospital. The term “hospital” means an establishment that offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy, and regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.

~~Impervious cover. Manmade or constructed coverage of the natural ground with any structure or surface that impedes, inhibits or does not permit the absorption or passage of water into the ground or which results in the conveyance of excess water to the surrounding properties.~~

(1) ~~Items that are considered to be 100% impervious include, but are not limited to:~~

   (A) ~~Buildings and other structures;~~

   (B) ~~Parking areas, roads, streets and driveways; and~~

   (C) ~~Any other manmade areas of asphalt, impermeable concrete, compacted base material, pavers or other impervious material.~~

(2) ~~Items that are considered to be 75% impervious include, but are not limited to: permeable concrete or pavement that is demonstrated by a certified engineer to minimize water runoff to adjacent areas and maximize absorption and filtration through the permeable material. Property owners wishing to use items which the property owner wishes to be calculated as 75% impervious cover shall apply for and receive approval from the city administrator prior to installation.~~

(3) ~~Items that are considered to be 50% impervious include, but are not limited to:~~

   (A) ~~Wooden or composite decks with gaps between the plants to allow the passage of water to the natural, permeable ground surface below the deck;~~

   (B) ~~Manmade areas of loose rock or stone to be used as landscaping features that:~~

      (i) ~~Do not have a compacted base;~~

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(ii) ~~Are not used for the conveyance or storage of vehicles, machinery or equipment;~~

(iii) ~~Are not located in the setbacks; and~~

(iv) ~~Are sufficiently contained by edging to prevent erosion during a rain event.~~

(4) ~~Items that are not considered to be impervious include overhangs and eaves which are over two (2) feet above the natural grade and projecting from the building no more than two (2) feet.~~

Impervious cover. For the definition of impervious cover and the calculation of impervious cover percentages, including the classification of materials and surfaces and their applicable impervious cover values, see the Drainage and Erosion Control Design Manual.

Industrial uses. The term "industrial uses" means those activities which are primarily devoted to manufacturing, fabricating and processing functions or other activities likely to become objectionable because of odors, noises, fumes or waste.

Joint authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

Kennel, commercial. The term "commercial kennel" means any premises on which dogs are kept for sale or are boarded, trained or bred for remuneration. See section 38.04.034(d).

Kitchen. The word "kitchen" means a room or place having equipment for the preparation, cooking and service of food.

Lighting source. The term "lighting source" means any device which creates artificial illumination through the use of combustion, incandescence, or electrical discharge.

Liquor store. The term "liquor store" means a store selling distilled spirits for off-premises consumption only.

Lot. The word "lot" means a parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this code. A lot may or may not be specifically designated as such on public records. Prior to connection of utilities, an unplatted lot must be platted.

Massage therapist. The term "massage therapist" means an individual who is registered pursuant to the terms of Texas Occupations Code, chapter 455, as amended, as a massage therapist and who practices or administers massage therapy to a person of either gender for compensation.

Massage therapy. The term "massage therapy" means the manipulation of soft tissue. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, or tub, shower, or cabinet baths. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, myo-therapy, body massage, body rub, or any derivation of those terms. Massage therapy is a health care service when the massage is for therapeutic purposes. The terms "therapy" and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law. Massage therapy does not constitute the practice of chiropractic.

Massage therapy clinic. The term "massage therapy clinic" means a place of business that offers massage therapy as a service which is performed by a massage therapist who is registered pursuant to Texas Occupations Code, chapter 455, as amended.

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Massage therapy school. The term "massage therapy school" means an entity or organization with at least two registered instructors that teaches, at a minimum, the course of instruction required for registration as a massage therapist and which is registered with the department of state health services in accordance with Texas Occupations Code, chapter 455, as amended.

May. The word "may" is permissive.

Mobile home. The term "mobile home" means a structure designed for, or used as, semipermanent habitation and which is transportable on its own chassis in one or more sections and which is capable of being used without a permanent foundation.

Mobile home or recreational vehicle park. The term "mobile home or recreational vehicle park" means any area or tract of land where one or more mobile home or recreational vehicle lots or spaces are rented or held for rent.

Month. The word "month" means a calendar month.

Must and shall. Each is mandatory.

Nonconforming use. The term "nonconforming use" means an activity that was lawful and existing at a specific location prior to the adoption, revision or amendment of the zoning ordinance which fails to conform to the present requirements of the zoning ordinance.

Nuisance factor. The term "nuisance factor" means any offensive or unpleasant thing which annoys or disturbs a person of ordinary sensibility in the free use, possession, or enjoyment of his property or which endangers one's health or life or property, such as:

(1) Noise.

(2) Dust.

(3) Smoke.

(4) Fumes.

(5) Odor.

(6) Glare.

(7) Flashes.

(8) Heat.

(9) Electronic or atomic radiation.

(10) Effluent.

(11) Vibration.

(12) Shock waves.

(13) Gases.

(14) Vicious, mischievous, and barking dog(s); see chapter 4.

(15) Unlawful diversion of drainage onto adjacent property.

(16) Unshielded yard or building lighting.

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(17) Electrical or magnetic interference.

Number. The singular includes the plural and the plural includes the singular.

Oath. The word "oath" includes affirmation.

Officers, agencies. The words "city secretary," "chief of police" or other designations of officers, employees, departments, boards, commissions and other agencies mean the secretary, chief of police or such other officers, employees, departments, boards, commissions and agencies, respectively, of the City of West Lake Hills, Texas.

Official time standard. Whenever certain hours are named in this code, they shall mean standard time or daylight saving time, as may be in current use in the city.

Open-air commercial amusements. The term "open-air commercial amusements" means any land, building, structure, devices or activities for amusement and profit perceptible from a public right-of-way, such as drive-in theaters, miniature golf courses, water slides, motor vehicle courses or tracts, and similar enterprises.

Or, and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

Owner. The word "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Parking lot. The term "parking lot" means an area which contains three or more off-street parking spaces.

Parking space. The term "parking space" means an area designated for the parking of one motor vehicle which meets the requirements of the off-street parking requirements of this code.

Person. The word "person" includes an individual, firm, company, corporation, organization, society, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, executor, receiver, trustee, lessee and any other legal entity.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Private sewage facility. The term "private sewage facility" means a facility for the disposal of wastewater licensed by the city under the provisions of article 18.03, division 3.

Property. The word "property" shall mean and include real and personal property.

Quarrying. The word "quarrying" means the removal from the earth of stone, sand, gravel, caliche, minerals, topsoil or other natural material for the purpose of sale or any other commercial purpose, other than such as may be incidental to excavating or regrading in connection with or in anticipation of building development or landscaping on the site.

Real property. The term "real property" shall mean and include lands, tenements and hereditaments.

Recouping investment. The term "recouping investment" means to recover an expenditure made to acquire property or other assets.

Recreational vehicle. The term "recreational vehicle" means a vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, truck camper and camping trailer, but shall not include a mobile home.

Rehabilitation/wellness center. The term "rehabilitation/wellness center" means a part of the hospital

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which provides medical rehabilitation services that are designed to improve or minimize a person's physical disabilities, maximize a person's functional ability, or restore a person's lost functional capacity through close coordination of services.

Remodel. The renovation, alteration, or improvement of an existing structure that does not include any expansion or work beyond the existing walls of the structure. A remodel may include:

1. Interior Changes: Kitchen or bathroom upgrades; installation of new flooring, finishes, lighting, or built-in features; painting; or reconfiguration of interior walls.
2. System Upgrades: Replacement or installation of plumbing, mechanical (HVAC), or electrical systems; installation of insulation; or the addition of windows.
3. Exterior Work: Replacement of siding, roofing, windows, or architectural details; updates to existing porches or decks without expansion; or removal of existing square footage without replacement.
4. Conversion of existing space: Expansion of livable space into existing non-livable space (for example: garage or covered patio conversion) that does not expand the existing footprint.

Remodeling does not include the following:
1. Change in use.
2. Expansion of the footprint or an increase in height of the existing structure.
3. Modification of the existing roof in a way that alters the total height or the pitch of the roof.
4. Removal and replacement of more than 25% of the structural members.

Restaurant, fast-food. The term "fast-food restaurant" means an eating establishment, freestanding or within a larger structure, at which food is sold for consumption on premises or for take-out. No drive-in service facilities are permitted.

Restaurant, general. The term "general restaurant" means an eating establishment, freestanding or within a larger structure, at which food is sold exclusively for consumption on premises at tables with table service.

Riding stable. The term "riding stable" means any premises on which horses are boarded or kept for training, renting or for giving riding instructions.

Roadway. The word "roadway" means the portion of a highway, other than the berm or shoulder, that is improved, designed, or ordinarily used for vehicular travel. If a highway includes at least two separate roadways, the term applies to each roadway separately.

Setback distance. The term "setback distance" means the minimum distance required between a structure and the front, side or rear boundary line of the parcel of land on which the structure is located.

Sexually-oriented business. The term "sexually-oriented business" means a massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Shall. The word "shall" is mandatory.

Short-term rental. Renting or leasing a dwelling or a portion of a dwelling owned by a resident of the city to a residential guest(s) by the property's owner(s) for a period of thirty (30) consecutive days or less. Short-term rentals must meet the criteria contained in section 6.04.002 of the city code and cannot include rental of a guesthouse as defined above.

Sidewalk. The word "sidewalk" means the portion of a street that is:

(1) Between a curb or lateral line of a roadway and the adjacent property line; and

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(2) Intended for pedestrian use.

Signature, subscription. The word “signature” or “subscription” includes any symbol executed or adopted by a person with present intention to authenticate a writing.

Site plan/final site plan. The term “site plan/final site plan” means a development plan of one or more lots showing existing and proposed infrastructure and/or improvements. Any site plan which is approved by the city council becomes a part of the permit application or zoning change request and the applicant is bound by said plan unless a modification is approved by the council.

Special use. The term “special use” means a use that may be authorized by the city council if the applicant can show, to the satisfaction of the city council, that the use requested meets all applicable conditions and standards contained herein. See section 38.04.031 et seq.

State. The words “the state” or “this state” mean the State of Texas.

Street. The word “street” shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way, including the entire right-of-way.

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Structure. The word "structure" means anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground.

Tense. Words used in the past or present tense include the future, as well as the past and present.

Time computations. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday or legal holiday.

Time standard. Whenever certain hours are named in this code they shall mean central standard time or central daylight saving time, as the case may be.

Trailer. The word "trailer" means every vehicle designed for carrying persons or property and for being drawn by a motor vehicle on the highway.

Travel trailer. The term "travel trailer" means a vehicle, other than a motor vehicle, which is designed for human habitation for recreational purposes and which may be moved upon a public highway without a special permit or chauffeur's license, or both, without violating any provision of the vehicle code.

Vehicle. The word "vehicle" means every device by which any person or property may be propelled, moved or drawn upon a highway.

V.T.C.S., V.T.P.C., V.T.C.C.P., V.T.C.A. Such abbreviations refer to the divisions of Vernon's Texas Statutes Annotated.

Withdrawal or to withdraw. Is an applicant's, petitioner's, or requestor's voluntary recall/removal/retraction of any application, appeal, proposal, etc. from the city's decision process. Withdrawal results in the forfeiture of any fees paid, waives and negates any right/requirement for further action by the city, and constitutes final action on an item. Withdrawal has the same effect as if an item had never been submitted.

Written or in writing. The words "written" and "in writing" include any representation of words, letters, symbols or figures, whether by writing, printing or otherwise.

Year. The word "year" means 12 consecutive months.

Zoning and planning commission. The words "zoning and planning commission" and "commission" mean the Zoning and Planning Commission of the City of West Lake Hills, Texas.
(1996 Code, sec. 1-2; Ordinance adopting Code; Ordinance 334 adopted 10/26/16; Ordinance 361 adopted 3/28/18; Ordinance 2021-013, att. C, adopted 12/8/21; Ordinance 2024-016 adopted 10/9/2024)

§ 1.01.004. Catchlines of articles, divisions and sections.

The catchlines of the several articles, divisions and sections of this code are intended as mere catchwords to indicate the contents of the article, division or section and shall not be deemed or taken to be titles of such articles, divisions and sections, nor as any part of the articles, divisions and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles, divisions and sections, including the catchlines, are amended or reenacted.
(Ordinance 361 adopted 3/28/18)

§ 1.01.005. History notes.

The history notes appearing in parentheses after sections in this code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the sections.

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(Ordinance 361 adopted 3/28/18)

§ 1.01.006. Editor's notes and references.

The editor's notes, cross references and state law references in this code are not intended to have any legal effect but are merely intended to assist the user of this code.
(Ordinance 361 adopted 3/28/18)

§ 1.01.007. Code does not affect prior offenses, rights, or other acts.

Nothing in this code or the ordinance adopting this code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this code.
(Ordinance 361 adopted 3/28/18)

§ 1.01.008. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

(Ordinance 361 adopted 3/28/18)

§ 1.01.009. Certain ordinances not affected by code.

Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Ordinances creating, locating, opening, dedicating, paving, widening, vacating or closing specific streets, alleys and other public ways.

(2) Ordinances releasing special easements.

(3) Ordinances naming or changing the names of specific streets and other public ways.

(4) Ordinances establishing the grades of specific streets and other public ways.

(5) Ordinances authorizing or relating to specific issues of bonds.

(6) Ordinances creating or relating to specific sewer and paving districts and other specific local improvement districts.

(7) Ordinances annexing territory to, or disannexing territory from, the city.

(8) Ordinances calling or providing for a special election.

(9) Ordinances appropriating money.

(10) Ordinances making the annual tax levy.

(11) Ordinances approving plats and dedication deeds.

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(12) Ordinances approving or authorizing specific contracts with the state or with others.

(13) Ordinances authorizing a specific lease, sale, or purchase of property.

(14) Ordinances granting rights-of-way or other rights and privileges to specific railroad companies or others.

(15) Ordinances granting a specific public utility or any other person the right or privilege of constructing lines in the streets, alleys and other public areas, or of otherwise using such streets, alleys and places.

(16) Ordinances granting a franchise to a specific public utility.

(17) Ordinances establishing subdivision or zoning regulations or changing the zoning classification of specific pieces of real property.

(18) Ordinances granting variances to the zoning ordinance.

(19) Ordinances consistent with this code establishing traffic or parking regulations at specific locations.

(20) Ordinances accepting specific street improvements or other construction.

(21) Any temporary or special ordinance.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code.

(Ordinance 361 adopted 3/28/18)

§ 1.01.010. Severability of parts of code.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the city council without the incorporation in the code of any such unconstitutional phrase, clause, sentence, paragraph or section.
(Ordinance 361 adopted 3/28/18)

§ 1.01.011. Amendments to code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repeal of chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the council to make the same a part hereof, shall be deemed to be incorporated herein, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by

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specific reference to the section number of this Code in substantially the following language: "That section ___ of the Code of Ordinances, City of West Lake Hills, Texas, is hereby amended to read as follows: " The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of West Lake Hills, Texas, is hereby amended by adding a section, to be numbered _____, which section reads as follows: " The new section shall then be set out in full as enacted.

(d) All sections, divisions, articles or chapters desired to be repealed shall be specifically repealed by section, division, article or chapter number, as the case may be.

(Ordinance 361 adopted 3/28/18)

§ 1.01.012. Supplementation of code.

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," "this subsection," etc., as the case may be; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance material inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

(Ordinance 361 adopted 3/28/18)

§ 1.01.013. General penalty for violations of code; continuing violations.

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(a) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in this code or such ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars ($500.00).

(b) A fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including the dumping of refuse, may not exceed two thousand dollars ($2,000.00).

(c) Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that does not exceed five hundred dollars ($500.00) does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense. Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that exceeds five hundred dollars ($500.00) shall require a culpable mental state.

(d) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.

(e) Unless otherwise stated in this code or in any ordinance, each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

(f) In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(Ordinance 361 adopted 3/28/18)

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ARTICLE 1.02
ELECTIONS

§ 1.02.001. Place system for councilmembers.

The city hereby adopts the place system for the election of the councilmembers. Each office of councilmember shall be assigned a place number, so that each such office shall bear its own separate designation, such as, councilmember, place 1; councilmember, place 2; councilmember, place 3; councilmember, place 4; councilmember, place 5. As terms of incumbent councilmember expire, each candidate for the office of councilmember shall file application for a specific place on the city council. In such election, the ballot shall show each office of councilmember as a separate office by place number, with the name of each candidate printed thereon under the specific office for which such councilmember is a candidate.
(Ordinance 361 adopted 3/28/18)

§ 1.02.002. Application of state law.

All elections pertaining to municipal affairs shall be governed by the election laws of the state. In all city elections, the mayor, city secretary, or the city council shall do and perform each act in other elections required to be done and performed respectively by the county judge, the county clerk, or the commissioners' court. In all city elections the mayor, or if he fails to do so, the city council, shall order the election, give notice and appoint election officers to hold the election. In general elections for officers, notice thereof shall be given as provided in V.T.C.A., Election Code section 4.003.
(Ordinance 361 adopted 3/28/18)

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ARTICLE 1.03
FINANCES

§ 1.03.001. Fiscal year.

Commencing October 1, 1996, the fiscal year of and for the city shall begin October 1 of each year and shall end on September 30 of each succeeding year, the first such fiscal year being that beginning October 1, 1996, and ending September 30, 1997.
(Ordinance 361 adopted 3/28/18)

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ARTICLE 1.04
TAXATION

DIVISION 1
Generally

§ 1.04.001. through § 1.04.030. (Reserved)

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DIVISION 2
Property Taxes

Part I
In General

§ 1.04.031. Residence homestead exemption–Authorized.

The amount of $3,000.00 of the assessed value of residence homesteads, as defined by law, or persons who have attained the age of 65 years on or before January 1 of the year for which the exemption is claimed shall be exempt from city ad valorem taxes; provided, however, that where the ad valorem tax has heretofore been pledged for the payment of any debt, the taxing officers of the city shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created.
(Ordinance 361 adopted 3/28/18)

§ 1.04.032. Same–Application.

In order to secure the benefit of the residence homestead exemption, the owner shall, between January 1st and April 1st of each year, file with the city tax assessor and collector, on form furnished by the tax assessor and collector, a sworn inventory of such property owned on January 1 of each year for which the exemption is claimed, and shall initially furnish proof of age by certified copy of such owner's birth certificate or, if such person does not have a certificate of birth, then by the affidavit of two persons at least five years older than the exemption claimant with actual knowledge of the date and place of birth and by the original or certified copy of any two of the following documents, which must be at least five years old, to wit:

(1) Social Security record;

(2) Federal census record;

(3) State census record;

(4) Own child's birth certificate;

(5) Original birth notice in newspaper;

(6) School record;

(7) Insurance policy;

(8) Lodge record;

(9) Military record;

(10) Passport;

(11) Marriage record;

(12) Hospital record;

(13) Voter's registration record;

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(14) Church baptismal record;

(15) Employment record; and

(16) Physician's record.
(Ordinance 361 adopted 3/28/18)

§ 1.04.033. Delinquency penalty–Amount.

All taxes that remain delinquent as of July 1st of the year in which they become delinquent shall incur an additional penalty of 15 percent of the amount of taxes, penalty and interest due.
(Ordinance 361 adopted 3/28/18)

§ 1.04.034. Same–Notice.

Each year the tax assessor and collector shall mail notice of delinquency and of the additional penalty at least 30 and not more than 60 days before July 1st.
(Ordinance 361 adopted 3/28/18)

§ 1.04.035. through § 1.04.060. (Reserved)

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Part II
Assessments; Collections

§ 1.04.061. Designation of officials.

The tax assessor, board of equalization and tax collector of the county are hereby authorized to and shall act as and perform all the duties of tax assessor, board of equalization and tax collector, respectively, of the city.
(Ordinance 361 adopted 3/28/18)

§ 1.04.062. Performance of duties.

The assessment, collection and equalization of taxes of the city, and all acts, matters and duties pertaining thereto, shall be done and performed by the county tax assessor/collector, and such tax assessor/collector is hereby authorized to do and perform such assessment, collection and equalization and all acts, matters and duties pertaining thereto.
(Ordinance 361 adopted 3/28/18)

§ 1.04.063. through § 1.04.090. (Reserved)

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DIVISION 3
Sales and Use Tax

§ 1.04.091. Exemption.

(a) The city council, by unanimous vote of all members present, hereby exempts residential use of gas and electricity from the one-percent city sales tax.

(b) Effective October 1, 1996, “one percent” in subsection (a) of this section shall be changed to 1-1/2 percent.

(Ordinance 361 adopted 3/28/18)

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ARTICLE 1.05
MUNICIPAL COURT

DIVISION 1
Generally

§ 1.05.001. Purpose.

This article is adopted so that the city council may promote the public health, safety, morals and general welfare within the city, and within its extraterritorial jurisdiction, as prescribed by state law, through the enforcement of the city ordinances and the efficient disposition of cases arising from such ordinances.
(Ordinance 361 adopted 3/28/18)

§ 1.05.002. Scope.

The provisions of this article govern the creation, establishment, operation, and jurisdiction of the municipal court of record within the city, including the judges of the court.
(Ordinance 361 adopted 3/28/18)

§ 1.05.003. Jurisdiction.

The provisions of this article shall apply within the city limits and within the extraterritorial jurisdiction (ETJ) of the city as prescribed by state law.
(Ordinance 361 adopted 3/28/18)

§ 1.05.004. Definitions.

Appellate court. The county criminal court, the county criminal court of appeals, or the municipal court of appeals; or the county court at law if there is no county criminal court, county criminal court of appeals, or municipal court of appeals.

City. The City of West Lake Hills, Texas, a duly incorporated municipality.

City council or council. The governing body of the city.
(Ordinance 361 adopted 3/28/18)

§ 1.05.005. Creation of the municipal court of record.

There is hereby established one (1) municipal court of record ("court of record") within the city, with the numerical designation of "Municipal Court of Record No. 1." The municipal court that is operating on the date that this article is adopted shall complete its pending cases and be abolished, and all cases arising from alleged actions or inactions occurring after the date of the adoption of this article shall be filed within the new Municipal Court of Record No. 1 for disposition.
(Ordinance 361 adopted 3/28/18)

§ 1.05.006. Jurisdictional limits of court.

(a) Pursuant to section 30.00005, Texas Government Code, the municipal court of record has the jurisdiction provided by general law for municipal courts contained in section 29.003, Texas Government Code, including concurrent jurisdiction with justice courts as provided by section 29.003.

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(b) The municipal court of record has jurisdiction over cases arising outside the territorial limits of the city under ordinances authorized by Texas Local Government Code sections 215.072, 271.042, 341.903, and 551.002 or otherwise as provided by law.

(c) The municipal court of record has civil jurisdiction for the purpose of enforcing municipal ordinances enacted under subchapter A, chapter 214, Local Government Code (dangerous structures), or subchapter E, chapter 683, Transportation Code (junked vehicles).

(d) The municipal court of record has concurrent jurisdiction with a district court or a county court at law under subchapter B, chapter 54, Local Government Code, within the city's territorial limits and property owned by the city located in the city's extraterritorial jurisdiction for the purposes of enforcing health and safety and nuisance abatement ordinances.

(e) The municipal court of record has authority to issue:

(1) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and

(2) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

(Ordinance 361 adopted 3/28/18)

§ 1.05.007. Judges of court.

(a) The municipal court of record shall be presided over by a judge, who shall be known as the municipal judge. The judge shall be appointed by ordinance for a term of two (2) years and shall be entitled to a salary set by the city council. The amount of the judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(b) The judge must:

(1) Be a citizen of the United States;

(2) Be a resident of this state;

(3) Be a licensed attorney in good standing; and

(4) Have two (2) or more years of experience in the practice of law in this state.

(c) A person may not serve as a municipal judge if the person is otherwise employed by the municipality. A municipal judge who accepts other employment with the municipality vacates the judicial office.

(d) If a vacancy occurs in the office of municipal judge, the city council shall adopt an ordinance appointing a qualified person to fill the office for the remainder of the unexpired term.

(e) There shall also be as many as three (3) alternate judges appointed by the city council, subject to the same qualifications, who shall have all the powers and shall discharge all the duties of a municipal judge while serving as municipal judge. Each alternate judge shall be appointed for a term of two (2) years. If the regular municipal judge is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason, he/she shall select one of the alternate judges to serve during his/her absence.

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(f) The municipal judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding an all parties to the proceeding.

(g) The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the municipality.

(h) A municipal judge is a magistrate and may issue administrative search warrants.

(i) A municipal judge may be removed from office by the city council:

(1) As provided by section 1-a, article V, Texas Constitution; or

(2) For the reasons and by the procedure provided in subchapter B, chapter 21, Local Government Code.

(Ordinance 361 adopted 3/28/18)

§ 1.05.008. Writ power.

The judges of the municipal court of record may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the municipal court of record and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the municipal court of record.
(Ordinance 361 adopted 3/28/18)

§ 1.05.009. Court rules.

The Code of Criminal Procedure and the Texas Rules of Appellate Procedure, as modified by chapter 30, Texas Government Code, govern the trial of cases before the municipal court of record. The court may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with law.
(Ordinance 361 adopted 3/28/18)

§ 1.05.010. Clerk of court.

(a) The city administrator of the city shall appoint a clerk of the municipal court of record.

(b) The clerk or the clerk's deputies shall keep the records of the municipal court of record, issue process, and generally perform the duties for the court that a clerk of the county court at law exercising criminal jurisdiction is required by law to perform for that court. In addition, the clerk or the clerk's deputies shall maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts. The clerk shall perform the duties in accordance with state statutes and city ordinances.

(c) The clerk and other court personnel operate under the supervision of the city administrator, pursuant to section 2.03.034 of this code; however, the clerk and other court personnel perform their duties with respect to the direct operation of the court under the direction and control of the presiding judge.

(Ordinance 361 adopted 3/28/18)

§ 1.05.011. Preserving court record.

(a) For the purpose of recording the proceedings and preserving a record in all cases tried before the municipal court of record, a good quality electronic recording device shall be used. When the

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recording device is used, a court reporter need not be present at the trial to certify the reporter's record. Proceedings of the court that are appealed shall be transcribed from the recording by an official court reporter. The recording shall be kept and stored for a 20-day period beginning the day after a final order has been entered in the proceeding, upon completion of the trial, or after the denial of motion for a new trial, whichever occurs last.

(b) In lieu of a good quality electronic device, and as deemed necessary by the municipal judge, a court reporter appointed by the court clerk under Texas Government Code section 30.00010 shall preserve the record. The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of these methods to record the proceedings of the municipal court of record. The court reporter shall keep the record for a 20-day period beginning the day after the last day of the court proceeding, trial or denial of motion for new trial, or until any appeal is final, whichever occurs last.

(c) Testimony is not required to be recorded in a case unless requested by the judge or one of the parties.

(Ordinance 361 adopted 3/28/18)

§ 1.05.012. Court facilities and seal.

(a) The city council shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the city council determines necessary for the proper operation of the municipal court of record.

(b) The city council shall provide the municipal court of record with a seal that contains the phrase "Municipal Court of The City of West Lake Hills, Texas." The seal's use must conform to article 45.012 of the Code of Criminal Procedure.

(Ordinance 361 adopted 3/28/18)

§ 1.05.013. Complaints and pleadings.

Complaints and pleadings must substantially conform to the relevant provisions of chapters 27 and 45, Code of Criminal Procedure.

(Ordinance 361 adopted 3/28/18)

§ 1.05.014. Prosecution.

Prosecution in the municipal court of record shall be conducted as provided by article 45.201, Code of Criminal Procedure. Prosecution may be performed by the city attorney or another lawyer designated as municipal prosecutor/deputy city attorney.

(Ordinance 361 adopted 3/28/18)

§ 1.05.015. Jury.

(a) A person who is brought before the municipal court of record and who is charged with an offense is entitled to be tried by a jury of six (6) persons. Trial by jury, including the summoning of jurors, must substantially conform to chapter 45, Code of Criminal Procedure.

(b) The court clerk shall supervise the selection of persons for jury service.

(Ordinance 361 adopted 3/28/18)

§ 1.05.016. Appeal from judgment of conviction.

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(a) A defendant has the right of appeal from a judgment or conviction. The state has the right to appeal as provided by article 44.01, Code of Criminal Procedure. The county criminal courts have jurisdiction over appeals from the municipal courts of record. If there is no such court, the county courts at law have jurisdiction of an appeal.

(b) The appellate court shall determine each appeal from a municipal court of record conviction and each appeal from the state on the basis of the errors that are set forth in the appellant's motion for new trial and that are presented in the clerk's record and reporter's record prepared from the proceedings leading to the conviction or appeal. An appeal from the municipal court of record may not be by trial de novo.

(c) To perfect an appeal, the appellant must file a motion for new trial not later than the 10th day after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the clerk of the municipal court of record. The motion must set forth the points of error of which the appellant complains. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed ninety (90) days from the original filing deadline. If the court does not act on the motion before the expiration of the thirty (30) days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

(d) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court no later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed ninety (90) days from the original filing deadline.

(e) The fee for the preparation of the clerk's record, which does not include the fee the defendant must pay for an actual transcript of the proceedings, is $25.00. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.

(Ordinance 361 adopted 3/28/18)

§ 1.05.017. Appeal bond and record on appeal.

(a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.

(b) The appeal bond must be in the amount of $100.00 or double the amount of fines and costs adjudged against the defendant, whichever is greater.

(c) The bond must:

(1) State that the defendant was convicted in the case and has appealed;

(2) Be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken; and

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(3) Be in the form of either a cash bond, or surety bond naming two or more good and sufficient sureties as approved by the clerk of the court.

(Ordinance 361 adopted 3/28/18)

§ 1.05.018. Record on appeal.

The record on appeal must substantially conform to the provisions relating to the preparation of a transcript in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.
(Ordinance 361 adopted 3/28/18)

§ 1.05.019. Clerk's record.

The clerk's record must substantially conform to the provisions relating to the preparation of a clerk's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.
(Ordinance 361 adopted 3/28/18)

§ 1.05.020. Statement of facts.

(a) A reporter's record included in the record on appeal must substantially conform to the provisions relating to the preparation of a reporter's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

(b) The appellant shall pay for the reporter's record.

(Ordinance 361 adopted 3/28/18)

§ 1.05.021. Bills of exception.

Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.
(Ordinance 361 adopted 3/28/18)

§ 1.05.022. Transfer of record.

(a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file the following with the clerk of the municipal court:

(1) The reporter's record;

(2) A written description of material to be included in the clerk's record in addition to the required material; and

(3) Any material to be included in the clerk's record that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.

(c) After the court approves the record, the clerk shall promptly forward the record to the appellate court clerk.

(Ordinance 361 adopted 3/28/18)

§ 1.05.023. New trial.

(a) Each party, on filing the party's brief on appeal with the appellate court clerk, shall deliver a copy

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of the brief to the municipal judge.

(b) The trial court shall decide from the briefs of the parties whether the appellant should be permitted to withdraw the notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time before the record is filed with the appellate court.

(c) If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the municipal court of record.

(Ordinance 361 adopted 3/28/18)

§ 1.05.024. Certificate of appellate proceedings.

(a) Upon receipt of the certificate of appellate proceedings from the appellate court clerk, the clerk of the municipal court of record shall file the certificate with the papers in the case and note the certificate on the case docket.

(b) If themunicipal court of record judgment is affirmed, to enforce the judgment the court may:

(1) Forfeit the bond of the defendant;

(2) Issue a Writ of Capias for the defendant;

(3) Issue an execution against the defendant’s property;

(4) Order a refund for the defendant’s costs; or

(5) Conduct an indigency hearing at the court’s discretion.

(Ordinance 361 adopted 3/28/18)

§ 1.05.025. through § 1.05.050. (Reserved)

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DIVISION 2
Fees, Costs and Special Expenses

§ 1.05.051. Driving safety course, fee.

(a) The presiding judge of the municipal court of the city is authorized and directed to impose, levy and collect from any defendant requesting a driving safety course or a motorcycle operator training course an administrative fee, as provided in appendix A to this code. Such a fee shall be imposed only upon defendants charged with misdemeanor traffic offenses who are eligible for and elect to take a driving safety course or a motorcycle operator training course pursuant to V.T.C.A., Transportation Code section 543.111 et seq., as amended, which authorizes such misdemeanor charges to be dismissed upon the subsequent completion of such a course.

(b) The administrative fee authorized in this section shall not exceed the actual administrative expenses incurred by the municipal court or the sum of $10.00, whichever is less.

(c) If the person requesting a driving safety course or a motorcycle operator training course does not take the course, the person is not entitled to a refund of the fee required by this section.

(Ordinance 361 adopted 3/28/18)

§ 1.05.052. Deposit of fees.

The monies collected by the municipal court pursuant to section 1.05.003 shall be deposited in the municipal treasury.
(Ordinance 361 adopted 3/28/18)

§ 1.05.053. Fee for arrest warrants.

After due notice, a person who is arrested after issuance and service of an arrest warrant for an offense under V.T.C.A., Penal Code section 38.10, or under V.T.C.A., Transportation Code section 543.009, shall be assessed a special expense by the judge of the municipal court as provided in appendix A to this code. Such special expense shall be paid into the city treasury for the use and benefit of the city.
(Ordinance 361 adopted 3/28/18)

§ 1.05.054. Default of bond, fee.

After due notice of default of personal bond, a person who is arrested after issuance and service of an arrest warrant for failure to appear under Vernon's Annotated C.C.P. article 17.04, shall be assessed a special expense by the judge of the municipal court in the amount as provided in appendix A to this code, unless found to be actually less by the judge of the municipal court. Such special expense shall be paid into the city treasury for the use and benefit of the city.
(Ordinance 361 adopted 3/28/18)

§ 1.05.055. Technology fund.

(a) Established.There shall hereafter be and be established a special fund to be known as the "municipal court technology fund."

(b) Assessment of fee.

(1) Every defendant convicted for a misdemeanor offense in the municipal court of the city shall be required to pay a technology fee as a cost of court.

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(2) A person is considered "convicted" if:

(A) A sentence is imposed on the person;

(B) A person receives community supervision, including deferred adjudication community supervision; or

(C) A court defers final disposition of the person's case.

(c) Collection of fee; administration.

(1) The court clerk shall collect the court costs as established herein and shall pay them to the municipal treasurer, or to any other official who discharges the duties commonly designated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.

(2) The municipal court technology fund shall be administered by or under the direction of the city council.

(d) Use of funds.The fund shall be used only to finance the purchases of technological enhancements for the municipal court of the city, as provided for in V.T.C.A., Code of Criminal Procedure, article 102.0172.

(Ordinance 361 adopted 3/28/18)

§ 1.05.056. Building security fund.

(a) Assessment of fee.All defendants convicted in trial of a misdemeanor offense in municipal court shall be assessed a security fee as cost of court.

(b) Applicability of fee.A person shall be considered convicted if:

(1) A sentence is imposed on the person;

(2) The person receives community supervision, including deferred adjudication; or

(3) The court defers final disposition of the person's case.

(c) Collection of fee; use of funds.The clerk of the municipal court shall collect the costs and pay them to the municipal treasurer or other official of the town who discharges the duties delegated to the municipal treasurer for deposit in a fund to be known as the municipal court building security fund. This fund shall be administered under the direction of the city council and may be used only for the purpose of financing the purchase of security devices and/or services for the building or buildings housing the municipal court of the city. "Security devices and/or services" shall include any and all items described in V.T.C.A., Code of Criminal Procedure, article 102.017(d).

(Ordinance 361 adopted 3/28/18)

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ARTICLE 1.06
RECORDS MANAGEMENT

§ 1.06.001. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department head. The officer who, by ordinance, order, or administrative policy, is in charge of an office of the city that creates or receives records.

Director and librarian. The executive and administrative officer of the state library and archives commission.

Essential record. Any record of the city necessary to the resumption or continuation of operations of the city in an emergency or disaster, to the re-creation of the legal and financial status of the city, or to the protection and fulfillment of obligations to the people of the state.

Permanent record. Any record of the city for which the retention period on a records control schedule is given as permanent.

Records control schedule. A document prepared by or under the authority of the records management officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

Records liaison officers. The persons designated under section 1.06.010.

Records management. The application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records management committee. The committee established in section 1.06.006.

Records management officer. The person designated in section 1.06.005.

Records management plan. The plan developed under section 1.06.007.

Retention period. The minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.
(Ordinance 361 adopted 3/28/18)

§ 1.06.002. Records of city designated.

(a) All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristics and regardless of whether public access to them is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business, are hereby declared to be the records of the city and shall be created, maintained, and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner.

(b) Subsection (a) of this section shall not apply to:

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(1) Extra identical copies of documents created only for convenience of reference or research by officers or employees of the city;

(2) Notes, journals, diaries, and similar documents created by an officer or employee of the city for the officer's or employee's personal convenience;

(3) Blank forms;

(4) Stocks of publications;

(5) Library and museum materials acquired solely for the purposes of reference or display; or

(6) Copies of documents in any media furnished to members of the public to which they are entitled under V.T.C.A., Government Code chapter 552, or other state law.

(Ordinance 361 adopted 3/28/18)

§ 1.06.003. Records declared public property.

All city records are hereby declared to be the property of the city. No city official or employee has, by virtue of their position, any personal or property right to such records even though such official or employee may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.
(Ordinance 361 adopted 3/28/18)

§ 1.06.004. Policy.

It is hereby declared to be the policy of the city to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act (V.T.C.A., Local Government Code chapter 201 et seq.) and accepted records management practice.
(Ordinance 361 adopted 3/28/18)

§ 1.06.005. Designation of records management officer.

The city secretary, and the successive holders of such office, shall serve as records management officer for the city. As provided by state law, successive holders of the office shall file their name with director and librarian of the state library and archives commission within 30 days of the initial designation or of taking up the office, as applicable.
(Ordinance 361 adopted 3/28/18)

§ 1.06.006. Establishment of records management committee; duties.

A records management committee, consisting of the mayor and councilmembers, city administrator, city attorney, and the department heads (as needed), is hereby established. The committee shall:

(1) Assist the records management officer in the development of policies and procedures governing the records management program.

(2) Review the performance of the program on a regular basis and propose changes and improvements if needed.

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(3) Review and approve records control schedules submitted by the records management officer.

(4) Give final approval to the destruction of records in accordance with approved records control schedules.

(5) Actively support and promote the records management program throughout the city.

(Ordinance 361 adopted 3/28/18)

§ 1.06.007. Records management plan.

(a) The records management officer and the records management committee shall develop a records management plan for the city for submission to the city council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the city, and to properly preserve those records of the city that are of historical value. The plan must be designed to enable the records management officer to carry out the duties of that office prescribed by state law and this article effectively.

(b) Once approved by the city council the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the city and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.

(Ordinance 361 adopted 3/28/18)

§ 1.06.008. Duties of records management officer.

In addition to other duties assigned in this article or state law, the records management officer shall:

(1) Administer the records management program and provide assistance to department heads in its implementation;

(2) Plan, formulate, and prescribe records, disposition policies, systems, standards, and procedures;

(3) In cooperation with department heads, identify essential records and establish a disaster plan for each city office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;

(4) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;

(5) Establish standards for filing and storage equipment and for recordkeeping supplies;

(6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city;

(7) Provide records management advice and assistance to all city departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;

(8) Monitor records retention schedules and administrative rules issued by the state library and

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archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;

(9) Disseminate to the city council and department heads, information concerning state laws and administrative rules relating to local government records;

(10) Instruct records liaison officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;

(11) Direct record liaison officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this article;

(12) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the city is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

(13) Maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space saving as the result of such disposal or disposition;

(14) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (13) of this section; and

(15) Bring to the attention of the city council noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local Government Records Act (V.T.C.A., Local Government Code chapter 201 et seq.).

(Ordinance 361 adopted 3/28/18)

§ 1.06.009. Duties and responsibilities of department heads.

In addition to other duties assigned in this article, department heads shall:

(1) Cooperate with the records management officer in carrying out the policies and procedures established in the city for the efficient and economical management of records and in carrying out the requirements of this article;

(2) Adequately document the transaction of government business and the services, programs, and duties for which the department heads and their staff are responsible; and

(3) Maintain the records in such department head's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this article.

(Ordinance 361 adopted 3/28/18)

§ 1.06.010. Designation of records liaison officers.

Each department head shall designate a staff member to serve as records liaison officer for the implementation of the records management program in the department. If the records management officer determines that, in the best interests of the records management program, more than one records liaison officer should be designated for a department, the department head shall designate the number of records liaison officers specified by the records management officer. Persons designated as

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records liaison officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the city maintained by the department. Upon the resignation, retirement, dismissal, or removal by action of the department head of a person designated as a records liaison officer, the department heads shall promptly designate another person to fill the vacancy. A department head may serve as records liaison officer for the department.
(Ordinance 361 adopted 3/28/18)

§ 1.06.011. Duties and responsibilities of records liaison officers.

In addition to other duties assigned in this article, records liaison officers shall:

(1) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

(2) In cooperation with the records management officer, coordinate and implement the policies and procedures of the records management program in their departments; and

(3) Disseminate information to department staff concerning the records management program.
(Ordinance 361 adopted 3/28/18)

§ 1.06.012. Records control schedules.

(a) The records management officer, in cooperation with department heads and records liaison officers, shall prepare records control schedules on a department-by-department basis, listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of city records as the records management plan may require.

(b) Each records control schedule shall be monitored and amended as needed by the records management officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and records management program of the city.

(c) Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head and the members of the records management committee.

(d) Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The records management officer shall submit the records control schedules to the director and librarian.
(Ordinance 361 adopted 3/28/18)

§ 1.06.013. Implementation of schedules.

(a) A records control schedule for a department that has been approved and adopted under section 1.06.007 shall be implemented by department heads and records liaison officers according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the records management committee that the record be retained for an additional period.

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(c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the records management officer from the records management committee.

(Ordinance 361 adopted 3/28/18)

§ 1.06.014. Destruction of unscheduled records.

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer has submitted to and received from the director and librarian an approved destruction authorization request.

(Ordinance 361 adopted 3/28/18)

§ 1.06.015. Records center.

A records center, should one be established by the city, developed pursuant to the plan required by section 1.06.007, shall be under the direct control and supervision of the records management officer. Policies and procedures regulating the operations and use of the records shall be contained in the records management plan developed under section 1.06.007.

(Ordinance 361 adopted 3/28/18)

§ 1.06.016. Micrographics.

Unless a micrographics program in a department is specifically exempted by order of the city, all microfilming of records will be centralized and under the direct supervision of the records management officer. The city may direct its records be microfilmed or reproduced using an alternate method meeting minimum requirements of state law. The records management plan will establish policies and procedures for the microfilming of city records, including policies to ensure that all microfilming is done in accordance with standards and procedures for the microfilming of local government records established in rules of the state library and archives commission. The plan will also establish criteria for determining the eligibility of records for microfilming, and protocols for ensuring that a microfilming program that is exempted from the centralized operations is, nevertheless, subject to periodic review by the records management officer as to cost-effectiveness, administrative efficiency, and compliance with commission rules.

(Ordinance 361 adopted 3/28/18)

§ 1.06.017. (Reserved)

Editor's note–Former section 1.06.017 pertaining to time limit established and deriving from Ordinance 376 adopted 8/28/19, was repealed by Ordinance 2026-001 adopted 1/14/2026.

§ 1.06.018. (Reserved)

Editor's note–Former section 1.06.018 pertaining to exceptions and deriving from Ordinance 376 adopted 8/28/19, was repealed by Ordinance 2026-001 adopted 1/14/2026.

§ 1.06.019. (Reserved)

Editor's note–Former section 1.06.019 pertaining to statement of personnel time spent and deriving from Ordinance 376 adopted 8/28/19, was repealed by Ordinance 2026-001 adopted 1/14/2026.

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§ 1.06.020. (Reserved)

Editor's note–Former section 1.06.020 pertaining to time limit exceeded; estimate statement and deriving from Ordinance 376 adopted 8/28/19, was repealed by Ordinance 2026-001 adopted 1/14/2026.

§ 1.06.021. (Reserved)

Editor's note–Former section 1.06.021 pertaining to requestor's response to estimate statement and deriving from Ordinance 376 adopted 8/28/19, was repealed by Ordinance 2026-001 adopted 1/14/2026.

§ 1.06.022. Public information requests policy.

(a) Definitions.

Public Information. All information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official City business by the City Council or by any employee of the City. It also includes data the City owns or has a right of access to but was prepared or stored by a third party. The definition of "public information" applies to and includes to any electronic communication created, transmitted, received, or maintained on any device. This term shall be construed in accordance with the provisions of the Act as set forth in Texas Government Code, chapter 552, as may be amended.

Requestor. A person who submits a written request to the City of West Lake Hills for inspection or copies of public information.

Vexatious Requestor. A person who abuses the Texas Public Information Act (TPIA) by sending frequent and/or voluminous TPIA requests to the City, especially a small city, to disrupt the operations of City business is defined in Texas Local Government Code, sections 552.232 and 552.275.

(b) Policy.

(1) That in accordance with Texas Local Government Code, section 552.275, the City Council establishes an annual time limit of 36 hours and a monthly time limit of 15 hours as the amount of time that employees are required to devote without charge to produce public information for inspection or duplication or providing copies of public information to any one requestor. This annual time limit shall apply to each 12 month period commencing each fiscal year beginning October 1, effective with the date of adoption of this policy.

(2) Notification:

(A) The City Secretary or the City Secretary's designee shall provide the requestor with a written statement of the amount of personnel time spent complying with each request and the cumulative amount of time spent complying with requests from that requestor during the applicable twelve-month period. The time spent preparing the written statement of total time spent may not be included.

(B) When the time spent on responding to a particular requestor's requests equals or exceeds the time limit imposed by subsection (b)(1), the City Secretary or the City Secretary's designee shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses necessary to comply

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with the request, even if the requestor intends to only inspect the documents. The estimate must be provided on or before the 10th day after the date on which the public information was requested. The amount of the cost shall be established by rules prescribed by the attorney general.

(C) If the City Secretary or the City Secretary's designee determines that additional time is required to prepare the written estimate of costs required by subsection (b)(2)(B) and provides the requestor with a written statement of that determination, the City Secretary or the City Secretary's designee must provide the written estimate of costs required by subsection (b)(2)(B) as soon as practicable, but on or before the 10th day after the date the City provides the written statement that additional time is required.

(D) Notwithstanding any provision of this section to the contrary, any Requester of public information will be charged personnel costs in accordance with Texas Government Code, sec. 552.275 for all time in excess of 36 hours in any given twelve-month period commencing on October 1st of each year or 15 hours in a given monthly period commencing on the 1st date of each month, spent by personnel of the City in producing public information for inspection or duplication by a Requester, or providing copies of public information to a requester. The City Secretary shall be responsible for providing all notices to the Requester as required by law, including written statements of accrued time required by Texas Government Code, sec. 552.275(d) and written estimates of charges required by Texas Government Code, sec. 552.275(e).

(3) Response to notification:

(A) After the City Secretary or the City Secretary's designee has provided the requestor with the written estimate of costs under subsection (b)(2), the requestor may respond within 10 days of receiving the estimate by submitting a written statement in which the requestor commits to pay the lesser of:

(i) The actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead; or

(ii) The amount stated in the written statement provided.

(B) If the requestor fails or refuses to submit the written statement of commitment to pay, the requestor shall be considered to have withdrawn the requestor's pending request for public information.

(C) A requestor must pay the amount in the City's written cost estimate before the City will process the request if the requestor has exceeded the monthly or annual time limit.

(D) A requestor who has exceeded a limit established by the City may not inspect public information in paper record or electronic medium on behalf of another requestor unless the requestor who exceeded the limit has paid certain written cost estimates issued by the City.

(E) The City may request a photo identification from a requestor for the sole purpose of establishing that the requestor has not exceeded a time limit established by the City. A request for photo identification must include the written statement as described in subsection (b)(2)(D), above and a statement that describes a specific reason why a

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photo identification is required. The City shall accept as proof of a requestor's identification a requestor's identification, physical presentment of photo identification or an image of the photo identification that is transmitted electronically or through mail. A requestor from whom a photo identification is requested by the City may decline to provide the identification and obtain the requested information by paying the charge assessed in the written cost statement.

(F) If the requestor has made previous PIA requests in which the City: (i) has located and compiled documents in response to those requests; (ii) sent written cost estimates that remain unpaid; and (iii) the requests have not been withdrawn on the date the requestor submits a new request, the City is not required to locate, compile, produce or provide copies of documents or prepare a written cost estimate until the date the requestor pays each unpaid cost estimate in connection with any previous requests or the previous requests are withdrawn.

(4) Any time spent complying with a request in the name of a minor is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian or other person establishes that another person submitted that request in the name of the minor.

(5) Inapplicable:

(A) This Policy does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

(i) A radio or television broadcast station that holds a license issued by the Federal Communications Commission;

(ii) A newspaper that is qualified under Texas Government Code, section 2051.044, to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(iii) A newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or general information to the general public; or

(iv) A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

(B) This Policy does not apply if the requestor is a representative of a publicly funded legal services organization that is exempt from federal income taxation under section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under section 501(c)(3) of that code.

(C) This Policy does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state.

(D) This Policy does not apply to any other requestors that are specifically exempted by

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section 552.275 of the Act, as may be amended.

(E) This Policy does not replace or supersede other sections of the Act and does not preclude the City from charging for cost of labor in response to a request for copies or a request for inspection for which a charge is authorized under another section of the Act. The limit established in this policy applies to all requestors equally except as exempted by the Act.

(Ordinance 2026-001 adopted 1/14/2026)

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ARTICLE 1.07
EMERGENCY MANAGEMENT

§ 1.07.001. Organization.

There exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

(1) The director may designate a person to serve as emergency management coordinator.

(2) The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this article. The director may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.

(3) The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

(Ordinance 361 adopted 3/28/18; Ordinance 2025-023 adopted 12/10/2025)

§ 1.07.002. Director, powers and duties.

The duties and responsibilities of the emergency management director shall include the following:

(1) Conduct an on-going survey of actual or potential hazards which threaten life and property within the city and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.

(2) Supervision of the development and approval of an emergency management plan for the city, and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.

(3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of seven days except by or with the consent of the city council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary.

(4) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this article. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.

(5) Direction and control of the operations of the city emergency management organization as well as the training of emergency management personnel.

(6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency

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management organizations.

(8) Marshaling of all necessary personnel, equipment, or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.

(9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

(10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.

(11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.

(13) Other requirements as specified in the Texas Disaster Act of 1975, V.T.C.A., Government Code chapter 418.

(Ordinance 361 adopted 3/28/18)

§ 1.07.003. Emergency management plan.

(a) A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization; establish and designate divisions and functions; assign responsibilities, tasks, duties and powers; and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management of the state. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster.

(b) The plan must provide for:

(1) Wage, price, and rent controls and other economic stabilization methods in the event of a disaster; and

(2) Curfews, blockades, and limitations on utility use in an area affected by a disaster, rules governing entrance to and exit from the affected area, and other security measures.

(Ordinance 361 adopted 3/28/18)

§ 1.07.004. Interjurisdictional program.

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in this county in the formation of an interjurisdictional emergency management program for this county and shall have the authority to cooperate in the preparation of an interjurisdictional emergency management plan and in the preparation of an interjurisdictional emergency management plan and in

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the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as such program may affect the city.
(Ordinance 361 adopted 3/28/18)

§ 1.07.005. Override.

At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.
(Ordinance 361 adopted 3/28/18)

§ 1.07.006. Liability.

This article is an exercise by the city of its governmental functions for the protection of the public peace, health and safety and except as otherwise provided by law, neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of such activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license of privilege or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or manmade disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.
(Ordinance 361 adopted 3/28/18)

§ 1.07.007. Commitment of funds.

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement, or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public funds to the city when deemed prudent and necessary for the protection of health, life or property.
(Ordinance 361 adopted 3/28/18)

§ 1.07.008. Limitations.

This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.
(Ordinance 361 adopted 3/28/18)

§ 1.07.009. Offenses; penalties.

(a) It shall be unlawful for any person willfully to obstruct, hinder or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article.

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(b) Any unauthorized person who shall operate a siren or other device so as to simulate the termination of a warning shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

(c) Convictions for violations of the provisions of this article shall be punishable as provided in section 1.01.013.

(Ordinance 361 adopted 3/28/18)

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ARTICLE 1.08
CLAIMS AGAINST CITY

§ 1.08.001. Notice to city.

The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or an authorized representative in his behalf, or if the injury results in death, the person who may have a cause of action under the law by reason of such death or injury, shall, within 60 days or within six months for good cause shown from the date the damage or injury was received, give notice in writing to the mayor and city council of the following facts:

(1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.

(2) The nature of the damage or injury sustained.

(3) The apparent extent of the damage or injury sustained.

(4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.

(5) The amount for which each claimant will settle.

(6) The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.

(7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed.

(8) In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(Ordinance 361 adopted 3/28/18)

§ 1.08.002. Burden of proof.

No suit of any nature whatsoever shall be instituted or maintained against the city, unless the plaintiff therein shall ever prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.

(Ordinance 361 adopted 3/28/18)

§ 1.08.003. Service of notice.

All notices under this article shall be served upon the mayor at the following location: 4010 Bee Cave Road, West Lake Hills, Texas.

(Ordinance 361 adopted 3/28/18; Ordinance 2025-011 adopted 8/13/2025)

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§ 1.08.004. Waiver of notice.

The notice requirements of this article shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city.
(Ordinance 361 adopted 3/28/18)

§ 1.08.005. Notice to be sworn.

The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.
(Ordinance 361 adopted 3/28/18)

§ 1.08.006. Continuing injuries.

Before the city shall be liable for any continuing injuries, such as but not limited to those in the nature of nuisance, the person claiming damage must give notice in accordance with the requirements of this article.
(Ordinance 361 adopted 3/28/18)

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Chapter 20

ADMINISTRATION

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GENERAL PROVISIONS

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§ 20.01.002. Same–Publication of notice.

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ARTICLE 20.01
GENERAL PROVISIONS

§ 20.01.001. Public hearings on zoning changes–Joint hearing.

Whenever a public hearing on zoning changes has been duly scheduled and advertised, and the required notifications have been made to affected property owners, the city council may by ordinance provide that the public hearing held by the zoning and planning commission shall be a joint public hearing with the city council. Provided, however, that the council shall not take final action until the zoning and planning commission has convened to consider the issue following completion of the public hearing and has made its recommendation to the council on each zoning case.
(1996 Code, sec. 62-1)

§ 20.01.002. Same–Publication of notice.

The mayor or city secretary is authorized and directed to cause notice of each such public hearing to be published one time in a newspaper of general circulation in the city before the 15th day before the date of the proposed public hearing.
(1996 Code, sec. 62-2)

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ARTICLE 20.02
ZONING AND PLANNING COMMISSION

§ 20.02.001. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ZAPCO. The zoning and planning commission.
(Ordinance 330 adopted 7/13/16)

§ 20.02.002. Composition.

The city council shall appoint by simple majority vote a zoning and planning commission consisting of a chairperson and five members, for a total of six members. The chairperson shall formally appoint a vice-chairperson from among the commission members each year. A quorum shall consist of a simple majority of the members appointed by the council. Quorum shall include the chairperson and vice-chairperson. The chairperson shall only vote in the case of a tie.
(Ordinance 2020-012 adopted 9/23/20)

§ 20.02.003. Qualifications and terms of office.

All members of the zoning and planning commission shall be bona fide residents of the city for a minimum of six months. The members of the zoning and planning commission shall serve for a staggered two-year period and may be reappointed for succeeding terms. Vacancies of the members of the commission shall be filled as determined by the city council, including any vacancies resulting from increasing the number of members on the commission.
(1996 Code, sec. 62-33)

§ 20.02.004. Meetings.

(a) Meetings of the zoning and planning commission shall be held on a regular basis, but not less than once every two months, and such meetings shall be advertised and open to the public as required by the laws of the state. Meetings may also be called by the chairperson or at the request of two or more of the commission members.

(b) The commission shall make a written report to the city council of its findings on each matter on its agenda that has been advertised and for which a public hearing is required. The written report on such agenda items shall clearly indicate either “for” or “against” the subject application. Such a report may be in the form of the commission’s minutes.

(c) No continuances or postponements shall be granted, except upon the request of the applicant, on any matter on its agenda that is required by law to be advertised or is the subject of a required public hearing.

(1996 Code, sec. 62-34)

§ 20.02.005. Duties.

The duties of the zoning and planning commission shall be to:

(1) Recommend revisions or amendments to article 28.02 of this code and the land use map associated therewith.

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(2) Review all subdivision plans, plats, replats or resubdivisions to be presented to the council and to submit the plan, plat, replat or resubdivision with ZAPCO's recommendation at a council meeting following submission to the zoning and planning commission provided that such plan, plat, replat or resubdivision was submitted by the developer or owner in proper form according to the city's ordinances and V.T.C.A., Government Code ch. 212, and provided that the plan, plat, replat or resubdivision was timely submitted to the zoning and planning commission.

(3) Review and make recommendations to the city council on all matters and applications concerning zoning, in accordance with the city's ordinances and state law and to determine whether such zoning requests are in conformity with article 28.02 of this code.

(4) Review permit applications for sewage facilities in all zoning districts except one-family residential (R-1) zones, and to submit recommendations at a city council meeting following the commission meeting at which such permit application was considered, provided that the application was submitted in proper form in accordance with the city's ordinances.

(5) Cooperate with any applicant to encourage the best development for nonresidential use in a manner consistent with the low-density rural character promulgated in the master plan ordinance.

(6) Advise the city council and work with owners on the appearance of existing or new buildings and property, either on specific assignment by the council or on its own initiative.

(7) Consider and make recommendations to the city council ~~and the board of adjustment~~ on requests for variances to the city's ordinances~~; however, ZAPCO shall only review permits or variances for tree removal when construction is involved~~.

(8) Hold public hearings as may be required by the city's ordinances.

(9) Review and ~~approve or deny~~ make recommendations on requests for uniform sign agreements ~~signs~~ in accordance with the criteria set out in the city's ordinances.

(10) Assist in the drafting and revision of ordinances relating to any of the hereinabove mentioned duties.

(11) Review special use permits and submit recommendations to the city council following the commission meeting at which such permit application was considered.

(12) Perform such other duties as normally required of a zoning and planning commission, from time to time, by the city council.

~~(13) ZAPCO shall not review requests for special use permits (SUP).~~
(1996 Code, sec. 62-35; Ordinance 251 adopted 6/27/12; Ordinance 2024-006 adopted 6/12/2024)

§ 20.02.006. Finances.

The zoning and planning commission shall have the authority to request funds from the city council to meet ZAPCO's operating costs. Such funds shall include the cost of any special, nonrecurring item of the commission as well as routine administrative costs.
(1996 Code, sec. 62-36)

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ARTICLE 20.03
UNIFORMITY OF REQUIREMENTS

§ 20.03.001. Popular name.

This article shall be commonly cited as the "grandfathered development status ordinance."
(Ordinance 162, sec. 1.1, adopted 5/27/09)

§ 20.03.002. Introduction.

Texas Local Government Code chapter 245 ("LGC 245"), sometimes referred to as the state's "freeze law," H.B. 1704, provides an opportunity for landowners or developers to "lock-in" certain government regulations that apply to a particular development by filing a specific permit application. Other laws, such as sections 43.002 and 211.016 of the Texas Local Government Code, also convey certain "grandfathered" status.
(Ordinance 162, sec. 1.2, adopted 5/27/09)

§ 20.03.003. Purpose.

This article provides standards and procedures for municipal determination of the alleged grandfathered development status of development projects. Specifically, this article is enacted to:

(1) Provide increased certainty and predictability in the city's regulatory process;

(2) Guarantee that all grandfathered development status determinations are made by the city only after the city is in receipt of all necessary information;

(3) Provide a method of administrative review of grandfathered development status project decisions in accordance with LGC 245 or other applicable vesting laws; and

(4) Ensure that the city recognizes and protects all grandfathered development status projects created by LGC 245.

(Ordinance 162, sec. 1.3, adopted 5/27/09)

§ 20.03.004. Scope.

(a) This article applies to the city limits and the extraterritorial jurisdiction ("ETJ").

(b) This article shall only govern applications and permits covered by LGC 245.

(c) This article shall not apply to permits or regulations listed as exemptions in LGC 245.004.

(d) This article shall only govern situations involving a land use or development project for which the owner or builder requests city approval(s), yet seeks to avoid the application of current municipal regulations by asserting grandfathered development status, as provided by LGC 245.

(e) This article shall not create any property rights in any application, project, property, or person. This article shall not enlarge or expand any property right granted by LGC 245.

(Ordinance 162, sec. 1.4, adopted 5/27/09)

§ 20.03.005. Policy.

There shall be a bias in the city against dormant or new land development projects being constructed

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pursuant to outdated regulations previously repealed by the city council. It is the preferred policy of the city that all land development projects, for which municipal permits and approvals are needed, be constructed in accordance with current municipal regulations. Limited exceptions to this general rule shall only be allowed when mandated by state law, as procedurally implemented through this article. (Ordinance 162, sec. 1.5, adopted 5/27/09)

§ 20.03.006. Presumption.

It is the policy of the city that construction/development or land use permit applications filed today are presumed to be governed by today's regulations.
(Ordinance 162, sec. 1.6, adopted 5/27/09)

§ 20.03.007. Definitions.

(a) General.Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in this code, shall be given the meanings set forth in this code. Words and phrases not defined in this code shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

(b) Specific.

Applicant. A person or entity who submits an application for an approval required by the city. The term shall be restricted to include only property owner(s), or a duly authorized agent and representative of the property owner, as demonstrated in writing to the city in the form of a notarized agency letter or power of attorney.

Application for a permit. The term as referenced in Texas Local Government Code chapter 245, as may be amended. The term does not include an application to rezone property.

Board of adjustment ("BOA"). ~~Six members, who are members of the governing body of the city, form a commission to perform the functions established by Texas Local Government Code chapter 211, and other duties assigned by ordinance. As the governing body of a type A general-law municipality, the city council is statutorily authorized to perform this function and serve in this capacity. Information about the city's board of adjustment may be found in the city's zoning ordinance.~~ The board of adjustment established under section 38.02.001 of this code.

City administrator. The city's chief administrative officer, as appointed by the city council. The term also includes the city administrator's designee.

City attorney. The individual or law firm appointed by the city council to render legal services and advice in relation to the administration, interpretation, and enforcement of this article.

City engineer. The individual or entity appointed by the city council to render engineering services to the city.

City inspector. The city official, also referred to as the building inspector, appointed by the city administrator with the duty of processing all building permit applications, including inspections of construction, the duty of sanitary inspections in accordance with article 18.03, division 3, and such other duties as may be assigned.

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City limits. The incorporated municipal boundaries of the city.

City planner. The individual or entity appointed by the city administrator to administer land development ordinances and advise the city in relation to the administration, interpretation, and enforcement of the city's development code.

Development review committee. A group consisting of the city inspector, city planner, city engineer, and city attorney.

ETJ. The extraterritorial jurisdiction of the city.

Grandfathered development status. A recognition by the city of an applicant's ability to process permit applications under pre-existing regulations in accordance with LGC 245.

LGC. The Texas Local Government Code.

LGC 245. Texas Local Government Code chapter 245.

New project. A land development endeavor over which the city's municipal regulatory jurisdiction exists, that has not previously been formally considered or approved by the city, and for which one or more permits are required to initiate, continue or complete the endeavor. The term can refer to substantial changes made to an otherwise prior project.

Permit. The term as defined by Texas Local Government Code chapter 245, as may be amended.

Project. The term as defined by Texas Local Government Code chapter 245, as may be amended. The term refers to a specific property use and/or improvement undertaken on a particular tract of land as documented in a manner that provides the city with fair notice.

ZAPCO. The zoning and planning commission of the city.

(Ordinance 162, sec. 2, adopted 5/27/09; Ordinance 265 adopted 1/9/13; Ordinance 307 adopted 7/22/15)

§ 20.03.008. Administration.

(a) Submission.

(1) An applicant seeking grandfathered development status with the city in accordance with LGC 245 shall submit to the ZAPCO secretary a letter explaining the factual and legal bases upon which the applicant relies.

(2) The ZAPCO secretary may prescribe a form application.

(3) Applications may be sought prior or concurrent to the permitting process.

(4) Such written submission shall include the following:

(A) The name, mailing address, phone number and fax number of the applicant.

(B) The name, mailing address, phone number and fax number of the property owner, if different than the applicant.

(C) Identification of the property for which the applicant claims grandfathered development status, including a clear legal description of the exact boundaries of the property encompassed by the project.

(D) Identification of the "project," as that term is defined in LGC section 245.001(3), as

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may be amended.

(E) Narrative description of the development/construction project or proposed land use for which a permit is being sought.

(F) Layout of the site, including locations of buildings, streets, utilities and drainage facilities.

(G) Identification of the original application for the first permit in the series of permits required for the project, as described in LGC section 245.001(1) and section 245.002(a) and (b), as may be amended.

(H) The date that the first permit in the series of permits required for the project was filed with the city.

(I) A chronology of the history of the project, with special emphasis on facts establishing that the project was in progress on or commenced after September 1, 1997, as required by LGC 245 section 245.003, as may be amended.

(J) Identification of each city regulation in effect at the time the original application for the permit was filed that applies to the project and:

(i) The applicant contends is grandfathered; and

(ii) The applicant contends controls the approval, disapproval, or conditional approval of an application for a permit, pursuant to LGC 245.002(a) and (b), as may be amended.

(K) Identification of each city regulation for which the applicant seeks an exemption due to the grandfathered development status provided the property owner by LGC 245 or other applicable vesting laws.

(L) Explanation of applicability of any approval expirations and related requests for extension of approvals.

(M) Photographs, drawings, maps, and previous approvals that would assist the development review committee in making its determination regarding the application.

(N) Any other information or supportive materials deemed necessary by the ZAPCO secretary and requested in writing; and

(O) Notwithstanding the above, an applicant may subsequently seek grandfathered development status for other regulations once an initial determination has been made by the city.

(5) If an applicant contends that certain city regulations do not apply to the project, the applicant is expected to identify, with particularity, all requirements that the applicant contends do not apply to the current application. Global references to a particular ordinance, or set of criteria, may be deemed insufficient and the city may consider the request for grandfathered development status determination to be incomplete and, hence, not subject to a staff determination at that time.

(6) The applicant is responsible for demonstrating to the city that the project for which approval is sought is the same project for which grandfathered development status attached.

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(7) An application for recognition of grandfathered development status shall not be considered to have been filed with the city, for purposes of this article or LGC 245, until such time as the application is administratively complete. In order to be administratively complete, the application must:

(A) Contain all materials required by this article;

(B) Be presented within the time specified by this article; and

(C) Be accompanied by a check payable to the city for the full amount of the application review fee established by the city council, as codified in the city's fee schedule.

(b) Determination.

(1) The ZAPCO secretary shall promptly forward the application for grandfathered development status, along with any supporting information or documentation provided, to the development review committee for review.

(2) The development review committee shall make a written response within fourteen (14) [days] after an application for determination of grandfathered development status has been filed. If the committee does not provide a written response to the applicant within fourteen (14) days after the application was filed, the application is automatically deemed to have been denied. The ZAPCO secretary may extend the time period established by this article upon receipt of a written request from the applicant.

(3) If the development review committee requests for more information from the applicant, the fourteen-day time period will be tolled.

(4) The committee shall issue a written administrative determination approving the application, disapproving the application, or requesting additional information from the applicant. If the application is approved, the determination shall identify, with particularity, which claims for grandfathered development status have been recognized and which claims have been rejected.

(5) Prior to rendering a determination, the city or the applicant may request a pre-determination conference to discuss the applicant's claim and to ensure that the nature of the claim is fully and completely understood prior to a determination being rendered. The ZAPCO secretary and/or the development review committee may participate.

(6) A determination recognizing grandfathered development status shall state the date the application for the original permit was filed, if the date can be determined with reasonable accuracy.

(7) The ZAPCO secretary is signatory and spokesperson for the development review committee.

(Ordinance 162, secs. 3.1, 3.2, adopted 5/27/09)

§ 20.03.009. Standards.

In determining whether a project is grandfathered, the city shall consider the following:

(1) Pre-existing: Did the improvements/use pre-date the city regulations in question?

(2) Progress: Did construction of the improvements/use commence prior to enactment of the city

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regulations in question?

(3) Fair notice: Did the applicant give the city fair notice of what the applicant proposed to do prior to the enactment of the city regulations in question?

(4) Health and safety: Do the rules in question protect the public's health and safety?

(5) City code: Any other factors established by this code?

(6) State law: Any other factors established by LGC 245?

(Ordinance 162, sec. 3.3, adopted 5/27/09)

§ 20.03.010. Applicable regulations.

The city shall consider the approval, disapproval, or conditional approval of an application for a permit covered by LGC 245 solely on the basis of any municipal regulations in effect at the time the original application for the permit is filed, with the exception of those exemptions listed in LGC 245, as may be amended.

(1) The extent and scope of what constitutes a project for purposes of this article and LGC 245 shall be determined by the city based upon the information provided by the applicant and those documents filed among the city's records.

(2) The city shall not bestow any form of grandfathered development status on a hypothetical undertaking that is not expressly illustrated or demonstrated to the city at the time of submission of a completed application for a permit.

(3) Endeavors not submitted for consideration by the applicant to the city when a prior permit application for a project was filed with the city shall be considered new projects subject to the current regulations. The burden rests on the applicant to establish that the project for which approval is sought is the same project to which grandfathered development status allegedly attached.

(Ordinance 162, sec. 3.4, adopted 5/27/09)

§ 20.03.011. Substantial change.

To grandfather a project for which a substantial change is proposed would deny the city, and the public, of fair notice. Consequently, a substantial change results in a new project for which grandfathered development status shall be denied. Factors that can result in a new project determination include, but are not limited to, the following modifications:

(1) Gross surface area or acreage;

(2) Gross floor area;

(3) Gross number of buildings;

(4) Density;

(5) Living unit equivalents;

(6) Land use classification (rezoning or special use permit);

(7) Impervious cover;

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(8) Drainage pattern or volumes; or

(9) Street layouts.

(Ordinance 162, sec. 3.5, adopted 5/27/09)

§ 20.03.012. Reconsideration.

(a) If any person believes that the development review committee's determination under this article is in error, the person shall have the right to request reconsideration.

(b) To be actionable, a request for reconsideration by the development review committee must:

(1) Be filed with the ZAPCO secretary in writing within fourteen (14) days of the date of the development review committee's previous determination or the date of automatic denial.

(2) State the reasons why the previous determination should be reversed or modified.

(3) Present information that has not previously been presented for consideration by the development review committee.

(4) Provide an explanation of the legal and factual grounds of the request; and

(5) Be accompanied by payment of the reconsideration fee established by the city council, as codified in the city's fee schedule.

(c) The development review committee shall, within fourteen (14) days of receipt of a request for reconsideration that conforms to this article, issue an administrative determination, or a statement declining reconsideration. If the development review committee fails to make a written determination within fourteen (14) days after an application has been received at city hall, the application is deemed to have automatically been denied.

(d) No person may appeal the development review committee's determination under this article without first seeking reconsideration.

(Ordinance 162, sec. 3.6, adopted 5/27/09)

§ 20.03.013. Appeal to city administrator.

(a) If any person believes that the development review committee's determination under this article is in error, the person shall have the right to appeal such determination to the city administrator.

(b) To be actionable, an appeal must be filed with the city administrator in writing within fourteen (14) days of the date of the development review committee's determination or the date of automatic denial. The written request for an appeal must include:

(1) A statement that the appellant has requested reconsideration by the development review committee, and that the request for reconsideration:

(A) Was denied; or

(B) Yielded an erroneous determination regarding the project's eligibility for grandfathered development status.

(2) A statement of the reasons why the determination should be reversed or modified;

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(3) An explanation of the legal and factual grounds of the appeal; and

(4) Be accompanied by payment of the appeal fee established by the city council, as codified in the city's fee schedule.

(c) The city administrator shall act upon an appeal within fourteen (14) days of receipt of a written request for appeal that conforms to this section. If the city administrator fails to make a written determination within fourteen (14) days after an appeal has been received, then the appeal is deemed to have automatically been denied.

(Ordinance 162, sec. 4, adopted 5/27/09)

§ 20.03.014. Appeal to board of adjustment.

(a) If any person believes that the city administrator's determination under this article is in error, the person shall have the right to appeal such determination to the city's board of adjustment ("BOA").

(b) To be actionable, an appeal must be filed with the BOA in writing within fourteen (14) days of the date of the city administrator's determination or the date of the city administrator's automatic denial. The written request for an appeal must include:

(1) A statement that the appellant sought an appeal from the city administrator, and that the appeal:

(A) Was denied; or

(B) Yielded an erroneous determination regarding the project's eligibility for grandfathered development status.

(2) A statement of the reasons why the determination should be reversed or modified;

(3) An explanation of the legal and factual grounds of the appeal; and

(4) Be accompanied by payment of the appeal fee established by the city council, as codified in the city's fee schedule.

(c) The applicant may also request the BOA to grant a variance from the regulations at issue under the same standards governing variances for other matters, as set forth in the city's development code, as amended.

(d) The BOA shall convene a meeting and act upon an appeal within thirty (30) days of receipt of a written appeal that conforms to this article. If the board of adjustment fails to make a written determination within thirty (30) days after an appeal has been received, then the appeal is deemed to have automatically been denied.

(e) Notice and a public hearing shall be provided for as established in the code for variance requests.

(Ordinance 162, sec. 5, adopted 5/27/09)

§ 20.03.015. Extensions.

Any time period established under this article may be extended to a date certain, upon receipt of a written request from the applicant.

(Ordinance 162, sec. 6, adopted 5/27/09)

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§ 20.03.016. Judicial review.

Should the applicant be dissatisfied with the actions of the BOA, the applicant may pursue all legal remedies to review the BOA's decision as set forth in LGC section 211.011.
(Ordinance 162, sec. 7, adopted 5/27/09)

§ 20.03.017. Binding nature.

(a) The city's determinations under this article, if not timely appealed, shall be immediately filed in the city's files related to the project and the determination shall be considered binding upon the city, the applicant, and the property owner (if different from the applicant) for the duration of the project.

(b) Notwithstanding the binding nature of a determination issued by the development review committee or city administrator, and any ruling by the BOA, the city and the property owner may, at any time, enter into a development agreement or negotiate the enactment of a planned development district that, to the extent authorized by law, modifies the determination and the applicable development regulations to be applied to the project. The issue of which rules apply to a permit application may be resolved by mutual agreement. The agreement may contain special terms and conditions, as deemed necessary to protect the public interest.

(c) The city's recognition of grandfathered development status does not prevent the city from requiring the submission of updated engineering reports, site plans, or landscape plans, as may be applicable under current regulations.
(Ordinance 162, sec. 8, adopted 5/27/09)

§ 20.03.018. Expirations.

(a) Permits issued by the city that are subject to LGC 245, but do not expressly contain an expiration date, shall expire by operation of law two (2) years after issuance. This section shall not apply to permits pursuant to which progress has been made toward the completion of the project, as determined by LGC 245.005(c), as may be amended.

(b) Projects subject to LGC 245 shall expire by operation of law five (5) years after an application was filed for the first permit necessary for the project. This section shall not apply to permits for which progress has been made toward the completion of the project, as determined by LGC 245.005(c), as may be amended.
(Ordinance 162, sec. 9, adopted 5/27/09)

§ 20.03.019. Transferability.

Grandfathered development status, as recognized by the city pursuant to this article, runs with the land. Thus, grandfathered development status is transferable to subsequent owners/occupants.
(Ordinance 162, sec. 10, adopted 5/27/09)

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BUILDING REGULATIONS

ARTICLE 22.01
GENERAL PROVISIONS (RESERVED)

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ARTICLE 22.02
BUILDING DESIGN COMMITTEE

§ 22.02.001. Definitions.

Words used in this article not defined in this section or other applicable ordinances (e.g., zoning, building and sign ordinances) have their ordinarily acceptable meaning. For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Disband. To break up the organization of.

Dissolve. To bring to an end.
(Ordinance 2020-014 adopted 10/14/20)

§ 22.02.002. Purpose.

The building design committee (BDC) was disbanded and dissolved on October 14, 2020 by Ordinance No. 2020-014.
(Ordinance 2020-014 adopted 10/14/20)

§ 22.02.003. Records.

The building design committee meeting minutes shall be kept on file in the office of the city secretary and open to inspection by the public.
(Ordinance 2020-014 adopted 10/14/20)

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ARTICLE 22.03
CONSTRUCTION CODE

DIVISION 1
Generally

§ 22.03.001. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Terms not defined in this section shall have the meaning customarily assigned to them.

Accessory building or accessory structure. A building or structure, the activity or function of which is clearly integral to, or customarily incidental and subordinate to, the permitted use of the main or principal building/structure on the same lot, such as an air-conditioning and heating unit; cabana; carport; domestic quarters; a wall used as a ~~front~~ street-yard fence; garage; greenhouse; guesthouse; sports court; swimming pool; tool shed; wood shed; workshop; and the like. This definition does not include propane tanks. (See also the definition of structure in this section).

Alterations. Any change, addition or modification in construction, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Approved. Having the approval of the city inspector as the result of an investigation and tests conducted by him or by reason of accepted principles or tests by national authorities, technical or scientific organizations; or having the approval of the appropriate enforcement official of the city as being in compliance with the standards and requirements of any code or ordinance of the city which applies specifically to the item in question; or other customary approvals reserved to the city by state law or city ordinance.

Building. Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

Building line. A line formed by the face of the building, and for the purposes of this article, a front building line is the same as a ~~front~~ street setback line.

Certificate of completion. Issued by the city to the contractor for successful completion of work proposed and submitted all necessary document as required by the city.

Certificate of occupancy. A certificate issued by the city inspector upon the satisfactory completion of operations authorized by the city's building permit.

City inspector. The city official, also referred to as the building inspector or building official, appointed by the city ~~council~~ administrator with the duty of processing all building permit applications, including inspections of construction, the duty of sanitary inspection in accordance with article 18.03, division 3, and such other duties as may be assigned.

Commercial building. Any building or structure used or designed to be used, in whole or in part, for retail or wholesale business, industrial, manufacturing, storage, religious, educational, amusement or entertainment, health, professional, scientific, office or other business purposes. Nonresidential buildings include "commercial buildings."

Commission. The zoning and planning commission of the city.

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Construction. Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site but does not include uses in securing survey or geological data including necessary borings to ascertain subsurface conditions.

Contextual Standard. See Section 1.01.003.

Design professional. An architect, landscape architect or interior designer registered with the state.

Destroy. To ruin the structure or condition of a thing; to demolish or injure beyond the possibility of its intended use or purpose.

Dwelling. Any building or any portion thereof which is not an "apartment house," or "lodginghouse," which contains one or more "dwelling units" or "guestrooms," used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or which are occupied for living purposes.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Enclosure device. A continuously joined structure which is constructed so as not to have any openings, holes or gaps larger than four inches in any dimension except for doors and gates, including but not limited to fences, walls, buildings, or similar constructions.

Engineer. Professional engineer licensed with the state.

Erected. Built, constructed, altered, reconstructed, poured, laid, moved upon or any physical operations on the premises which are required for construction. Excavation, site clearance, land fill and the like shall be considered a part of erection.

Erosion. The process by which the ground surface is worn away by the action of wind or water and material therefrom is carried, or is likely to be carried, across any property line in significant quantities.

Excavation. Any breaking of ground, digging, scooping or other method of removing earth materials, except common household gardening and ground care.

Family. An individual, or two or more persons related by blood, marriage, or adoption, or a group not to exceed three persons not all related by blood, marriage, or adoption, occupying the premises and living as a single, nonprofit housekeeping unit.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas. This term does not include retaining walls.

Filling. Any depositing or stockpiling of earth materials.

Fire flow. The flow rate of a water supply, measured at 20 pounds per square inch (psi) (138 kPa) residual pressure, that is available for firefighting, as defined by appendix B of the 2012 International Fire Code ("IFC"). The city has properly adopted the IFC and appendix B of the IFC.

Floor area. The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior structural walls for the purpose of computing the minimum allowable floor area in a structure. The floor area measurement is inclusive of outdoor areas covered by a roof projection attached to the main structure and is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed porches.

Garage or carport, private. An accessory building for parking or storage of not more than that number of vehicles as may be required in connection with the permitted use of the principal building.

Grade. A ground elevation established for the purpose of regulating the number of stories and the height of the building. The ground grade shall be the level of the ground adjacent to the walls of the building if the natural grade is level. If the ground is not entirely level, the grade shall be finished ground grade as it existed after construction, excavation or grading.

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Grading. Any act by which soil, rock, or mineral matter is cut into, dug, quarried, uncovered, removed, displaced or relocated and includes the removal of vegetative cover, excavation and land balancing.

Habitable building. Any room meeting the requirements of this article for sleeping, living, cooking or eating purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

Height. The vertical distance measured from the calculated average natural grade (see section 22.03.279) for any separate and distinct structure to the highest point on that structure, excluding any functional roof appurtenances (see section 22.03.279(e)).

Horizontal infrastructure. Any improvement necessary for a site, besides the construction or erection buildings. Examples of horizontal infrastructure may involve, but are not limited to, roads, sidewalks, utilities, retaining walls over four (4) feet in length and drainage improvements.

Hot water. Water at a temperature of not less than 120 degrees Fahrenheit.

Impervious cover. See Drainage and Erosion Control Design Manual ~~section 1.01.003~~.

In the city. All territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police, regulatory and other powers.

Infestation. The presence, within or contiguous to a dwelling, dwelling unit, roominghouse, rooming unit, or premises, of insects, rodents, vermin, or other pests.

Kitchen. A room used or designed to be used for the preparation of food.

Litter. Any quantity of paper, metal, plastic, glass or miscellaneous solid waste which may be classified as trash, debris, rubbish, refuse, garbage or junk not placed in a solid waste container.

Lot. A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this article. A lot may or may not be specifically designated as such on public records. Prior to connection of utilities, an unplatted lot must be platted.

Lot area. The total horizontal area within the lot lines of a lot.

Lot coverage. That part or percent of the lot occupied by buildings, including accessory buildings, and other impervious cover.

Lot depth. The horizontal distance between the front and rear lot line measured along the median between the side lot lines.

Main building. A building in which is conducted the principal use of the lot upon which it is situated.

Minimum open space. The percentage of lot area or tract area which must be maintained in living vegetation.

Mirrored glass. Is glass having a reflectivity factor of 20 percent or greater.

Mobile home. A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or jacked up or skirted.

Natural grade or natural ground grade. The elevation of the natural, existing and undisturbed surface of the ground as indicated on a field topographical survey showing one foot contour lines as determined by a surveyor or engineer registered in this state.

Nonconforming structure. Any structure which does not conform to the provisions of this article but

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which was lawfully erected prior to December 9, 1992.

Nuisance. The following shall be defined as nuisances:

(1) Any public nuisance known at common law or in equity.

(2) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building or upon an occupied lot. This includes, but is not limited to, any abandoned wells, shafts, cellars, basements or excavations, abandoned refrigerators and motor vehicles, or lumber, trash, fences, debris, or vegetation which may prove a hazard for inquisitive minors.

(3) Whatever is dangerous to human life or is detrimental to health.

(4) Overcrowding or occupancy in violation of this article.

(5) Insufficient ventilation or illumination.

(6) Inadequate or unsanitary sewerage or plumbing facilities.

(7) Uncleanliness.

(8) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

(9) Divergence of runoff to other private or public property.

Off-street parking lot. A facility other than for single-family dwellings providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

Owner. Any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of a structure, building or land.

Parking space. An area of definite length and width; such area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

Permit. The term as defined by Texas Local Government Code chapter 245, as may be amended.

Person. An individual, proprietorship, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Personal property. Every species of property, except real property as defined in this section.

Preconstructed or used structure or part thereof. A preconstructed or used building or other used structure is defined as a building 50 percent of the square feet of which, excluding porches, garages, or carport, consists of preexisting structural or used components.

Private property. Includes, but is not limited to, the following locations owned by persons: structures, yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities.

Private residential pool. Any swimming pool, wading pool or soaking-hot tub, situated on any premises as an appurtenance to a dwelling for the use of the residents or guests of the residents of such dwelling.

Property. Real and personal property.

Public pool.

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(1) Any swimming or wading pool owned or operated by the city, county, state, United States, or any public agency; or

(2) Any privately owned swimming pool, wading pool or soaking-hot tub serving a private club, motel, hotel, apartment building, duplex, or other similar structure or organization, the use of which is limited to members or residents and their guests.

Public property. Includes, but is not limited to, the following locations: structures, streets, street medians, roads, road medians, catchbasins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, schoolgrounds, municipal vacant lots, and municipal waterways.

Real property. Lands, tenements and hereditaments.

Remodel. See Section 1.01.003.

Repair. The reconstruction, renovation or renewal of any part of an existing building for the purpose of its maintenance. Such term shall not apply to any change or construction, alteration, or additions to a building other than for the purpose of reconstruction, renovation or renewal.

Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel. Roadway includes “street.”

Rubbish. All combustible and noncombustible waste, except garbage.

Setback. The distance required to obtain the ~~front~~ street, side or rear yard open space provisions of this article or other ordinances.

Site plan. See section 1.01.003.

Site plan elements. Includes building location; building sizes; architectural character; parking plan; lighting plan; landscape plan; traffic flow plan; impervious cover; tree survey; signage; stormwater drainage; sedimentation and filtration plan; effluent disposal system; fire flow (in gallons per minute); and site disturbance.

Solid waste containers. Any city-approved metal, heavy-duty paper or plastic receptacles used for the disposal and storage of solid waste, including litter, rubbish and garbage.

Start of construction. Construction is deemed to have commenced once forms for the slab have been installed, per city-approved plans.

Stop-work order. See section 22.03.046.

Structure. Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground.

Substantially ceased. No inspections have been completed and minimal progress has been made to reach the next inspection requirement, as determined by the building official, within 180 days from the last required inspection.

Swimming pool. Any artificial structure or excavation, either indoors or outdoors, used or suitable to be used for bathing or swimming purposes, together with buildings, equipment and appurtenances used in connection therewith.

Temporary storage unit. A container utilized for portable moving and self-storage, including containers commonly known as PODS®, U-PACK Moving®, Mobile Mini®, and Smart Box®. This term does not include roll-off containers.

Temporary use or building. A use or building permitted by the city to exist during periods of construction of the main building or for special events.

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Traffic impact analysis. An analysis of the impact a proposed development may have on the adjacent roadway network. A traffic impact analysis will be required if the peak hour trips exceed 200 vehicles. City of Austin submittal requirements as outlined in section 2 of the Transportation Criteria Manual shall be followed.

Trailer coach. Any vehicle designed, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

Transmission or distribution line. A conductor of electrical energy or water or gas, or communication service and associated facilities including telephone transmission or distribution lines.

Uniform building code or building code. Any applicable state, national, or International Building Code to the extent adopted by the city.

Used structure. A structure which has been previously used as a building at a different site.

Variance. A form of approval granted by the board of adjustment (BOA) or city council to modify the literal application of regulations, or waiving all or certain provisions of this code. It is an adjustment in the application of the specific regulations to a particular parcel of property which is necessary to prevent the property from being deprived of certain rights and privileges, because of special conditions or circumstances of hardship peculiar to the particular parcel.

Window. A glazed opening, including glazed doors, which open upon a yard, court or recess from a court, or a vent shaft open and unobstructed to the sky.

Written or in writing. Any representation of words, letters, or figures, whether by printing or otherwise.

Yard. The open space on the same lot with a main building, unoccupied and unobstructed by structures from the ground upward, except as otherwise provided in this article and as defined herein.

(1) ~~Front~~ Street yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the ~~front~~ lot line parallel to the street and the nearest line of the main building.

(2) Rear yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

(3) Side yard. An open space between any building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the main building.

(Ordinance 361 adopted 3/28/18; Ordinance 2020-005 adopted 5/13/20; Ordinance 2024-017 adopted 10/23/2024)

§ 22.03.002. Purpose.

The purpose of this article is to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use, occupancy, location and maintenance of all buildings and structures within the city and certain equipment specifically regulated herein.

(Ordinance 361 adopted 3/28/18)

§ 22.03.003. Scope.

(a) The provisions of this article shall apply to the construction, grading, excavation, site clearance, alteration, moving, demolition, repair and use of any building or structure within the city and

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work located in a public way, public utility towers and poles, hydraulic flood control structures, site clearance and transmission lines.

(b) Additions, alterations, repairs and changes of use or occupancy in all buildings and structures shall comply with the provisions for new buildings and structures except as otherwise provided in the ~~International Fire Code, International Residential Code and Uniform Plumbing Code.~~ Codes adopted in Article 22.03, Division 3.

(c) Where, in any specific case, different sections of this article specify different materials, methods of construction or other requirements, the most restrictive shall govern.

(Ordinance 361 adopted 3/28/18)

§ 22.03.004. Relationship to other laws.

(a) Liquefied petroleum gas regulation. The city adopts the Liquefied Petroleum Gas Safety Rules adopted by the Texas Railroad Commission, as amended ("LPG Safety Rules") pursuant to the Texas Natural Resources Code. All city ordinances or parts thereof regulating or purporting to regulate liquefied petroleum gas, if any, shall be construed consistent with the LPG Safety Rules. All city ordinances or parts thereof regulating or purporting to regulate liquefied petroleum gas that conflict with the LPG Safety Rules are superseded by this provision of the Code of Ordinances.

(b) General. Whenever regulations or restrictions imposed by this article are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this article, no structure shall be erected, placed, or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

(Ordinance 361 adopted 3/28/18; Ordinance 2024-004 adopted 4/24/2024)

§ 22.03.005. Penalties.

(a) It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, blast, excavate, grade, convert, equip, use or occupy, or maintain any building or structure or portion of any building or structure in the city contrary to or in violation of any pertinent provisions of this article or to cause, permit or suffer the same to be done.

(b) Any person violating any provision of this article shall be deemed guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any provision of this article is committed, continued or permitted and upon the conviction of any such violation, such person shall be punishable by a fine of not more than $2,000.00, except where otherwise provided in this article.

(c) Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violation of this article.

(Ordinance 361 adopted 3/28/18)

§ 22.03.006. Structures to have access.

Every building erected after the effective date of Ordinance 155-I or moved shall be on a lot adjacent to a public street, or with access to an approved private street.

(Ordinance 361 adopted 3/28/18)

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§ 22.03.007. Visibility along streets and at street corners.

No structure shall be erected and no vegetation shall be maintained in the area of a corner lot between the sidelines of the intersecting streets and a straight line joining points on such sidelines ten feet distance from their point of intersection, which materially obstructs safe visibility for vehicular traffic. No structure shall be erected and no vegetation shall be maintained along sinuous streets which materially obstructs safe visibility for vehicular traffic.
(Ordinance 361 adopted 3/28/18)

§ 22.03.008. Screening of nonresidential uses from residential district or use.

(a) Landscaped buffer strips required.All lots, or parts of lots, which are improved with a predominantly nonresidential use and whose side or rear lines are adjacent to a residential district or use, shall be screened from such residential district or use by landscaped buffer strips or other such screening in such lots and along such side or rear lines thereof as shall be approved by the city council.

(b) Screen planting generally.Within required buffer areas, a solid and continuous landscape screen shall be planted and maintained. Such landscaping shall consist of massed evergreen and deciduous trees and shrubs of such species and size as will produce a screen at least five feet in height within two growing seasons, so as continually to restrict a clear view beyond such buffer strip.

(c) Height of planting.The required height of the screen shall be measured from the elevation of the edge of the adjacent area to be screened. In cases where the elevation of the planting location is less than the elevation of the edge of adjacent area, the required height of the screen shall be increased in an amount equal to such difference in elevation. In cases where the elevation of the planting location is greater than that at the edge of the adjacent area, the required height of the screen may be reduced in an amount equal to such difference in elevation; provided, that in no case shall the required height be reduced more than two feet.

(d) Width, maintenance of buffer strip.The buffer strip shall be at least ten feet in width at all points and shall be graded and furnished with appropriate ground cover and such other shrubbery or trees as may be desired by the owner. It shall be maintained and kept clean of all debris and rubbish.

(e) Replacement of dead plantings.Required buffer plantings shall be replaced from time to time as they die and within one year after they die.

(f) Installation of plantings or performance guarantee prerequisite for certificate of occupancy.No certificate of occupancy for premises upon which such screening is required shall be issued until such time as the landscaping requirements as set forth in this section are installed, or, if the season is not appropriate for such installation, until a performance guarantee is posted with the city in an amount equal to the estimated cost of such landscaping installation. The certificate of occupancy is subject to suspension or revocation if required landscaping is not maintained in accordance with the approved site plan or previous agreements with the city.

(g) Substitution of fence or wall for plantings.In required buffer areas where a natural buffer strip is deemed impracticable or inappropriate, a suitable screening wall or fence may be substituted, as approved by the city council.
(Ordinance 2020-014 adopted 10/14/20)

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§ 22.03.009. Solar energy devices.

(a) Purpose.To help alleviate the growing energy shortage and lessen the reliance on increasingly uncertain power sources, it is the purpose of this section to encourage the use of solar energy for space heating and cooling in buildings and for heating water.

(b) Permitted uses.The use of solar energy devices for the purpose of providing energy is a permitted use within all zones, either as a part of a structure, or an independent structure. Solar energy devices shall be subject to the setback and height limitations affecting dwellings, garages, and other major improvements.

(c) Variances.Variances shall be granted from restrictions such as heights, setback and lot density where such variances are reasonable and necessary to assure unobstructed access to direct sunlight. Variances shall not be granted which would cause an unreasonable obstruction of direct sunlight to adjacent property if there is a reasonable probability of utilization of passive or active solar radiation on such adjacent property.

(Ordinance 361 adopted 3/28/18)

§ 22.03.010. Solid waste containers in setback area.

Storage structures for solid waste containers are required in all zoning districts and the design shall be approved in advance by the city. The property owner or occupant is responsible for providing rigid tamperproof garbage containers, and trash shall be confined within these containers.
(Ordinance 361 adopted 3/28/18)

§ 22.03.011. Satellite dish antennas.

Satellite dish antennas are permitted within the city provided that antennas do not exceed one (1) meter in diameter and are located within the setback lines, are painted an earthen color so as to blend in with the natural landscape, and are not visible from any public street. A variance may be granted to the visibility requirement if use of the satellite is impossible or substantially impaired at any location on the property that would be shielded from view. As a condition for obtaining such a variance, the visual impact of the satellite dish antenna must be minimized with painting, screening, or other measures.
(Ordinance 361 adopted 3/28/18)

§ 22.03.012. Temporary storage unit.

(a) It is an offense to place or allow to be placed a temporary storage unit on any public street.

(b) It is an offense to place a temporary storage unit on any property within the city for a period longer than ~~72 continuous hours~~ 14 days. The city inspector can authorize one extension of 14 days with payment of the inspection fee. ~~Extensions of up to 90 days may be approved by the city inspector when incident to a valid building permit.~~

(c) A temporary storage unit is allowed during construction with a valid building permit.

(Ordinance 361 adopted 3/28/18)

§ 22.03.013. Reflective exterior building materials.

Glass having a reflectivity factor of 20 percent or greater (mirrored glass) shall not be used on any structure. The use of metallic or shiny roofing, siding, glass or other exterior building materials producing reflective glare or heat that may interfere with traffic upon city streets or that may be evident beyond property lines is prohibited. Samples of metallic, reflective, or shiny exterior building materials shall be provided to the city inspector before installation and such materials shall not be installed if the

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city inspector judges these materials to be in violation of this section of this code. Any new metallic,

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reflective, or shiny exterior materials installed after August 31, 2005, and judged to be in violation of this section of this code shall be dulled, painted, or removed so as not to affect any other property. (Ordinance 361 adopted 3/28/18)

§ 22.03.014. Occupancy, use.

(a) Use or occupancy.No building or structure shall be occupied, and no change in the existing occupancy classifications of a building or structure or portion thereof shall be made until the city inspector has issued a certificate of occupancy therefor.

(b) Change in use.Changes in the character or use of a building or structure shall not be made except as specified in city adopted codes.

(c) Certificate issued.After final inspection when it is found that the building or structure complies with the provisions of this article, the city inspector shall issue a certificate of occupancy which shall contain the following:

(1) The use and occupancy for which the certificate is issued.

(2) A certification that the building or structure complies with the provisions of this article.

(3) The permit number of the building or structure.

(4) The address of the building or structure.

(5) The name and address of the owner.

(6) A description of that portion of the building or structure for which the certificate is issued.

(7) A statement that the described portion of the building or structure complies with the requirements of this article for group and division of occupancy and the use for which the proposed occupancy is classified.

(8) The name of the city inspector or city administrator.

(d) Temporary certificate.A temporary certificate of occupancy may be issued by the city inspector or city administrator for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.

(Ordinance 361 adopted 3/28/18)

§ 22.03.015. Noise.

Noise emanating from construction projects shall be subject to the limitations in section 12.02.001 et seq. and the zoning ordinance, as amended.
(Ordinance 361 adopted 3/28/18)

§ 22.03.016. Restoration of public street including right-of-way, shoulders, and borrow ditches.

(a) Upon completion of any or all activity authorized by any permit on any public street or if a permit is revoked, the permit holder shall immediately commence operations to restore the activity area within the street to its proper condition, such work to be completed within 24 hours. In addition, except as required to restore the activity area to its proper condition, the permit holder shall remove all equipment, materials, trash and debris from the street. The street, including any right-

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of-way, shoulders and borrow ditches, shall be restored to a condition at least as good as that existing before the permit holder's activities commenced.

(b) If such restoration is not completed as directed by the city inspector, the city shall be authorized, at its election, to take charge of the work and restore the premises to their proper condition and shall be entitled to recover from the permit holder by civil action the actual expenses incurred by the city in restoring the premises, including, but not limited to, the cost of labor, materials, overhead, rental of any equipment used by the city in restoring the premises and attorneys' fee; and for such purposes, the city shall have a right to recover directly upon any bond posted by or on behalf of the permit holder in favor of the city, securing compliance with the ordinances of the city in the performance of such work.

(Ordinance 361 adopted 3/28/18)

§ 22.03.017. Removal of construction material.

(a) For the purpose of this section any construction material located within 300 feet of any construction site shall be presumed to be from that construction site. Construction material includes any broken or discarded material, machinery, trash, litter, rubbish, brush, garbage, paper, debris and concrete.

(b) The holder of any permit granted under this article shall, at the conclusion of each day's activities, collect, remove, and place in an appropriate solid waste container all broken or discarded construction material. The permittee shall likewise collect, remove and place in an appropriate solid waste container all broken or discarded construction material from the construction site which has accumulated on any adjacent public or private property. No construction material shall be destroyed by burning in the city.

(c) If such cleanup is not accomplished to the satisfaction of the city inspector, the city may elect to do any one or more of the following:

(1) Issue a stop-work order until the site and adjacent public and private property is free of any discarded material, machinery, trash, rubbish, garbage, paper, debris and concrete. When a stop-work order is issued an administrative fee as provided in appendix A to this code shall be charged and paid by the general contractor before a start work order can be issued. No other work will be allowed except the cleanup. Once the city inspector has approved the cleanup of the area, he may verbally issue a start work order;

(2) Take charge of the work and clean up the premises to its proper condition. The city shall be entitled to recover from the permit holder by civil action the actual expenses incurred by the city in cleaning up the premises and adjacent public and private property, including but not limited to cost of labor, materials, overhead, rental of any equipment used by the city in cleaning up the site and attorneys' fees, and for such purposes, the city shall have a right of action against any bonds in effect running from the holder of the permit to the city, conditioned upon compliance with the ordinances of the city; and/or

(3) Suspend and/or revoke the permit.

(Ordinance 361 adopted 3/28/18)

§ 22.03.018. Site plan approval and fire flow.

(a) No site plan shall be approved unless the existing fire hydrant nearest to the property for the proposed site plan meets or exceeds the fire flow requirements in accordance with appendix B of

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the 2012~~2~~5 International Fire Code, as amended and adopted, and section 8.04.002 of this code. All testing associated with this demonstration shall be performed by the county emergency services district No. 9 and shall be valid for a 270-day period.

(b) The city inspector shall order all construction and development work stopped on any site upon which the city inspector finds a substantial violation of this section and shall post the premises with a stop-work order which shall remain in effect until the violation has been corrected.

(Ordinance 361 adopted 3/28/18)

§ 22.03.019. through § 22.03.040. (Reserved)

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DIVISION 2
Administration and Enforcement

§ 22.03.041. Building department.

There is hereby established in the city the building department which shall be under the jurisdiction of the city inspector, who shall be appointed by the city administrator.
(Ordinance 361 adopted 3/28/18)

§ 22.03.042. Enforcement.

The city inspector is hereby authorized and directed to enforce all the provisions of this article.
(Ordinance 361 adopted 3/28/18)

§ 22.03.043. Deputies.

In accordance with the procedure and with the approval of the city council, the city inspector may appoint such number of officers, inspectors and assistants, and other employees as shall be authorized from time to time. With the approval of the city council, he may deputize such employees as may be necessary to carry out the functions of the city inspector.
(Ordinance 361 adopted 3/28/18)

§ 22.03.044. Reports and records.

(a) The city inspector shall submit monthly activity reports, and an annual summary report to the city council by January 15 each year, covering the work of the building department during the preceding period. He shall incorporate in such reports his recommendations as to desirable amendments to this article.

(b) The city inspector shall keep a permanent, accurate account of all fees and other monies collected and received under this article, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.

(Ordinance 361 adopted 3/28/18)

§ 22.03.045. Right of access/entry.

(a) In the process of exercising his or her duties under this code, the city inspector or city administrator ("inspector") may need to enter a structure, building, or premises ("location"), or portion thereof. If the location is occupied, the inspector shall first present proper credentials to the owner, occupant, or other responsible person and request entry. If the location is unoccupied, the inspector shall first make a reasonable attempt to contact the owner, an occupant, or other responsible person and request entry. If the inspector is unable to obtain consent, the inspector may use any remedy provided by law to secure entry, including but not limited to, an administrative search warrant pursuant to Texas Code Criminal Procedure article 18.05.

(b) If the location is under construction or has not been issued a certificate of occupancy, refusal to allow the inspector entry/access to all or a part of the location shall be grounds for issuance of an immediate stop-work order or for withholding a certificate of occupancy.

(c) An administrative search warrant is not required in the case of air quality inspections pursuant to Texas Health and Safety Code section 382.111; water quality inspections pursuant to Texas

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Water Code section 26.173; or inspections related to solid waste pursuant to Texas Health and Safety Code section 361.032(b). Inspections must be conducted at a reasonable time. When conducting inspections pursuant to this subsection, the inspector shall notify the owner or responsible party of his/her presence and shall display his/her credentials.

(Ordinance 361 adopted 3/28/18)

§ 22.03.046. Stop-work orders.

Whenever any construction work or activity contrary to the provisions of this chapter is discovered, the city inspector or other officer of the city may order such work or activity stopped by verbal or written notice to anyone engaged in or causing the work to be done. The illegal work or activity shall cease immediately and/or the condition shall be corrected within a reasonable amount of time, as determined by the city inspector. If the condition has not been remedied as prescribed by the city inspector, a formal written order to stop-work on all or part of the activity or project may be issued and posted on the premises. At the discretion of the city administrator, an administrative fee as provided in appendix A to this code may be charged for each verbal or written stop-work order issued. Any such fee shall be payable by the owner or contractor and payment thereof may be required before the stop-work order is lifted. The owner, contractor, or other responsible person(s) may also be cited for violation of this code, and fined or prosecuted in municipal court. Failure to comply with a stop-work order will result in the issuance of a citation. See section 22.03.513 also.

(Ordinance 361 adopted 3/28/18)

§ 22.03.047. Occupancy violations.

Whenever any structure is being used contrary to the provisions of this article, the city inspector may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of this article; provided, however, that for an unsafe building, section 22.03.334 shall apply.

(Ordinance 361 adopted 3/28/18)

§ 22.03.048. Liability.

The city inspector or any employee charged with the enforcement of this article, acting in good faith and without malice for the city in the discharge of his duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the city inspector or such employee, because of any act or omission by him in the discharge of his duties under any provision of this article, shall be defended by the city attorney until final termination of the proceedings.

(Ordinance 361 adopted 3/28/18)

§ 22.03.049. Sanitation, pollution officer.

The city inspector or his agent is authorized by the city council to fulfill the duties of the sanitation inspector and/or the water pollution control and abatement officer.

(Ordinance 361 adopted 3/28/18)

§ 22.03.050. Cooperation of other officials.

The city inspector may request, and shall receive so far as may be necessary in the discharge of his

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duties, the assistance and cooperation of other officials of the city.
(Ordinance 361 adopted 3/28/18)

§ 22.03.051. Applications for building permits.

The city inspector shall receive all applications for building permits in the city. He shall confer with applicants to advise them on city laws and regulations applicable to building and land clearance.
(Ordinance 361 adopted 3/28/18)

§ 22.03.052. Approval authority for building permits.

The city inspector shall review all applications and approve building permits that comply with all required codes.
(Ordinance 361 adopted 3/28/18; Ordinance 2024-006 adopted 6/12/2024)

§ 22.03.053. Council approval for permits requiring a variance.

Building permits requiring a variance, shall be processed in the usual manner by the city inspector, but no permit shall be issued until the application for variance has been presented to the city council via the zoning and planning commission for its review and approval.
(Ordinance 361 adopted 3/28/18; Ordinance 2024-006 adopted 6/12/2024)

§ 22.03.054. Miscellaneous duties of city inspector.

The city inspector shall perform such other duties normally expected of a building, code enforcement, sanitation or city inspector, as may be assigned from time to time by the city administrator ~~council~~.
(Ordinance 361 adopted 3/28/18)

§ 22.03.055. Fees.

The city inspector or his agents shall receive such fees as are authorized by city ordinances or resolutions.
(Ordinance 361 adopted 3/28/18)

§ 22.03.056. Construction hours.

All construction in the city is limited to Monday through Saturday during the hours from 7:00 a.m. to 6:00 p.m. Construction work on Sundays and official city holidays is not allowed without prior approval from the city administrator.
(Ordinance 361 adopted 3/28/18)

§ 22.03.057. Ground survey.

Before a permit is issued, a certified ground survey of the property line affected by the construction, as determined by the city inspector, shall be provided to determine no part of the proposed structure encroaches onto the adjacent property. String lines will be placed along all affected property lines and remain up until the construction is completed and the final inspection is conducted by the city.
(Ordinance 361 adopted 3/28/18)

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§ 22.03.058. Site inspection for oak wilt diseased trees.

As part of the process for obtaining any of the seven permits required by section 22.03.121, which are: site clearance, excavation, grading and landfill permit; blasting permit; building permit; private sewage facility permit; moving permit; street use permit; and utility permit, a site inspection shall be conducted to determine the existence and extent of oak wilt disease in the red oak and live oak species of trees. The city urban forester or arborist, trained and qualified to detect oak wilt disease, shall certify in writing to the city the existence or nonexistence of the disease on site. This certification shall become an integral part of the affected permit application. The permit applicant shall comply with all the provisions of the oak wilt diseased tree division in section 24.04.001 et seq.
(Ordinance 361 adopted 3/28/18)

§ 22.03.059. Drainage and erosion control manual.

(a) The drainage and erosion control design manual a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The design factors, formulas, graphs, and procedures described in the current drainage and erosion control design manual are the standard for the design of drainage improvements and projects involving the volume, rate of flow, method of collection, storage, conveyance, treatment, and disposal of stormwater and erosion protection from stormwater flows. Responsibility for actual design remains with the design engineer.

(c) The current drainage and erosion control design manual and the city's Code of Ordinances (city code) contain requirements for the design of infrastructure related to storm drainage, flood protection, water quality, and erosion control facilities. Where there is any conflict between the drainage and erosion control design manual and the current city code, the more restrictive shall take precedence. The design engineer is responsible for complying with the latest version of the current drainage and erosion control design manual and city code adopted by the city.

(d) If conflicts occur between city policy and criteria in the current drainage and erosion control design manual versus other regulatory authorities with jurisdiction in the same area, such as TCEQ, FEMA, or TxDOT, then the more stringent requirement will apply.

(e) Stormwater policy and criteria in the current drainage and erosion control design manual shall apply to all drainage improvements and projects that may impact drainage or water quality, both publicly and privately funded, within the city and within its ETJ.

(f) Amendments to the drainage and erosion control design manual ~~may be recommended by city staff. Prior to approval by the city administrator, notification shall be given to the city council of all proposed amendments. The city council may approve the amendment without further discussion or request the amendment be brought to city council for review. Before an amendment to the drainage and erosion control design manual may be approved by the city the proposed amendment shall be posted on the city website for fourteen (14) days with contact information for interested residents to correspond with the city.~~ are adopted by ordinance. Revisions will be reviewed by the Zoning and Planning Commission which forwards a recommendation on amendments to the City Council for review and adoption.

(Ordinance 361 adopted 3/28/18)

§ 22.03.060. Vegetation inventory.

Applicants or individuals contemplating the removal of live vegetation of any kind for any reason to accomplish the work to be allowed under any of the seven permits listed in section 22.03.121 (site clearance, excavation, grading and landscaping permit; blasting permit; building permit; private

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sewage facility permit; moving permit; street use permit; and utility permit) or under any other permit requested from the city, shall ~~schedule a vegetation inventory or "tree count" with the city inspector. No permit shall be issued and no live vegetation shall be removed unless and until the city inspector has completed such inventory or "tree count."~~provide a tree survey per section 22.03.303 and schedule a site inspection with the city inspector or designee prior to any removal.
(Ordinance 361 adopted 3/28/18)

§ 22.03.061. Construction schedules.

(a) ~~Purpose.The purpose of requiring construction schedules is for informational purposes only for the city to facilitate inspection of construction as allowed by code.~~

(b) ~~Construction schedules required; exception.It is an offense for any person to perform construction work subject to this section unless the person has submitted a construction schedule at time of building permit application. Construction schedules shall be submitted for each six months that a construction project is ongoing and shall continue to be submitted until the project is completed. A construction project is exempt from this requirement if the project at issue has a valuation of less than $25,000.00.~~

(c) ~~Target dates for milestones.Construction schedule shall provide target dates for milestones, which may include, but is not limited to:~~

(1) ~~Foundation pouring;~~

(2) ~~Framing;~~

(3) ~~Installation of sheetrock;~~

(4) ~~Electrical rough-ins;~~

(5) ~~Plumbing rough-ins;~~

(6) ~~Flatwork;~~

(7) ~~Removal of any variance trees;~~

(8) ~~Grading; and~~

(9) ~~All final inspections.~~

(d) ~~Upon request.Upon request, the contractor for the project shall meet with city staff to review the construction schedule.~~

(e) ~~Inspections.The contractor registered by city code for this project must be present at each inspection required by the building code as adopted by the city. In some cases, it may be acceptable for the master electrician or master plumber to be present if the inspections are related to plumbing or electrical.~~

(f) ~~Exemptions.The registered contractor is not required to provide a construction schedule under this code if the project is valued at $200,000.00 or less and if the project is projected to be completed in six (6) months or less. If the project is determined to extend past six (6) months after the appropriate permit is issued, a construction schedule shall be required.~~

(g) Purpose. The purpose of requiring construction schedules is to facilitate the city's coordination of inspections and communication with adjacent property owners.

(h) Construction schedules required. Except as provided in subsection (f), it is an offense for any

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person to perform construction work subject to this section unless the person has submitted a construction schedule at time of building permit application. Construction schedules shall be submitted for each six months that a construction project is ongoing and shall continue to be submitted until the project is completed.

(i) Target dates for milestones. The construction schedule shall provide target dates for milestones, which include, but are not limited to:

Site prep;

Demolition;

Removal of any variance trees;

Foundation pouring;

Framing;

Installation of sheetrock;

Electrical rough-ins;

Plumbing rough-ins;

Flatwork;

Grading; and

All final inspections.

(j) Review of schedule. Upon request, the contractor for the project shall meet with city staff to review the construction schedule.

(k) Inspections. The contractor or subcontractor registered with the city under this code for the project must be present at each inspection required by the building code as adopted by the city. The city inspector may allow the master electrician or master plumber to be present in lieu of the registered contractor for inspections related to electrical or plumbing work.

(l) Exemptions.

(1) A construction project with a valuation of less than twenty-five thousand dollars ($25,000); or,

(2) A construction project with a valuation of two hundred thousand dollars ($200,000) or less that is projected to be completed within six (6) months of permit issuance; provided, however, that if such project extends past six (6) months after the appropriate permit is issued, a construction schedule shall be required.

(Ordinance 368 adopted 5/22/19)

§ 22.03.062. through § 22.03.090. (Reserved)

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DIVISION 3
Technical and Construction Codes and Standards

§ 22.03.091. International Building Code.

(a) The International Building Code, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "commercial building code," and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted International Building Code, 2015 edition and this article, this article shall control.

(Ordinance 350 adopted 1/24/18)

§ 22.03.092. International Residential Code for One- and Two-Family Dwellings.

(a) The International Residential Code for One- and Two-Family Dwellings, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "residential building code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the International Residential Code for One- and Two-Family Dwellings, 2015 edition and this article, this article shall control.

(Ordinance 350 adopted 1/24/18)

§ 22.03.093. International Plumbing Code.

(a) The International Plumbing Code, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "plumbing code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted Uniform Plumbing Code, 2015 edition and this article, this article shall control.

(c) The city adopts the state licensing law from the Texas State Board of Plumbing Examiners requiring all plumbers to have a current state plumbing license prior to commencing any plumbing-related work in the city.

(Ordinance 350 adopted 1/24/18)

§ 22.03.094. International Mechanical Code.

(a) The International Mechanical Code, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "mechanical code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted International Mechanical Code, 2015 edition and this article, this article shall control.

(Ordinance 350 adopted 1/24/18)

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§ 22.03.095. International Fuel Gas Code.

(a) The International Fuel Gas Code, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "fuel gas code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted International Fuel Gas Code, 2015 edition, and this article, this article shall control.

(Ordinance 350 adopted 1/24/18)

§ 22.03.096. International Energy Conservation Code.

(a) The International Energy Conservation Code, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "energy conservation code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted International Energy Conservation Code, 2015 edition, and this article, this article shall control.

(Ordinance 350 adopted 1/24/18)

§ 22.03.097. International Fire Code.

(a) The International Fire Code, 2015 edition, published by the International Code Council, Inc., hereinafter referred to as the "fire code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted. Both (1) appendix B: fire flow requirements for buildings, and (2) appendix C: fire hydrant locations and distributions, from the fire code, each in its entirety, are hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted International Fire Code, 2015 edition and this article, this article shall control.

(Ordinance 350 adopted 1/24/18)

§ 22.03.098. National Electrical Code.

(a) The National Electrical Code, 2017 edition, published by the National Fire Protection Association, hereinafter referred to as the "electric code" and which may be cited as such, a copy of which is on file in the office of the city secretary, is hereby adopted.

(b) The following rules of construction shall apply to the building code as adopted by this section. Where any conflict exists between the adopted National Electrical Code, 2017 edition and this article, this article shall control.

(c) The following rules shall supersede any conflicting rules in the National Electrical Code, 2017 edition:

(1) No smaller than 12 gauge wire shall be used, and the wire shall be made of copper.

(2) A supervising licensed journeyman shall be on-site at all times while any electric-related work is performed.

(Ordinance 350 adopted 1/24/18)

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§ 22.03.099. through § 22.03.120. (Reserved)

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DIVISION 4
Permits and Inspections

§ 22.03.121. Permits required.

(a) Site clearance, excavation, grading, and landfill permits.No site clearance, excavation, grading, or landfill on public or private land shall commence unless a permit shall have first been issued for such work.

(b) Blasting permit.No blasting or use of explosive materials on public or private land shall commence unless a permit shall have first been issued for such work. Blasting permits can only be approved by the city council.

(c) Building permit.No building or structure or part thereof shall be erected, altered, moved, or placed within the city unless a building permit shall have first been issued for such work. No building permit shall be issued by the city for building or for the installation of a private sewage facility upon any lot in a subdivision or confirming plat for which a final plat has not been approved by the city and filed for record, or upon any lot in a subdivision or confirming plat in which the standards contained in chapter 36, or referred to therein have not been complied with in full. Site clearance, excavation, grading, landfill and temporary use of street permits may be consolidated under a single building permit provided that the applicable requirements of the individual permit being consolidated, as determined by the city inspector, are complied with. ~~See the appendix to Ordinance 366, instructions for obtaining a building permit, for further guidelines in permit processing.~~

(1) Any owner may make minor improvements and ordinary repairs on any structure without a permit provided that such improvements and repairs conform to all applicable building laws and ordinances.

(2) The city inspector or his designated representative shall have the right to inspect all such improvements or repairs.

~~(3) Residential building permit fees for new construction are set by the city fee schedule. The application for a building permit for new residential construction shall be accompanied by a deposit that is equal to two times the initial building fee amount.~~

(d) Private sewage facility permit.No private sewage facility or part thereof shall be hereafter constructed or altered unless a construction permit shall have first been issued for such work pursuant to the current private sewage facility ordinance.

(e) Moving permit.No building or structure or part thereof shall be moved onto or over the city streets unless a permit shall have first been issued for such move.

(f) Street use permit.No person shall place any building materials, barricade, covered walkway, or obstruction of any kind upon the streets, alleys or sidewalks of the city without first securing a permit therefor from the city inspector. The city inspector shall not issue a permit unless the application for street or sidewalk space has been reviewed by the chief of police. This section shall not apply to work done by the city or work done by any public utility companies for the purposes of emergency repair of their systems, or to the temporary use of the street space by moving vans for the purpose of moving equipment and furniture from or into any building or structure.

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(g) Utility permit.No utility (electric, water, gas, cable television, telephone) shall construct, erect, move, enlarge, improve, remove, alter, or repair any of its transmission or distribution lines and/or equipment unless a utility development permit shall have first been issued for such work. Emergency repairs required to restore service may be completed without a permit provided that such repairs are forthwith reported to the city inspector.

(h) Site plan.No horizontal infrastructure or part thereof shall be improved, erected, altered, moved, or placed within the city unless a site plan has first been approved for such work. Site clearance, excavation, grading, landfill and temporary use of street permits may be consolidated under a single site plan approval request provided that the individual permit being consolidated complies with the applicable requirements, as determined by the city inspector.

(i) Demolition permit.~~No demolition of any structure or any portion of a structure shall be permitted~~No person shall demolish any structure or any portion of a structure within the city unless a demolition permit has been issued first for such work.

(j) Work exempt from permit. The following items do not require a permit from the city:

(1) Exemptions listed in the 2015 IBC, IRC, IPC, IMC, IFGC, IECC, IFC and 2017 NEC.

(2) Replacement of up to 25% of the existing siding with the same material.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.122. Building permit applications.

(a) To obtain a building permit, the applicant shall first file an application in writing. Each such application submission shall include all items pertinent to review, as provided in the permit application, available from the city.

(b) ~~All residential buildings~~ One and two-family residential shall be governed by the provisions of division 5 of this article.

(c) All non-residential buildings shall be governed by the provisions of division 6 of this article. (Ordinance 361 adopted 3/28/18)

§ 22.03.123. Moving permit applications.

(a) To obtain a moving permit to move a building into or through the city, the applicant must first file an application therefor in writing. Each such application shall be accompanied by the required fee and shall contain:

(1) The name of the person who will move the building.

(2) The name of the owner of the building.

(3) The present location of the building.

(4) The proposed new location of the building.

(5) The route of moving, as approved by the chief of police.

(6) The exact date and time during which the building will occupy the street.

(7) The time that the building is allowed to remain in the street.

(8) The size and type of construction of the building.

(9) Evidence that arrangements have been made with utility companies and/or the city, where

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necessary to prevent damage thereto.

(10) The receipt of the permit fee.

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(11) The business address and home address of the applicant.

(12) Proof of corporate surety bond and of liability insurance with an acceptable insurance company as provided herein to protect the public and the city from any damage caused by the applicant in moving the building for which the permit is requested.

(b) All permits issued under this section shall be governed by the provisions of division 14 of this article.

(c) Each permit shall be issued in duplicate, and one copy posted on the building to be moved.
(Ordinance 361 adopted 3/28/18)

§ 22.03.124. Blasting permit applications.

(a) To obtain a blasting permit, the applicant shall first file an application therefor in writing. Each such application shall be accompanied by the required fee and shall:

(1) Identify and describe the work to be covered by the permit for which application is made.

(2) Describe the land on which the proposed work is to be done, by lot, block, tract, and house or structure and street address, or similar description that will readily identify and definitely locate the proposed work.

(3) Name the licensed blaster who will engage in the use of explosives.

(4) Specify the dates and times such blasting will occur.

(5) Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.

(b) All permits issued under this section shall be governed by the provisions of division 13 of this article.

(c) Before a permit is issued, the applicant shall file with the city a bond and certificate of insurance as provided herein.

(d) Applicant shall appear before the city council at its next regularly scheduled meeting to obtain approval of the blasting permit.
(Ordinance 361 adopted 3/28/18)

§ 22.03.125. Excavation or grading permit applications.

(a) To obtain an excavation or grading permit, the applicant shall first file an application in writing. This permit may be combined with the building permit application. Each such application submission shall include all items pertinent to review, as provided in the permit application, available from the city.

(b) When required by the city inspector, each application for a grading permit shall be accompanied by supporting data consisting of a soil engineering report and engineering geology report. Specifications shall contain information covering construction and material requirements.

(1) Soil engineering report. The soil engineering report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary and opinions and

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recommendations covering adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city inspector shall be incorporated in the grading.

(2) Engineering geology report.The engineering geology report shall include an adequate description of the geology of the site, conclusions, and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city inspector shall be incorporated in the grading plans or specifications.

(c) The provisions of subsection (b) of this section are applicable to grading permits. The city inspector may require that grading operations and project designs be modified if delays occur which involve weather generated problems not considered at the time the permit was issued.

(d) No permit shall be required for the following:

(1) An excavation below average natural ground grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.

(2) Excavation for water wells.

(3) Minor exploratory excavations under the direction of soil engineers or engineering geologists.

(4) An excavation which is less than two feet in depth or which does not create a cut slope greater than five feet in height and steeper than the ratio of 1.5H:1V.

(5) A fill less than one foot in depth and placed on natural terrain with a slope flatter than the ratio of five horizontal to one vertical or less than three feet in depth not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

(6) Excavation for utilities when a utility permit has been granted.

(Ordinance 361 adopted 3/28/18)

§ 22.03.126. Site clearance and demolition permits.

(a) To obtain a site clearance permit, the applicant shall first file an application in writing. This permit may be combined with the building permit application. Each such application submission shall include all items pertinent to review, as provided in the permit application, available from the city.

(b) Site clearance permits issued under this section shall be governed by the provisions of division 12 of this article.

(c) To preserve the required mandatory areas of natural vegetation landscape from inadvertent damage during construction, a physical barrier shall be erected around the perimeter of these inviolate areas. The barriers will be in place and approved by the city inspector before any site clearance can commence. The barrier may consist of a temporary chainlink fence, wooden stake (snow) fence, orange plastic construction fence or other devices as approved by the city inspector.

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Minimum height for all types of barriers is four feet. Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the certificate of occupancy. Only after this time can the barriers be removed.

(d) To obtain a demolition permit, the applicant shall first file an application in writing. This permit may not be combined with the building permit application. Each such application submission shall include all items pertinent to review, as provided in the permit application, available from the city.

(e) Demolition permits issued under this section shall be governed by the provisions of division 18 of this article.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.127. Temporary use of streets during construction or repairs permit.

(a) To obtain a permit to occupy any portion of any public street, alley or sidewalk within the city for the purpose of placing thereon material or debris for or from building operations, or any excavation of any area, or for any purpose connected with the erection, removal, alteration or repair of any building or structure, the applicant shall make written application to the city inspector for a permit therefor. This permit may be combined with the building permit application. The application for a permit shall contain the following information:

(1) The name, local address and principal place of business of the applicant.

(2) The name of the engineer, foreman, or other person who will be in charge of the construction or repairs for which the application is requested.

(3) A sketch, drawing or plan showing the locations and number of square feet and a description of the material, equipment or barricade that will be placed on the space to be occupied under the requested permit.

(4) A description of the type of use that will be made of the space.

(5) The period of time that the space is to be occupied under the requested permit with facts showing the need for the requested space.

(6) A statement that the applicant will indemnify and forever hold the city harmless against each and every claim, demand or cause of action that may be made, asserted, or arise against it by reason of or in any way arising out of the occupancy of the street, alley or sidewalk space by the applicant under a permit from the city, if such permit is granted.

(b) All permits issued under this section shall be governed by the provisions of division 15 of this article.

(Ordinance 369 adopted 5/22/19)

§ 22.03.128. Utility development permit.

(a) To obtain a utility development permit, the applicant shall first file an application therefor in writing. Each such application shall be accompanied by the required fee and shall:

(1) Contain at least two proposed routes.

(2) Identify and describe the work to be covered by the permit for which the application is

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made.

(3) Describe the land or route on which the proposed work is to be done, by lot, block, tract, and house or structure and street address or similar description that will readily identify and definitely locate the proposed work.

(4) Indicate the use for which the proposed work is intended.

(5) Be accompanied by plans and specifications as required for the project and a site plan drawn to scale in duplicate, together with such additional copies as the city inspector may determine to be necessary for review by the city council. The site plan shall include the following:

(A) Natural features such as woodlots, watercourses, springs and ponds;

(B) Location of dimensions of easements;

(C) Floodplain elevations, showing the floodway and that portion of the route which is subject to inundation by the 100-year floodplain, in accordance with chapter 26;

(D) Location of all existing roads, walks, and all structures; and

(E) Restoration measures, as needed.

(6) Describe the route, site clearance and excavation plans and blasting required. If excavation and/or blasting is necessary, the information required for such permits in this article shall be provided by the applicant.

(7) Contain a statement which evaluates the expected direct and indirect adverse human environmental impact of the alternative routes.

(8) Contain a statement analyzing the direct and indirect economic impact of the proposed routes.

(9) Contain a statement evaluating the adverse direct and indirect environmental effects which cannot be avoided or mitigated should the proposed route be accepted.

(10) Furnish proof of a corporate surety bond and of liability insurance with an acceptable insurance company as provided herein to protect the public and the city from any damage caused by the applicant.

(b) All permits issued under this section shall be governed by the provisions of division 11 of this article.

(Ordinance 369 adopted 5/22/19)

§ 22.03.129. Representations made by applicant and violation thereof.

All representations, whether oral or written, made by an applicant or his agent in support of an application for a permit under this division become conditions upon which such permit is issued. It shall be unlawful for any permittee to vary from such representations unless the permittee first makes application, as required by the provisions of this division, to amend the permit and such amendment is approved by the proper authority.

(Ordinance 369 adopted 5/22/19)

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§ 22.03.130. Licensing and registration of general and trade contractors.

(a) Prohibitions.It is an offense for a person to:

(1) Display or cause a permit to be displayed or to have in one's possession any registration or license for doing any construction work, knowing it to be fictitious or to have been canceled, suspended, altered, or revoked;

(2) Lend or permit the use of any registration or license for doing any construction work to any person not entitled to it;

(3) Display or to represent as one's own any registration or license for any construction work when the registration or license has not been lawfully issued to the person displaying it;

(4) Fail or refuse to surrender to the director of building and development services any registration for any construction work that has been suspended, canceled, or revoked;

(5) Use a false or fictitious name or address in any application for any registration or permit provided for in this chapter or any renewal or duplicate or make a false statement or conceal a material fact or otherwise commit fraud in making any application;

(6) Permit any construction work covered by this article to be performed by any person not properly registered, while owning or in control of premises covered by this article;

(7) Abandonment of a project by the registered contractor; and

(8) If the contractor holding a permit dies or becomes unable to supervise the permitted work, all work under the permit shall cease immediately, and work shall not be resumed until the contractor's disability is remedied or a new permit is issued to a qualified contractor.

(b) Registration required; exception.It is an offense for any person to perform construction work subject to this section unless the person is registered as a contractor or is exempt because the project at issue has a valuation of less than $25,000.00. A project that is valued at less than $25,000.00 can be performed by a person who is not a registered contractor with the city.

(c) Qualifications for registration.

(1) General contractor.This designation applies to all construction contractors, including but not limited to the following: residential general contractor, commercial general contractor, roofing contractor, fence contractor, foundation contractor, demolition contractor, and pool contractors. A person applying for a general contractor's registration shall provide a copy of a government issued identification, as well as submit an application providing contact information, including address, phone number, and company information (if applicable).

(2) Insurance.The general contractor must show proof of at least $600,000.00 in general liability insurance, with the city as the certificate holder at the time of registration. It must be held at all times while doing work in the city.

(d) Issuance, renewal of registration.

(1) Upon providing all required documentation to the city for a contractor registration under this section, the director of building and development services can register the candidate.

(2) The registered contractor shall be required to provide updated insurance information with

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the city listed as a certificate holder at least annually.

(3) Each person shall register with the director of building and development services. The registration will include the information required by the director of building and development services. If any changes occur in the information provided, the registrant shall amend the registration to reflect the changes within ten (10) business days of the change.

(e) Suspension and revocation of registration.

(1) The director of building and development services may suspend the registration of a general contractor who has been cited by the code enforcement official or other authorized city employee without case disposition or conviction two (2) times within one (1) year of a violation, or three (3) times within two (2) years of a violation of this code. The suspension will be for a period not to exceed six (6) months.

(2) If the director of building and development services decides to suspend a registration, the official will notify the registrant of the suspension by first class mail to the registrant's last address on the director of building and development services' records, or by electronic notification. Notice by mail is deemed received three (3) days after posting or by non-returned electronic correspondence.

(3) The director of building and development services can refuse to issue permits while there are outstanding violations against the contractor until the violation(s) have been resolved by court disposition or arranging a court hearing.

(4) The registrant may appeal a suspension decision to the city administrator by filing a written request within ten (10) days of receiving notice of the suspension. The city administrator shall meet with the registrant and determine whether the suspension decision should be sustained or reversed. The decision of the city administrator can be appealed to the building design committee.

(5) A person is subject to disciplinary action under this section if the person violates an order issued by the commission, or any of the following:

(A) Obtaining registration through error or fraud;

(B) Willfully, negligently, or arbitrarily violating a municipal rule or ordinance that regulates sanitation, drainage, parking, landscaping and/or tree removal, plumbing, or other ordinance related to performance of construction;

(C) Employing a person who does not hold a registration, license, or endorsement or who is not registered or licensed to engage in an activity for which registration is required under this chapter; or

(D) Abandonment of a project.

(f) Hearing procedures for revocation of registration; notice of revocation.

(1) When the building design committee is notified that a registrant's registration has been suspended twice in a three year period under this section, and that the registrant has committed another violation under this code, the committee will set a registration revocation hearing within thirty (30) days and will send a copy of the information to the registrant by certified mail not less than ten (10) days before the date of the hearing.

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(2) If the registrant admits the truth of the charges, or if the committee, by a vote of three (3) or more members, finds them to be true, the committee will revoke the registration of the registrant. The decision of the committee in each revocation hearing will be entered into the meeting minutes of the committee.

(3) A registrant whose registration is revoked under this section may not apply for another registration until two (2) years after the effective date of the revocation.

(g) Appeals.Under this section, any registrant who has been denied a registration or whose registration has been suspended or revoked may file an appeal with the board of adjustment within ten (10) days of the date of the denial, suspension, or revocation. The registrant shall also file a copy of the appeal with the director of building and development services on the same day that the appeal is filed with the board of adjustment. The board of adjustment will hear the matter at its next regular meeting that is at least three (3) business days from the time of the appeal submission. The board will determine whether there is a reasonable basis for the registration denial, suspension, or revocation.

(Ordinance 369 adopted 5/22/19)

§ 22.03.131. Insurance required.

(a) Before any permit may be granted under this division, each person applying for such permit shall furnish to the city evidence that he has procured public liability and property damage insurance in the following amount:

(1) For damages arising out of bodily injury to, or death of, one person in any one accident: $250,000.00.

(2) For damages arising out of bodily injury to, or death of, two or more persons in any one accident: $500,000.00.

(3) For injury to, or destruction of, property in any one accident: $150,000.00.

(b) Such insurance shall be kept in full force and effect during the period of time for which a permit shall be issued or the premises occupied.

(Ordinance 361 adopted 3/28/18)

§ 22.03.132. Construction permits in newly annexed areas.

(a) Upon annexation no existing building or structure within any territory newly annexed to the city shall be altered, remodeled, or constructed without a permit as required herein.

(b) No permit for the alteration, remodeling or construction of a building or structure shall be issued by the city inspector in a territory newly annexed to the city other than a permit which will allow the construction of a building permitted to be constructed in an R-1 one-family residential zoning district. An application for any structure for any other use than that specified herein shall be made to the city inspector and by him referred to the city zoning and planning commission for consideration and recommendation to the city council. Whenever such recommendation is filed with the city council by the city zoning and planning commission, such recommendation shall be advisory in its nature and the council shall be at liberty to affirm it or to allow such construction as the facts in their opinion may justify.

(c) Except as provided in subsection (b) of this section, the owner, lessee, or any other person

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owning, controlling, constructing, supervising or directing the construction, alteration or remodeling of any building or structure which is incomplete on the date the annexation petition is filed with the city or annexation proceedings begun by the city, before proceeding any further with the construction, alteration or completion thereof, shall apply to the city inspector for a permit authorizing further work on such building or structure and shall attach to the application for a permit plans and specifications relating to the construction of such building, or structure, in accordance with the provisions of chapter 38, this article and Ordinance 56. The application for building permit shall be accompanied by a fee and be promptly referred, if required, to the city zoning and planning commission for consideration. The commission shall promptly thereafter file with the city council its recommendations as to granting, modifying, or rejecting the permit. The zoning and planning commission's recommendations shall be advisory. Construction work shall be suspended until the permit provided for herein has been issued by the city council, or until permanent zoning regulations have been adopted which permit the construction, use and occupancy of the structure or building.

(d) The requirements of subsection (c) of this section may be waived or satisfied by action of the city council at the time the city council takes final action to annex the subject land.

(Ordinance 361 adopted 3/28/18)

§ 22.03.133. Applicant's liability.

The provisions of this division shall not be construed as relieving or limiting in any way the responsibility or liability of any person erecting or owning any structure for personal injury or property damage resulting from the erection of a structure, or resulting from the negligence or willful acts of such person in the design, construction, maintenance, repair, operation or removal of any structure in accordance with a permit issued under the provisions of this division nor shall it be construed as imposing upon the city or its officers, employees, or commissioners, any responsibility or liability by reason of the approval of any structures under the provisions of this article.

(Ordinance 361 adopted 3/28/18)

§ 22.03.134. Issuance.

(a) The application, plans, and specifications filed by an applicant for a permit shall be checked by the city inspector. Such plans may be reviewed by other departments of the city to check compliance with the laws and ordinances under their jurisdiction. If the city inspector is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this article and other pertinent laws and ordinances, and that the fee has been paid, he shall issue a permit therefor to the applicant, provided that, if a bond, indemnification agreement, and certificate of insurance are required, they be filed prior to the issuance of a permit.

(b) When the city inspector issues the permit, he shall ensure the plans check person has endorsed in writing or stamped on the construction set of plans and specifications "Approved." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the city inspector, and all work shall be done in accordance with the approved plans.

(c) The city inspector may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved provided adequate information and detailed statements have been filed complying with all pertinent requirements of this article. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building or structure will be granted.

(Ordinance 361 adopted 3/28/18)

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§ 22.03.135. Retention of plans.

(a) One set of approved plans, specifications, and computations shall be retained by the city inspector, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept at the site of the work at all times during which the work authorized thereby is in progress. Upon issuance of a certificate of occupancy, the plans retained by the city shall be returned to the owner or disposed of by the city within 30 days.

(b) Plans submitted for approval for which no permit is issued, and on which no action is taken by the applicant for 30 days, shall be returned to the last known address of the applicant or disposed of by the city.

(Ordinance 361 adopted 3/28/18)

§ 22.03.136. Validity.

(a) The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this article. No permit purporting to give authority to violate or cancel the provisions of this article shall be valid, except insofar as the work or use which it authorizes is lawful and conforms to the requirements of this article or a variance or modification granted pursuant to division 16 of this article.

(b) The issuance of a permit based upon plans and specifications shall not prevent the city inspector from thereafter requiring the correction of errors in such plans and specifications or from preventing building operations being carried on thereunder when in violation of this article or of any other ordinance of the city.

(Ordinance 361 adopted 3/28/18)

§ 22.03.137. Expiration.

(a) Permit.Any permit, other than one for a fence and associated screening vegetation or for demolition issued under the provisions of this article shall expire if the building, construction, or work authorized by such permit is not commenced within 180-days from the date such permit is approved, or if the building, construction, or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180-days. A permit expires if the building, construction, or work authorized by such permit is not completed according to the approved plans and specifications within 24 months from the date such permit is approved.

(b) Fence permit.A permit for a fence and associated screening vegetation shall expire if the construction of the fence and the planting of the associated screening vegetation has not commenced within 60 days or on a date specified by the city council to accommodate the next favorable growing season, whichever is later. 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 180-days of the approval date of the permit. A fence that is permitted as part of new construction or remodel permit will have the same expiration as the entire project.

(c) Demolition permit.A permit for demolition shall expire in accordance with the provisions of division 18 of this article.

(d) Before any such work can be resumed, an extension to the permit shall first be obtained; the fee for which shall be set by the city council in a standard fee schedule. The building official may approve such extensions, provided that:

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(1) Any suspension or abandonment of construction has not exceeded 180 days. A permit under the construction code shall be considered suspended or abandoned if construction has "substantially ceased" during the 180-day period.

(2) Submit a letter requesting the extension at least 15-days prior to the expiration, with an updated construction schedule and updated construction cost estimate.

(3) The additional fees for extension of the permit, if any, are paid pursuant to the amounts set by the city fee schedule.

(e) Permit extensions and expirations.

(1) Permits.A permit extension for a suspended or abandoned project extends the permit 180-days. The permit shall only be eligible to receive two (2) extensions in the instance of suspension or abandonment. A permit extension for a project that has exceeded 24-month expiration extends the permit 12 months. A permit with no suspensions or abandonment is eligible to receive up to two (2) extensions. The extension date will be based on the original permit issued date.

(2) Fence permits.A permit extension for a fence permit extends the permit 60 days from the original permit issued date.

(3) Demolition permits.Extensions for demolition permits shall be in accordance with the provisions of division 18 of this article.

(f) For additional extensions, the applicant can file a request with the building official, stating the reason for additional extensions, which will be forwarded to the next available city council meeting for consideration and approval.

(Ordinance 2020-219 adopted 12/9/20; Ordinance 2024-017 adopted 10/23/2024)

§ 22.03.138. Dormant permit application expiration.

(a) Definitions.The following words when used in this section shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning.

Permit. Shall have the meaning ascribed to it in the Texas Local Government Code section 245.001, as may be amended.

Project. Shall have the meaning ascribed to it in the Texas Local Government Code section 245.001, as may be amended.

(b) Notwithstanding any other provision of this code, all permit applications shall expire as stated herein, all application fees shall be deemed forfeited and shall expire as follows:

(1) A permit application filed under this chapter, filed on or after September 15, 2009, shall expire on the first business day after the passage of sixty (60) days from the date the applicant is notified in writing of a deficiency in the permit application, if:

(A) The applicant fails to provide documents or other information necessary to comply with the city’s technical requirements relating to the form and content of the application; and

(B) The city transmits written notice to the applicant of the failure not later than the tenth (10th) business day after the date the application is filed specifying the necessary

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documents or other information and the date the application will expire if the documents or other information are not provided; or

(C) In the event the city does not transmit written notice within the tenth (10th) business day after the application is filed specifying the necessary documents or other information, the permit shall expire by operation of law within sixty (60) days from the date the city mails notice of the deficiency.

(2) In the event the board of adjustment, zoning and planning commission, or city council provide the applicant with a written request for additional information or documentation, the applicant has sixty (60) days from the date of the request to provide the city secretary with the requested information or documentation. Failure to provide said information or documentation by the first business day after the expiration of sixty (60) days renders the application denied by operation of law.

(3) Permit applications filed prior to September 9, 2009, that are pending approval on September 9, 2009, shall expire on November 9, 2009, if by said date the applicant has failed to provide documents or other information necessary to comply with the city's technical requirements relating to the form and content of the application.

(4) The city administrator has discretion to extend the time only for the issuance of a building permit to erect or improve a building or other structure, in which event the permit application shall expire when said extension expires. Any such extension shall be in writing, shall be dated, and shall be signed by the city administrator or the city administrator's designee.

(Ordinance 361 adopted 3/28/18)

§ 22.03.139. Suspension or revocation.

The city inspector may, in writing, suspend or revoke a permit issued under the provisions of this division whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this article.
(Ordinance 361 adopted 3/28/18)

§ 22.03.140. Permit fees.

(a) The city shall establish fees to cover the cost of applications, inspections and other costs incurred by the city in the administration of this article.

(b) No permit fee shall be refunded.
(Ordinance 361 adopted 3/28/18)

§ 22.03.141. Inspections generally.

(a) All construction of work for which a permit is required shall be subject to inspection by the city inspector and certain types of construction shall have continuous inspection by special inspectors.

(b) A survey of the lot shall be required by the city inspector to verify the conformity of the building or structure to approved plans and specifications.
(Ordinance 361 adopted 3/28/18)

§ 22.03.142. Required inspections.

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(a) Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the city inspector.

(b) The city inspector, upon notification from the permit holder or his agent, shall make the following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent wherein the same fails to comply with this article.

(1) Pre-construction inspection.To be made prior to the start of construction with approved plan onsite to discuss and review city requirements and construction related issues pertaining to the permitted project.

(2) Layout inspection.To be made after property corner pins are located and flagged, string lines are stretched around all property lines, easement boundaries are flagged and foundation batter boards are in place with string lines run for foundation.

(3) Foundation inspection.To be made after trenches are excavated and forms erected and when all materials for the foundation are delivered to the job. Where concrete from a central mixing plant is to be used, materials need not be on the job. The inspection shall be made after all the steel has been installed. Benchmarks shall be installed in the foundation to indicate natural grade elevations for height measurement of the structure.

(4) Framing inspection.To be made after the roof, all framing, fire-blocking, and bracing are in place and all pipes, chimneys, and vents are complete.

(5) Plumbing, electric, gas, heating, ventilation and air conditioning inspection.When all pipes are in place, supports connected, meter located, vent take-off, water heater location, and trap arms are complete. The mechanical inspection shall be done when all duct work and vents are in place and furnace closets and/or attic platform and catwalk are completed. Electrical to be approved by the City of Austin Electrical Department.

(6) Insulation inspection.To be made when all insulation is in place and prior to covering.

(7) Lath and/or wallboard inspection (for nonresidential buildings only).To be made after all lathing and/or wallboard, interior and exterior, is in place, but before any plastering is applied or before wallboard joints and fasteners are taped and finished.

(8) Final inspection.To be made after building or structure is completed and ready for occupancy.

(9) Plumbing final inspection.To be done when all valves and fixtures are installed and vents in place.

(10) Mechanical final inspection.To be done when all equipment has been installed and is ready for use, including dryer vents, stove hoods, furnace vents and all supply and return air grills are installed.

(11) Electrical final inspection.To be done by the city inspector or the designated representative of the city.

(Ordinance 361 adopted 3/28/18; Ordinance 2024-017 adopted 10/23/2024)

§ 22.03.143. Other inspections.

In addition to the required inspections specified in this division, the city inspector shall make or require

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to be made any other inspections of any construction work to ascertain compliance with the provisions of this article and other laws which are enforced by the city.
(Ordinance 361 adopted 3/28/18)

§ 22.03.144. Process and procedure for property compliance history.

(a) In the event there is an outstanding violation on the property in which the owner is seeking a conditional approval, the board of adjustment may take the compliance history into consideration when making its determination to grant or deny the request.

(b) The city may withhold any additional permit and/or inspection approvals until all outstanding violations are resolved for the owner's real property in question.

(c) The city officials may withhold permits (other than those requiring city council or board of adjustment approvals) and/or inspection approvals for the property until the resolution of all outstanding violation notices.

(d) Any applicant for a variance or other permit approval from the city may be denied on the basis of a pending enforcement action against the applicant.

(Ordinance 361 adopted 3/28/18)

§ 22.03.145. through § 22.03.160. (Reserved)

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DIVISION 5
Minimum Standards for Residential Buildings[1]

§ 22.03.161. Compliance.

In addition to the requirements in the International Residential Code and Uniform Plumbing Code, every building, structure, or part thereof erected or altered, moved or relocated for residential use in the city containing one or more dwelling units shall conform to the standards in this division, which are deemed to be minimum standards necessary for the health and general welfare of the residents of this community.
(Ordinance 361 adopted 3/28/18)

§ 22.03.162. Private sewage facility.

Each plumbing fixture shall be connected by adequate water and drainage lines to a licensed private sewage facility or organized disposal system.
(Ordinance 361 adopted 3/28/18)

§ 22.03.163. (Reserved)

Editor's note–Former section 22.03.163 pertaining to solid waste container storage and deriving from the 1996 Code, sec. 14-188, was deleted by Ordinance 242 adopted by the city on 4/11/12.

§ 22.03.164. Carports and garages.

Carports and garages with streetside openings visible from the street shall contain adequate storage compartments.
(Ordinance 361 adopted 3/28/18)

§ 22.03.165. Modular prefabricated building or mobile home.

(a) No residential structure shall be of a modular, preconstructed, prefabricated or mobile home construction, nor shall such structure be a used structure, or a move-in structure.

(b) No modular, preconstructed, prefabricated or mobile home structure shall be attached or constructed as an addition to an existing site-built home.

(c) Notwithstanding subsection (a) above, a special use permit shall be issued and modular homes shall be allowed on single-family residence lots in the event the application demonstrates the proposed modular home meets the following aesthetic standards:

(1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the modular housing is proposed to be located, as determined by the most recent tax appraisal roll for each county in which the properties are located;

(2) Have exterior siding, roofing, roof patch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the modular housing is proposed to be located;

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1. **Editor's note–Former section 22.03.176 pertaining to the requirements for two-family residential structures in R-2 and deriving from Ordinance 2020-014 adopted 10/14/20, was repealed and deleted in its entirety by Ordinance 2024-006 adopted 6/12/2024.**

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(3) Comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; and

(4) Are securely fixed to a permanent foundation.

(Ordinance 361 adopted 3/28/18)

§ 22.03.166. Utility connections.

It shall be unlawful to serve or connect any public utility to any structure for permanent service until authorized by the city inspector and the public utility supplier. All internal electrical wiring will be copper. Aluminum wiring is prohibited.

(Ordinance 361 adopted 3/28/18)

§ 22.03.167. Swimming pools.

(a) Each outdoor private swimming pool must have an enclosure device that:

(1) Is at least 48 inches in height as measured from the ground on the side away from the pool;

(2) Does not contain any opening that would permit the passage of a sphere four inches or more in diameter under the enclosure device, or a sphere four inches or more in diameter to pass through the enclosure device;

(3) Is not made of chainlink fencing materials;

(4) Does not use diagonal fencing members that are lower than 49 inches above the ground; and

(5) Does not provide indentations, protrusions, openings, equipment, or structures on the side away from the pool in a manner that makes them readily available for climbing over the pool yard enclosure device.

(b) Each gate or door-opening through such enclosure device shall be equipped with a self-closing latch that keeps the gate or door securely closed at all times when not actually used; provided, however, that the door of any residential building which forms a part of the enclosure device need not be so equipped.

(c) The wall of a building, or a fence that surrounds a property, can constitute a pool yard enclosure device so long as they conform to the requirements of subsection (a).

(d) It is a defense to a violation of this section if the property owner installs a conforming enclosure device within ninety (90) days after being given written notice of the violation by the city.

(e) The city may repair, replace, secure, or otherwise remedy an enclosure device that is damaged, deteriorated, substandard, dilapidated, or otherwise in a state that poses a hazard to the public health, safety, and welfare.

(f) The city may require the owner of the property on which the swimming pool enclosure is situated, after notice and hearing, to repair, replace, secure, or otherwise remedy an enclosure device of a swimming pool that the city determines violates the minimum standards adopted under this section.

(g) If the city incurs expenses under this section, the city may assess the expenses on, and have a lien against, the property, unless it is a homestead.

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(h) Notwithstanding the above, this section applies to all swimming pools (existing pools without enclosures and newly constructed pools).

(i) Enclosure devices constructed under this section must comply with the city's fence ordinance. To the extent possible, the fence ordinance and this section shall be read in harmony. Should there be a conflict between the fence ordinance and this section, the most restrictive regulations will govern.

(j) Enclosure devices that existed as of January 13, 2010, but do not conform to the construction standards under this section, constitute legal nonconforming structures.

(k) Any person who violates this section shall be fined not more than $1,000.00 per offense, with each day constituting a distinct and separate.

(Ordinance 361 adopted 3/28/18)

§ 22.03.168. Location of absorption fields and/or evapotranspiration beds.

All absorption fields and/or evapotranspiration beds shall be located upon lots so as to provide convenient access for inspection, servicing, replacement, and modification.
(Ordinance 361 adopted 3/28/18)

§ 22.03.169. Water fixtures.

Water closet tanks shall have a flushing capacity sufficient to properly flush the water closet bowl but shall not exceed 1.6 gallons per flush; showers 2.75 gallons per minute and faucets 2.2 gallons per minute.
(Ordinance 361 adopted 3/28/18)

§ 22.03.170. Site disturbance (excavation, grading or filling).

(a) Excavating, grading or filling shall minimize the negative impacts of development on natural slopes and interfere as little as possible with the natural landscape by minimizing the alteration of the natural terrain.

(b) The minimum site disturbance standards for earth cuts and fills are included in the drainage and erosion control design manual.

(c) Finished open cuts of an excavation shall not exceed the 1.5H:1V ratio in undisturbed earth, 2H:1V ratio in earth fill.

(d) Excavation shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.

(e) Excavation and removal of excavated material, and filling shall be permitted without a permit provided such operation is clearly incidental to improvement of the property, consists of less than six cubic yards of material and the area is graded and covered by revegetation or other suitable means to prevent erosion.

(f) ~~No excavation, grading or filling shall be permitted in setbacks except for up to 18 inches in height or depth.~~

(g) Any wall shall not exceed six (6) feet in height above natural grade.

(h) Walls shall either incorporate the use of native materials or be earth-tone colors to match native soils.

(i) All walls of three (3) feet or more shall require shrubbery and/or vines of healthy stock and of a minimum of two (2) feet in height immediately after planting in front of the retaining wall. All shrubbery and/or vines shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will grow to the same height or more of the retaining wall.

(j) **Grading in setbacks.**

(1) The cut-and-fill limits of this subsection apply within the setback applicable to the improvement being constructed.

(A) For buildings and structures, the building setback established under § 22.03.281.

(B) For driveways and parking areas, the driveway and parking setback established under § 22.03.175(a) or § 22.03.249.

(2) Cut or fill within the applicable setback shall not exceed eighteen (18) inches from natural grade, or thirty (30) inches from natural grade where the grading is retained by a stone retaining wall.

(3) As used in this subsection, stone means natural stone, including but not limited to limestone, sandstone, and fieldstone. The term does not include concrete, concrete masonry units, brick, or manufactured stone veneer.

(4) A stone retaining wall permitted under subsection (2) shall incorporate the use of native materials or be earth-tone colors to match native soils.

(5) Unless constructed in connection with a driveway permitted under this code, a stone retaining wall permitted under subsection (2) shall not be located closer to the street than the greater of (a) the edge of the city right-of-way, or (b) ten (10) feet from the edge of the street.

(k) Exceptions to this section may be permitted by the application of contextual standards as allowed within other sections of this code.

(Ordinance 361 adopted 3/28/18)

§ 22.03.171. Exterior compressors and other equipment.

All exterior compressors and other mechanical equipment or devices shall be shielded and insulated so as to ensure that sound emanating therefrom does not interfere with the use and enjoyment of surrounding property.
(Ordinance 361 adopted 3/28/18)

§ 22.03.172. Culverts and ditches provided by abutting property owners.

Adequate culverts shall be provided per the drainage and erosion control design manual. No person shall construct or maintain any driveway over a ditch without furnishing a culvert to provide drainage, in accordance with specifications approved by the city. The owner and occupant of abutting property shall keep such culverts and ditches free of obstruction.
(Ordinance 361 adopted 3/28/18)

§ 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

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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.

Buildable area. The area outside of the building setback area.

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

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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;

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(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 chainlink), 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)(8) 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.~~

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

(B) A fence that is electrified shall not exceed four (4) feet in height, measured from existing natural ground level.

(C) Fences outside the setback shall not exceed eight (8) feet in height per side, measured from existing natural ground level, and shall be at least eighty percent (80%) transparent.

(D) Within the buildable area, a fence that is at least eighty percent (80%) transparent may be erected to a maximum height of twelve (12) feet, measured from existing natural ground level, where such fence encloses a sports court. A “sports court” means an improved outdoor surface designed and used for recreational athletic activity, including but not limited to tennis, pickleball, and basketball.

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(E) Within the buildable area, solid freestanding walls may be erected to a maximum height of twelve (12) feet, measured from existing natural ground level, to enclose a courtyard, provided that:

(i) The freestanding walls constitute no more than thirty-three percent (33%) of the total perimeter of the courtyard;

(ii) The courtyard is contiguous to and functionally integrated with the principal structure on the lot; and,

(iii) The walls shall be of materials and colors consistent with the principal structure or natural surroundings.

(F) For purposes of subsections (C) through (E) of this paragraph, "buildable area" means the area of a lot that lies within all applicable building setback lines established under the applicable setback and schedule of regulations provisions of this code. Fences erected under subsections (C) through (E) shall not be permitted within any required setback yard.

(G) The height allowances in subsections (C) through (E) do not modify the height, transparency, setback, or landscaping requirements applicable to front-yard fences under subsection (d)(6) of this section.

(10) **Contextual front-yard fence setback.**

(A) Applicability. This subsection applies only to lots of less than one (1) acre. The front-yard fence setback otherwise required by this section may be reduced only when at least three (3) of the four (4) adjacent lots have existing front-yard fences along the same street as the proposed fence that are located closer to the street than this section otherwise requires.

(B) Adjacent lots. Adjacent lots means the four (4) nearest lots on the same side of the same street as the proposed fence, measured along that street. If fewer than four (4) such lots exist, this subsection does not apply to that frontage.

(C) Permitted setback. The front-yard fence setback may be reduced to the average of the measured fence setbacks of the qualifying adjacent-lot fences that are located closer to the street than this section otherwise requires, plus or minus five (5) feet, but in no case closer to the street than the most forward front-yard fence among those lots.

(D) Height, transparency, and design criteria not affected. This subsection provides setback relief only.

(E) Corner lots. Where the subject lot fronts more than one street, this subsection applies separately to each frontage. The four adjacent lots are counted in the direction extending into the block from the subject lot along the relevant street.

(F) Application and decision. The applicant shall submit a site plan or survey showing the measured fence setback of each adjacent lot and identifying the most forward front-yard fence. The City Administrator may require additional documentation or conduct independent field inspection to verify submitted measurements. The City Administrator shall issue a written determination identifying the adjacent lots, each measured setback, the calculated average and permitted range, and - for corner lots - the applicable frontage. The determination shall be entered into the property file for the subject lot.

(11) 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

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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

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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 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 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).

(12) 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.

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

(Ordinance 2021-005, att. A, adopted 6/23/21)

§ 22.03.174. Use restrictions in R-3 districts.

The restrictions upon use of property in an R-3 district are as follows:

(1) Setbacks.Setbacks of 50 feet along the entire lot perimeter in which nothing can be built and no site clearing (e.g., private sewage facility not prohibited).

(2) Site plans.The site plans shall be approved in advance by the city council.

(3) Driveways.Only one driveway will be permitted and it shall have direct access to an arterial or collector street.

(4) Building site.Each dwelling unit shall have a building site of at least 3,000 square feet on slopes less than 25 percent.

(5) Private sewage facility.Each dwelling unit shall have a separate septic tank and may have combined disposal areas with up to three units on one disposal field.

(6) Dwelling units.Units that are detached must be separated from the next dwelling unit by at least

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20 feet.

(7) Number of dwelling units.The number of dwelling units shall not exceed an average of two single-family dwelling units per acre.

(8) Restrictive covenants.The city council shall review all restrictive covenants.

(9) Condominium regimes.The city council shall review the condominium regime.

(10) Joinder of units.Primary dwelling units may be joined together provided that there are no common walls separating the living areas of the respective dwelling units.

(Ordinance 361 adopted 3/28/18)

§ 22.03.175. Off-street parking and parking pad requirements in residential areas.

(a) Off-street parking and loading areas, including parking pads, shall be located no closer to street right-of-way lines and to lot boundary lines than the applicable minimum distances prescribed in the following schedules:

(1) The minimum setback distance for driveways and parking areas from street right-of-way lines shall be 20 feet. Excluded from this setback is the first 20 feet of the driveway that connects to the adjacent street. This minimum setback distance applies to all temporary driveways (including construction access).

(2) The minimum setback distance for driveways and parking areas from boundary lines shall be 10 feet. Excluded from this setback is the first 10 feet of the driveway that connects to the adjacent street. This minimum setback distance applies to all temporary driveways (including construction access).

(3) No residential structure shall be erected or enlarged by an increase in floor area unless the minimum number of off-street parking spaces specified in the following schedule is provided. Adequate aisles and driveways shall also be provided to permit proper maneuvering within the parking area and for safe and orderly entry and exit. Parking area design is included as an integral part of the site plan development.

Use	Number of Spaces
One-family dwellings	~~Two~~ 2 spaces for each unit
Two-family dwellings	2 spaces for each unit
Accessory dwelling unit	1 space for each unit
Multi-unit dwellings	1.5 spaces for each unit

§ 22.03.176. Driveways.

(a) Driveway entrances shall be set back at least ~~35~~ 50 feet from the point of tangency of the curb at any intersecting street or curve greater than 45 degrees.

(b) Adequate culverts shall be provided per the drainage and erosion control design manual.

(c) Driveway aprons shall meet standard details found in West Lake Hills standard detail RD-1 and RD-2.

(d) All driveways shall be designed so as to provide safe vehicular entrance and exit without the necessity of backing out into a public street.

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(1) Every driveway entrance/exit shall be at roadway grade level where the driveway intersects the city's right-of-way except as otherwise approved by the ~~city inspector~~ engineer.

(2) Each dwelling shall be on a lot abutting a public street or having access to an improved public street, and all structures shall be so located on lots as to provide safe, convenient access for servicing, police protection, fire protection and required off-street parking.

(3) Driveways shall not exceed a maximum of 20 percent grade at any point after construction. No part of a driveway shall rise more than 6' above natural ground grade directly below.

(4) Only one driveway is allowed per primary dwelling unit, regardless of the number of lots, frontage on more than one roadway, or character of accessory structures.

(5) The driveway entrance/exit shall not exceed 20 feet in width. The location of all driveways shall be approved by the city ~~inspector~~ engineer.

(6) The parking spaces and driveway surfaces shall be those required in sections 22.03.241, 22.03.242, 22.03.244 and 22.03.247.

(4) A previously established second driveway shall be permitted to remain and be used, provided such driveway is maintained in a safe and operable condition. A nonconforming driveway under this subsection shall not be expanded, enlarged, relocated, or reconstructed in a manner that increases its nonconformity.

(5) It is the policy of the city to encourage adjoining lot owners to share a common driveway. A variance to the side setback stipulations is required by both adjoining lot owners; however, variance fees may be waived by the city administrator or the board of adjustment.

(e) ~~Residential driveways shall not be less than 12 feet in surface width.~~

(f) Residential driveways, including ribbon driveways, shall not be less than twelve (12) feet in surface width, with a surface that meets the requirements for emergency service access.

(g) **Contextual Driveway Grading Standards.**

(1) Where compliance with the cut-and-fill limitations of § 22.03.170(f) would prevent a driveway from meeting the safe design standards of this subsection, the following alternative standards apply to driveway construction within building setback zones established under § 22.03.170(f) and driveway setback zones established under § 22.03.175(a):

(i) The proposed driveway alignment shall result in the least cut and fill among the feasible alignments identified in the engineer's narrative required by subsection (ii);

(ii) The applicant shall submit a narrative prepared and sealed by a licensed professional engineer. The narrative shall: (a) identify at least two driveway alignments that comply with applicable driveway requirements of this code, including but not limited to cut-and-fill and setback limitations, but that cannot meet safe driveway grading standards given the lot's physical constraints; (b) for each, provide a grade profile demonstrating it cannot comply with § 22.03.170(f) while meeting safe design standards; and (c) demonstrate the proposed alignment produces the least cut and fill among alternatives;

(iii) The grade shall not exceed ten percent (10%) within the first twenty (20) feet from the pavement edge, and shall not exceed twenty percent (20%) at any point thereafter;

(iv) No cut or fill shall exceed six (6) feet from natural grade;

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(v) All retaining walls constructed in connection with driveway grading under this subsection shall comply with the retaining wall provisions of this code.

(2) The city engineer shall review the sealed narrative and proposed alignment at or prior to the building permit stage. The city engineer's review shall confirm that the narrative satisfies the requirements of subsection (1)(ii) and that the proposed alignment is consistent with the least-cut-and-fill standard.

(3) A driveway lawfully existing before the effective date of the ordinance adopting this subsection may be maintained, repaired, or repaved without complying with this subsection, provided that the maintenance, repair, or repaving does not increase the extent of cut or fill beyond the existing condition.

(h) All driveway setbacks established in this section apply to temporary (i.e., construction) driveways.

(i) Additional requirements for two-family residential structures in R-2:

(6) All parking spaces shall be located behind the dwelling units and the garage entrance shall not face the street.

(7) The garage shall be enclosed.

(8) At least two parking spaces are required for each family dwelling unit.

(9) Parking is prohibited under any portion of the dwelling units.

(Ordinance 2021-007, att. A, adopted 7/28/21)

§ 22.03.176. through § 22.03.200. (Reserved)

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DIVISION 6
Minimum Standards for Nonresidential Buildings

§ 22.03.201. Compliance.

In addition to the requirements in the International Building Code, the International Fire Code, and the Uniform [International] Plumbing Code, every building, structure, or part thereof, erected or altered, moved or relocated for nonresidential use in the city shall conform to the standards in this division, which are deemed to be minimum standards necessary for the health and general welfare of the residents of the community.
(Ordinance 361 adopted 3/28/18)

§ 22.03.202. Private sewage facility.

Each plumbing fixture shall be connected by adequate water and drainage lines to a licensed private sewage facility or organized disposal system.
(Ordinance 361 adopted 3/28/18)

§ 22.03.203. Solid waste container storage.

Each nonresidential building shall have a solid waste structure which is inaccessible to dogs and other animals and which must be of a design and in a location approved in advance by the city inspector.
(Ordinance 361 adopted 3/28/18)

§ 22.03.204. Modular prefabricated buildings.

No nonresidential structure shall be of a modular, preconstructed or prefabricated construction, nor shall such structure be a used structure or a moved-in structure.
(Ordinance 361 adopted 3/28/18)

§ 22.03.205. (Reserved)

Editor's note–Former section 22.03.205 pertaining to the city's right-of-way and deriving from sec. 14-225 of the 1996 Code, was repealed and deleted in its entirety by Ordinance 220 adopted by the city on 8/10/11.

§ 22.03.206. Utility connections.

It shall be unlawful to serve or connect any public utility to any structure for permanent service until authorized by the city inspector and the public utility supplier. All internal electrical wiring will be copper. Aluminum wiring is prohibited.
(Ordinance 361 adopted 3/28/18)

§ 22.03.207. Swimming pools.

No outdoor private swimming pool shall be erected, constructed or structurally altered without an enclosure device of at least four feet in height which completely surrounds such swimming pool. Such enclosure device shall not contain any opening which would permit the passage of a sphere four inches or more in diameter. Each gate or door-opening through such enclosure device shall be equipped with a self-closing latch that keeps the gate or door securely enclosed at all times when not actually used; provided, however, that the door of any residential building which forms a part of the enclosure device

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need not be so equipped. Any person who violates this section shall be fined not more than $1,000.00. (Ordinance 361 adopted 3/28/18)

§ 22.03.208. Location of absorption fields and/or evapotranspiration beds.

All absorption fields and/or evapotranspiration beds shall be located upon lots so as to provide convenient access for inspection, servicing, replacement, and modification.
(Ordinance 361 adopted 3/28/18)

§ 22.03.209. Water fixtures.

Water closet tanks shall have a flushing capacity sufficient to properly flush the water closet bowl but shall not exceed 1.6 gallons per flush; showers 2.75 gallons per minute; faucets 2.2 gallons per minute. (Ordinance 361 adopted 3/28/18)

§ 22.03.210. Site disturbance (excavation, grading or filling).

Nonresidential site disturbance requirements shall be the same as residential requirements per section 22.03.170.
(Ordinance 361 adopted 3/28/18)

§ 22.03.211. Shielding of exterior compressors and other equipment.

All exterior compressors and other mechanical equipment or devices shall be shielded and insulated so as to ensure that sound emanating therefrom does not interfere with the use and enjoyment of surrounding property.
(Ordinance 361 adopted 3/28/18)

§ 22.03.212. Landscape requirements for exterior compressors, solid waste containers and other equipment.

(a) Whenever any parking lot, solid waste container, outdoor storage, compressors and other mechanical equipment, merchandising or service area lies within 300 feet of a residential district, a planting screen of sufficient length to shield the view thereof from the adjoining district shall be required, except where the view is blocked by change in grade or other natural or manmade features. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, the city may approve the substitution of a wooden fence or masonry wall or combination thereof.

(b) In lieu of a required planting screen, a landscaped earth berm at least four feet in height and 30 feet in width, height being measured from the surface of the area to be screened, may be installed.

(Ordinance 361 adopted 3/28/18)

§ 22.03.213. Grease traps.

(a) Waste pipes from kitchen sinks and dishwashers in any hotel, restaurant, clubhouse, boardinghouse, public institution, hospital or other similar place shall be run into an approved type grease trap, adequate in size and constructed in such a manner as to remove all grease before it reaches the sanitary sewer or private sewage facility, and shall be properly vented on the sewer side. Grease traps may be a manufacturer’s item especially made for the purpose or may be constructed of concrete. Plans of a typical concrete grease trap may be obtained from the city

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inspector. No food grinder shall discharge into a grease trap. If the grease trap is set more than 30 inches from the sink which it serves, the sink shall be locally vented and run independently through the roof.

(b) The sizing of grease traps shall be based on the flow rate which shall be determined in accordance with the State Health Department Manual on Construction Standards for On-Site Sewage Facilities.

(c) Manufactured grease traps shall be selected to fit the flow rate requirements of the connected fixtures from the published manufacturers' rating charts.

(d) Where one grease trap serves more than one fixture, the simultaneous usage flow rate (not the sum of connected fixtures) shall be used to determine the size of the grease trap.

(Ordinance 361 adopted 3/28/18)

§ 22.03.214. Fire warning system.

Each building shall be provided with a smoke detector conforming to International Building Code, International Fire Code, and International Residential Code.
(Ordinance 361 adopted 3/28/18)

§ 22.03.215. Culverts and ditches provided by adjacent property owners.

Adequate culverts shall be provided per the drainage and erosion control design manual. No person shall construct or maintain any driveway over a ditch without furnishing a culvert to provide drainage, in accordance with specifications approved by the city. The owner and occupant of abutting property shall keep such culverts and ditches free of obstruction.
(Ordinance 361 adopted 3/28/18)

§ 22.03.216. Fences.

The provisions of section 22.03.173 shall also govern fences for nonresidential buildings and properties.
(Ordinance 361 adopted 3/28/18)

§ 22.03.217. Automatic sprinkler systems.

Automatic sprinkler systems shall be required in each building on the level used for vehicle parking. The sprinkler system shall be designed by a sprinkler engineer, conform to the most current edition of NFPA Standard No. 13 and be approved in advance of installation by the city.
(Ordinance 361 adopted 3/28/18)

§ 22.03.218. Exterior surfaces of nonresidential structures.

Glass having a reflectivity factor of 20 percent or greater (mirrored glass) shall not be used on any structure. The exterior surface area of nonresidential structures shall not exceed 40 percent glass, and the balance of the structure shall be masonry, rock, brick or solid board siding (nominally one inch thick oak, redwood, cedar, or cypress).
(Ordinance 361 adopted 3/28/18)

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§ 22.03.219. Underground utilities for nonresidential development.

All on-site utilities shall be located underground for nonresidential development.
(Ordinance 361 adopted 3/28/18)

§ 22.03.220. Design.

(a) Each B-3 tract shall be individually site planned. Front, side and rear side setbacks shall conform to the dimensional regulations established by ordinance.

(b) Setbacks between buildings may be adjusted to suit the overall design and aesthetics agreed upon with the city.

(Ordinance 2020-014 adopted 10/14/20)

§ 22.03.221. Irrigation meters.

New nonresidential buildings will be required to install a separate irrigation meter for landscape sprinkler systems.
(Ordinance 361 adopted 3/28/18)

§ 22.03.222. through § 22.03.240. (Reserved)

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DIVISION 7
Off-Street Parking (Nonresidential)

§ 22.03.241. Schedule of minimum number of spaces.

(a) No building shall be erected, enlarged by an increase of floor area, or converted to a different use classification in any district, unless the minimum number of off-street parking spaces specified in the following schedule are provided. Adequate aisles and driveways shall also be provided to permit proper maneuvering within the parking area and for safe and orderly entry and exit. Parking area design is included as an integral part of the site plan development.

Use	Number of Spaces
Retail business and consumer service establishments	1 space for each 200 (250 in B-3) square feet of floor area
Business offices, banks, and other financial institutions	1 space for each 250 square feet of floor area
Churches, health facilities, or other places of assembly	1 space for each 4 seats of rated capacity, or if there are no seats, 1 space for each 4 people normally expected on the premises at the time of maximum use
Restaurants	1 space for each 2 seats of indoor and outdoor customer capacity, but not less than 1 space for each 100 square feet of dining floor area (indoor and outdoor), plus 1 space per 2 employees
Offices of professionals, semiprofessionals and administrative	1 space for each 300 square feet of floor area; 1 space/ separate enterprise.

(b) Parking space requirements for uses not covered above shall be determined by the city inspector, with the advice of the zoning and planning commission.

(c) Handicap parking requirements are a minimum of one space for under 50 parking spaces, then one per 50 parking spaces, up to 100 and then one space per 100 spaces up to 500. Over 500 it is one percent of total parking spaces. Dimensional requirements are 12-foot width and 18-foot depth per handicap space.

(d) Notwithstanding the foregoing, the parking spaces pertaining to a lot within a B-3 zoning district shall meet the following requirements:

(1) The number of parking spaces will be computed based on one parking space per 250 square feet of retail space and one parking space per 3-1/2 theater seats.

(2) Other uses shall be computed according to this section.

(3) This number may be reduced upon presentation of evidence that the provided parking is adequate due to shared parking between facility users.

(Ordinance 361 adopted 3/28/18)

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§ 22.03.242. Parking dimensional and design regulations.

The following minimum dimensional standards shall be followed in designing parking areas:

If Angle of Parking (In Degrees)	Width of Parking Space	Depth of Parking Space	Width of Maneuvering Aisle
61 to 90	8'6" (8' compact)	18' (16' compact)	24'
46 to 60	8'6" (8' compact)	18' (16' compact)	18'
45	8'6" (8' compact)	18' (16' compact)	13'
Parallel	8'	22' (16' compact)	12'

(Ordinance 361 adopted 3/28/18)

§ 22.03.243. Shared parking.

The intent of shared parking is to hold in reserve any reduction in parking requirement rather than allowing the construction of more leasable space. Shared parking would reduce impervious cover and increase permeable (green) space. Therefore, when shared parking is utilized, the reduction in number of parking spaces will be offset by an increase in landscape permeable area.
(Ordinance 361 adopted 3/28/18)

§ 22.03.244. On-site parking and circulation.

The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. Separate rows or aisles in parking areas shall be divided by a five-foot wide region of trees, shrubbery and other landscaping devices. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provision shall be made for access by police, fire and emergency vehicles. All parking facilities or structures shall be on one level unless otherwise authorized by the city council.
(Ordinance 361 adopted 3/28/18)

§ 22.03.245. Off-street loading space.

Every building constructed and used for a business involving the receiving or distribution of materials or merchandise shall be provided with adequate off-street space for loading and unloading vehicles.
(Ordinance 361 adopted 3/28/18)

§ 22.03.246. Required spaces shall be maintained.

Required parking and loading areas shall not be encroached upon, reduced in any manner, or devoted to any other use. A maximum of 25 percent of the parking spaces shall be allocated to compact cars.
(Ordinance 361 adopted 3/28/18)

§ 22.03.247. Surfacing.

All off-street driveway, parking and loading areas shall be well drained and maintained with a durable and dustless all-weather surface approved by the city inspector and shall be kept in a state of good

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repair. Material that are allowed are concrete, a asphalt, masonry pavers and/or other as approved by the city administrator. Gravel and loose rocks are not allowed.
(Ordinance 318 adopted 11/11/15)

§ 22.03.248. Drainage.

No off-street driveway, parking or loading area may be drained onto or across a public right-of-way or walkway, or onto any adjacent property except into a natural watercourse or drainage easement. Drainage facilities for each parking area shall be designed and constructed to contain stormwater runoff on the premises.
(Ordinance 361 adopted 3/28/18)

§ 22.03.249. Driveway, parking and loading area setbacks.

(a) It is the policy of the city to encourage adjoining lot owners to share a common driveway. A variance to the side setback stipulations is required by both adjoining lot owners; however, variance fees may be waived by the city administrator or the board of adjustment.

(b) Off-street parking and loading shall be located no closer to the street right-of-way lines and to lot boundary lines than the applicable minimum distances prescribed in the following schedules:

(1) The minimum setback distance for driveways, parking areas, and loading areas from street right-of-way lines in nonresidential districts (O, B-1, B-2, B-3, GUI, MUB-4) shall be 30 feet.

(2) The minimum setback distance for driveways, parking areas, and loading areas from the boundary lines of the following lots (in feet) is as follows:

Boundary Lines of Lots Used For:		
Driveway, parking or loading areas used in connection with the following uses:	One- or two-family dwelling use or vacant in R-1, R-2 or R-3 district	Uses permitted in B-1, B-2, O, GUI, MUB-4 district, or vacant in any such district
Commercial, office, governmental, utility or institutional uses (B-1, B-2, B-3, O, GUI, MUB-4 districts)	30	10

(3) The term “driveways” includes those areas used for required vehicle turnaround or other maneuvering. Where commercial driveways adjoin R-1, R-2 and R-3 districts, the ten-foot setback shall be landscaped as provided elsewhere in this article.

(4) All driveways are limited to undeveloped slopes below 25 percent gradient. They shall not exceed a maximum of 15 percent grade after construction. No part of a driveway shall rise more than 6' above natural ground grade directly below.
(Ordinance 2021-007, att. B, adopted 7/28/21)

§ 22.03.250. Access regulations.

(a) All entrance and exit driveways to public streets shall be located with due consideration for traffic

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flow and so as to afford maximum safety to traffic on the public streets. Wherever practicable, the city requires a single driveway on the property line between adjacent lots. All such entrances and exits shall be so located, designed, and restricted in number as to:

(1) Achieve maximum feasible distance from street intersections and from exiting and proposed access connections from adjacent properties;

(2) Minimize left-hand turns and other turning movements;

(3) Discourage the routing of vehicular traffic to and from nonresidential uses through local residential streets; and

(4) Minimize conflicts with vehicular traffic using Bee Cave Road.

(b) In designing and locating entrance and exit driveways the following regulations shall be observed:

(1) Entrance and exit driveways to Bee Cave Road or the Capital of Texas Highway shall be no less than 30 feet in width (one entrance and exit lane at 15 feet each) nor in excess of 45 feet (one entrance and two exit lanes at 12 feet each and a maximum nine-foot wide landscaped median or island) in width for lots used for nonresidential purposes. Shared driveways are permitted for nonresidential development, i.e., one common driveway serving two contiguous lots to Bee Cave Road or the Capital of Texas Highway and located at/about the common property corner, not exceeding 45 feet in width, including any proposed median up to nine feet wide. For all driveways other than to Bee Cave Road or the Capital of Texas Highway, entrance and exit driveways shall not exceed 24 feet in width for nonresidential lots. For Bee Cave Road or the Capital of Texas Highway access, all driveway pavement edge or curb returns shall be a minimum 25 feet and maximum 30 feet (for emergency vehicles). All access driveways to nonresidential lots shall be at 90 degrees, or within a limit of plus or minus ten degrees of 90 degrees, to the intersecting public street. Landscaped islands or medians beyond the property line are prohibited in the right-of-way without prior written approval of the state department of transportation.

(2) Access to Bee Cave Road or the Capital of Texas Highway will be limited to one point for each lot having frontage, irrespective of frontage width (see minimum lot frontage requirements in chapter 36 of this code). Access to all other public streets shall be by no more than two points of access for each 400 feet of lot frontage, or fraction thereof. Lots less than 100 feet in width shall have no more than one point of access to any one public street.

(3) The minimum separation between driveways along Bee Cave Road or the Capital of Texas Highway is 100 feet. To the greatest extent possible, proposed access to Bee Cave Road or the Capital of Texas Highway should align with existing driveways or public streets on the opposite side of the road. If this is not possible, then there shall be a minimum 120-foot offset, as measured from driveway edge to edge between such driveways. For all other roads or streets, the minimum distance between any two driveway entrances, whether on the same or different lots, shall be 35 feet, measured along the curbline, except for driveways on a cul-de-sac.

(4) Driveway entrances shall be set back at least 35 feet from the point of tangency of the curb at any intersecting street.

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(5) Adequate culverts shall be provided under driveway entrances to prevent obstruction of drainage ways.

(6) All driveways shall be designed so as to provide safe vehicular entrance and exit without the necessity of backing out into a public street.

(7) Every driveway entrance and exit shall be at roadway grade level where the driveway intersects the city's right-of-way. For access driveways to Bee Cave Road or the Capital of Texas Highway, the first 30 feet from the intersecting pavement edge or curb shall be sloped no greater than four percent.

(8) All direct ingress and egress for traffic from a lot constructed within a B-3 zoning district shall be onto RM 2244 (Bee Cave Road), Loop 360 (Capital of Texas Highway) or roads that are not within the city. All such ingress and egress shall be designed so as to minimize increases in traffic flow on other streets within the city. Mutual access agreements on parking lots, driveways and adjoining properties shall be encouraged. The specific number, width and location of ingress and egress points shall be established by a professional traffic engineer, subject to city council approval.

(c) Access roadways for fire apparatus shall be designed and adhere to the following regulations:

(1) Means of access for fire department apparatus shall consist of fire lanes, private or public streets, commercial driveways, alleys, parking lot lanes, or a combination thereof.

(2) Means of access for fire department apparatus shall be constructed of a hard, all-weather surface, concrete or asphalt, adequately designed to support the heaviest piece of fire apparatus likely to be operated on the roadway.

(3) Every cul-de-sac more than 150 feet in length shall be provided at the closed end with a turn-around, having a curb radius of not less than 50 feet.

(4) Turns or bends in streets shall maintain the minimum surface width for the designated category of street.

(5) Turns in publicly owned arterial or collector streets shall be constructed with a minimum turn radius of 100 feet to the centerline. Turns in other public or privately owned minor streets shall be constructed with a minimum radius of 25 feet at the inside curbline and a radius of 50 feet at the outside curbline.

(6) Street surfaces shall not be less than 18 feet wide, provided no parking is allowed; not less than 26 feet wide if parallel parking is allowed on one side; and not less than 30 feet wide if parallel parking is allowed on both sides.

(7) Fire lanes in commercial or governmental development shall not be less than 20 feet wide, with 18 feet surface minimum.

(8) Commercial and governmental driveways and alleys shall not be less than 15 feet in surface width. Residential driveways shall not be less than 12 feet in surface width, except in areas of 25 percent grade where ten feet surface width may be used.

(9) Finished grades of all driveways shall not be greater than 35 percent. City council approval is required to exceed finished grades of five percent for commercial and 20 percent for residential driveways.

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(10) Fire lanes, driveways and alleys connecting to public or private streets shall be provided with flare curb cuts extending at least two feet beyond each edge of street surface.

(11) At least 13 feet six inches of nominal height clearance must be provided over the full width of public streets, private streets, fire lanes, commercial and governmental driveways.

(12) Bridges, when used for access, shall be the same surface width as for fire lanes, public or private streets, driveways, alleys or parking lot lanes, and shall be maintained in accordance with the applicable sections of the building code, using design loading sufficient to carry the imposed loads of the fire apparatus.

(13) Barriers defined as chains, gates, etc., may be provided at the entrance to residential driveways, provided they are installed according to the requirements of the city and fire district.

(14) The method of security for residential development is to be as agreed upon by the contractor and the city and shall be commensurate with the item or area needing security.

(Ordinance 361 adopted 3/28/18)

§ 22.03.251. Screening, trees and landscaping.

(a) Screening.All off-street loading areas and off-street parking areas containing three or more parking spaces shall be screened from public streets or from adjacent properties. Screening shall conform to the provisions of section 22.03.008(b), (e) and (g).

(b) Trees.All off-street parking areas that provide parking for ten or more vehicles shall have trees planted and maintained within the parking area in a ratio of at least one tree of four-inch diameter or greater for each ten parking spaces or fraction thereof in soil plots allowing no less than 40 square feet of unpaved soil area per tree.

(c) Landscaping.Separate rows or aisles in parking areas shall be divided by trees, shrubbery, and other landscaping devices, as provided for in section 22.03.244.

(d) Buffer along Bee Cave Road and Capital of Texas Highway.Along Bee Cave Road and Capital of Texas Highway the first 25 feet of highway right-of-way must be preserved as a landscaped buffer. In addition, 25 percent of the lot must remain in its natural state with one-half of that area located between the buildings and Bee Cave Road and Capital of Texas Highway.

(e) Buffer zone.Except for the clearing necessary to provide utilities and access (driveway), no clearing of vegetation shall be permitted within 25 feet of the right-of-way of any public street or private access easement.

(f) Barriers.To preserve the required mandatory areas of natural vegetation landscape from inadvertent damage during construction, a physical barrier shall be erected around the perimeter of these inviolate areas. The barriers will be in place and approved by the city inspector before any site clearance can commence. The barrier may consist of a temporary chainlink fence, wooden stake (snow) fence, plastic safety fence or other devices as approved by the city inspector. Minimum height for all types of barriers is four feet. Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the certificate of occupancy. Only after this time can the barriers be removed.

(Ordinance 361 adopted 3/28/18)

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§ 22.03.252. through § 22.03.270. (Reserved)

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DIVISION 8
Dimensional Regulations

§ 22.03.271. Applicability.

The dimensional specifications in this division shall apply to all existing properties and to the: (1) construction, erection, expansion, and remodeling of all structures; and (2) the platting, replatting, subdivision, or resubdivision of all lots/tracts within the incorporated municipal boundaries of the city. Section 36.01.008(2)(D) and table 36-1 contain dimensional specifications exclusively for the platting, replatting, subdivision, or resubdivision of lots/tracts/properties within the city's ETJ (extraterritorial jurisdiction). When a dimensional specification depicted on the recorded plat for an existing property differs from a dimension in this division, the more stringent/restrictive provision shall apply.
(Ordinance 361 adopted 3/28/18)

§ 22.03.272. Minimum lot dimensions.

No lot shall have an area, depth or frontage less than that shown on the schedule of regulations as being required in the district in which the lot is located, and no lot shall be less in width than the minimum lot width shown on such schedule.
(Ordinance 361 adopted 3/28/18)

§ 22.03.273. Nonconforming lots of record.

A structure for a permitted use may be constructed on any lot existing of record on May 5, 1970, even if such lot does not meet the area, width, and depth requirements of this article, provided that the following conditions are met:

(1) Such lot will properly support a private sewage facility adequate to handle the anticipated needs of the proposed use; and

(2) The structure proposed to be built upon such lot will comply with all the remaining dimensional regulations. No deviation from such remaining regulations shall be permitted except through the usual variance procedure.

(Ordinance 361 adopted 3/28/18)

§ 22.03.274. How to measure lot area, width, depth.

(a) Area.In computing the area of a lot, no part of a street shall be included.

(b) Width.The width of a lot shall be measured along the ~~front~~ street building setback line.

(c) Depth.The depth of a lot shall be the horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

(Ordinance 361 adopted 3/28/18)

§ 22.03.275. Building setback distances.

(a) (1) No principal building shall have any ~~front~~ street, side or rear setback distance less than that shown on the schedule of regulations as being required in the district in which the building is located, except that the minimum setback distance from Bee Cave Road shall be 50 feet regardless of which direction the building is facing. The setback distance from the Capital of Texas Highway shall be a minimum of 75 feet.

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(2) Unroofed steps and ramps shall not be considered as part of the principal building when measuring the setback distance of such building.

(3) The minimum setback distances for accessory structures, other than unroofed steps, ramps, fences, walks, driveways, driveway gates, playscapes. and mailboxes, shall be the same as the setback distances applicable to a principal building under the appropriate category in section 22.03.281. Accessory structures, including overhangs and eaves, shall not encroach into setbacks. Propane tanks shall not be required to meet the setback requirements of this section so long as they are permitted and placed in accordance with the Liquefied Petroleum Gas Safety Rules adopted by the Railroad Commission of Texas in title 16, part 1, chapter 9, of the Texas Administrative Code, including any and all future amendments thereto.

(4) Roof overhangs and eaves, including gutters if provided, a minimum of 8 feet above natural grade up to two (2) feet into the front, side or rear setback. All other building elements shall not encroach into setbacks, unless otherwise allowed in this section.

(5) Allowed encroachments: Equipment slabs for pool equipment and/or mechanical equipment, rainwater collection tanks, generators, and other similar equipment may encroach up to five (5) feet into side and rear setbacks after meeting all the following requirements:

(A) Attached to the primary structure foundation;

(B) Screened to appropriately dampen noise;

(C) Slab is limited to 12 feet in length;

(D) Equipment cannot be greater than five (5) feet in height measured from natural grade;

(E) Screening must extend six (6) inches above the height of the equipment; and

(F) Must be shown on the approved building plans.

(b) (6) Septic tanks may encroach up to five (5) feet into street, side, and rear setbacks, but in no case be closer than five (5) feet from the property line.

(c) Yards are the open areas between building setback lines and lot lines. Structures shall not be permitted in yards except as otherwise provided herein.

(1) ~~Front~~ Street yards.Front yards extend the full width of the lot. Their depth is measured from the edge of the right-of-way line of the street to the minimum front setback line.

(2) Rear yards.Rear yards extend the full width of the lot. Their depth is measured from the rear lot line to the minimum rear setback line.

(3) Side yards.Side yards extend from the front yard to the rear yard. Their depth is measured from the side lot line to the nearest minimum side setback line.

(d) ~~In the case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.~~

(d)(1) Contextual Street Building Setbacks.

(A) Applicability. This subsection applies only where the Schedule of Regulations marks the street building setback with an asterisk (*) and the subject lot is less than one (1) acre. The setback may be reduced only when at least three (3) of the four (4) adjacent lots contain a qualifying comparison building located closer to the street than the district

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standard.

(B) Definitions. As used in this subsection:

(i) Adjacent lots means the four (4) nearest lots on the same side of the same street as the subject lot's proposed building, measured along that street. If fewer than four (4) such lots exist, this subsection does not apply to that frontage.

(ii) A comparison building is a building on an adjacent lot that fronts the same street as the subject lot's proposed building, is located closer to the street than the district standard otherwise requires, and matches it in type: principal buildings are compared only to principal buildings; accessory structures are compared only to accessory structures of the same type.

(C) Permitted setback. The street building setback may be reduced to the average of the measured street setbacks of all comparison buildings on the adjacent lots, plus or minus five (5) feet, but in no case closer to the street than the most forward comparison building.

(D) Multiple street frontages.

(i) Where the subject lot fronts more than one street, subsections (A) through (C) apply separately to each frontage. A reduction along one frontage does not affect the setback along any other.

(ii) A setback already reduced under § 22.03.275(d)(3) is not eligible for further reduction under this subsection.

(iii) For a corner lot, the four adjacent lots are counted in the direction extending into the block from the subject lot along the relevant frontage.

(E) Written determination. The City Administrator shall issue a written determination identifying each comparison building and its measured setback, the calculated average and permitted range, and — for corner lots — the applicable frontage. The determination shall be entered into the property file for the subject lot.

(d)(2) Side and Rear Setback Encroachments.

(A) When the applicable Schedule of Regulations specifies the building setback distance and includes asterisks (*), it allows for an encroachment in the required setback based on the existing building encroachment.

(B) The side or rear setback may be encroached upon by an addition to a primary building when the primary building already encroaches into the applicable setback and the following conditions are met:

(i) The portion of the addition located within the required setback shall not exceed 300 square feet of lot coverage. "Lot coverage" includes conditioned area, cantilevered built area that extends over open ground, and unconditioned built area (i.e., porch covered by roof or pergola).

(ii) The total addition to the primary structure — including both the portion within the required setback and any portion within the buildable area constructed under the same building permit or any building permit issued within twenty-four (24) months of the determination under this subsection — shall not exceed 1,000 square feet of lot coverage, as defined in subsection (B)(i).

(iii) The elevation of the top of any exterior wall of the addition that lies within the required setback shall not exceed the elevation of the top of the existing exterior wall of the primary structure within the same setback.

(iv) The new exterior wall of the addition shall be aligned with or set back from the

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existing exterior wall of the existing encroaching primary structure. No portion of the addition shall encroach more than halfway into the required setback, measured from the building setback line toward the property line. Where the existing exterior wall of the primary structure already encroaches more than halfway into the required setback, the addition shall be stepped back so that no portion of the addition is closer to the property line than the halfway point of the required setback. Where the existing exterior wall runs at an angle or follows an irregular line through the setback, the addition may follow that line, provided no portion of the addition crosses the halfway point. Note that required setbacks differ for first and second floors.

(v) The length of any new wall within the encroachment area may not exceed twenty-five (25) feet in length.

(C) The side or rear setback may be encroached upon for the reconstruction of a pool and/or associated patio or decking when the following conditions are met:

(i) A pool may be reconstructed in its existing location at the same size or up to a ten percent (10%) increase in overall pool size, provided the pool does not encroach beyond the existing encroachment of the pool being replaced.

(ii) Patio or decking associated with a reconstructed pool may encroach up to three (3) feet beyond the existing encroachment of the pool being replaced.

(D) This allowable encroachment is only applicable to additions made to primary structures existing as of the date of this adopted amendment and already encroaching beyond the setback lines. The encroachment authorized under this subsection must factor into the calculation of the total lot coverage and applicable impervious cover for the lot. The terms of this code exception are linked to the existing encroaching primary structure and in no way are applicable should the existing structure be demolished.

(E) Relief under subsection (B) is available only once per primary structure. Once a determination has been issued under subsection (B) for a primary structure, no further determination under subsection (B) may be issued for that primary structure, regardless of any change in ownership or subsequent construction. The City Administrator shall maintain a registry of determinations issued under subsection (B), indexed by street address and Travis County parcel identification number, and shall consult the registry as part of the review of each application. Each determination shall also be filed in the City's property file for the subject lot.

(d)(3) Lots Encumbered by Multiple Street Setbacks.

(A) Applicability. A lot with two or more street setbacks is eligible for a contextual setback determination under this subsection when the buildable area remaining after application of all required setbacks is less than three-quarters (¾) of the buildable area that would result if the lot had only its primary street setback and the applicable side and rear setbacks.

(B) Definitions.

(i) The primary street setback is the setback applicable to the street to which the principal building on the lot is oriented, as determined by the location of the building's primary façade and principal entrance.

(a) Where the principal building's orientation cannot be unambiguously determined from the primary façade and principal entrance, or where no principal building yet exists on the lot, the primary street setback is the setback applicable to the street from which the lot's driveway takes or is proposed to take access.

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(b) Where neither (i) nor (a) yields a determinate result, the City Administrator may designate the primary street setback based on the lot's address of record or other indicia of orientation, supported by written findings.

(ii) All street setbacks not identified as primary under this subsection are non-primary street setbacks.

(C) Relief available. The City Administrator may approve a reduction of one or more non-primary street setbacks, subject to:

(i) No setback reduced below fifty percent (50%) of the distance otherwise required by the applicable Schedule of Regulations;

(ii) Primary street setback not reduced;

(iii) No new nonconformity created;

(iv) Not combined with a contextual reduction under (d)(1) for the same setback;

(v) A reduction under this subsection adjusts the building setback applicable to the principal structure. It does not modify the setback, height, transparency, or design requirements applicable to fences or walls under § 22.03.173.

(D) Determining the approved setback distance. The three-quarters (¾) comparison sets the maximum available reduction. The City Administrator determines the approved distance using four factors: neighbor impact, development pattern consistency, topography and tree cover, and orientation relative to adjacent lots. The approved reduction may be less than the maximum if the factors warrant it.

(E) Application requirements. The application shall include a scaled site plan, both buildable area calculations (with all required setbacks and with only the primary street setback), and a depiction of the requested reduction.

(F) Decision. The City Administrator's determination shall be in writing, shall specify the approved setback distances, and shall include findings addressing each factor in subsection (D). The determination may include conditions for building placement, landscaping, or screening. The written determination shall be entered into the property file maintained by the city for the subject lot.

(Ordinance 361 adopted 3/28/18; Ordinance 2024-016 adopted 10/9/2024)

§ 22.03.276. Reserved ~~Setbacks for accessory structures.~~

~~The minimum setback distances for accessory structures, other than unroofed steps, ramps, fences, walks, driveways, driveway gates, playscapes. and mailboxes, shall be the same as the setback distances applicable to a principal building under the appropriate category in section 22.03.281. Accessory structures, including overhangs and eaves, shall not encroach into setbacks. Propane tanks shall not be required to meet the setback requirements of this section so long as they are permitted and placed in accordance with the Liquefied Petroleum Gas Safety Rules adopted by the Railroad Commission of Texas in title 16, part 1, chapter 9, of the Texas Administrative Code, including any and all future amendments thereto.~~

(Ordinance 2020-005 adopted 5/13/20)

§ 22.03.277. Setback for parking areas.

See section 22.03.249 et seq.
(Ordinance 361 adopted 3/28/18)

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§ 22.03.278. Lot coverage.

The amount of ground covered by the principal and accessory structures and parking areas shall not exceed the maximum percentage of the total lot area shown on the schedule of regulations.
(Ordinance 361 adopted 3/28/18)

§ 22.03.279. Height of structures.

(a) Prohibition.No person shall build, construct or erect a structure at a height greater than that shown on the schedule of regulations contained in section 22.03.281 as being permitted in the zoning district in which the structure is located.

(b) Measuring height.No part of any principal structure shall rise more than the maximum height shown on the schedule of regulations contained in section 22.03.281, above natural ground grade or original grade directly below. If the average natural slope in the area directly below the foundation of the principal structure is 25% or greater, than no part of any principal structure shall rise more than 32' above natural ground grade directly below.

(c) Exposed foundations.Foundations with 4 vertical feet or more exposed must be concealed with dense, evergreen vegetative buffers if the exposed must be concealed with dense, evergreen vegetative buffers if the exposed foundation is readily visible from any street or property.

(d) Roof appurtenances.All functional roof appurtenances and features such as electronic receiving devices, air-conditioning machinery, plumbing vents, and chimneys may exceed the maximum heights established in section 22.03.281(b) by no more than 6 feet. Chimneys may not have a horizontal component of more than 4 ft. If there is any dispute as to the “functionality” of a proposed roof appurtenance, the city administrator will make that decision subject to appeal to the city’s board of adjustment.
(Ordinance 361 adopted 3/28/18)

§ 22.03.280. Minimum floor area for dwellings.

(a) No dwelling unit shall have an enclosed living area smaller than that shown on the schedule of regulations.

(b) The minimum floor area shall be computed exclusive of breezeways, garages, open porches, carports, or accessory buildings not designed and used directly and specifically for dwelling purposes.
(Ordinance 361 adopted 3/28/18)

§ 22.03.281. Schedule of regulations.

(a) Where the slope gradient exceeds 25 percent nonresidential development is not permitted.

(b) Dimensional regulations for listed zoning districts:

Dimensional Minimums of Lots									
Dimension/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Acreage (acres) (A)	1	1	2	1.5	2	1.5	2	20	30
Depth (feet)	150	150	400	200	200	200	200	500	(C)

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Dimensional Minimums of Lots									
Dimension/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Width (feet) (B)	150	150	400	150	150	150	150	500	(C)

Minimum Building Setback Distance in Feet From ~~Front~~ Street Lot Line									
Lot Size/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	50**	50**	50	50	50	50	50	(IV)(a)	(C)
Less than .5 acres	30**	30**	N/A	30	30	30	30	N/A	N/A

Minimum Building Setback Distance in Feet From Rear Lot Line									
Lot Size/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	30**	30**	50	40	40	40	40	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	25**	25**	N/A	30	30	30	30	N/A	N/A
Less than .375 acres–zero	15 (F, E)/20 **	15 (F, E)/20 **	N/A	30	30	30	30	N/A	N/A

Minimum Building Setback Distance in Feet From Side Lot Lines									
Lot Size/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25	25	50	(I)	(I)	(I)	(I)	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	20	20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Less than .375 acres–zero	15 (F, E)/20	15 (F, E)/20	N/A	(II)	(II)	(II)	(II)	N/A	N/A

Maximum Impervious Cover in Percent of Lot Area									
Lot Size/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25%	25%	25%	(IX)	(III)	(III)	(III)	(V)	(C)
Less than .5 acres, greater than or equal to .2 acres	*, †	*, †	25%	(IX)	(III)	(III)	(III)	(V)	(C)

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* The following formula applies:

P = (size of acre expressed as a whole number and decimal) X (.5) - (.5)

Example:

P = (.25 acres) (.5) - .5

P = (.125) - .5 = -0.375%

P = 37.5% allowable impervious cover for a .25 acre lot

† In order to receive and increase in allowable impervious cover over 25%, the property must be connected to the city's wastewater service.

***See contextual setbacks*

Dimensions of Structures									
Dimension/ Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Maximum height (feet)	30	25	30	30 (VIII)	30 (VIII)	30 (VIII)	30 (VIII)	37 (VIII)	(D)
Minimum floor area of each dwelling unit (square feet) (total square footage of each dwelling unit)	1,600	1,000	600	N/A	N/A	N/A	N/A	N/A	(C)
Maximum floor area per building or single use occupancy (square feet) (total square footage of the footprint of the building)	N/A	N/A	N/A	15,000	20,000	15,000	20,000	(VI)(b)	60,000
Minimum separation between buildings (linear feet)	N/A	N/A	N/A	30	30	30	30	(VI)(c)	(C)

(A) Land donated/dedicated to and accepted by the city shall be credited to the area of the lot/tract from which the donated land originated.

(B) For residential lots on culs-de-sac, the minimum lot width at the front street property line shall be 33 feet measured along the chord of the arc.

(C) See section 38.03.040 et seq.

(D) Residential 30 feet; nonresidential 37 feet.

(E) No portion of the structure in an extended setback shall be taller than 16' above natural grade.

(F) If the proposed building is a one-story structure, the lesser setback distance applies. If any portion of the building is a two-story structure, the greater setback distance applies.

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Footnotes:

(I) The sum of 50 feet with neither side less than 25 feet, except a minimum of 40 feet for any side that adjoins R-1, R-2, and R-3.

(II) The sum of 40 feet with neither side less than ten feet except a minimum of 25 feet for any side that adjoins R-1, R-2, and R-3.

(III) The improvements constructed on a project site within a B-1, B-2 or GUI zoning district shall meet the following impervious cover requirements provided that for parcels of land with GUI zoning, the minimum lot size shall be two acres:

(a) A maximum of 35 percent of the total site area shall be permitted to be impervious cover. Up to six percent impervious cover shall be allowed for common driveways, governmental facilities and fire access driveways in the rear and at the sides of buildings; provided, however, if such driveways or facilities total less than six percent of the impervious cover, the percentage allowed shall be the actual percentage of impervious cover required by the driveways or facilities. This six percent increase shall not be counted in computing the maximum impervious cover. A developer may be permitted to increase the maximum impervious cover to 47 percent, as approved by the city council, by selecting from the following weighted incentives:

Incentive items.

a. Provide off-site public sewage disposal system: 8% increase in impervious cover.

b. Increase landscaping or setbacks (front and one side or rear) by more than 50 percent of ordinance requirements. Setback increases applicable only if unaffected by natural features, topography, creekbeds, etc. Landscaping should provide for using predominantly native plants and grasses to minimize the use and impact of pesticides, herbicides and fertilizers: 2% increase in impervious cover.

c. Construct detention basins with sedimentation/filtration basins in addition to required detention basins: 2% increase in impervious cover.

d. Provide primarily ten feet or greater landscaped separations between parking aisles: 2% increase in impervious cover.

e. Provide 75 percent or more of the required vehicle parking underneath and/or to the side or rear of the building: 2% increase in impervious cover.

f. Maintain natural state of site in excess of 25 percent requirement:

1. If 30 percent in natural state: 1% increase in impervious cover.

2. If 35 percent in natural state: 2% increase in impervious cover.

3. If 40 percent or more in natural state: 3% increase in impervious cover.

g. Use of low water consumption plumbing fixture: 1% increase in impervious cover.

h. Donation of right-of-way (ROW): 2% increase in impervious cover.

i. Based on the evaluation by the zoning and planning commission and the city council, an increase in allowable impervious cover ranging from one percent to five percent may be approved for a project that demonstrates highly innovative architecture, site planning and land use techniques of a caliber not previously utilized in the city’s area and/or of such a quality as to set an excellent example for subsequent developments.

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The criteria for evaluation shall include, but not be limited to, the following:

1. Reduction of building mass by breaking up buildings.
2. Techniques to enhance the pedestrian scale of the project, including sidewalks and covered walkways.
3. Measurable efforts to preserve greenbelts at the expense of street visibility.
4. Construction of berms to block off-street visibility of pavement and parking areas.
5. Noise abatement efforts to adjoining sites by providing solid walls and dense planting.
6. Other provisions to lessen the visual impact of the project on surrounding properties.
7. Revegetation of strategic, previously open setback areas with mature, indigenous landscaping.
8. Other unscheduled project design elements may be considered in this incentive item.

(IV) (a) See section 22.03.275(a).

(b) The sum of 100 feet with neither side less than 50 feet, except as noted in subsection (IV)(d) below.

(c) Fifty feet except as noted in section 22.03.275(a) or subsection (IV)(d) below.

(d) If B-3 use abuts R-1, R-2 or R-3 use on the rear or side property line, a minimum building setback of 75 feet shall be required. Fifty feet of this setback shall be a densely planted buffer. Parking, driveways, walks, steps, trash storage and disposal fields are permissible within this setback area as long as these permissible improvements are not within the planted buffer. Disposal fields constructed in this area shall be revegetated to as much of its natural and undisturbed appearance as possible.

(V) The improvements constructed on a project site within a B-3 zoning district shall meet the following impervious cover requirements:

(a) At least 25 percent of the total site area shall remain in its natural, undisturbed state. Streambeds and other natural features shall be designated as open space. Areas used to buffer development in the B-3 district from other adjacent properties shall also be designated as open space. If large, natural, indigenous trees are utilized, or undisturbed natural knolls, undisturbed outcroppings or other areas of natural beauty are incorporated into the site design, the undisturbed, natural state requirement of 25 percent may be reduced to 20 percent of the total site area.

(b) A maximum of 40 percent of the total site area shall be permitted to be impervious cover. Up to three percent impervious cover shall be allowed for common driveways, governmental facilities and fire access driveways in the rear and at the sides of buildings; provided, however, if such driveways or facilities total less than three percent of the impervious cover, the percentage allowed shall be the actual percentage of impervious cover required by the driveways or facilities. This three percent increase shall not be counted in computing the maximum impervious cover. A developer may be permitted to increase the maximum impervious cover to 52 percent, as approved by the city council, by selecting from the following weighted incentives:

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(1) Incentive items:

a. Provide off-site public sewage disposal system: 8% increase in impervious cover.

b. Increase landscaping or setbacks (front and one side or rear) by more than 50 percent of ordinance requirements. Setback increase applicable only if unaffected by natural features, topography, creekbeds, etc. Landscaping should provide for using predominantly native plants and grasses to minimize the use and impact of pesticides, herbicides and fertilizers: 2% increase in impervious cover.

c. Construct detention basins with sedimentation/filtration basins in addition to required detention basins: 2% increase in impervious cover.

d. Provide primarily 20 feet or greater landscaped separations between parking aisles: 2% increase in impervious cover.

e. Provide a major piece of sculptural art, continuously available for public view: 1% increase in impervious cover.

f. Maintain natural state of site in excess of 25 percent requirement:

1. If 30 percent in natural state: 1% increase in impervious cover.

2. If 35 percent in natural state: 1% increase in impervious cover.

3. If 40 percent or more in natural state: 3% increase in impervious cover.

g. Construct a hike and bike or nature trail for public use: 2% increase in impervious cover.

h. Use of low water consumption plumbing fixtures: 1% increase in impervious cover.

i. Based on evaluation by the zoning and planning commission and the city council, an increase in allowable impervious cover ranging from one percent to five percent may also be approved for a project that demonstrates highly innovative architecture, site planning and land use techniques of a caliber not previously utilized in the city's area and/or of such a quality as to set an excellent example for subsequent developments.

The criteria for evaluation shall include, but not be limited to, the following:

1. Reduction of building mass by breaking up buildings.

2. Techniques to enhance the pedestrian scale of the project, including sidewalks and covered walkways.

3. Measurable efforts to preserve greenbelts at the expense of street visibility.

4. Construction of berms to block off-street visibility of pavement and parking areas.

5. Noise abatement efforts to adjoining sites by providing solid walls and dense planting.

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6. Other provisions to lessen the visual impact of the project on surrounding properties.

7. Revegetation of strategic, previously open setback areas with mature, indigenous landscaping.

(c) The balance of the project may be landscaped using mostly indigenous trees and shrubs, used for stormwater detention, used for private sewage disposal systems, or otherwise disturbed so long as the surface of the area remains pervious.

(VI) The improvements constructed within a B-3 zoning district shall meet the following dimensional requirements:

(a) Each property shall be individually site-planned according to the terrain, traffic and sewage disposal considerations.

(b) Single occupancy use sizes in a B-3 use district shall be limited as follows:

(1) On a 40-acre or larger site three major single occupancy uses up to 65,000 square feet each may be constructed within the project in accordance with subsection (VI)(c) below. All other single occupancy uses shall not exceed 20,000 square feet.

(2) On a 20-acre to 40-acre site two major occupancy uses up to 65,000 square feet each may be constructed within the project in accordance with subsection (VI)(c) below. All other single use occupancy uses shall not exceed 20,000 square feet.

(3) Buildings joined by a weather protected passageway shall not be considered separate structures if more than 25 percent of their common facing walls are joined by the passageway.

(c) In order to utilize the site topography and preserve open space areas on other portions of the site, including setback buffers, single occupancy uses may be joined in a common structure when divided by a fire separation wall built in accordance with the International Building Code and International Fire Code, current adopted edition. Otherwise, the minimum building separation shall be 30 feet.

(VII) Repealed. Any reference to footnote (VII) in the chart in section 22.03.281(b) should be disregarded.

(VIII) Height adjustments.

(a) An increase of seven feet in the height limitation of buildings in zoning district O, B-1, B-2, B-3 and GUI may be granted when all of the following conditions are met:

1. Fifty percent or more of the required vehicle parking is provided underneath and/or to the side or rear of the building.

2. The parking provided in subsection (a)1. of this subsection is not visible from an abutting street.

3. All required parking is on slopes of 25 percent or less.

4. The building does not exceed a maximum of two stories, excluding the vehicle parking level.

5. Impervious cover does not exceed the requirement of this article.

6. The roof line is a pitch, shed or modification thereof as approved by the city council.

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(IX) The improvements constructed on a project site within an "O" zoning district shall meet the following impervious cover requirements:

(a) A maximum of 30 percent of the total site shall be permitted to be impervious cover for the "O" office zoning districts. A developer may be permitted to increase the maximum impervious cover to 42 percent, as approved by the city council, by selecting from the following weighted incentives:

(1) Provide off-site public sewage disposal systems and donation of sewer right-of-way easement to the city. 8%

(2) Donation of right-of-way for street purposes. 2%

(3) Donation of easement for greenbelt of parkway. 2%

(Ordinance 361 adopted 3/28/18)

§ 22.03.282. through § 22.03.299. (Reserved)

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DIVISION 9
Trees and Vegetation

§ 22.03.300. Purpose.

(a) This division is adopted to promote and enhance a superior community environment, to maintain the rural character, to maintain air quality and ecologic balance, to maintain property values, to provide soil stabilization, to filter stormwater runoff, and to ensure the maximum preservation of the valuable natural features and scenic rural/wooded character as contemplated in the master plan of the city by establishing minimum standards and requirements relating to the protection of trees and natural vegetation.

(b) It is intended that this division be administered with the foregoing purposes in mind and specifically so as to:

(1) Ensure, insofar as practical in permitting development of land and minimizing fire hazard, the maximum retention of natural vegetation to aid in protection against erosion of top soil, preservation of natural scenic qualities and healthy ecosystems of the city through good conservation practices, protection from flooding or landslides, noise absorption, maintenance of privacy, and in providing habitat, shade and color;

(2) Protect mature trees and significant stands of trees in order to retain as many as possible consistent with the purposes set forth herein and also consistent with reasonable economic enjoyment of private property. In this context, privately owned trees have an impact on the quality of life for the entire community;

(3) Preserve the rugged beauty and natural environment that defines the character of the city and makes it a unique and desirable community; and

(4) Require the removal of all confirmed dead brush, vegetation, and trees from all properties in order to reduce the risk of wildfire. In the case of dead trees and dead understory, the city inspector must confirm that the vegetation is indeed dead prior to its removal in order for the owner to avoid replacement requirements as described in section 22.03.304(d) below.

(Ordinance 2022-007 adopted 4/13/22)

§ 22.03.301. Definitions.

Ashe Juniper. Juniperus ashei (commonly known as Cedar, Post Cedar, Mountain Cedar, or Blueberry Juniper) is a native, drought-tolerant evergreen shrub or small tree.

Canopy. For forests the term canopy is used to refer to the extent of the outer layer of leaves of an individual tree or group of trees.

Fire safety buffer zone (FSBZ). A concept of defensible space in a wildland-urban interface (WUI) created around the perimeter of a structure to reduce the risk that fire will spread from the surroundings to the structure as well as from the structure to the surroundings and provide firefighters access and a safer area to defend.

Firescaping. Is landscape design that reduces house and property vulnerability to wildfire. The goal is to develop a landscape with a design and choice of plants that offers the best fire protection and enhances the property. The idea is to surround the house with things that are less likely to burn. It is imperative when building homes in wildfire-prone areas that fire safety be a major factor in landscape design. Appropriate manipulation of the landscape can make a significant contribution toward wildfire

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survival.

Fuel ladder effect. A firefighting term for live or dead vegetation that allows a fire to climb up from the landscape or forest floor into the tree canopy; common fuel ladders include tall grasses, shrubs, and tree branches i.e. understory, both living and dead. It is also part of defensible space firescaping practices.

Imminent or immediate threat to persons or property. A tree, trees, or part of a tree that poses an imminent or immediate threat of injury to persons or damage or destruction to property as determined by the city inspector or city administrator.

Limbing-up. To cut or lop live or dead branches of a tree to raise its crown or canopy in order to manage fuel ladder affect of a ground fire to the canopy.

Non-native invasive species. (Also called "non-indigenous," "non-native" or "alien") exotic pest plants and invasive exotics growing in native plant communities that adversely affect the wild life habitats and bioregions they invade, economically, environmentally, and/or ecologically. Examples of the most troublesome non-native invasive species trees and plants in our area as identified by the City of Austin are as follows (ref: http://www.austintexas.gov/invasives):

(1) Trees:

Tree of Heaven (Ailianthus altissima)

Mimosa, Silk Tree (Albizia julbrissin)

Paper mulberry (Broussonetia papyrifera)

Chinese Parasol Tree (Firmiana simplex)

Large/WaxLeaf Privets (Ligustrum lucidum, Ligustrumjaponicum, Ligustrum vulgare)

Chinaberry tree (Melia azedarach)

Chinese Pistache (Pistacia chinensis)

Chinese tallow tree (Triadica sebifera or Sapium sebiferum)

(2) Shrubs and grasses:

Small Leaf Privets (Ligustrum quihoui or, Ligustrum sinense)

Running Bamboo (Phyllostachysaurea)

Heavenly Bamboo/Sacred Bamboo (Nandina domestica)

Golden Bamboo (Phyllostachys aurea)

Johnsongrass (Sorghum halepense)

King Ranch Bluestem (Bothriochloa ischaemum var. songarica)

Arundo Donax (Carizzo Cane)

Pruning. To cut or lop superfluous or undesired twigs, branches, or roots from; trim; the horticultural altering the form or shape of a plant. For trees this may be raising its canopy, reducing its width or canopy volume.

Understory. An underlying layer of vegetation comprised of small trees, tall grasses and shrubs between the forest canopy and the ground cover.

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(Ordinance 2022-007 adopted 4/13/22)

§ 22.03.302. Preservation of existing landscape vegetation and natural features.

(a) Landscape shall be preserved in its natural state to the greatest extent possible.

(b) Vegetative screening shall be maintained to the greatest extent possible, especially along the perimeter of all properties in order to maximize the screening and buffering of structures, driveways and parking areas from adjacent properties.

(c) Structures, driveways, and parking areas shall be designed and located to fit harmoniously with the natural terrain and to minimize the necessity for removing trees, vegetation, and soil, or the addition of fill.

(d) It is unlawful for any property owner or tenant to harbor dead trees, dead vegetation, dead brush piles, and other flammable dead organic material on their property. Exceptions would be allowed for contained compost piles and stacked and stored firewood. In order to reduce the risk of fire on all properties, all dead trees and brush piles, and other flammable dead organic material shall be cleared and removed in accordance with section 22.03.303 below. 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) below. Any person, corporation, or entity who or which violates this subsection commits a class C misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2.000.00. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

(e) The city is responsible for all vegetation and trees that are located on city-owned property.
(Ordinance 2022-007 adopted 4/13/22)

§ 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)

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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

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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, e-mail 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.

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(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 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 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.

(j) Activities that require the use of heavy equipment or chainsaws in conjunction with a permit issued under subsection (b) above shall be equipped with a working fire extinguisher located within the permitted worksite and easily accessible.

(k) In addition to the issuance of a stop-work order, the no-fee permit shall be subject to termination if a violation of this division occurs.

(Ordinance 2021-005, att. B, adopted 6/23/21; Ordinance 2023-011 adopted 9/13/2023)

§ 22.03.304. Tree and vegetation removal and replacement.

(a) Removal policy.

(1) Existing vegetation shall be left undisturbed to the maximum extent possible. In most circumstances, if a tree must be removed, it shall be replaced with a native, non-invasive species so that the native, natural landscape of the city is preserved for future generations.

(2) Trees less than ten (10) inches in diameter measured at a point fifty-four (54) inches above the ground may be removed with a permit in accordance with section 22.03.303(b).

(3) Trees greater than or equal to ten (10) inches and less than fourteen (14) inches in diameter measured at a point fifty-four (54) inches above the ground may be removed with a permit in accordance with section 22.03.303(b)(4). If a tree greater than or equal to ten (10) inches and less than fourteen (14) inches in diameter does not meet the requirements of section 22.03.303(b)(4) then the removal shall be requested through a variance as described by subsection (a)(4) of this section.

(4) The removal of trees greater than or equal to fourteen (14) inches in diameter measured at a point fifty-four (54) inches above the ground, or a tree greater or equal to ten (10) inches and less than fourteen (14) inches in diameter that does not meet the requirements of section 22.03.303(b)(4), is prohibited except as allowed under section 22.03.303(b)(7) and therefore such removal requires a variance from the city council as outlined in section 22.03.308.

(b) Removal procedure.

(1) Tree survey.

(A) For all new construction on an undeveloped lot without existing structures, the property owner must provide the city inspector with a tree survey of the entire

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property.

(B) For all new construction on a developed lot with existing structures, the city administrator at his sole discretion may allow the property owner to submit a tree survey of less than the entire property.

(C) All tree surveys must be conducted by a state-registered surveyor or engineer prior to a permit being issued and must include all trees with trunk diameters of three (3) inches or greater at twelve (12) inches above the ground.

(D) All trees to be removed must be highlighted or marked on the survey.

(2) Trunk diameters of the trees that the property owner proposes to remove shall be measured at a point fifty-four (54) inches above the ground. If a tree trunk splits at a height of less than fifty-four (54) inches, the tree diameter shall be calculated by adding the sum of the diameter of the largest stalk, plus one-half (1/2) of the diameter of all remaining smaller stalks all measured at a point fifty-four (54) inches above the ground.

(c) Violation of removal procedure.

(1) No person shall remove a tree in violation of this division.

(2) The diameter of trees removed in violation of this division shall be measured at the widest portion of the exposed base of the trunk for purposes of calculating replacement requirements. If no exposed base of trunk exists, then the city inspector shall estimate the diameter of trees that were removed for purposes of calculating replacement requirements.

(3) Any person removing tree(s) or vegetation in violation of the regulations provided in this division shall replace the tree(s) removed with tree(s) of equivalent species and size (caliper inches and canopy diameter). If tree(s) removed are not exhibit A tree(s), then exhibit A tree(s) must be used as replacements.

(4) Any person violating any of the provisions of this division shall be deemed guilty of a class C misdemeanor, and such offense shall be punishable by a fine not to exceed two thousand dollars ($2,000.00) per offense. Each tree removed in violation of this division shall be considered a separate offense. A person does not commit an offense under this section unless the person intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

(5) It is a separate offense to fail to replace trees or vegetation, or remit to the city cash-in-lieu, as provided in this code, within 601 days of issuance of a final order by the city.

(6) Criminal fines imposed under this code are in addition to replacement requirements and any other remedies available at law or in equity.

(d) Calculating tree replacement requirements.

(1) Trees of any species with a trunk diameter of less than six (6) inches do not require replacement.

(2) Conifer and Juniper trees (commonly referred to as “cedars”) with a trunk diameter of less than twelve (12) inches that are removed to establish a fire safety buffer zone in accordance with section 22.03.303(b)(5) do not require replacement.

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(3) Conifer and Juniper trees (commonly referred to as “cedars”) with a trunk diameter of three (3l inches or less that are removed as a fire prevention measure in accordance with section 22.03.303(b)(6) do not require replacement.

(4) To compensate for the removal of live trees that are not diseased, dying or dead (as defined in accordance with section 22.03.303(b)(7)) and that are removed in accordance with this section, the property owner must install replacement trees according to the following requirements:

(A) All trees with trunk diameters equal to or greater than six inches and less than fourteen (14) inches must be replaced on a 75% basis. In such cases, the replacement trees planted must have trunk diameters of at least two (2) inches. For example, if a twelve (12) inch tree is removed, then a total of nine (9) replacement inches must be planted using trees with a minimum trunk diameter of two (2) inches.

(B) (i) All trees with trunk diameters greater than or equal to fourteen (14) inches require a variance to subsection (a)(4) above and must be replaced on a 150% basis. For example, if a sixteen (16) inch tree is removed, then a total of twenty-four (24) replacement inches must be planted using single-trunk trees with a minimum trunk diameter of at least two (2) inches.

(ii) Trunk diameter less than six (6) inches: No replacement required.

(iii) From six (6) inches to less than fourteen (14) inches: 75% replacement required: Must use replacement trees with trunk diameters of at least two (2) inches.

(iv) Fourteen (14) inches and larger: Requires variance; 150% replacement required: Must use replacement single-trunk trees with trunk diameters of at least two (2) inches.

(5) To compensate for the loss of diseased or dying trees, or a tree that poses an imminent threat to persons or property, removed in accordance with this section and with section 22.03.303(b)(7), the property owner must install replacement trees on a 50% basis. In such cases, the replacement trees planted must have trunk diameters of at least one and one half (1-1/2) inches. For example, if a nine (9) inch tree is removed, then a total of four and one half (4-1/2) replacement inches must be planted using trees with a minimum trunk diameter of one and one half (1-1/2 inches).

(6) In the case of dead trees removed in accordance with this section and with section 22.03.303(b)(7), no replacement is required.

(7) For purposes of calculating the replacement inches as required above, the trunk diameters of all replacement trees shall be measured at a point twelve (12) inches above the ground.

(8) Replacement trees shall count on an inch-for-inch basis.

(9) When using a species with multiple trunks (e.g., Texas Mountain-Laurel, Yaupon Holly, etc.) for replacement purposes, the following chart shall be used to convert the planting container measurement to the equivalent trunk diameter for the purposes of this section:

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Planting Container Size	Equivalent Trunk Diameter
20 gallons	3 inches
30 gallons	4 inches
40 gallons	5 inches

(10) The planting of native grasses or ground cover is encouraged, but shall not satisfy any tree replacement requirement.

(e) Replacement procedure.

(1) The replacement trees shall be planted in appropriate locations with species listed in exhibit A only. When installing replacement trees, priority should be given to the setback areas and other locations in order to maximize the visible screening of buildings and structures on the property from adjacent properties. If an a1mropriate location cannot be located on the property in question, the city may allow the property owner to plant replacement inches on an alternate site owned by the city or the property owner based on the reforestation needs of the city if:

(A) Both the city and property owner agree on the location; and

(B) The location is within the city limits of the city.

(2) Whenever replacement is required, the property owner shall submit to the city inspector for approval a replacement site plan showing the locations, species and sizes of all replacement trees and vegetation prior to their installation. If during installation, the property owner is reasonably unable to conform to the approved replacement site plan, then the property owner must submit an amended site plan to the city inspector within seven (7) days of installation and ultimately subject to the city inspector's approval.

(3) Installation of the replacement trees must be completed prior to the expiration of the tree removal permit and within ninety (90) days of receiving the approval of the replacement site plan from the city inspector. The city inspector may allow for additional time upon request due to weather or other circumstances beyond the property owner's control.

(4) The property owner shall notify the city inspector upon completion of installation. The city inspector shall then verify that the installation conforms to the approved replacement site plan.

(5) All replacement and relocated trees must survive at least three (3) years. The city inspector may contact the property owner during this three (3) year period to arrange for a site visit by the city inspector in order to confirm that the trees have survived. Trees that do not survive for three (3) years must be replaced.

(f) Landscape fund.

(1) There is hereby created a landscape fund for the city.

(2) To qualify for the exceptions enumerated under this subsection (f), an applicant must provide a tree replacement site plan that accommodates at least 90% of the tree replacement inches otherwise required under this section. An applicant who has demonstrated the ability to replace this minimum threshold has qualified as "substantially complete."

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(3) When the city administrator determines that tree replacement requirements of this section cannot be reasonably satisfied on site, and the applicant has met the threshold of substantially complete, the remaining required replacement inches for trees greater than ten (10) inches (as measured at a point fifty-four (54) inches above the ground) may be satisfied by the payment in the amount as provided in appendix A to this code to the city and placed in the city's landscape fund in lieu of planting additional required replacement trees. In making the discretionary determination, the city administrator shall consider the topography, existing and proposed structures, and condition of remaining vegetation.

(4) In the event the applicant's replacement plan is not substantially complete (i.e., it cannot meet the 90% threshold set forth above), the city council will have the sole authority to determine what, if any, monetary funds may be accepted in lieu of tree replacement. The city council reserves the right to require the applicant to comply with all tree replacement requirements under this section.

(5) Proceeds accumulated in the landscape fund shall be expended solely on tree preservation or landscaping projects on public property throughout the city.

(Ordinance 363 adopted 4/11/18)

§ 22.03.305. Tree care and maintenance.

(a) Tree pruning must not be done in a manner that is detrimental to the tree. Any action undertaken which intentionally or recklessly causes or tends to cause injury, death, or disfigurement to a tree is considered to be detrimental. Examples of detrimental actions which are prohibited may include cutting, poisoning, burning, over-watering, relocating, or transplanting a tree.

(b) Tree protection that meets City of Austin standards must be provided during any construction project. City of Austin standards can be found online at http://www.ci.austin.tx.us/trees/preserve_code.htm.

(c) Compliance with all oak wilt regulations found within this code is required, including, but not limited to, the immediate application of an appropriate pruning sealant on all fresh cuts. For more information about oak wilt diagnosis, treatment and prevention, please visit the Texas Forest Service's website at http://www.texasoakwilt.org/.

EXHIBIT A

ELIGIBLE SPECIES FOR TREE REPLACEMENT

Small Trees/Large Shrubs, Deciduous

American Smoketree (Cotinus obovatus)

Anacacho Orchid-tree (Bauhinia congesta)

Carolina Buckthom (Rhamnus caroliniana)

Common Hoptree (Ptelea trifoliata)

Desert-Willow (Chilopsis linearis)

Goldenball Leadtree (Leucaena retusa)

Honey Mesquite (Prosopis glandulosa)

Huisache (Acacia famesiana)

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Mexican Buckeye (Ungnadia speciosa)

Mexican Plum (Prunus mexicana)

Mexican Redbud (Cercis canadensis var. mexicana)

Paloverde (Parkinsonia aculeata)

Possum-Haw Holly (Ilex decidua)

Prairie Flameleaf Sumac (Rhus lanceolata)

Prickly Ash (Zanthoxylum hirsutum)

Red Buckeye (Aesculus pavia)

Rusty Blackhaw (Viburnum rufidulum)

Rough-Leaf Dogwood (Comus drummondii)

Texas Buckeye (Aesculus glabra var. arguta)

Texas Redbud (Cercis canadensis var. texensis)

Wooly Bumelia (Bumelia lanuginosa)

Small Trees/Large Shrubs, Evergreen

Eve’s Necklace (Sophora affinis)

Yaupon Holly (Ilex vomitoria)

Texas Mountain-Laurel (Sophora secundiflora)

Texas Persimmon (Diospyros texana) (semi-evergreen)

Texas Pistache (Pistacia texana)

Cherry Laurel (Prunus caroliniana)

Spanish Bayonet (Yucca treculeana)

Torrey Yucca (Yucca torreyi)

Medium-Large Trees, Deciduous

Escarpment Black Cherry (Prunus serotina var. eximia)

Bald Cypress (Taxodium distichum)

American Elm (Ulmus americana)

Cedar Elm (Ulmus crassifolia)

Texas Madrone (Arbutus texana)

Bur Oak (Quercus macrocarpa)

Chinquapin Oak (Quercus muehlenbergii)

Durand Oak (Quercus sinuata var. sinuata)

Lacey Oak (Quercus laceyi)

Post Oak (Quercus stellata)

Monterrey Oak/Mexican White Oak (Ouercus polymorpha)

Shin Oak (Quercus sinuata var. breviloba)

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Shumard Red Oak (Quercus shumardii)

Texas Red Oak (Quercus texana)

Pecan (Carya illinoensis)

Texas Ash (Fraxinus texensis)

Sycamore (Platanus occidentalis)

Texas Walnut (Juglans microcarpa)

Western Soapberry (Sapindus drummondii)

Medium-Large Trees, Evergreen

Live Oak (Quercus virginiana)

Plateau Live Oak (Quercus fusiformis)

(Ordinance 363 adopted 4/11/18)

§ 22.03.306. through § 22.03.330. (Reserved)

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DIVISION 10
Unsafe Buildings

§ 22.03.331. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Responsible party. The owner, occupant or person in custody of the building or structure.

Unsafe building.

(1) Any building or structure in or about which any or all of the following conditions exist:

(A) Walls or other vertical structural members list, lean or buckle.

(B) Damage or deterioration exists to the extent that the building is unsafe.

(C) Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for purposes used.

(D) Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.

(E) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary, or otherwise lacking in the amenities essential to decent living that the same is unfit for human habitation or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety, or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare.

(F) Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work or live therein.

(G) Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate.

(H) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property.

(I) Improperly maintained building. A building, or part of a building, or the premises on which the building is located that is maintained in such a condition as to become so defective, unsightly, or in such a condition of deterioration or disrepair that the same is a nuisance causing appreciable diminution of the property values of the surrounding property or is materially detrimental to proximate properties and improvements. This includes, but is not limited to permitting or allowing or the keeping or disposing of or the scattering over the property or premises of any of the following:

(i) Lumber, junk, trash or debris.

(ii) Excavation material.

(iii) Graffiti on any premises which is unshielded so as to cause substantial diminution of the enjoyment, use, or property values of the adjacent properties.

(iv) Buildings which are abandoned, boarded up, partially destroyed, or left unreasonably

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in a state of partial construction.

(2) A condition exists in violation of the standards set forth in subsection (1), which condition renders the building or structure unsafe, unsanitary, or otherwise detrimental to the health, safety, morals, or welfare of the people of the city.

(Ordinance 361 adopted 3/28/18; Ordinance 2024-017 adopted 10/23/2024)

§ 22.03.332. Continued use, occupancy of buildings.

A responsible party may continue to use and occupy any building located within the city, regardless of the date such building was constructed, if such building meets the applicable minimum standards for buildings prescribed in this article and is not in violation of this division.

(Ordinance 361 adopted 3/28/18)

§ 22.03.333. Declaration of nuisance; prohibition.

(a) It shall be unlawful for any person to maintain or permit the existence of any unsafe building in the city. It shall be unlawful for any person to permit same to remain in such condition.

(b) All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this division.

(c) The city inspector shall enforce the provisions of this division.

(Ordinance 361 adopted 3/28/18)

§ 22.03.334. Inspection of buildings.

The city inspector shall inspect, or cause to be inspected, every building, or portion thereof, reported to be unsafe. If such building, or any portion thereof, is determined to be unsafe, the city inspector shall give the responsible party notice in accordance with the requirements set forth in section 22.03.335.

(Ordinance 361 adopted 3/28/18)

§ 22.03.335. Initial notice to property owner or occupant of violations.

(a) Whenever the city inspector determines that a building is in violation of the provisions of this division, he shall give notice of such determination to the responsible party. Such notice shall:

(1) Be in writing;

(2) Contain an identification of the building, if any, and property on which it is located;

(3) Identify the specific conditions upon which such determination was based;

(4) Contain the provisions of this code alleged to be violated;

(5) Specify the corrective measures required;

(6) Provide a reasonable time for compliance;

(7) Advise the responsible party that if compliance is not obtained by the day set out in the notice, there will be a public hearing before the municipal court to determine whether a building complies with the standards set out in the definition of “unsafe building” in section 22.03.331;

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(8) Contain the following statement:

According to the real property records of the county, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date you received this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not; and

(9) Be served upon the responsible party as set out in this division.

(b) Notice given pursuant to this division shall be deemed properly served upon the responsible party if a copy thereof is:

(1) Served upon him personally; or

(2) Sent by registered or certified mail, return receipt requested, to the last known address of such person as shown on the records of the city; and

(3) Posted in a conspicuous place in or about the building affected by the notice.

(Ordinance 361 adopted 3/28/18)

§ 22.03.336. Municipal court jurisdiction, powers and duties relating to unsafe buildings.

(a) The municipal court of record has the power and duty to hold a public hearing to determine whether or not the building is unsafe in accordance with the standards set forth in the definition of "unsafe building" in section 22.03.331.

(b) The municipal court of record has the following powers and duties:

(1) To require the repair of a structure found to be unsafe;

(2) To require the demolition of a structure found to be unsafe;

(3) To require the removal of personal property from a structure ordered vacated or demolished. Removal may be accomplished by use of city forces or a private transfer company if the owner of the personal property is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personal property. Costs of any removal and storage are the responsibility of the owner of the personal property;

(4) To require that an open and vacant structure or open and vacant portion of a structure be secured;

(5) To require or cause the correction of a dangerous condition on the land. Correction of a dangerous condition may be accomplished by city forces or a private contractor. Costs of correction are the responsibility of the owner;

(6) To assess a civil penalty, not to exceed $2,000.00 a day per violation against a property owner for each day or part of a day that the owner fails to repair or demolish a structure in compliance with a court order issued under this article; and

(7) To require relocation of the occupants of a structure found to be unsafe.

(Ordinance 361 adopted 3/28/18)

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§ 22.03.337. Initiation of proceedings; petition requirements.

(a) A petition filed with the municipal court by the city attorney initiates a civil proceeding under this article. The proceeding must be kept and organized separately from the criminal dockets of the municipal court.

(b) The petition must include:

(1) Identify the structure and the property on which it is located (not required to be a legal description); and

(2) A description of the alleged violation or violations of minimum standards that is present on the property.

(c) The proceeding will be styled "City of Westlake Hills, Plaintiff v. (Property Description), Defendant." The municipal court shall set the matter for a hearing not less than 30 days or more than 60 days after the filing of the petition.

(Ordinance 361 adopted 3/28/18)

§ 22.03.338. Notice of hearing before the municipal court.

(a) The city attorney or the city inspector shall give notice of a municipal court hearing on the repair, demolition, vacation, or securing of a structure, or the relocation of the occupants of a structure, to any owner, mortgagee, or lienholder of the structure. A diligent effort must be made to discover each owner, mortgagee, or lienholder of the structure and to give such persons notice of the hearing.

(b) Notice of the hearing must include:

(1) The date, time, and place of the hearing;

(2) Identify the structure and the property on which it is located (not required to be a legal description);

(3) A description of the alleged violation or violations of minimum standards that are present on the property; and

(4) A statement that the owner, mortgagee, or lienholder must submit at the hearing proof of the scope of any work that may be required to comply with this chapter and the time it will take to reasonably perform the work.

(c) On or before the 10th day before the hearing date, notice of the hearing must be:

(1) Mailed, by certified mail, return receipt requested, to the record owners of the affected property, and each holder of a recorded lien against the property, as shown by the records in the office of the county clerk of the county in which the property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or any other applicable instruments on file in the office of the county clerk;

(2) Posted, to all unknown owners, on the front door of each improvement situated on the affected property or as close to the front door as practicable; and

(3) Published on one occasion in a newspaper of general circulation in the city.

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(d) The city attorney or the city inspector may file in the official public records of real property in the county in which the property is located a notice of hearing that contains:

(1) The name and address of the property owner, if that information can be determined;

(2) A legal description of the property; and

(3) A description of the hearing.

(e) A notice issued under this section or an order entered by the municipal court under this article, that is filed in accordance with subsection (d) is binding on any subsequent grantee, lienholder, or other transferee of an interest in the property who acquires such interest after the filing of the notice or order and constitutes notice of the matter or order to any subsequent grantee, lienholder, or other transferee.

(Ordinance 361 adopted 3/28/18)

§ 22.03.339. Request for continuance of hearing.

A continuance of a hearing requested and set under this article may only be considered and granted in open court by the presiding judge of the court on the date and time of the originally scheduled hearing. A continuance must be requested in writing and may only be granted for good cause shown. The court may continue the hearing no more than 60 days and must notify the parties appearing in open court of the new date and time of the hearing. No other notice of the continued hearing date and time is required to be filed, sent, published, or posted.

(Ordinance 361 adopted 3/28/18)

§ 22.03.340. Hearing procedures before the municipal court; court orders.

(a) At the civil hearing in municipal court:

(1) The city attorney shall present evidence of notice of the hearing, the violation or violations of minimum standards that are present on the property, and other relevant issues;

(2) An owner, lienholder, mortgagee, or other person shown to have an interest in the property may present evidence of the scope of work and time required to comply with minimum standards under this chapter, present evidence on other relevant issues, and cross-examine witnesses; and

(3) The city attorney may cross-examine or rebut any evidence offered by an opposing party or other witness.

(b) At the close of evidence at the hearing, the municipal court judge may do one or more of the following:

(1) Find by a preponderance of the evidence that the structure is an unsafe structure, specifically describing each minimum standard found to be violated, and order one or more of the following:

(A) Demolition of the structure by the owner, lienholder, or mortgagee within 30 days, unless an extension is granted under subsection (c);

(B) Repair of the structure by the owner, lienholder, or mortgagee as needed to correct every violation of minimum standards found by the court to exist at the structure, the

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repair to be accomplished within 30 days, unless an extension is granted under subsection (c);

(C) Vacation of the structure by the owner, lienholder, or mortgagee, within a specified period of time; or

(D) The assessment of a civil penalty against the owner for each day or part of a day that the owner fails to repair or demolish the structure in compliance with a court order issued under this section.

(2) Find that the structure is open and vacant and order securing of the structure from unauthorized entry within 30 days by the owner, lienholder, or mortgagee.

(3) Order relocation of the occupants of a structure affected by a court order, within a specified period of time, by the owner, lienholder, or mortgagee.

(c) Time extensions for complying with an order to repair or demolish a structure.

(1) The court may allow more than 30 days to comply with an order to repair or demolish a structure under subsection (b)(1), if the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days. The court shall establish a specific time schedule for the commencement and performance of the work and require the owner, lienholder, or mortgagee to secure the property from unauthorized entry while the work is being performed.

(2) The court may not allow more than 90 days to comply with an order issued under subsection (b)(1) unless the owner, lienholder, or mortgagee:

(A) Submits at the hearing a detailed plan and time schedule for the work; and

(B) Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(3) If the court allows more than 90 days to complete any part of the work required to repair or demolish the structure under subsection (b)(1), it shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the court demonstrating compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the court to demonstrate compliance with the time schedules.

(4) If the owner, lienholder, or mortgagee owns property, including structures and improvements on property, within the city boundaries that exceeds $100,000.00 in total value, the court may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing or demolishing a structure under subsection (c)(3). In lieu of a bond, the court may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the city. The bond must be posted, or the letter of credit or third-party guaranty provided, not later than the 30th day after the date the court issues the order. The court shall establish rules and procedures, to be approved by the city attorney, governing when a bond, letter of credit, or third-party guaranty will be required under this subsection.

(d) If, at the close of evidence at the hearing, the court orders a structure to be repaired, vacated, secured, or demolished, or orders relocation of the occupants of a structure, the court shall in its

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order also authorize the city, through its agents or contractors, to enter the property and repair, vacate, secure, or demolish the structure on the property, or relocate the occupants of the structure, whichever applies, if the ordered action is not accomplished by the owner, lienholder, or mortgagee by the deadline given by the court pursuant to subsection (b) or (c). Performance of work by the city under this subsection does not limit the ability of the city to collect on a bond or other financial guaranty that may be required from the property owner, lienholder, or mortgagee under subsection (c)(4) of this section.

(e) An order entered by the court must also include a statement that any order entered by the municipal court, when filed in the official public real property records of the county in which the property is located, binds any subsequent grantee, lienholder, or other transferee of an interest in the property who acquires the interest after the filing of the order.

(f) After the hearing, the city attorney or the city inspector shall promptly mail by certified mail, return receipt requested, or personally deliver with proof of delivery, a copy of the order to each owner, lienholder, and mortgagee of the structure and shall file a copy of the order in the official public real property records of the county in which the property is located. Best efforts must be made to determine the identity and address of any owner, mortgagee, or lienholder and to give such persons notice of the order. If an order to repair, demolish, vacate, reduce in occupancy load, or secure a structure, or to relocate the occupants of a structure, is timely effected, the city inspector shall, upon written request and payment of the cost by the owner, file a notice of compliance in the deed records of the county in which the property is located. Every notice given under this subsection must include an identification, which is not required to be a legal description, of the structure and property on which it is located, and a description of the violation of minimum standards that is present at the property.

(g) Within 10 days after the date the order is issued, the city attorney or the city inspector shall:

(1) File a copy of the order in the office of the city secretary.

(2) Publish in a newspaper of general circulation in the city an abbreviated copy of the order containing:

(A) The street address or legal description of the property;

(B) The date of the hearing;

(C) A brief statement indicating the results of the order; and

(D) Instructions stating where a complete copy of the order may be obtained.

(Ordinance 361 adopted 3/28/18)

§ 22.03.341. Noncompliance with court orders; civil penalties; liens.

(a) If the city determines that the owner, lienholder, or mortgagee of a structure has not timely complied with a municipal court order issued under section 22.03.340 and the order included a provision authorizing the city to perform work upon failure of the owner, lienholder, or mortgagee to comply with the order, the city may, in addition to other remedies provided by law, repair, demolish, vacate, or secure the structure, or relocate the occupants of the structure, whichever is applicable, in accordance with the court order. Before the city begins the performance of the work, the city attorney or the city inspector shall issue a notice including:

(1) Identification of the structure and the property on which it is located (not required to be a

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legal description);

(2) An identification of the court order;

(3) A description of each violation of minimum standards found by the court to be present on the property when the court order was issued;

(4) A description of any work ordered by the court to correct each violation on the property;

(5) A statement and supporting documentation that the owner, lienholder, or mortgagee has not timely complied with the court order and a description of the provisions of the court order that still require compliance;

(6) A statement of the city's intent to cause the repair, demolition, vacation, or securing of the structure, or the relocation of the occupants of the structure, whichever is applicable; and

(7) The date and time the city will begin performance of the work in accordance with the court order.

(b) At least 10 days before the city begins the performance of work under this section, the notice required under subsection (a) must be:

(1) Mailed by certified mail, return receipt requested, to each owner, lienholder, and mortgagee of the structure;

(2) Posted on the front door of the structure or as close to the front door as practicable; and

(3) Published on one occasion in a newspaper of general circulation in the city.

(c) The city inspector shall invite at least two or more building contractors to make estimates pertaining to the needed repair, removal or demolition of a building. The city inspector shall cause to be made an assessment of expenses or civil penalty based on such estimates. The city inspector shall endeavor to minimize the expenses of any building repairs, removal or demolitions order pursuant to this division.

(d) The city may repair a building only to the extent necessary to bring the building into compliance with the minimum standards of the city. The repairs may not improve the building to the extent that the building exceeds minimum standards prescribed by the city.

(e) Assessment of civil penalties.

(1) If the city attorney or the city inspector determines that the owner, lienholder, or mortgagee of a structure has not timely complied with a municipal court order issued under section 22.03.340, the city attorney may file an action in municipal court for the assessment of a civil penalty against the property. The city attorney or the city inspector shall promptly give notice to each owner, lienholder, and mortgagee of the hearing to assess a civil penalty. The notice must include:

(A) Identification of the structure and the property on which it is located (not required to be a legal description);

(B) An identification of the court order affecting the property;

(C) A description of each violation of minimum standards found by the court to be present on the property when the court order was issued;

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(D) A description of any work ordered by the court to correct each violation on the property;

(E) A statement that the city attorney or the city inspector has determined that an owner, lienholder, or mortgagee has not timely complied with the court order and a description of the provisions of the court order that still require compliance; and

(F) A statement that the court will conduct a hearing to consider assessment of a civil penalty on the property and the date, time, and place of the hearing.

(2) The notice required under section 22.03.338(c)(1) for a municipal court hearing to consider the assessment of a civil penalty on property subject to a court order must be given in compliance with the notice requirements set forth in section 22.03.340.

(3) The hearing shall follow the proceedings outlined in section 22.03.340(a). At the hearing, the owner, lienholder, or mortgagee may present evidence of any work performed or completed on the property to comply with the court order.

(4) The court, after hearing evidence from each interested person present, may assess a civil penalty against the owner in a specific amount in accordance with section 22.03.336(b)(6).

(5) Notice of a court order issued under this subsection must comply with the requirements and procedures of section 22.03.338.

(6) A civil penalty assessed under this subsection may be enforced in accordance with subsection (d) of this section.

(7) A civil penalty assessment hearing may be combined with any other hearing before the municipal court concerning the same property.

(f) Liens.

(1) If the city incurs expenses under this section, the city shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the state constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the office of the county clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.

(2) The city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

(3) Any civil penalty or other assessment imposed under this section accrues interest at the rate of ten percent a year from the date of the assessment until paid in full.

(4) In any judicial proceeding regarding enforcement of municipalities under this section, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

(5) A lien acquired under this section by the city for repair expenses may not be foreclosed if

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the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(Ordinance 361 adopted 3/28/18)

§ 22.03.342. Modification of court orders.

(a) Within 15 days after the municipal court enters an order under this article, the city or an owner, lienholder, or mortgagee of a structure that is the subject of the order may request that the court modify its order. The request must be in writing and filed with the court.

(b) The court shall schedule a hearing on the motion not less than five days or more than 10 days after the request for modification is filed. The movant must promptly deliver a copy of the request and notice of the hearing date and time, in writing, to the city attorney and each owner, lienholder, and mortgagee by either personal service or certified mail, return receipt requested.

(c) If circumstances have changed and the court finds good cause, the court may modify the order. The city attorney or the city inspector shall notify the owner, lienholder, and mortgagee of the structure of the modified order in accordance with section 22.03.338.

(Ordinance 361 adopted 3/28/18)

§ 22.03.343. Appeal of court orders.

Any owner, lienholder, or mortgagee of record who is jointly or severally aggrieved by a municipal court order issued under this article may appeal by filing in state district court a verified petition setting forth that the municipal court's decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee of record within 30 calendar days after the respective dates a copy of the municipal court order is mailed to each in compliance with section 22.03.340(g) of this chapter; otherwise, the order will become final as to each person upon expiration of each person's respective 30-calendar-day period.

(Ordinance 361 adopted 3/28/18)

§ 22.03.344. Miscellaneous notice provisions.

(a) Any notice required by this article to be given to the owner, lienholder, or mortgagee of any structure must also be given to any occupant of the structure, if the subject of the notice involves the demolition, vacation, or reduction of occupancy load of the structure or the relocation or ineligibility for relocation expenses of the occupants. Notice required under this subsection must be given to the occupants either:

(1) In the same manner required by this article for notice to the owner, lienholder, or mortgagee of the structure; or

(2) By personal service, using the time and procedural requirements set forth in this article for notice to the owner, lienholder, or mortgagee of the structure.

(b) For purposes of this article, a requirement to use "best efforts" or "a diligent effort" is satisfied by a search of the following records:

(1) County real property records of the county in which the structure is located;

(2) Appraisal district records of the appraisal district in which the structure is located;

(3) Records of the Secretary of State for the State of Texas;

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(4) Assumed name records of the county in which the structure is located;

(5) Tax records of the city; or

(6) Utility records of the city.

(c) If any notice, order, or other document is mailed by certified mail, return receipt requested, as required by this article, and is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice, order, or other document is not affected, and the notice, order, or other document will be deemed as delivered.

(Ordinance 361 adopted 3/28/18)

§ 22.03.345. Posting of warnings.

(a) If the municipal court makes a determination after the public hearing that a building is deemed to be an unsafe building, the city inspector shall cause to be posted at each entrance to such building a notice to read as follows:

DANGEROUS

DO NOT ENTER, UNSAFE TO OCCUPY

City Inspector of the
City of West Lake Hills

(b) Such notice shall remain posted until required repairs, demolition, or removal is completed and such premises have been rendered safe. Such notice shall not be removed without written permission of the city inspector. No person shall enter the building except for making inspections or required repairs or to demolish such building.

(Ordinance 361 adopted 3/28/18)

§ 22.03.346. Securing unoccupied buildings.

(a) The city inspector may secure a building that is determined to be:

(1) Unoccupied by owner or tenant for a period in excess of 45 days with intent to abandon the property.

(2) Unsecured, allowing access by unauthorized persons or animals.

(3) Used or occupied only by persons who do not have the right of possession of the property.

(b) Before the 11th day after the date the building is secured, the city inspector shall give notice to the owner by:

(1) Personally serving the owner with written notice;

(2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;

(3) Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county, if personal service cannot be obtained and the owner's post office address is unknown; or

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(4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(c) The notice shall contain:

(1) An identification of the building and the property on which it is located;

(2) A description of the violation of this code that is present at the building;

(3) A statement that the city will secure or has secured, as the case may be, the building; and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing of the building.

(d) The city council shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within 30 days after the date the city secures the building, the owner files with the city a written request for the hearing. The city council shall conduct the hearing within 20 days after the date the request is filed.

(e) The city has the same authority to assess expenses under this section as it has to assess expenses under section 22.03.341. A lien created under this section in the same manner that a lien is created under section 22.03.341 and is subject to the same conditions as a lien created under that section.

(Ordinance 361 adopted 3/28/18)

§ 22.03.347. Statutory compliance by city.

The city shall comply with the requirements of V.T.C.A., Local Government Code section 214.001.
(Ordinance 361 adopted 3/28/18)

§ 22.03.348. through § 22.03.360. (Reserved)

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DIVISION 11
Utility Development Standards

§ 22.03.361. Policy.

The city council hereby declares it to be the policy of the city to locate and route transmission or distribution lines in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the city shall choose locations that minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that all the city's needs are met and fulfilled in an orderly and timely fashion.
(Ordinance 361 adopted 3/28/18)

§ 22.03.362. Advance forecasting.

(a) Each utility which owns or operates or plans within the next 15 years to own or operate transmission lines in the city shall develop forecasts as specified in this section. On or before July 1st of each even-numbered year, each utility shall submit a report of its forecast to the city. The report may consist of appropriate portions of a single regional forecast and may be jointly prepared and submitted by two or more utilities and shall contain the following information:

(1) Description of the tentative regional location and general size of all transmission lines to be owned or operated by the utility during the ensuing 15-year period or upon completion of construction of any transmission lines;

(2) Identification of all existing transmission lines projected to be removed from service during any 15-year period or upon completion of construction of any transmission lines;

(3) Statement of the projected demand for services in the city for the ensuing 15 years and the underlying assumptions for this forecast, such information to be as geographically specific as possible where this demand will occur;

(4) Description of the capacity of the system to meet projected demands during the ensuing 15 years;

(5) Description of the utility's relationship to other utilities and regional associations, power pools or networks; and

(6) Other relevant information as may be requested by the city.

(b) On or before July 1 of each odd-numbered year, a utility shall verify or submit revisions to the items listed in subsections (a)(1) and (a)(2) of this section.
(Ordinance 361 adopted 3/28/18)

§ 22.03.363. Development of transmission route study areas criteria; public hearings; inventory.

(a) Inventory criteria; public hearings.The city shall promptly initiate a public planning process where all interested persons can participate in developing the criteria and standards to be used by the city in preparing an inventory of large transmission lines and to guide the suitable site and route evaluation and selection process. The participatory process shall include but shall not be limited to public hearings. Before substantial modifications of the initial criteria and standards are adopted, additional public hearings shall be held.

(b) Inventory of transmission route study areas.Before any transmission line is permitted by the

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city, the electrical utility serving the city shall present an inventory of transmission lines to the city.

(Ordinance 361 adopted 3/28/18)

§ 22.03.364. Designation of routes; procedures; considerations; emergency certification; exemption.

(a) Designation of routes; procedure.A utility shall apply to the city in a form and manner prescribed by the city for a permit for the construction of a transmission line. The application shall contain at least two proposed routes. The city shall study and evaluate the type, design, routing, right-of-way, preparation and facility construction of any route proposed in a utility's application and any other route the city deems necessary which was not proposed. Within six months after the city's acceptance of a utility's application, the city may decide in accordance with the criteria and standards specified herein which proposed route is to be designated. The city may extend for just cause the time limitation for its decision for a period not to exceed 180 days. When the city designates a route, it shall issue a permit for the construction of a transmission line specifying the type, design, routing, right-of-way preparation and facility construction it deems necessary along with any other appropriate conditions. The city may order the construction of transmission line facilities which are capable of expansion in transmission capacity through design modifications. No transmission line shall be constructed except on a route designated by the city.

(b) Emergency certification.Any utility whose system requires the immediate construction of a transmission line may make application to the city for an emergency permit for the construction of transmission lines, which permit shall be issued in a timely manner no later than 195 days after the city's acceptance of the application and upon a finding by the city that a demonstrable emergency exists which requires immediate construction, and that adherence to the procedures and time schedules specified in sections 22.03.362 through 22.03.364 would jeopardize the utility's system or would jeopardize the utility's ability to meet the needs of its customers in an orderly and timely manner. A public hearing to determine if an emergency exists shall be held within 90 days of the application. The city shall, after notice and hearing, promulgate rules specifying the criteria for emergency certification.

(c) Consideration in designating routes.To facilitate the study, research, evaluation and designation of routes, the city shall be guided by, but not limited to, the following responsibilities, procedures, and considerations:

(1) Evaluation of research and investigations relating to the effects on land, water, and air resources of transmission line routes and the effects of water and air discharges and electric fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and monitoring of the water and air mass at proposed and operating routes, evaluation of new or improved methods for minimizing adverse impacts of water and air.

(2) Environmental evaluation of routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the city.

(3) Evaluation of the effects of new transmission technologies and systems to minimize adverse environmental effects.

(4) Analysis of the direct and indirect economic impact of proposed routes to residential land

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lost or impaired.

(5) Evaluation of adverse direct and indirect environmental effects which cannot be avoided should the proposed route be accepted.

(6) Evaluation of alternatives to the applicant's proposed route proposed pursuant to subsections (1) and (2) of this subsection.

(7) Evaluation of potential routes which would use or parallel existing highway rights-of-way.

(8) Evaluation of governmental survey lines and other natural division lines so as to minimize interference with residential use.

(9) Evaluation of the future needs for additional transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications.

(10) Evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved.

(11) Where appropriate, consideration of problems raised by other state and federal agencies and local entities.

(Ordinance 361 adopted 3/28/18)

§ 22.03.365. Public hearings; notice.

The city shall hold appropriate public hearings in order to afford interested persons an opportunity to be heard regarding its inventory of transmission route study areas and any other aspects of the city's activities and duties or policies specified in this division. Any person may appear at the hearings and present testimony and exhibits and may question witnesses.

(Ordinance 361 adopted 3/28/18)

§ 22.03.366. Public participation.

(a) Advisory committee.The city shall appoint one or more advisory committees to assist in carrying out its duties. Committees appointed to evaluate routes considered for designation shall be comprised of as many persons as may be designated by the city. No officer, agent, or employee of a utility shall serve on an advisory committee.

(b) Public advisor.The city shall designate one staff person for the sole purpose of assisting and advising those affected and interested citizens on how to participate effectively in route proceedings.

(c) Scientific advisory committee.The city may appoint one or more advisory committees composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health, safety, underground routes, double circuiting and long range route and site planning.

(Ordinance 361 adopted 3/28/18)

§ 22.03.367. Revocation or suspension.

A construction permit may be revoked or suspended by the city after adequate notice of the alleged grounds for revocation or suspension and a full and fair hearing in which the affected utility has an

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opportunity to confront any witness and respond to any evidence against it and to present rebuttal or mitigating evidence upon a finding by the city of:

(1) Any false statement knowingly made in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the city's findings; or

(2) Failure to comply with material conditions of the construction permit, or failure to maintain safety standards, or violation of the provisions of this division.

(Ordinance 361 adopted 3/28/18)

§ 22.03.368. through § 22.03.390. (Reserved)

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DIVISION 12
Erosion Control

§ 22.03.391. Findings.

It is hereby determined that unnecessary soil erosion necessitates costly repairs and maintenance of public works, reduces the clarity of public waters, increases the cost of providing pure drinking water and reduces the attractiveness and safety of water-oriented recreation facilities; that the public health, safety and welfare requires regulation of land balancing, development and construction activities to avoid unnecessary soil erosion; and that the regulations contained in this division are the minimum regulations which will avoid the consequences herein set forth and protect the public health, safety, and welfare.
(Ordinance 361 adopted 3/28/18)

§ 22.03.392. Site and construction plans.

No site or construction plan shall be approved unless it shows all improvements reasonably required to prevent erosion during and after completion of development. No permanent certificate of occupancy shall be issued unless the improvements shown on the site plan have been installed, constructed or created and erosion is effectively controlled.
(Ordinance 361 adopted 3/28/18)

§ 22.03.393. Plats.

No plat shall be approved unless it shows all improvements reasonably required to prevent erosion.
(Ordinance 361 adopted 3/28/18)

§ 22.03.394. Permits.

No permit shall be issued under this chapter unless the plans and specifications show and adequately describe all measures and improvements both temporary and permanent which can reasonably be undertaken to control and eliminate erosion during development, along with appropriate schedules based on time and stage of construction which show that such measures and improvements will be undertaken at the earliest practicable time, and show existing and proposed topographic information with two-foot contours.
(Ordinance 361 adopted 3/28/18)

§ 22.03.395. Grading permits.

No grading shall be undertaken prior to the issuance of an excavation or grading permit, site clearance permit, building permit, utility development permit or, under circumstances where no permit is required, prior to the issuance of the required permit by the city inspector. All permits are issued only pursuant to a written application containing the information required in this division.
(Ordinance 361 adopted 3/28/18)

§ 22.03.396. Exception to grading requirements.

No permit shall be required for horticultural activities, the construction of a driveway which does not at any point vary from the surrounding grade by more than five feet, the normal graveling or grading of a road or driveway, or any project where no permit is required under section 22.03.125.
(Ordinance 361 adopted 3/28/18)

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§ 22.03.397. Requirements.

(a) The drainage and erosion control design manual and the city's Code of Ordinances contain requirements for the design of infrastructure related to erosion control facilities. Where there is any conflict between the drainage and erosion control design manual and the current city code, the more restrictive shall take precedence. The design engineer is responsible for complying with the latest version of the drainage and erosion control design manual and city code adopted by the city.

(b) The city inspector has the duty to impose any additional limits or restraints to prevent erosion after approval of any permit herein, whenever conditions arise during development of construction which require the taking of any additional measures or precautions.

(c) Where during development or construction, it appears that measures or precautions previously required are unnecessary, the city inspector shall waive them in writing. The city inspector shall require certification of plans and specifications and supervision of work by a licensed professional engineer unless he determines it is not necessary under the circumstances.

(Ordinance 361 adopted 3/28/18)

§ 22.03.398. Stop-work orders.

The city inspector shall order all construction and development work stopped on any site upon which he finds a substantial violation of this division and shall post the premises with a stop-work order which shall remain in effect until the violation has been corrected.
(Ordinance 361 adopted 3/28/18)

§ 22.03.399. Standards for excavating, grading or filling.

Excavating, grading or filling shall minimize the negative impacts of development on natural slopes and interfere as little as possible with the natural landscape by minimizing the alteration of the natural terrain and shall conform section 22.03.170.
(Ordinance 361 adopted 3/28/18)

§ 22.03.400. Prohibited excavation, grading or filling.

No excavation, grading or filling shall be permitted which interferes with the natural drainage of the general area surrounding the site. All existing watercourses shall be preserved, except that such watercourses may be relocated or piped, provided that they will not thereby be creating any interference with the riparian or drainage rights, or easements of other property owners, and provided that no drainage shall be made onto public land, or connected with public facilities without the express approval of the city.
(Ordinance 361 adopted 3/28/18)

§ 22.03.401. Violations.

It shall be a violation of this division to commence any site clearing, excavation, grading, filling or other construction activities without the proper placement of engineer-designed erosion and sedimentation controls which are necessary and reasonable to control erosion.
(Ordinance 361 adopted 3/28/18)

§ 22.03.402. through § 22.03.420. (Reserved)

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DIVISION 13
Blasting Permits

§ 22.03.421. Finding.

It is hereby determined that unsafe blasting is dangerous to life, health or property and that the public health, safety, and welfare requires regulation. Blasting permits can only be approved by the city council.
(Ordinance 361 adopted 3/28/18)

§ 22.03.422. Revocation.

When in the opinion of the city inspector or his designee there is a danger to life, health or property in the immediate area exposed to the blasting for which a permit has been issued, such permit may be revoked.
(Ordinance 361 adopted 3/28/18)

§ 22.03.423. Comments from adjacent property owners and utilities.

The city inspector or his designee may request written comments on each permit application from the various affected utilities, adjacent property owner, or franchise holders. When in the opinion of the city inspector, such utility or adjacent property owner or franchise holder has a valid objection to the issuance of a permit, no permit shall be approved until such objection has been resolved to the satisfaction of the city inspector.
(Ordinance 361 adopted 3/28/18)

§ 22.03.424. No smoking in vicinity of blasting.

No person shall smoke or carry matches while handling explosives or while in the vicinity thereof. “No smoking” signs shall be posted in areas where explosives are being handled. The signs shall be visible for at least 25 feet.
(Ordinance 361 adopted 3/28/18)

§ 22.03.425. Blasting mat.

When blasting is done in a congested area or in close proximity to a building, structure, highway, vehicle, conveyance or any other installation that may be damaged by material being thrown into the air, the blast shall be covered with an adequate blasting mat. Proof that any such building, structure, highway, vehicle, conveyance or other installation was damaged to any degree by material which was so thrown into the air shall raise a rebuttable presumption that said blast was not covered with an adequate blasting mat or shield. For purposes of this section, an otherwise adequate blasting mat used improperly shall not be considered to be an adequate blasting mat or metal shield.
(Ordinance 361 adopted 3/28/18)

§ 22.03.426. Removal of blasting cap lead wires.

All exposed blasting cap lead wires in the ground from previous blasts shall be removed at the end of each working day.
(Ordinance 361 adopted 3/28/18)

§ 22.03.427. License required.

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(a) No person shall engage in the use of explosive materials within the city unless that person is a licensed blaster or is under the direct supervision of a licensed blaster.

(b) Any person engaging in the use of explosives who is not a licensed blaster or working under the direct supervision of a licensed blaster shall be fined not less than $1,000.00 nor more than $2,000.00.

(Ordinance 361 adopted 3/28/18)

§ 22.03.428. Blasting for soil absorption beds.

Soil absorption beds for private sewage facilities shall not be excavated by blasting, except that blasting may be used to dislodge shelf slab rock, but only with the prior approval of the city inspector.
(Ordinance 361 adopted 3/28/18)

§ 22.03.429. When blasting prohibited.

No blasting shall be permitted on Saturdays, Sundays, and legal holidays and before 9:00 a.m. or after 4:00 p.m. on any other day.
(Ordinance 361 adopted 3/28/18)

§ 22.03.430. through § 22.03.450. (Reserved)

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DIVISION 14
Moving Permits

§ 22.03.451. Procedure, route permit, time, other regulations.

The city inspector shall immediately notify the chief of police, stating the proposed route, when moving will begin and end, and the number of days the move is expected to take.

(1) The chief of police shall have authority to establish and direct, as a condition to the issuance of the permit, the time when the house moving shall start and the time when it shall be completed, the routes over which buildings of specified dimensions may be moved, and such other regulations and conditions which he may deem necessary. Deviation therefrom shall constitute an offense.

(2) The maximum time during which a house may remain in a street, under a permit, shall be 48 hours.

(3) During the entire time that the building is occupying the street, or any portion thereof, the mover shall keep it continuously in motion toward its destination and shall not allow the work or moving to stop during such time.

(Ordinance 361 adopted 3/28/18)

§ 22.03.452. Prohibitions.

(a) It shall be unlawful for the holder of the permit to disconnect any electrical light and power connection, gas connection, water connection or telephone connection from any building within the city which he proposes to move without the consent of the public utility owning such connection.

(b) It shall be unlawful for the holder of the permit to remove, tear down or destroy any pole or wire or other property belonging to the city or to any utility company furnishing gas, electrical light and power, or belonging to any telephone or telegraph company without the consent of such utility or other person owning the same.

(c) It shall be unlawful for the holder of the permit to remove any vegetation on private or public property without the consent of the person owning same.

(Ordinance 361 adopted 3/28/18)

§ 22.03.453. Inspections upon completion.

(a) Whenever the holder of a permit has completed the work of moving a building under a permit, he shall promptly notify the city inspector of such fact. The city inspector shall cause an inspection to be made of the route of moving and the installation of the building.

(b) If the holder of the permit has caused damage to the streets, curbs, gutters, sidewalks, or other public or private property, the holder of the permit shall be notified of such fact, specifying the damage by mailing to him a written notification by certified mail at either the business or home address listed in the application for the permit. The holder of the permit shall proceed within two days from the date of such notification to begin the work of repairing the damage and completing the same to the satisfaction of the city.

(c) When the building moving operation is completed and the city inspector has written assurance

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that no damage to life or property has occurred or that the damage has been repaired and that all claims arising out of any damage are settled, any required deposit or bond shall be reimbursed, released or returned to the applicant.

(Ordinance 361 adopted 3/28/18)

§ 22.03.454. Building standards.

Buildings or structures moved into or within the city shall comply with the provisions of this division for new buildings or structures.

(Ordinance 361 adopted 3/28/18)

§ 22.03.455. Bond and indemnification.

Before a permit is issued, the applicant shall agree to indemnify the city for any damage that may thereafter occur to public or private property within the city by reason of the applicant's intended move, and shall file with the city a bond and certificate of insurance as may be required by the city inspector.

(Ordinance 361 adopted 3/28/18)

§ 22.03.456. through § 22.03.480. (Reserved)

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DIVISION 15
Use of Streets

§ 22.03.481. Procedure and standards for approval and disapproval.

(a) The approval of the city inspector, and the chief of police shall be required for the issuance of a permit for the use or occupancy of a city street, alley, or sidewalk space. Upon the receipt of an application for the use for occupancy of a city street, alley or sidewalk space, the city inspector shall send one copy thereof to the police department. The city inspector shall either approve or disapprove the application within ten days after the filing of such application. In addition, it shall be the duty of the city inspector to secure the approval or disapproval of such application from the chief of police. An application not acted upon by the city inspector within ten days after filing shall be deemed to be denied. If the application is not approved, the city inspector shall notify the applicant, in writing, of the disapproval, stating the reasons for such disapproval.

(b) In passing upon an application for a permit, the city inspector and the chief of police shall take into consideration the following:

(1) The need for the amount of space requested as shown by the application.

(2) The period of time for occupancy of such space.

(3) The public safety of the pedestrian and vehicular traffic in and adjacent to the space to be occupied.

(4) The traffic congestion and the vehicular parking requirements at the location.

(c) No application shall be approved that does not show adequate protection of pedestrian and vehicular traffic at the location of the requested space.

(Ordinance 361 adopted 3/28/18)

§ 22.03.482. Issuance of permit.

(a) When an application under this division has been approved by the city inspector, the applicant shall pay such permit fee as shall be required by the city, whereupon the city inspector shall issue a permit which shall contain the following:

(1) The name, address and principal business address of the person to whom the permit is issued.

(2) The name of the person who will be responsible for or in charge of the space to be occupied.

(3) The number of square feet of space to be occupied under the permit together with a sketch, drawing, or plan of the location.

(4) The type of barricades, warning signs, covered walkways, or tunnels that are required at, on, or adjacent to the space to be occupied under the permit.

(5) The number of days for which the permit is issued.

(6) A requirement that the holder of the permit shall notify the city inspector immediately if it is determined that it is necessary to occupy the space for a longer period of time than that for which the permit is granted, and that the applicant will, in such event, immediately pay the additional fees required under this division and request an extension of time on such

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permit.

(7) The condition the occupied space is to be returned to after the removal of barricades, equipment, or other occupancy.

(b) No permit shall be issued or amended until the permit fees shall have been paid in full.

(c) No permit shall be issued for the purpose of parking vehicles, but this shall not prevent the parking of vehicles necessary to the work to be performed at the space occupied; however, vehicles parked in connection with construction jobs shall not constitute a traffic or safety hazard and shall not block roadways.

(d) The city inspector shall cancel a permit not used by the permit holder within 30 days from the date of the permit, and no fees shall be refunded on any such permit cancelled for nonuse.

(Ordinance 361 adopted 3/28/18)

§ 22.03.483. Signs.

(a) The applicant will furnish traffic safety signs which shall meet with the approval of the city inspector and chief of police.

(b) It shall be the responsibility of the permit holder to place, maintain, and keep all signs in place on the occupied space at all times during the occupancy of such space.

(Ordinance 361 adopted 3/28/18)

§ 22.03.484. Mailboxes and other structures in the city's right-of-way.

(a) No part of any structure shall intrude upon the city's right-of-way, except that mailboxes approved by the United States Postal Service may be placed in the city's right-of-way at locations approved by the city administrator so long as the primary type of support post upon which the mailbox is placed is a wooden post not exceeding four inches by four inches in width or metal post not to exceed two inches in diameter with one-eighth inch wall thickness.

(b) Mailbox and support posts located in a city right-of-way created for pedestrian crossing must leave at least a 3-foot right-of-way measured from the end of the mailbox across the right-of-way.

(c) Mailboxes and support posts not on city right-of-way may be designed and constructed as owner and U.S. Postal Service agree with city administrator approval.

(d) The city administrator may also approve waivers for alternate types of mailboxes or support posts provided, however, that the mailbox and its support post shall be placed 6 to 8 inches measured from the front face of the road edge to the mailbox door.

(e) Mailboxes and support posts made with alternative materials, which include structures made of masonry, shall conform to the following provisions:

(1) Mailboxes shall not exceed the following dimensions of 24 inches wide, 30 inches deep, 60 inches in height which includes the vertical height of the support post between 41 to 45 inches measured from the road surface to the bottom of the mailbox.

(2) Each mailbox and its support post, on curb and gutter streets, shall be placed 6 to 8 inches measured from the front face of the curb to the mailbox door.

(3) Alternate mailboxes and support posts require a building permit to be issued before

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construction. The granting of a building permit does not convey ownership or title to that portion of public right-of-way for the mailbox and support post use. The proposed design shall not create a potential traffic hazard and shall be appropriate to its setting. In cases where the paved traffic way is not uniform with respect to the total city right-of-way, the city administrator shall determine an appropriate location for the mailbox.

Under this subsection, masonry means: stonework, brickwork, tile and work created with stucco.

(f) All mailboxes must identify the address number clearly in neat letters and numerals at least 1-inch high.

(g) Advertising on a mailbox or its supporting post is prohibited.

(h) Each mailbox must be on the right-hand side of the road in the direction of travel of the carriers on any new rural route or highway contract route, in all cases where traffic conditions are dangerous for the carriers to drive to the left to reach the box, or where their doing so would violate laws and regulations.

(i) Notwithstanding anything herein to the contrary, mailboxes, with support posts constructed in accordance with subsection (a) of this section and located on curb and gutter streets, shall be placed behind the outer face of the curb.

(j) Waivers under this section may be obtained by the city administrator. In deciding whether to grant a waiver, the city administrator shall consider the public health, pedestrian and vehicular traffic safety, and the intent of this section.

(k) Mailboxes and support posts not on city right-of-way may be designed and constructed as owner and U.S. Postal Service agree with city administrator approval.

(Ordinance 361 adopted 3/28/18)

§ 22.03.485. Surface alteration in the city's right-of-way.

(a) Modification of the existing grade of the city's right-of-way without the prior written approval of the city inspector is prohibited. This section applies to excavation, grading or site clearance. It also applies to the placement of stones, sediment or other fill material. When considering approving a request for approval under this section, the city inspector shall consider the proposed activity's effect on the functioning and purpose of the right-of-way at issue. Any damaged, destroyed or removed sediment shall be restored by the offending person.

(b) Any planting or removal of vegetation within the city's right-of-way without the prior written approval of the city inspector is prohibited. When considering approving a request for approval under this section, the city inspector shall consider the proposed activity's effect on the functioning and purpose of the right-of-way at issue. Factors to be considered include lines of sight for vehicular, pedestrian or bicycle traffic. Any damaged, destroyed or removed vegetation shall be restored by the offending person.

(Ordinance 361 adopted 3/28/18)

§ 22.03.486. through § 22.03.510. (Reserved)

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DIVISION 16
Application for Variance; Appeal from Denial of Permit

§ 22.03.511. Procedure and notice.

(a) The city council, when petitioned for a variance, after 16 days' written notice to all property owners within 300 feet of the subject property, shall hold a hearing, and the city council may vary the application of any provision of this article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this article or public interest, or when, in its opinion, the interpretation and recommendation of the zoning and planning commission should be modified or reversed.

(b) A decision of the city council to vary the application of any provision of this article shall specify in what manner such variance is made, the conditions upon which it is made and the reasons thereof.

(c) The applications for variances for the following sections shall be administered in compliance with the rules established by sections 38.05.031 through 38.05.034. These sections are:

(1) Section 22.03.168: Swimming pools (residential buildings).

(2) Section 22.03.171: Site disturbance (residential buildings).

(3) Section 22.03.207: Swimming pools (nonresidential buildings).

(4) Section 22.03.210: Site disturbance (nonresidential buildings).

(5) Section 22.03.241 through section 22.03.251: All of division 7: Off-street parking (nonresidential).

(6) Section 22.03.272: Minimum lot dimensions.

(7) Section 22.03.275: Building setbacks.

~~(8) Section 22.03.276: Setbacks for accessory structures.~~

(9) Section 22.03.278: Lot coverage.

(10) Section 22.03.279: Height of structures.

(11) Section 22.03.304: Tree and vegetation removal and replacement.

(12) Section 22.03.305: Tree care and maintenance.

(d) The applications for waivers from the drainage and erosion control design manual shall be initially processed by the city administrator. The city administrator, when petitioned for a waiver, may approve the waiver, deny the waiver, or make an initial determination and refer the matter to city council for a variance. In deciding whether to grant a waiver, the city administrator shall consider the public health, flood safety, and the intent of the drainage and erosion control design manual. If the city administrator approves the waiver, no approval by the city council is required. The city administrator will notify the city council of all waivers approved and document the approval, with reason, in a permanent record.

The city administrator’s denial of a waiver shall then be reviewed by the city council through the review process outlined herein. The waiver that was denied shall be submitted to the city administrator no later than seven (7) calendar days prior to the city council meeting. Copies of the plan resubmitted to the city less than seven days prior to the meeting date shall not be accepted

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or forwarded to the city council. If the city administrator determines that the application is still incomplete or not correct, the plan application shall be subject to denial.

(Ordinance 372 adopted 9/11/19; Ordinance 2021-004, att. B, adopted 6/23/21; Ordinance 2025-005 adopted 6/25/2025)

§ 22.03.512. Appeal from denial of permits from city inspector.

Any person aggrieved by any decision of the city administrator denying a permit may take an appeal to the city council or the board of adjustment, depending on which entity is designated elsewhere by this code. Any appeal shall be taken within 30 days from the date of the decision appealed from by depositing a fee and by filing with the city inspector a notice of appeal, specifying the grounds in writing thereof, except that in the case of a building or structure which, in the opinion of the city inspector, is unsafe or dangerous, the city inspector may, in his order, limit the time for such appeal to a shorter period. The city inspector shall forthwith transmit to the city council or board of adjustment all the papers upon which the action appealed from was taken.

(1) Appeals taken to the city council.

(A) The city council, when appealed to from an adverse decision by the city inspector, after ten days' written notice to all property owners within 200 feet of the subject property, shall hold a hearing, and the city council may vary the application of any provision of this division to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this division or public interest, or when, in its opinion, the interpretation of the city inspector should be modified or reversed.

(B) A decision of the city council to vary the application of any provision of this division, or to modify an order of the city inspector, shall specify in what manner such variance or modification is made, the conditions upon which it is made, and the reasons therefor.

(2) Appeals taken to the board of adjustment.Applications for appeals from denial of permits under this chapter shall be administered in compliance with the rules established by sections 38.02.0076~~(b) and 38.02.008.~~

(Ordinance 372 adopted 9/11/19; Ordinance 2021-004, att. B, adopted 6/23/21)

§ 22.03.513. Proceeding without a permit or variance.

(a) A person may not proceed with any operation for which a permit or variance is required by this division unless and until authorized by permit or variance.

(b) If work requiring a permit/variance is begun or completed before a permit is issued/variance is approved, the city administrator shall investigate the circumstances of the failure to obtain such a permit/variance and make a report a part of the permit/variance request. A stop-work order shall be in effect until a decision on approval or denial of a variance is made. Approval of such permit/variance by the city council/city administrator shall not preclude the responsible party from being cited for a violation of this division and being fined or prosecuted in municipal court.

(c) If the variance application(s) are denied or withdrawn prior to approval, the applicant has ten (10) days to bring the property into compliance. If the deviation(s) are not corrected within the ten (10) days or timeframe agreed to, in writing, by the city administrator, immediate enforcement action described by section 2.02.041 of this code may be taken to bring the property into compliance. A resulting conviction in municipal court shall not relieve any person from fully complying with any other requirement of this chapter.

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(Ordinance 372 adopted 9/11/19; Ordinance 2021-004, att. B, adopted 6/23/21)

§ 22.03.514. Criteria and process required for granting variance.

No variance shall be granted under this chapter unless the following criteria are fulfilled:

(1) Findings.The applicant has established by competent evidence that:

(A) The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.

(B) There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.

(C) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.

(D) The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

(2) ZAPCO. The recommendation of zoning and planning commission shall include an analysis of whether:

(A) The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and

(B) The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof; and

(C) When considering variance requests for nonresidential projects in the Commercial Overlay District, whether the variance, when considered as part of the proposed project (as a whole), furthers achievement of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.

(3) Conditions. The city council ~~can impose, and the zoning and planning commission can recommend imposition of,~~ may impose reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential projects in the commercial overlay district ~~are~~, the city council shall consider whether the conditions are necessary to achieve one or more of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.

(4) ~~Upon request. Upon request of applicant, the commission may allow one postponement of the variance request(s) to the following regular meeting of the commission, at which meeting the commission must either make a recommendation or forward the variance request(s) to the city council without a recommendation.~~

(Ordinance 372 adopted 9/11/19)

§ 22.03.515. through § 22.03.530. (Reserved)

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DIVISION 17
Unified Development Agreements

§ 22.03.531. Definitions.

Unified development agreement means a limited type of restrictive covenant (aka, "deed restriction") to which the property owner(s) and the city are parties.
(Ordinance 361 adopted 3/28/18)

§ 22.03.532. Purpose.

The purpose of a unified development agreement is to allow multiple lots to be treated as one for purposes of land use and development permitting, in lieu of replatting, even if the lots do not share ownership.
(Ordinance 361 adopted 3/28/18)

§ 22.03.533. Notice and hearing.

Unified development agreements are subject to the same notice and hearing requirements as provided in this code for variances.

(1) Uniform development agreement submittal.The current property owners shall submit three copies unified development agreement for approval, along with:

   (A) A letter.

   (B) A lienholder consent to the restrictive covenant or an affidavit of no liens.

   (C) Documentation showing all property owners who would be subject to the restrictive covenant; and

   (D) Recorded plat showing the properties to be subject to the restrictive covenant.

   (E) The unified development agreement must be signed and acknowledged by the property owners to be subject to the restrictive covenant. A filing fee set by the city council shall be due 16 days before the ZAPCO meeting. The commission will deny unified development agreements for which fees have not been paid before the meeting convenes. All documents required for approval must be administratively complete and shall be delivered to the city administrator or administrative secretary for ZAPCO not later than 30 days before the next ZAPCO meeting date.

(2) Duties of ZAPCO.It shall be the duty of ZAPCO to review the unified development agreement before it is submitted before the city council. ZAPCO shall submit its recommendations to the city council.

(3) Duties of city council.City council shall review the unified development agreement and the submitted recommendations of ZAPCO. After considering the unified development agreement, considering the recommendations of ZAPCO, and holding the public hearing on the matter, city council may approve or disapprove of the unified development agreement.

(4) Notice of public hearing.Notice of the public hearing is required, and shall be given before the 15th day before the date of the hearing by:

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(A) Publication on the city's official website; and

(B) By written notice, with the unified development agreement attached, forwarded by ZAPCO to the owners of lots subject to the unified development agreement and owners that are within 300 feet of the lots to be subject to the unified development agreement, as indicated in the Travis Central Appraisal District database. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the city.

(C) Posting of a sign section 38.05.002.

(Ordinance 361 adopted 3/28/18; Ordinance 2025-005 adopted 6/25/2025)

§ 22.03.534. through § 22.03.570. (Reserved)

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DIVISION 18
Demolition

§ 22.03.571. Definitions.

The following terms used in this division shall have the meanings indicated in this section:

Contractor. A person, and any employees, engaged in the business of demolition of structures who have been contracted to demolish a particular structure.

Demolition. The destruction of a structure or part of a structure.
(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.572. Demolition permit required.

(a) Permit required.A person shall not demolish or begin demolition of a structure without obtaining a demolition permit from the city inspector.

(b) Fees.Before being issued a demolition permit, the applicant shall pay all applicable fees required by the fee schedule of this Code of Ordinances.
(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.573. Permit application.

(a) General.Application for a demolition permit signed and verified by the owner or owner's agent shall be made to the city inspector on a form provided for that purpose and shall include all of the following information:

(1) Location of the structure to be demolished.

(2) A plan for demolition and a schedule of time to complete the demolition project.

(3) Location of the sites to be used for disposal of debris and proposed routes for the transport of the debris to the sites.

(4) Name and address of the owner of the structure and the notarized signature of the owner or the owner's agent authorizing the contractor to obtain a permit for demolition of the structure.

(5) Name and address of the contractor.

(6) Documentary evidence from an insurance company authorized to do business in the state, indicating a willingness to provide liability insurance required by section 22.03.577.

(7) A statement that the abatement of asbestos hazards will be accomplished in accordance with the applicable city, state and federal laws and regulations, including but not limited to the Texas Asbestos Health Protection Act (TAHPA), specifically Texas Occupations Code section 1954.259(b) requiring that a municipality that requires a person to obtain a permit before renovating or demolishing a public or commercial building may not issue the permit unless the applicant provides:

(A) Evidence acceptable to the municipality that an asbestos survey, as required by this chapter, of all parts of the building affected by the planned renovation or demolition has been completed by a person licensed under this chapter to perform a survey; or

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(B) Certification from a licensed engineer or registered architect, stating that:

(i) The engineer or architect has reviewed the material safety data sheets for the materials used in the original construction, the subsequent renovations or alterations of all parts of the building affected by the planned renovation or demolition, and any asbestos surveys of the building previously conducted in accordance with this chapter; and

(ii) In the engineer's or architect's professional opinion, all parts of the building affected by the planned renovation or demolition do not contain asbestos.

(8) Such additional information as the city inspector considers necessary to promote the implementation or enforcement of this chapter or the protection of the public safety.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.574. Permit issuance; appeal of denial.

(a) Issuance of permit.The city inspector shall issue a demolition permit to the applicant, incorporating any special conditions as part of the permit, if the city inspector determines that:

(1) The applicant has complied with the requirements of sections 22.03.572 and 22.03.573;

(2) The applicant has submitted proof of the insurance coverage and bond required by section 22.03.577;

(3) The methods and procedures to be used by the applicant will comply with the requirements of this chapter and will not present a hazard to the public; and

(4) The applicant has agreed to comply with the special conditions, if any, determined to be necessary by the city inspector.

(b) Appeal of denial.If the city inspector denies issuance of a permit, the applicant may appeal the action to the city council.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.575. Transferability; commencement of work; continuation of work; duration of permit; extension.

(a) Transferability.A demolition permit is not transferable to another.

(b) Commencement of work.A contractor or owner shall begin demolition work authorized by a permit within ten (10) working days from the date the permit is issued, otherwise the permit expires and the contractor or owner must apply for a new permit.

(c) Exception.The time limit in the contract applies to a contractor who demolishes a structure under contract with the city or other governmental entity.

(d) Continuation of work.After beginning a demolition project, a contractor or owner shall work continuously at the normal rate of progress in keeping with good demolition practices until the project is completed.

(e) Expiration of permit.A permit issued for demolition of a structure expires sixty (60) days after the date of issuance if no progress has been made toward completion of the demolition, unless a longer period of time is granted in the permit as a special condition approved by the city

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inspector. Demolition work, including cleanup, authorized by the permit shall be completed within sixty (60) days of the date demolition commences or within the time stated in the special condition.

(f) Extensions of permit.The city inspector may grant an extension of a demolition permit for up to sixty (60) days if the contractor or owner shows good cause for not completing the project within the required time. The maximum number of extensions shall be limited to three (3).

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.576. Cost for changes in public property; equipment or utilities.

The owner of the property to be demolished is responsible for the cost of changes in public property, equipment or utilities, including, but not limited to, damage caused by the demolition activity, removal and reinstallation if damage cannot be avoided, and temporary equipment or utilities if determined to be necessary by the city inspector.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.577. Indemnification; bonding requirements.

(a) Indemnification required.A permittee shall execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property arising out of demolition activities by the permittee that affect public property.

(b) Bond required.No person or entity shall be issued a demolition permit until such person or entity shall have made, executed, and delivered to the city inspector a surety bond in the amount of fifty thousand dollars ($50,000.00) in the name of the city. The said surety bond shall be with a recognized and reliable surety company and shall be approved by the city inspector. Said bond shall hold the city free and harmless from damage or loss of every nature for acts of neglect of the principal of the said bond, its agents, or employees, and said bond shall be held for the benefit and use of the city, or any person injured or damaged by any act or neglect of the principal or its agents or employees, or by reason of failure to repair any defective workmanship or materials without additional cost to the person for whom the work was done within the time prescribed by the city inspector for the completion of such remedial work and guaranteeing compliance with the requirements of this article of all work done by the principal, its agents or employees.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.578. Demolition by city.

This division 18 does not apply to demolition work conducted by city employees in the course of their city employment.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.579. Preparation of the demolition site.

(a) Site preparation requirements.A contractor shall not begin demolition work until all of the following preparations have been made:

(1) Relocate gas, water, steam, storm and sanitary sewer lines that will be used during the demolition process and construct devices to protect the relocated lines.

(2) Shut off and cap accessible gas, water, steam, storm and sanitary sewer lines not required

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during demolition outside the building line and shut off other lines as they become accessible.

(3) Reduce electrical service connections to a minimum needed for the demolition work and relocate and protect needed lines.

(4) Disconnect unneeded electrical service lines outside the property line and conspicuously identify energized circuits.

(b) Notification to utility agencies.A contractor shall notify the appropriate utility agency before making the preparations required in subsection (a)(1) and shall accomplish the disconnections and construction of protective devices in a manner approved by that agency.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.580. Protective devices.

(a) Protective devices.A contractor shall not begin demolition of the exterior walls or roof of a structure until the following protective devices have been constructed when required by the city inspector:

(1) A structure to protect public property and utilities, as illustrated by, but not limited to, fire hydrants, streetlights, signal lights and control boxes, parking meters, utility lines and poles, and traffic signs.

(2) A temporary protective barrier that equals the diameter of the tree canopy for each tree to be preserved. The barrier shall be in place before any site work is initiated and maintained throughout the demolition to avoid impact injuries to the tree and the tree's root system during demolition. During demolition, no excess soil, additional fill, construction equipment, liquids or construction debris shall be placed inside the protective barrier nor shall any soil be removed from within the barrier.

(3) Temporary fencing to enclose the demolition site.

(b) Maintenance and removal of protective devices.A contractor shall maintain the required protective devices so long as a hazard to persons or property exists and shall remove the devices immediately when they are no longer needed for protection.

(c) Water accumulation.Provisions shall be made to prevent the accumulation of water or damage to any foundations on the premises or the adjoining property.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.581. Dust and drainage.

(a) Dust.In order to control dust in the air, a contractor shall do the following:

(1) Maintain an adequate water supply on the demolition site to properly control dust.

(2) Wet down material sufficiently to lay the dust before the material is removed.

(3) Remove asbestos in accordance with applicable city, state and federal laws and regulations, including but not limited to, the TAHPA.

(b) Drainage.A contractor shall maintain the drainage facilities so that stormwater and water used for controlling dust will not cause flooding of streets, sewers or other property.

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(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.582. Hours of operation.

A contractor shall conduct demolition activity on a structure only during the days and hours specified in section 22.03.056 subject to the limitations of article 12.02, noise, and the zoning ordinance, as amended.
(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.583. Removal of material.

A contractor shall remove all material, rubbish and debris at least every other day from the demolition site in accordance with applicable city, state and federal laws and regulations, and in accordance with the routes, disposal sites and precautions established by the city inspector, taking care to maintain adjacent streets, alleys and public ways clear of loose material.
(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.584. Condition of the demolition site.

(a) Site condition upon completion of demolition.Upon completion of a demolition project, a contractor shall:

(1) Leave the demolition site clean (other than living shrubbery and trees);

(2) Remove all portions of the structure, including foundation;

(3) Grade the land to provide adequate drainage;

(4) Fill, level, compact and smooth basements, cellars, wells, cisterns, excavations, holes, voids under public or private sidewalks, or any declivity or depression that extends below the grade of the lot and is an apparent consequence of the demolition;

(5) Install and maintain sod on any disturbed areas of the site for demolition sites located in the one-family residential districts (R-1), two-family residential districts (R-2) or transitional residential districts (R-3), and reseed or take measures to prevent erosion in all other zoning districts;

(6) Repair any damage to the immediately adjacent curbing, sidewalks, streets or alleys that were affected by the demolition activity; and

(7) Owner shall demonstrate to the city inspector, using a pre-and post-demolition camera inspection (or similar), that any city-owned sanitary sewer line was undamaged by the demolition activities. The scope of the inspection shall include:

(A) Any city-owned sewer main that is within the demolition site; and

(B) The sewer tap connecting demolition site to the city-owned sewer line, and 50 feet (both upstream and downstream) of said tap.

(Ordinance 2020-219 adopted 12/9/20)

§ 22.03.585. Penalty.

Any person, firm, association, delegation or group who violates any provision of this division shall

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be guilty of a misdemeanor and, upon conviction, shall be punished according to the general penalties described in section 1.01.013. Each day any violation continues to exist shall constitute a separate offense.
(Ordinance 2020-219 adopted 12/9/20)

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Chapter 36

SUBDIVISIONS

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ARTICLE 36.01
GENERAL PROVISIONS[1]

§ 36.01.001. Authority for adoption of chapter.

This article is adopted under the authority of the constitution and laws of the state, particularly Texas Local Government Code, chapter 212.
(Ordinance 378 adopted 9/11/19)

§ 36.01.002. Purpose of chapter.

The purpose of this article is to provide for the orderly, safe and healthful development of the area within the corporate limits of the city and the city's extraterritorial jurisdiction, and to promote the health, safety, and general welfare of the entire community.
(Ordinance 378 adopted 9/11/19)

§ 36.01.003. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley. A minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

Application. A written request to the city for an approval required by this chapter that contains all information required by this chapter and that has been deemed administratively complete by the city.

Application package. The letter given to the city on the date of submission, original plat, three (3) full-sized copies, and all required attachments and as deemed administratively complete by the city. These materials shall be addressed to the zoning and planning commission or city administrator depending on review authority.

Applicant. A person or entity who submits to the city an application for an approval required by this chapter. To be qualified as an applicant under this chapter, the person or entity must have sufficient legal authority or proprietary interests in the land to commence and maintain proceedings under this chapter. The term shall be restricted to include only the property owner(s), or a duly authorized agent and representative of the property owner.

Block. A combination of two or more lots into a unit within a subdivision.

Building. Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

Certificate of completeness. Certification provided by the city to an applicant when a submission

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1. **Editor's Note–This Article Consists Of The Subdivision Ordinance Originally Published As Chapter 74 In The 1996 Code Of Ordinances As Subsequently Amended. Section Numbers, Style, Capitalization And Formatting Have Been Changed To Be Consistent With The Remainder Of The Code Of Ordinances, And This Will Be Maintained In Future Amendments To This Chapter. Changes In The Names Of State Agencies Have Been Incorporated Without Notation. Obviously Misspelled Words Have Been Corrected Without Notation. Except For These Changes, Such Ordinance Is Printed Herein As Enacted And Amended. Any Other Material Added For Purposes Of Clarification Is Enclosed In Brackets.**

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has been deemed administratively complete and the written request becomes a filed application.

City administrator. The city's chief administrative officer, as appointed by the city council. The term also includes the city administrator, or the city administrator's designee.

Commission. The zoning and planning commission ("ZAPCO") of the city.

Commercial overlay district plan. The overlay plan that supplements the city's master plan and comprehensive plan and affects the city's commercial corridor along Bee Caves Road.

Comprehensive plan and master plan. The plan required by Texas Local Government Code section 211.004. The comprehensive plan is an independent, long range plan for use and development of land within the city and in the city's extraterritorial jurisdiction. The city's comprehensive plan is entitled "The Master Plan for the City of West Lake Hills, Texas," adopted in January 1979, as amended.

Condominium. A form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the owners of those portions. Real property is a condominium only if one or more of the common elements are directly owned in undivided interests by the unit owners. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is owned by the unit owners. Condominiums are established in accordance with the requirements of the Texas Uniform Condominium Act codified in chapter 82 of the Texas Property Code. A condominium is a form of ownership and not a specific building type or style.

Condominium association. An association, organized pursuant to section 82.101 of the Texas Property Code, whose members consist of owners of Units in a condominium, which administers and maintains the common property and common elements of a condominium.

Construction. Any clearing of land, excavation or other action that would adversely affect the natural environment of the site but does not include uses in securing survey or geological data, including necessary borings to ascertain subsurface conditions.

Control points (monuments). Those that control or are used to relocate lost or obliterated property corners. Control points (monuments) are placed where they are least likely to be destroyed and where they can be conveniently used.

Cul-de-sac. A street having but one outlet to another street and terminated on the opposite end by a vehicular turnaround.

Dead-end street. A street, other than a cul-de-sac, with only one outlet.

Density. A measure of the degree, extent, or magnitude of land development for single-family dwellings, computed by dividing the number of lots in a proposed residential subdivision by the total acreage of the tract to be subdivided, and expressed as a decimal, fraction, percentage, or ratio.

Engineer. A person duly authorized under the provisions of the Texas Engineering Practice Act, V.T.C.A., Occupations Code, chapter 1001, as amended, to practice the profession of engineering.

Erected. Built, constructed, altered, reconstructed, poured, laid, moved upon or any physical operations on the premises which are required for construction. Excavation, site clearance, landfill and the like shall be considered a part of erection.

Extraterritorial jurisdiction. That land not within the corporate limits of the city, but land over

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which the city has jurisdiction by virtue of V.T.C.A., Local Government Code chapter 42.

Filing. The date on which either:

(1) An administratively complete application package for a plan, plat, or permit is submitted to the city and determined to be administratively complete by the city administrator; or

(2) The tenth (10th) business day after a submission has been submitted to the city if the city administrator has not yet acted on the submission.

Front. The area that generally runs between the property lines facing or abutting any public or private streets, and through the point(s) on the house/structure closest to the street(s).

Impervious cover. ~~Manmade or constructed coverage of the natural ground with any structure or surface that impedes, inhibits or does not permit the absorption or passage of water. Impervious cover includes, but is not limited to, buildings, parking areas, roads, streets, driveways, sidewalks, swimming pools, impermeable concrete, asphalt paving, compacted base material, and brick pavers on compacted base. Permeable pavement, pavers and manmade areas of compacted or uncompacted rock or stone shall be considered 100 percent impervious cover regardless of how much water they allow to pass through to natural ground. Decks that allow the passage of water to natural ground shall be considered 50 percent impervious cover. Roof overhangs/eaves are not considered impervious cover.~~ For the definition of impervious cover and the calculation of impervious cover percentages, including the classification of materials and surfaces and their applicable impervious cover values, see the Drainage and Erosion Control Design Manual.

Lot. An undivided tract or parcel of land having access to a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed for record.

Multifamily structure. A structure containing three or more dwelling units.

Officer. Any officer referred to in this article by title means the person employed or appointed by the city in that position, or their duly authorized representative.

Organized disposal system. Any public or private system for the collection, treatment and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Commission on Environmental Quality.

Pavement width. The portion of a street available for vehicular traffic. Where curbs are laid, it is the portion between the face of the curbs.

Person. Any individual, association, firm, corporation, governmental agency or political subdivision.

Plat. A document, prepared by a registered land surveyor or professional engineer, that depicts the subdivision of land into lots and blocks (and sometimes the combination of land) for the purpose of identifying property. For the purposes of these regulations, the following definitions are included:

(1) Amending plat. A subdivision plat which includes a plat revision to correct errors or make minor changes to a recorded plat.

(2) Final plat. The official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners, curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in

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the land records of Travis County, Texas.

(3) Minor plat. A subdivision resulting in four or fewer lots, provided that the plat does not require the creation of new streets or the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be served or be able to be served by all required city utilities and services, and all lots will have access from a public street that has already been improved to city standards.

(4) Major plat. All plats not classified as a minor plat, including, but not limited to subdivisions of more than four lots, or any plat that requires the construction a new street (or portion thereof) or the extension of a municipal facility as required by these regulations or any other city ordinance. Major plat approval shall be in accordance with state law.

(5) Preliminary plat. A subdivision plat which is the graphic expression of the proposed overall plan for subdividing, improving and developing a parcel proposed for development, showing the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the parcel proposed for development.

(6) Replat. A subdivision plat which involves the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot, or tract.

Plat vacation. Plat vacation means an instrument that declares that a plat and its dedication is vacated or cancelled and that the land be converted to acreage.

Private sewage facility. Any septic system or method for the storage, treatment or disposal of sewage other than an organized disposal system operated in accordance with the terms and conditions of a permit from the city.

Right-of-way. Any travel way open to the general public for travel or land dedicated for eventual travel by the public. A dedicated right-of-way may, in addition to travel by the public, be used for installation of utilities or other public purposes.

Septic system. A private sewage facility for disposing of sewage through soil absorption and includes as components the line from the building to the septic tank, the septic tank (with one or more compartments), and the soil absorption system or evapotranspiration beds.

Setback distance. The minimum distance required between a ~~structure and the~~ building setback and the street ~~front~~, side or rear boundary line of the parcel of land on which the structure is located.

Street. The entire width of a right-of-way between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(1) Arterial street. An arterial street is a street that primarily provides vehicular circulation to various sections of the city, such as Redbud Trail.

(2) Collector street. A collector street is a street that primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas, such as Yaupon Valley Road.

(3) Minor street. A minor street is a street used primarily for access to abutting residential property, such as Flintridge Road.

(4) Private street (access easement). A private street (access easement) is a street which is not a public street or a public right-of-way, primarily for access to residential property.

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Structure. Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having a location on the ground.

Subdivider. Any person or any authorized agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined in this section. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

Subdivision.

(1) Subdivision means a division of any parcel of land situated within the corporate limits or the extraterritorial jurisdiction, in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the city, or for laying out of suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(2) Subdivision of any lot, tract or parcel of land into two or more lots, units or sites, for the purpose of sale or of building development, whether immediate or future, and the vacation and resubdivision of land, lots or units, shall be subject to the prior approval of the city council or other approval authority in accordance with the terms of this article and applicable state law. The terms "subdivision" and "resubdivision" shall not include the conveyance or dedication to, any governmental entity of a portion of any lot, unit, tract or parcel of land for additional right-of-way for any existing public street or highway, whether by purchase or condemnation, provided that such government acquisition does not bisect the original tract into two or more lots, tracts or parcels, and provided in case of conveyance or dedication that such division be by metes and bounds description and not by plat and not be pursuant to or in connection with any division or redivision of any part of the unacquired portion of the tract that is not so acquired by or dedicated to the governmental entity. A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, a condominium declaration, or by using any other method. A division of land under this definition does not include a division of land into parts greater than five acres, where each party has access and no public improvement is being dedicated.

Subdivision gross area. The total area (in acres) of the land located within the boundary of a tract of land to be subdivided or joined into one or more lots.

Subdivision net area. The area (in acres) of the land located within the boundary of a tract of land to be subdivided or joined into one or more lots after subtracting the area (in acres) of all public right-of-way(s) that are located within the boundaries of the land to be subdivided.

Submission. A written request for a plat, replat, plan, or variance.

Surveyor. A licensed state land surveyor or a registered public surveyor, as authorized by the state statutes to practice the profession of surveying.

Tract of origin. The parcel(s) of land in existence prior to being subdivided.

Unit. A physical portion of a condominium designated for separate ownership or occupancy, the boundaries of which are described by the condominium declaration.

Utility easement. An interest in land granted to the city, or to the public generally, or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the

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maintenance of such utilities.

Yard. The open area between building setback lines and lot lines.

(b) Definitions not expressly prescribed in this section are to be construed in accordance with customary usage in municipal planning and engineering practices.

(Ordinance 2020-014 adopted 10/14/20)

§ 36.01.004. Special provisions.

(a) Subdivision approval required.No land in the city or its extraterritorial jurisdiction shall be divided into one or more lots or units until such subdivision of land has been approved by the city council or city administrator, where applicable, in accordance with the regulations in this article.

(b) Prerequisites for issuance of permits.No permit shall be issued pursuant to any city ordinance for any structure or for the repair, modification or installation of a private sewage facility upon any lot or unit in a subdivision or resubdivision for which a final plat has not been approved and filed for record by the city, or upon any lot or unit in a subdivision in which the standards contained in this article or referred to in this article have not been complied with in full.

(c) Exemptions.The provisions of subsection (b) of this section shall not be construed to prohibit the issuance of permits (except a private sewage facility permit) for any lot or unit upon which a safe building exists (see article 22.03) and upon which the building was in existence prior to March 9, 1994. The provisions of subsection (b) of this section shall not be construed to prohibit the repair, maintenance or installation of any street or public utility services for, to or abutting any lot or unit, the last recorded conveyance of which, prior to March 9, 1994, was by recorded subdivision, or lot therein, which subdivision was recorded by the city, and in existence prior to March 9, 1994.

(d) Legal action.On behalf of the city, the city attorney shall, when directed by the city council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this article or the standards referred to in this article with respect to any violation thereof which occurs within the city as such jurisdiction is determined under V.T.C.A., Local Government Code chapter 42, or within any area subject to all or a part of the provisions of this article.

(e) Exemptions pertaining to tracts of real property located in the city's extraterritorial jurisdiction.The following cited references to this article of the code shall not apply to tracts of real property located in the city's extraterritorial jurisdiction:

(1) Section 36.01.008(a)(1)(A).

(2) Section 36.01.008(a)(1)(B).

(3) Section 36.01.008(a)(1)(D).

(f) Vacation of plan or plat; recording replat or resubdivision without vacation.A replat or plat vacation, as defined by chapter 212.014, shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the following to be filed:

~~(1) Three (3) half-sized copies to scale;~~

(1) An electronic copy properly scaled and formatted to 18 inches by 24 inches in pdf format. ~~deemed acceptable by city staff (i.e. PDF);~~

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(2) A completed application;

(3) The required submission fee; and

(4) A certificate or some other acceptable form of verification from Travis County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property.

(5) An application shall be deemed filed on the date which a complete submission for approval of a vacation of a plan or plat, or recording replat or resubdivision, that contains all required elements mandated by the Local Government Code and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be rendered to the city within the timelines established by this chapter and accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten (10) business days following the date on which the submission was first received by the city, shall result in the submission being deemed administratively complete, the submission becoming an application, and the filing date shall become that day.

(6) The proprietor of land covered may seek vacation of any subdivision plat or plan covered thereby at any time before the sale of any lot therein by a written instrument declaring the plat or plan to be vacated, duly executed, acknowledged and recorded in the same office as the plat to be vacated, provided the approval of the city council shall have been obtained. The execution and recordation of the instrument authorizing the vacation approved by the city council shall operate to destroy the force and effect of the recording of the subdivision plan, plat or replat so vacated.

(7) In cases where lots have been sold, the subdivision plan, plat or replat, or any part thereof, may be vacated upon the application of all the owners of lots in the subdivision plat and with the approval of the city council. When the plat is vacated by the city council, the city secretary shall deliver to the county clerk the appropriate instrument so that the county clerk may indicate that the subdivision plan, plat or replat was vacated.

(8) Any resubdivision or replatting of any existing subdivision or a portion thereof which cannot meet the criteria set out in subsections (6) and (7) of this subsection may be resubdivided and replatted without the vacation of the immediate previous plat after approval by the city council provided that the applicant has met all of the requirements of state law (see V.T.C.A., Local Government Code sections 212.014– 212.016).

(9) When determining whether to grant a proprietor's application to vacate a plat or plan, the city council to any such approval any reasonable and related terms or conditions necessary to mitigate any anticipated adverse effects upon neighboring properties or public infrastructure expected to result from the proposed vacation. The city council may decline to grant plat vacation if the city council concludes that the requested action would create a nonconforming use.

(10) Per Texas Local Government Code, 212.015, if a proposed replat does not require a variance, the city shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the

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original subdivision that is within 300 feet of the lots to be replatted according to the most recent city or county tax roll. Written notice shall be given by depositing a copy of the notice with postage paid in the mail addressed to each owner at the owner's address shown in the Travis County Appraisal District database. The notice shall include: (A) the zoning designation of the property after the replat; and (B) a telephone number and e-mail address an owner of a lot may use to contact the city about the replat.

(g) Amending plats.The city administrator may approve and issue an amending plat which may be recorded and is controlling over the preceding plat without vacation of that plat, provided the plat is signed by the applicants, for any one or more of the purposes set forth in the following subsections, and such approval and issuance shall not require notice, hearing or approval of other lot or unit owners. An amending plat, as defined by chapter 212.016, shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the following to be deemed filed:

(1) An electronic copy properly scaled and formatted to 18 inches by 24 inches in pdf format. ~~Three (3) half-sized copies to scale;~~

(2) A completed application;

(3) The required submission fee;

(4) A certificate or some other acceptable form of verification from Travis County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property; and

(5) An application shall be deemed filed on the date which a complete submission for approval of an amending plat, that contains all required elements mandated by the Local Government Code and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be rendered to the city within the timelines established by this chapter and accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten (10) business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application, and the filing date shall become the 10th business day following initial receipt of the application by the city.

(h) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, be processed as required by section 36.01.018 and the other applicable provisions of this code, and shall be accompanied by:

(1) An electronic copy properly scaled and formatted to 18 inches by 24 inches in pdf format. ~~Three (3) half-sized copies to scale;~~

(2) An electronic copy in a format deemed acceptable by city staff (i.e. PDF);

(3) A completed application;

(4) The required submission fee; and

(5) A certificate or some other acceptable form of verification from Travis County Central Appraisal District showing that all taxes have been paid on the subject property and that no

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delinquent taxes exist against the property.

(i) Applicability of this section to existing lots or units.This section shall not be construed to limit the rights to building permits on subdivisions and lots or units previously approved as to lot or unit size, lot or unit dimensions, lot or unit coverage, or building size, provided that all other provisions and related ordinances are complied with.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19; Ordinance 2025-005 adopted 6/25/2025)

§ 36.01.005. Preliminary conference.

(a) Overview.The preliminary conference process below is described sequentially. The purpose of the preliminary conference is to begin a dialogue between the subdivider and the city. A preliminary conference is required before a submission for a preliminary plat, minor plat, amending plat, plat vacation, or replat submission is submitted to the city.

(b) Preliminary conference request submission.Subdividers shall provide the city with the following information:

(1) A description of the property proposed to be developed or subdivided;

(2) The name of the current owner of record;

(3) A statement of the subdivider's interest in the property, i.e. ownership or otherwise;

(4) The intended use of the proposed development or subdivision;

(5) Payment of a filing fee as established by the council;

(6) Proof of utility availability and required easements, including approved septic permit or central sewer, if applicable; and

(7) Proof of approval of any county, Texas Department of Transportation driveway cuts and easements, or any other required state or county approval, as applicable.

(c) Preliminary conference.Upon receipt of preliminary conference request submission, the city administrator, or the director of building and development services, will schedule a preliminary conference. In addition to the city administrator and subdividers or their representative(s), the mayor or a councilmember, a commissioner, the city's consulting engineer, and the director of building and development services should attend this conference, if possible. If the city's consulting engineer attends the preliminary conference, it will be the subdivider's responsibility to compensate for engineer's time at the conference. The purpose of this preliminary conference is to review or establish:

(1) The subdivider's conceptual plans for the proposed subdivision.

(2) The zoning status of the property to be subdivided if within the city limits.

(3) Plans or policies that might affect the property to be subdivided.

(4) Determine if any variance must be approved before the subdivider may submit an application for subdivision.

(5) Determine if any other issues must be decided before the application for subdivision may

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be filed.

(d) Conceptual plan.The conceptual plan may be in sketch form and shall be prepared at a scale no smaller than one inch to 200 feet. The plan shall contain:

(1) A north arrow and location map showing the location of the proposed subdivision in relation to major roads and topographic features.

(2) The approximate location of the property boundaries to be subdivided. If the proposed subdivision is a portion of a larger tract of land, the exterior boundary of the parent tract shall be shown on the conceptual plan and the future plans for the remaining property shall be noted.

(3) The approximate location, width, and surfacing of streets; approximate width and depth of all lots or units, alleys, and easements.

(4) Major topographic features, such as creeks, bluffs, etc., on or adjacent to the property, contour lines of the proposed property (U.S. Geological Survey topographic maps are acceptable), designation of flood prone areas, approximate drainage system, any proposed changes to the existing contour of the land, and other information deemed pertinent.

(5) Proposed approximate location of surrounding residences, businesses, industry, churches, park areas, and other land uses.

(6) A statement as to the ultimate jurisdiction for the maintenance of the roads and common areas within the subdivision.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.006. Preliminary and final plat filing procedure.

(a) General.After considering input received from the preliminary conference, the subdivider may submit a request for a preliminary or final plat and the following with the city:

(1) A completed formal application for preliminary or final plat approval.

(2) Payment of the fee established by the city council.

(3) Proof of utility availability and required easements, including approved septic permit or central sewer, if applicable.

(4) Proof of approval of any county, Texas Department of Transportation driveway cuts and easements, or any other state or county approvals, as if applicable.

(5) Narrative describing how the plat meets each section of the city's code related to the plat or which references approved variances.

(6) For a final plat submission, the submission shall include the approved preliminary plat.

(b) Zoning change or annexation request.If a zoning change is required for a preliminary plat submission, or if the property owner desires annexation of the parcel to be platted, the subdivider shall be required to obtain all annexation and zoning approvals prior to submitting for preliminary plat approval. The preliminary plat application shall not be considered filed until any requested zoning or annexation request is finalized.

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(c) Time for filing and copies required.~~Eight legible copies of the preliminary plat and an~~ An electronic copy properly scaled and formatted to 18 inches by 24 inches in pdf format ~~in a format deemed acceptable by city staff~~ shall be submitted to the zoning and planning secretary. Two copies for the city; for any other entity that has reviewing authority for the plat; two copies for the city's consulting engineer; and one copy for Travis County Engineer.

(d) Preliminary and final plat contents.Please refer to section 36.01.007 for the required contents of the preliminary or final plat.

(e) A preliminary or final plat shall meet all of the informational and procedural requirements set forth in section 36.01.007, and shall be accompanied by:

(1) A completed application;

(2) The required submission fee;

(3) A certificate or some other acceptable form of verification from Travis County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property; and

(4) Tree survey as required by section 22.03.304.

(f) An application shall be deemed filed on the date which a complete submission for approval of a preliminary or final plat, that contains all required elements mandated by the Local Government Code and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be rendered to the city within the timelines established by this chapter and accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten (10) business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application, and the filing date shall become the tenth (10th) business day following initial receipt of the application by the city.

(g) Additional requirements.Failure to provide the following information (when applicable) shall result in an incomplete submission.

(1) List of property owners.The preliminary plat submittal shall contain a listing of all adjacent property owners and other property owners within 200 feet of the property proposed to be subdivided, with addresses as recorded by the Travis County Appraisal District.

(2) Texas Department of Transportation. In those cases where the proposed subdivision affects access adjacent to right-of-way under control of the Texas Department of Transportation, the applicant shall show approval of access and compliance with any comments of the Texas Department of Transportation prior to submission.

(h) City engineer and building official review.For determining whether a submission is administratively complete, the city's engineer, the city's building official, and director of building and development services shall within ten (10) business days from the date the preliminary or final plat submission:

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(1) Review and confirm that the information required is on or attached to the preliminary or final plat.

(2) The engineer shall notify the applicant of any incomplete submissions and shall specify the necessary documents or other information needed to be provided to the city and the date the application will expire if the documents or other information is not provided.

(3) The engineer shall advise the city of deficiencies noted and provide a copy of these deficiencies to the subdivider.

(4) The preliminary plat shall only be filed once it is determined to be administratively complete by the city administrator in consultation with the city engineer and the city building official.

(i) Processing of preliminary or final plat.

(1) The subdivider shall submit complete copies of the preliminary or final plat and accompanying GIS data to the zoning and planning secretary as well as all other required documentation. The time periods for review and approval specified in this section shall not commence unless the plat and accompanying data are complete, all fees are paid, and the plat is deemed administratively complete and filed.

(2) The zoning and planning commission, the city's planner and/or engineer, and the city council shall check the preliminary or final plat as to its conformity with this article, the master plan, traffic plan, zoning districts and the standards and specifications set forth herein.

(3) The city's engineer shall return the preliminary plat data to the commission, city council, and the subdivider with recommendations as to modifications, additions or alterations of such plat data.

(4) Within 30 days after the complete preliminary or final plat is filed, the commission shall:

(A) Recommend approval of the preliminary or final plat,

(B) Recommend disapproval of the preliminary or final plat with citation to the law, including statute or city ordinance, that is the basis for the disapproval, or

(C) Recommend conditional approval of the preliminary or final plat with specific citation to the law, including statute or municipal ordinance, that is the basis for the conditions.

(5) Within 30 days after the commission makes its recommendation the city council shall:

(A) Approve the preliminary or final plat,

(B) Disapprove the preliminary or final plat with citation to the law, including statute or city ordinance, that is the basis for the disapproval; or

(C) Conditionally approve the preliminary or final plat with specific citation to the law, including statute or municipal ordinance, that is the basis for the conditions.

(6) If the preliminary or final plat is disapproved, then the subdivider may submit to the city council a written response that remedies each reason for disapproval provided.

(7) If the subdivider responds to the written comments, the city council will set a meeting within

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fifteen (15) days of resubmission to review the written comments. At the meeting the city council may:

(A) Approve the conditionally approved or disapproved plat; or

(B) Disapprove the plat based on noncompliance with city code or state law. If disapproved, the city council shall provide a written statement to the subdivider listing the deficiencies the plat has as related to specific city ordinances or other law.

(8) Approval of a preliminary plat by the city council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the final design and installation of streets, water, sewer and other required improvements and utilities and to the preparation of the final or record plat. Approval of a preliminary plat shall not constitute automatic approval of the final plat or construction plans.

(9) Approval of a preliminary plat by the city council shall be effective for 365 calendar days.

(10) If the final plat has not been accepted and recorded within six months of preliminary plat approval, the city administrator may, upon the application of the subdivider, extend the approval for an additional 365 calendar days.

(j) Copy distribution.Following the city council's action, one of the three copies shall be returned to the subdivider, one shall be filed with the city secretary, and one shall be furnished to the city's engineer.

(k) Preliminary plat conditions.Approval of the preliminary plat does not constitute acceptance of the subdivision but is authority to proceed with the preparation of construction plans or final plat. Any development within the subdivision before the final plat is accepted and recorded is performed at the risk of the subdivider. Approval of a preliminary plat expires at the end of 365 calendar days, unless a final plan of at least a portion of the tract has been submitted to the city. The commission may, if a written request from the subdivider is received prior to the end of the 365 calendar day period, grant an extension for up to 365 calendar days. Only one such extension shall be granted. If any major changes are required by the commission, the council may require submission of another preliminary plat.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.007. Plat preparation, contents, and submittal.

(a) Generally.The subdivider shall have a plat prepared by a surveyor or engineer in accordance with this section.

(b) Early review.To assist in meeting all the requirements of this article, applicants shall be required to attend a preliminary conference.

(c) Formal application and filing date.Subdividers shall apply by letter, accompanied by the original plat, three full-sized copies, an electronic copy in a format deemed acceptable by city staff, and all required attachments, addressed to the zoning and planning commission (ZAPCO) or city administrator as applicable. Applications must be administratively complete to be considered filed and shall be delivered to the city administrator, city secretary, or administrative secretary for zoning and planning, including all required approved variances, utilities, and other approvals. Administratively incomplete applications will not be accepted for filing.

(d) Filing fee.A filing fee set by the city council shall be paid at the time of submission.

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(e) Changes/updates; copies required.Additional information, plat changes or updates may be submitted in response to comments/requests by the city staff or consultants; such submission will not be accepted ~~after 5:00 p.m. of the Thursday prior to the ZAPCO meeting, if ZAPCO approval is required. Ten (10) administratively complete application packages are required before ZAPCO meetings, if ZAPCO recommendation is required. Ten (10) administratively complete application packages are required before the city council meetings, if city council approval is required.~~ after the deadline on the submittal calendars annually approved by city council. If the plat may be administratively approved as detailed in this ordinance, then such submissions shall be made to the city administrator.

(f) Form and contents.The plat shall be drawn in indelible ink or typed and, prior to recording, three copies on paper, mylar or similar material eighteen (18) inches by twenty-four (24) inches shall be furnished to the city and the county clerk at the subdivider's expense. The plat shall be drawn to a scale of hundred (100) feet to one (1) inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1) Preliminary plats.

(A) The plat shall show the names and addresses of the subdivider, record owner, engineer and surveyor.

(B) The plat shall show the proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the city or within the area of extraterritorial jurisdiction of the city or within the county.

(C) The plat shall show the names of contiguous subdivisions and the owners of contiguous parcels of subdivided and unsubdivided land, and an indication of whether or not contiguous properties are platted.

(D) The plat shall show primary control points or descriptions, and ties to such control points, to which all dimensions, angles, bearings, block numbers and similar data shall be referred.

(E) The plat shall show subdivision boundary lines, indicated by heavy lines, and the computed acreage of the total subdivision and each lot therein.

(F) The plat shall show existing and proposed sites in a legible manner as follows:

(i) The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance and length of all curves where appropriate, and location of active private sewage drainfields.

(ii) The exact location, dimensions, description and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, units, existing structures and other sites within the subdivision with accurate dimensions, bearing or deflecting angles with radii, area and central angles, degree of curvature, tangent distance and length of all curves where appropriate.

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(iii) The location and size of existing water lines and fire hydrants and one copy of plans and profiles of all proposed water lines and fire hydrants as approved by Travis County WC&ID No. 10.

(iv) The plat shall show the 100-year floodplain limits of the floodway and elevation data bearing the seal of an engineer. In accordance with section 60.3(b)(3) of the National Flood Insurance Program regulations, all new subdivision proposals and other proposed developments greater than fifty (50) lots or units or five (5) acres, whichever is the lesser, shall include within such proposals base flood elevation data, including floodplain or other boundary lines, reference marks and elevation data (floodway, velocity zones, etc.) transferred from the flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM). The data source and source date should also be included. All data shall bear the seal of an engineer.

(v) The location of the fifty (50) foot undisturbed conservation easement required for all subdivisions larger than five (5) acres.

(vi) The date of preparation, scale of the plat and north arrow shall be shown.

(vii) The plat shall show density calculation based on total area of the subdivision in acres, multiplied by 0.67 and rounded down to the nearest whole number per section 36.01.008(2)(G) and a number (e.g., lot or unit 1, lot or unit 2, etc.) to identify each lot, unit or site and each block, and the exact (acreage) size of each lot.

(viii) The plat shall show the location of the city limits boundary line, the outer border of the city's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary. Zoning district classification within the corporate limits of the city, or land usage as shown in the master plan for the city's extraterritorial jurisdiction, shall be designated on each lot or unit.

(ix) A vicinity sketch or map shall be included, which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity. Such map shall be drawn at a scale in which such facilities can be clearly displayed.

(x) The general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric and sanitary sewer connections, shall be shown by arrows. Such facilities shall be drawn at a scale in which such data can be clearly displayed.

(xi) Plats shall indicate that each residential lot is of the minimum area prescribed in section 22.03.281(b), including public utility easements but excluding public streets and drainage easements. All lots or units shall have direct access to a public street.

(xii) Plats for multifamily housing developments shall contain indications of lot or unit size for such development and an indication that each lot or unit contains a minimum of one-quarter acre per bedroom for each family unit. All other lots or units shall contain dimensional regulation requirements as provided in this

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article.

(xiii) A statement shall be included covering all aspects of private sewage facilities in accordance with article 18.03.

(xiv) Applicants shall submit with plats copies of all deed restrictions, restrictive covenants, and declarations of covenants, conditions, and restrictions applicable to the land. The plat shall include a statement indicating such documents, with provisions for the document number in deed records.

(xv) A statement shall be included as to the degree of lot or unit clearance planned and the methods for maximum preservation of live trees and vegetation, including the applicable percentage of impervious cover for the anticipated land usage.

(xvi) The proposed plat and planned site improvement data shall be submitted on all nonresidential land usage subdivisions and residential land usage subdivisions over three lots or units, or five acres for review and recommendation by the city staff and consultants before referral to the commission and city council. Planned site improvement data includes the following information:

a. The existing and proposed conditions of the lot(s) or unit(s), including but not necessarily limited to topography, vegetation, drainage, floodplains and waterways;

b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices. All driveways are limited to undeveloped slopes below 25 percent gradient; and

c. Any other information that may be reasonably required in order to determine whether the proposed development complies with the criteria and standards in this article and with the requirements of other city ordinances.

(xvii) The subdivider shall be required to provide the city with a topographic map with contour lines at one-foot intervals for at least 25 feet upslope and at least 50 feet downslope of the proposed primary and alternate sewage disposal field areas as certified on a ground survey performed by a professional registered surveyor. The subdivider shall be required to provide the city with a topographic map with contour lines at two-foot intervals for property not designated for the primary and alternate sewage disposal areas as certified on a ground survey performed by a professional registered surveyor. New development on lots or units subdivided after July 1, 1991, shall not dispose of effluent on natural slopes in excess of 30 percent. Any submission including disposal of effluent in contravention of this section must include an approved variance from this section, as reviewed by ZAPCO and city council, or will not be considered administratively complete.

(G) The plat shall include the following applicable certification, executed by the appropriate person pertaining to:

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(i) Streets and roads (county or city, as applicable).

(ii) Travis County Water Control and Improvement District No. 10 certification.

(iii) Feasibility certification of private on-site sewage disposal facilities.

(iv) Sanitation certification.

(v) Floodplain certification.

(vi) Lot clearance and cover limitations.

(vii) Edwards Aquifer Recharge Zone certification, as applicable.

(viii) Owner's acknowledgment.

(ix) Certification by the surveyor.

(x) Certificate by the engineer (if applicable).

(xi) Certificate by the city arborist regarding Oak Wilt.

Examples of appropriate language for these certifications are set forth in appendix A to this article.

(2) Final plat.

(A) The plat shall show the names and addresses of the subdivider, record owner, engineer and surveyor.

(B) The plat shall show the proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the city or within the area of extraterritorial jurisdiction of the city or within the county.

(C) The plat shall show the names of contiguous subdivisions and the owners of contiguous parcels of subdivided and unsubdivided land, and an indication of whether or not contiguous properties are platted.

(D) The plat shall show primary control points or descriptions, and ties to such control points, to which all dimensions, angles, bearings, block numbers and similar data shall be referred.

(E) The plat shall show subdivision boundary lines, indicated by heavy lines, and the computed acreage of the total subdivision and each lot therein.

(F) The plat shall show existing and proposed sites in a legible manner as follows:

(i) The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance and length of all curves where appropriate, and location of active private sewage drainfields.

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(ii) The exact location, dimensions, description and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, units, existing structures and other sites within the subdivision with accurate dimensions, bearing or deflecting angles with radii, area and central angles, degree of curvature, tangent distance and length of all curves where appropriate.

(iii) The location and size of existing water lines and fire hydrants and one copy of plans and profiles of all proposed water lines and fire hydrants as approved by Travis WCID No. 10.

(iv) The plat shall show the 100-year floodplain limits of the floodway and elevation data bearing the seal of an engineer. In accordance with section 60.3(b)(3) of the National Flood Insurance Program regulations, all new subdivision proposals and other proposed developments greater than fifty (50) lots or units or five (5) acres, whichever is the lesser, shall include within such proposals base flood elevation data, including floodplain or other boundary lines, reference marks and elevation data (floodway, velocity zones, etc.) transferred from the flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM). The data source and source date should also be included. All data shall bear the seal of an engineer.

(v) The location of the fifty (50) foot undisturbed conservation easement required for all subdivisions larger than five (5) acres.

(vi) The date of preparation, scale of the plat and north arrow shall be shown.

(vii) Identify each lot, unit or site and each block, and the exact (acreage) size of each lot.

(viii) The plat shall show the location of the city limits boundary line, the outer border of the city's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary. Zoning district classification within the corporate limits of the city, shall be designated on each lot or unit.

(ix) A vicinity map shall be included, which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity. Such map shall be drawn at a scale in which such facilities can be clearly displayed.

(x) Plats shall indicate that each residential lot is of the minimum area prescribed in section 22.03.281(b) or section 36.01.008(2)(D) and table 36-1, as applicable, including public utility easements but excluding public streets and drainage easements. All lots or units shall have direct access to a public street.

(xi) Plats for multifamily housing developments shall contain indications of lot or unit size for such lot development and an indication that each lot or unit contains a minimum of one-quarter acre per bedroom for each family unit. All other lots or units shall contain dimensional regulation requirements as provided in this article.

(xii) A statement shall be included covering all aspects of private sewage facilities in

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accordance with article 18.03.

(xiii) Applicants shall submit with plats copies of all deed restrictions, restrictive covenants, and declarations of covenants, conditions, and restrictions applicable to the land for approval. Such documents are discouraged and must specifically refer to the city's master plan and must not conflict with the city code. The plat shall include a statement indicating such documents, with provisions for the document number in deed records.

(xiv) A statement shall be included as to the degree of lot or unit clearance planned and the methods for maximum preservation of live trees and vegetation, including the applicable percentage of impervious cover for the anticipated land usage.

(xv) The proposed plat and planned site improvement data shall be submitted on all nonresidential land usage subdivisions and residential land usage subdivisions over three lots or units, or five acres for review and recommendation by the city staff and consultants before referral to the commission or city administrator. Planned site improvement data may be required to include the following information:

(a) The existing and proposed conditions of the lot,(s) or unit(s), including but not necessarily limited to topography, vegetation, drainage, floodplains and waterways;

(b) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices. All driveways are limited to undeveloped slopes below 25 percent gradient; and

(c) Any other information that may be reasonably required in order to determine whether the proposed development complies with the criteria and standards in this article and with the requirements of other city ordinances.

(G) The plat shall include the following applicable certification, executed by the appropriate person pertaining to:

(i) Streets and roads (county or city, as applicable).

(ii) Travis County Water Control and Improvement District No. 10 certification.

(iii) Feasibility certification of private on-site sewage disposal facilities.

(iv) Sanitation certification.

(v) Floodplain certification.

(vi) Lot clearance and cover limitations.

(vii) Edwards Aquifer Recharge Zone certification, as applicable.

(viii) Owner's acknowledgment.

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(ix) Certification by the surveyor.

(x) Certificate by the engineer (if applicable).

(xi) Certificate by the city arborist regarding Oak Wilt.

Examples of appropriate language for these certifications are set forth in appendix A to this article.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.008. Construction plans.

After approval of the preliminary plat, but before submission for approval of the final plat, technical support data shall be furnished, in an overlay format approved by the city administrator, for the following:

(1) Engineering plans and details for streets, drainage and underground utility requirements.

(2) Twenty-five-year and 100-year flood and stormwater drainage easements and associated detention ponds and minimum flood elevations (MFE) for each affected lot or unit.

(3) Proposed 3,000-square-foot building site for each lot or unit.

(4) The proposed primary and alternate sewage disposal field areas for each lot or unit, as approved by the city, if any. A minimum of 6,000 square feet of area must be shown for both the primary and alternate sewage disposal field areas on natural slopes of less than 30 percent as certified by a ground survey. If a greater area is required by the most current version of Construction Standards for On-Site Sewerage Facilities, promulgated by the Texas Commission on Environmental Quality, and article 18.03, then that larger area must be shown for both the primary and alternate field areas. New development on lots or units subdivided after July 1, 1991, shall not dispose of effluent on natural slopes in excess of 30 percent. Any submission including disposal of effluent in contravention of this section must include an approved variance from this section, as reviewed by ZAPCO and the city council, or the submission of the construction plans will not be considered administratively complete.

(5) Existing effluent disposal areas known at the time of platting.

(6) Proposed driveway location for each lot or unit on natural slopes of less than 25 percent grade.

(7) Transparent, acrylic overlay map depicting topographic contour lines and highlighting the zero to 15 percent, 15 percent to 30 percent, and over 30 percent slope categories.

(8) Copy of the water pollution and abatement plan (WPAP) as submitted to Texas Commission on Environmental Quality, if applicable.

(9) Tree survey.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.009. General rules and regulations.

(a) No plat shall be approved by the city council or city administrator, as applicable, unless the lots conform to the following standards and specifications:

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(1) General standards.

(A) Conformity with the comprehensive plan.Subdivisions shall conform to article 28.02, attachment A and B, Master Plan, City of West Lake Hills. Assertions of nonconformance relying on subjective judgments without additional supporting rationale based on the remaining provisions of this article or the rest of the city's Code of Ordinances other than the master plan shall not be valid grounds to recommend denial of, or to deny, subdivision applications.

(B) Provision for future subdivisions.If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets. A proposal of future subdivision layout shall be submitted along with the plan of the portion first to be subdivided.

(C) Applicability of county street and drainage standards.Unless otherwise provided for in this code, all subdivisions shall comply with the following sections of the most recent version of the Standards for Construction of Streets and Drainage in Subdivisions promulgated by Travis County:

(i) Section 82.300 engineering standards;

(ii) Section 82.400 construction fiscal security;

(iii) Section 82.500 construction standards.

(D) Compliance with diseased tree regulations.Subdivision developers shall comply with the provisions of the city's oak wilt diseased tree ordinance (article 24.04), as amended. A site inspection at the time of plat application shall be conducted to determine the existence and extent of oak wilt disease in the red oak and live oak species of trees. The city urban forester or arborist, trained and qualified to detect oak wilt disease, shall certify, in writing, the existence or nonexistence of the disease on the site within fourteen (14) business days of filing of the administratively complete application. This certification shall be accompanied by a map at a scale of one to 50, showing the exact location, species and trunk diameter of diseased trees, if applicable.

(E) Subdividers/surveyors/developers/contractors/owners shall comply with the city's environmental regulations, tree removal requirements, and tree replacement requirements, which can be found in article 22.03, division 9 of this code. The tree survey specified in section 22.03.303 of this code shall be submitted to the city administrator prior to consideration of the preliminary plat.

(F) Flood hazard reduction.Drainage of proposed subdivisions shall be designed to reduce exposure to flood hazards. Electrical, gas, sewer, water lines and other public utility facilities shall be located and constructed to minimize or eliminate the potential for flood damage.

(i) Proposed subdivisions shall be consistent with sections 26.02.032 through 26.02.034 and 26.02.091 through 26.02.093 and shall meet the development permit requirements of sections 26.02.004 and 26.02.063.

(ii) Base flood elevation data shall be generated for subdivision proposals and other proposed development which is greater than 50 lots or five acres, whichever is

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lesser, if not otherwise provided pursuant to section 26.02.003 or section 26.02.062(8).

(2) Dimensional regulations.No lot or unit shall have an area, depth or frontage less than that shown on the schedule of regulations in this subsection, and no lot or unit shall be less in width than the minimum lot or unit width shown on such schedule.

(A) Measurement of lot or unit area, width and depth.

(i) Area.In computing the area of a lot or unit, no part of the street, public or private, shall be included.

(ii) Width.The width of a lot or unit shall be measured along the front building setback line.

(iii) Depth.The depth of a lot or unit shall be the horizontal distance between the front and rear lot or unit lines measured along a median between the side lot lines.

(B) Measurement of building setbacks.

(i) Front setbacks.Front building setbacks extend the full width of the lot or unit. Their depth is measured from the front lot or unit line to the minimum front building setback line. At the front building setback line, the lot or unit shall be at least 150 feet wide.

(ii) Rear setbacks.Rear building setbacks extend the full width of the lot or unit. Their depth is measured from the rear lot or unit line to the minimum rear building setback line.

(iii) Side setbacks.Side building setbacks extend from the front setback line to the rear setback line. Their depth is measured from the side lot line to the minimum side building setback line.

(C) Lots or units abutting on more than one street.In the case of lots abutting on more than one public or private street, the full width of the front building setback shall be provided from each street.

(D) Yards.Yards are the open areas between building setback lines and lot or unit lines. A structure shall not be permitted in yards except as otherwise provided in other ordinances and regulations.

(E) Residential lot or unit slope requirement.At least 50 percent of the area of all lots or units must be situated on land having a natural slope of less than 30 percent.

(F) Residential lot or unit density.The density of residential subdivisions of two or more lots or units where the original tract is between two and five acres and the average slope of the tract is fifteen percent or greater shall not exceed the product of the net area of the subdivision in acres multiplied by 0.67, rounded down to the next whole number. For example, the density, or maximum number of lots or units, in a residential subdivision with a net area of 4.0 acres is two (2) lots or units (i.e. 4 x 0.67 rounded down to the next whole number of 2).

(i) Once a subdivision has been completed under this section, the resultant plats are

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final and cannot be resubdivided. A plat note with this prohibition is required.

(ii) Average natural slope shall be calculated using the formula below:

$$S\% = \frac{0.0023 \times I \times L}{A}$$

S	=	Average natural slope of the parcel(s) in percent.
I	=	Contour interval of map in feet, with said contour intervals to be five feet or less.
L	=	Total length of the contour lines within the parcel(s) in feet.
A	=	Area of the parcel(s) in acres including any areas designated future development.
0.0023	=	Constant which converts square feet into acres.

(3) Streets.

(A) Street layout.Subdividers shall provide adequate streets for proposed subdivisions. The arrangement, character, extent, grade, location, and width of each street shall consider existing and planned streets, topography, public safety, convenience, and its appropriate relationship to the proposed uses of land the street is to serve. Bends and turns shall maintain the minimum pavement width for the designed street category. Subdividers shall construct or improve portions of existing roadways abutting, bordering, or within proposed subdivisions if necessary for safe and convenient travel to or through such subdivisions. Curb cuts for proposed driveways require city approval prior to plat submission. A tract of land having a gross area of greater than 10.0 acres in size shall have at least one new internal public street as the primary access to and within the subdivision. At least 75 percent of the newly subdivided residential lots shall have direct driveway access to the internal street(s).

(B) Relation to adjoining street system.Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

(C) Projection of streets.Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.

(D) Street jogs.Whenever possible, street jogs with centerline offsets of less than 150 feet shall be avoided.

(E) Street intersections.Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography. Street intersections and driveways shall be located in accordance with county standards for both minimum stopping sight distance and desirable sight triangles. Sight distance criteria shall conform to county standards and reflect geometric design guidelines proscribed by the American Association of State Highway and Transportation Officials (AASHTO).

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(F) Culs-de-sac.In general, culs-de-sac shall not exceed 1,200 feet in length and shall have a turnaround of not less than 100 feet in diameter in residential areas, and not less than 200 feet in diameter in commercial areas.

(G) Minor streets.Minor streets shall be laid out so as to discourage their use by through traffic.

(H) Private streets.Private streets are prohibited.

(I) Street design standards.Street design standards shall be in accordance with table 36-2 and the street sections depicted on figures 36-1 through 36-3. Unless otherwise approved by the city council, new subdivision streets shall be planned, platted, designed, and constructed as minor streets and shall conform to all applicable provisions of section 22.03.250, especially with respect to emergency vehicle access.

(J) Pavement widths and rights-of-way of streets forming part of subdivision.Pavement widths and rights-of-way of streets forming part of the subdivision shall be as follows:

(i) The subdivider shall dedicate a right-of-way of 50 feet in width for new arterial streets, and 30 feet of such right-of-way shall be paved.

(ii) Where the proposed subdivision abuts upon an existing street that does not conform to the city's street standards, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way conform to such standards. Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back to ensure an adequate subbase and pavement joint.

(K) Street names.Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used. Streets in the city shall not be named after individuals. All street names shall be approved by the city administrator.

(L) Street signs.Street signs shall be furnished and installed at the subdivider's expense at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the city and shall be installed in accordance with standards of the city.

(M) Street construction standards.All dedicated streets within a new subdivision shall consist of a base with an asphaltic surface or of an unreinforced concrete pavement.

(i) Base.The base shall be as follows:

a. Flexible base.The base material shall consist of crushed stone and shall meet the following grading requirements: Zero percent shall be retained on a two-inch sieve, and 60 to 85 percent shall be retained on a no. 40 sieve. Material passing the no. 40 sieve shall meet the following requirements: The liquid limit shall not exceed 40, and the plasticity index shall not exceed 12. The flexible base shall be compacted to a proctor density of 95 with a minimum depth of eight inches. Exceptions to the depth requirement may be made where the subgrade soil constants are such that the required stability may be met with a lesser depth; or

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b. Stabilized base.The stabilized base shall be a compacted stabilized soil-cement base with a proctor density of not less than 95 and a minimum depth of six inches.

(ii) Surface.The surface shall be as follows:

a. Asphaltic surface types.Either of the completed bases mentioned in subsection (i) of this subsection shall be surfaced with hot mix asphaltic concrete pavement, or an approved equal, which shall be laid at the rate of 150 pounds per square yard, providing a pavement of 1-1/2 inches in depth; or

b. Unreinforced Portland cement.Surfacing may be unreinforced Portland cement concrete pavement of six inches in depth, containing a minimum of five sacks of cement per cubic yard, and which shall attain a minimum compressive strength of 3,500 pounds per square inch in 28 days.

(iii) Curbs and gutters.Curbs and gutters may be required on streets within the subdivision along lines and grades authorized by the city.

(4) Sidewalks.Sidewalks may be installed:

(A) On Bee Cave Road (both sides) and Westlake Drive (east side) as deemed necessary by the city council or city administrator for administrative approvals;

(B) As deemed necessary by the city council or city administrator for administrative approvals; in commercial, public or multifamily areas; and

(C) As recommended by the city council or city administrator for administrative approvals.

(5) Water installations.

(A) Water supply and distribution.All subdivisions shall be provided with an adequate water supply and water distribution systems for residential or nonresidential use and fire protection approved by the city and Travis County WCID No. 10. Private water wells on individual residential lots or units may be authorized.

(B) Fire hydrants.Standard fire hydrants shall be installed every 500 feet as part of the water distribution system. The hydrants shall meet the specifications of Travis County Emergency Service District No. 9 and placement of the hydrants shall be approved prior to plat submission.

(6) Sewage disposal.Proposed subdivisions shall be planned with city-approved sewage disposal systems with provisions for perpetual maintenance thereof. If private on-site sewage disposal facilities (septic systems) are to be installed, subdividers shall conform to section 36.01.010 of this code. If an organized sewage disposal system (central sewer) is to be installed, the plans for such system must comply with state regulations, be recommended for approval by the city's consulting engineer, and approved by the city council prior to the filing of the plat.

(7) Utility lines.Where possible, all utility lines that pass under a street shall be installed before the street is paved. When it is necessary that utility lines pass under the street

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pavement, they shall be installed underground to a point at least two feet from the edge of the right-of-way. All subdivisions with four or more lots or units shall be provided with underground utility services.

(8) Drainage.

(A) The City of West Lake Hills' Drainage and Erosion Control Manual, as adopted March 2018 is hereby designated and adopted as the drainage and erosion control criteria and policy of and for the city and within all areas subject to the city's extraterritorial jurisdiction.

(B) Whenever the standards and specifications of this article conflict with another provision of this code, the most stringent or restrictive provision shall govern.

(C) The interpretation of the requirements set forth in this section shall be made by the city administrator or designate, unless specified otherwise by the council. The developer shall be responsible for the conveyance of all storm drainage flowing through or abutting the subject property, including drainage directed to the property by prior development as well as that naturally flowing by reason of topography.

(D) Where new drainage improvements are required along the boundary of a site, the owner proposing development shall be responsible for designing and constructing all the required improvements at or before the time of development, including the dedication of all necessary rights-of-way or easements necessary to accommodate the improvements. Where the developer proposes to develop only a portion of the property, only the drainage improvements for the portion being developed shall be required to be installed, except as drainage improvements outside the portion being developed are deemed necessary by the city for proper drainage of the portion being developed. All public improvements shall be inspected and accepted by the city before a final plat submission will be accepted (when applicable) or a bond is approved for any public improvements that are not yet completed pursuant to section 36.01.015.

(E) Drainage patterns should be designed to prevent erosion, maintain filtration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by storm water. Overland sheet flow and natural drainage features and patterns shall be maintained to the greatest extent reasonably possible and the dispersion of runoff back to sheet flow shall be the primary objective of drainage design where possible, depending on volumes and velocities of runoff for the development, as opposed to concentrating flows in storm sewers and drainage ditches.

(F) Construction of enclosed storm sewers and impervious channel linings are permitted only when the city finds that the use of open and/or natural channels is not practical.

(G) If storm sewers are deemed necessary, the developer shall design the drainage system to mitigate its harmful impact on the environment by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by loading discharges to maximize overland flow through buffer zones or grass lined swales.

(H) The responsibility of the developer shall extend to the provision of adequate off-site drainage facilities and improvements to accommodate the full effects of the development of said property.

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(I) When the developer certifies by affidavit that a bona fide attempt to acquire property rights to meet off-site drainage requirements was not successful, the city may assist at its discretion in the acquisition of necessary property rights to provide for the construction of off-site drainage improvements. In such cases, the developer shall make adequate guarantees that the developer will fund the full cost of acquiring said property rights and constructing the off-site improvements and facilities.

(J) Unless otherwise specified herein, the design of all storm drainage facilities shall at least meet the requirements of the City's Drainage and Erosion Control Manual as adopted.

(K) Computation of runoff shall be based on a fully developed drainage area, or watershed, in accordance with the minimum provisions of the City's Drainage and Erosion Control Manual. The drainage system shall be designed to convey the theoretical two, ten- and 25-year storm as predicted in the Drainage Criteria Manual, as amended. The design shall further provide for system overflows from larger storms up to the intensity of 100-year storm without increasing the risk of flood damages to development.

(i) Critical environmental features shall have a standard setback of 150 feet around said feature. An administrative variance may be granted by the city engineer for a 50-foot setback on the downstream side only of said feature.

(ii) The rate of runoff after construction shall not exceed the site's runoff rate prior to construction. Rate of runoff shall be computed on a two, ten- and 25-year storm peak flow using the City of West Lake Hills' Drainage and Erosion Control Manual.

(iii) Surface drainage channels shall be designed to reduce velocity, minimize potential erosion and to maximize the bottom width to flow depth ratio, in accordance with the following criteria:

a. Channel cross-sections shall be trapezoidal in configuration.

b. Side slopes of channels shall be no steeper than four horizontals to one vertical.

c. For a six-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four inches and design flow velocity shall be two and one-half feet per second.

d. All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

e. The city council may allow exceptions to the design flow velocities or depths in limited transitional channel sections (such as culverts, culvert entries and exits, drop sections, and sharp bends) or on lands with greater than fifteen (15) percent slope, or less than two percent (2%) slope; provided that the design flow velocity shall never be greater than three (3) feet per second or design depth greater than six (6) inches.

(L) Easements.Public drainage easements shall include all drainage at least to the limits of the 25-year flood as indicated on the floodplain maps or as determined on the basis of the Drainage and Erosion Control Manual, as amended. All drainage easements

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across private property shall contain the necessary language to permit the required unobstructed water flow, require maintenance of vegetation by the property owner(s), and permit the necessary access by city officials for inspection and repairs. The minimum drainage easement width shall be 25 feet. All easements, 25- and 100-year floodplain boundaries shall be clearly shown on drainage plans and the site plan.

(M) Roadway drainage.As a general rule, drainage carried in roadside channels shall be minimized and off-roadway locations shall be used as the primary drainage network whenever practicable. When roadside channels are required, they shall be contained within a dedicated right-of-way or right-of-way easement. Channel side slopes shall be no steeper than four to one, except for curves and transitions where slope stabilization acceptable to the city administrator may be allowed. Roadways shall be designed for fordable driveway approaches whenever practicable. All driveways shall be designed such that drainage flow from a 100-year storm shall not exceed a depth of 12 inches on any portion of the driveway. Should driveway culverts be required, the culvert design capacity and general location shall be shown on the construction plans. Minimum driveway culvert diameter shall be 12 inches. In no case shall driveway approaches constitute a blockage of roadway drainage.

(N) Maintenance and compliance.All drainage facilities located in the street rights-of-way shall be maintained by the appropriate jurisdiction. The property owner shall maintain all drainage facilities located on private property. Duly authorized inspectors of the city shall have the right of entry on the land or premises where property owners are required to maintain drainage facilities or detention facilities, at reasonable times, for the purpose of inspection of the maintenance required. Where noncompliance is found, the city shall request in writing that the property owner comply. This notice shall describe the measures required to be taken. If the required maintenance is not accomplished within three months of the notice, the city shall either:

(i) Cause the necessary restoration to be accomplished and assess the property owner for the city’s actual cost; or

(ii) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.

(9) Miscellaneous provisions.

(A) Lot or unit width on cul-de-sac.For residential lots on cul-de-sac turnarounds, the minimum lot or unit width at the front street property line shall be 33 feet measured along the chord of the arc.

(B) Streets not to be included as part of lot or unit size.Public or private streets shall not be included in lot or unit size as a part of the minimum one-acre size.

(C) Access to public street.Each lot or unit shall have access to a public street. Where private streets grant such access, the size of such private streets shall not be included to meet minimum lot sizes. A tract of land having a gross area of 10.0 acres or less in size may have direct driveway access from all subdivided residential lots or units to existing public streets, provided the city administrator finds that such driveway access meets all other applicable city code requirements and is in the best interest of public health, safety and welfare.

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(D) Direction of side lot or unit lines. Side lot or unit lines shall be substantially at right angles to straight street lines and radial to curved street lines.

(10) Additional standards.Unless otherwise provided in this article, all improvements in subdivisions shall conform to the latest edition of the Standards for Construction of Streets and Drainage in Subdivisions approved by order of the commissioner's court of the county.

(11) The plat shall set forth all required executed certifications as specified in section 36.01.007(f)(19).

(12) Use of professional services.The city shall have the right to select and engage sanitarians, engineers, or other professionals, or any combination thereof, to conduct investigations, tests, examine plans and specifications, present evidence, advise and represent the city, and assist the applicant in the development of a private sewage facility or water retention and drainage facility in accordance with the provisions of this article. The applicant shall be required to reimburse the city for reasonable costs of such services.

TABLE 36-2 SUMMARY OF STREET DESIGN STANDARDS

SUBJECT	MAJOR THOROUGHFARES				
	Arterial [Example: Redbud to west of Westlake Dr]	Collector [Example: Yaupon Valley Rd]	Minor Streets. Private Streets, & Access Easements [Subdivision Streets]	Bee Cave Road (Texas RM 2244)	Westlake Drive, Westbank Drive, & Redbud Trail
1. Right-of-way widths with curb & gutter					
A. Maximum width with curb & gutter (feet)	50	40	34		
B. Minimum width with curb & gutter (feet)			30	120	70[2]
2. Right-of-way width without curb & gutter					
A. Maximum width without curb & gutter (feet)	60	50	46	120	
B. Minimum width without curb & gutter (feet)			42		
3. Pavement width					
A. Maximum (feet)	30	20	18	To be determined	70[2]
B. Minimum (feet)			14		
4. Pavement section[3]					
A. Flexible base (inches)	8	8	8	8	8

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TABLE 36-2 SUMMARY OF STREET DESIGN STANDARDS					
SUBJECT	MAJOR THOROUGHFARES				
	Arterial [Example: Redbud to west of Westlake Dr]	Collector [Example: Yaupon Valley Rd]	Minor Streets. Private Streets, & Access Easements [Subdivision Streets]	Bee Cave Road (Texas RM 2244)	Westlake Drive, Westbank Drive, & Redbud Trail
B. Stabilized subgrade (inches)	6	6	6	6	6
C. Asphalt pavement (inches)	5-1/2	3-1/2	2	8	8
D. Concrete pavement (inches)	6	6	6	6	6
5. Number of traffic lanes	2	2	2	5	3
6. Lane widths (feet)	15	10	7–9	12–14	10–14
7. Design speed (mph)	30	25	15–20	35–45	30
8. Minimum grade (%)	0	0	0	0	0
9. Maximum grade (%)	20	20	20	20	20
10. Stopping sight distance (feet)	410	300	210	800	510

1 Redbud Trail east of Westlake Drive to the City Limits.

2. Westlake Drive and Redbud Trail shall be a minimum of 70 feet in width within 500 feet of the north right-of-way line of the intersection of Redbud Trail and Westlake Drive, respectively, with Bee Cave Road (Texas RM 2244).

3.

a. Collector streets must have 3 foot stabilized shoulders on each side.

b. Minor streets and private streets (access easements) must have two foot stabilized shoulders on each side.

c. The flexible base material shall consist of crushed stone and shall meet the following grading requirements: Zero percent shall be retained on a two-inch sieve, and 60 to 85 percent shall be retained on a no. 40 sieve. Material passing the no. 40 sieve shall meet the following requirements: The liquid limit shall not exceed 40, and the plasticity index shall not exceed 12. The flexible base shall be compacted to a proctor density of 95 with a minimum depth of eight inches. Exceptions to the depth requirement may be made where the subgrade soil constants are such that the required stability may be met with a lesser depth; or

d. The stabilized base shall be a compacted stabilized soil-cement base with a proctor density of not less than 95 and a minimum depth of six inches.

e. The street surface shall be surfaced with hot mix asphaltic concrete pavement, or an approved equal, or shall be surfaced with reinforced Portland cement concrete pavement of six inches in depth, containing a minimum of five sacks of cement per cubic yard, and which shall attain a minimum compressive strength of 3,500 pounds per square inch in 28 days.

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Figure 36-1

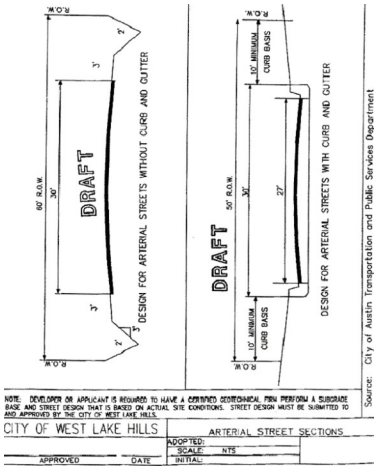


Figure 36-2

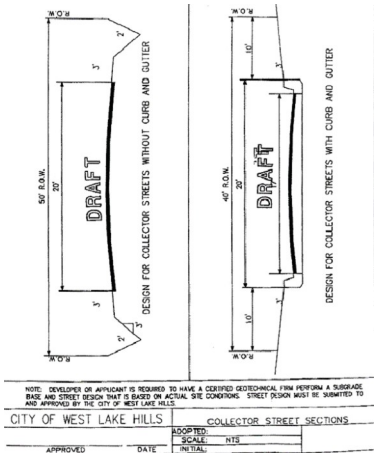
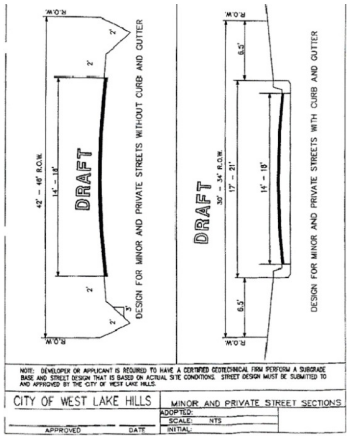


Figure 36-3



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(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.010. Residential subdivisions of five acres or greater.

(a) Generally.Proposed subdivisions of five acres or greater shall comply with the provisions of this section and with the general rules and regulations of this article.

(b) Density.The density of residential subdivisions of two or more lots or units shall not exceed the product of the net area of the subdivision in acres multiplied by 0.67, rounded down to the next whole number. For example, the density, or maximum number of lots or units, in a residential subdivision with a net area of 10.0 acres is six (6) lots or units (i.e. 10 × 0.67 rounded down to the next whole number of 6). Once a subdivision has been completed under this section, the resultant plats are final and cannot be resubdivided. A plat note with this prohibition is required.

(c) Streets.

(1) Maximum right-of-way width for roadways shall be 30 feet. Pavement width shall not exceed 20 feet. Variances to this requirement may be granted only if the fire department serving the proposed subdivision asks the city in writing that the streets be wider for public safety considerations.

(2) Proposed streets shall be considered in their relationship to existing and other planned streets, to topographical conditions public safety and commerce, and in their appropriate relationship to the proposed uses of land to be served by the street. Removal of mature trees which are required to be shown on the preliminary plat shall be avoided whenever possible in the placement of street rights-of-way. To the maximum extent feasible, streets shall be configured to avoid clearing or cutting standing trees of six inches and greater in diameter measured at four and one-half feet above the grade.

(3) Divided roadways at subdivision entrances and medians in streets are prohibited.

(4) Where necessary to the neighboring subdivision pattern, existing streets shall be continued and connected to other public streets.

(5) Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall provide for the anticipated projections into the adjoining areas.

(6) Streets shall be laid out so as to discourage their use by cut through traffic in the subdivided area or through adjoining neighborhoods.

(d) Lot or unit configuration.

(1) Flag-shaped lots or units are discouraged except in unique circumstances.

(2) Irregularly shaped lots or units are discouraged and are prohibited unless they have a street frontage of at least 100 feet on a standard street and at least 60 feet of frontage on a cul-de-sac.

(e) Conservation area.

(1) Using plat notations and restrictive covenants, subdividers shall provide conservation areas of at least 50 feet in width around the perimeters of subdivisions.

(2) Existing foliage in conservation areas shall not be disturbed; however, additional native

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vegetation may be planted to more effectively screen improvements in the subdivision.

(3) Conservation areas shall count toward the one-acre minimum lot or unit size but shall contain no improvements except necessary drainage controls, streets, and sole-access driveways.

(f) Drainage improvements.

(1) All required drainage controls and detention ponds shall be faced with limestone rock and shall be constructed so as to appear as natural in character as possible.

(2) Drainage improvements shall be landscaped with native plants and shall contain no ornamental features, e.g. fountains.

(3) Drainage improvements shall be designated as open space and shall not count toward the one-acre minimum lot or unit size requirement.

(4) Drainage improvements shall be constructed in easements dedicated by plat and shall be owned and maintained by the lot or unit owner or the home/property/condominium owners' association.

(g) Process.Applicants for subdivision of a tract of five acres or greater shall use the preliminary conference process in section 36.01.005 and the preliminary platting procedure in section 36.01.006.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.011. Private sewage facilities.

(a) All proposed subdivisions within the city shall comply with the construction standards for on-site private sewage facilities as adopted by the Texas Commission on Environmental Quality pursuant to V.T.C.A., Health and Safety Code chapter 366, published as Texas Commission on Environmental Quality Rules which have been recodified as 30 TAC 285.11 through 285.18 (Texas Commission on Environmental Quality).

(b) No subdivision plat shall be recorded until approved by the city pursuant to this section.

(c) All plats shall meet the requirements of this article and the floodplain ordinance (article 26.02) and shall show any existing private sewage facilities as part of the technical support data submission requirement, as outlined in this article.

(d) Before the city will consider a plat submission filed, the subdivider shall demonstrate and certify that all lots or units, other than those served by an organized sewage system (central sewer), will support the installation of private on-site sewage disposal facilities.

(e) In determining whether lots or units will support private on-site sewage disposal facilities, the city may require such information, supporting data, profile holes, soil borings, or other tests reasonably necessary to determine whether disposal systems, including sufficient usable land for primary and alternate drain fields of 6,000 square feet each on natural slopes of less than 30 percent, will function properly on each lot in the subdivision in accordance with the criteria of this division. The subdivider shall bear the cost of all tests and the city shall have the right to witness all tests and inspect the property. All tests must be certified by a registered professional engineer, registered sanitarian, or other person whom the city deems qualified to make such determination.

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(f) If the city has determined that any lot or unit in the subdivision is not suitable for a disposal system, the plat shall not be considered filed unless the legend also contains substantially the following additional language:

Notice: Lot or unit (designating the lot or unit by number) has been determined not suitable for septic system development.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.012. Procedure for variances.

(a) All requests for variances from this article must be submitted in writing to the zoning and planning commission. Once a variance application has been deemed administratively complete by the city administrator, the commission must consider the item at its next meeting, subject to applicable notice requirements under the Texas Open Meetings Act and city code. Upon request of applicant, the commission may allow one postponement of the variance request to the following regular meeting of the commission, at which meeting the commission must either make a recommendation or forward the variance request to the city council without a recommendation.

(b) Upon recommendation of the zoning and planning commission, the city council may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In making the findings required in this section, the commission shall take into account the nature of proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

~~Procedure for variances shall be administered in compliance with the rules established by sections 38.02.006(b) and 38.02.008.~~

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.013. Criteria for variances.

~~(a) All requests for variances from this article must be submitted in writing to the zoning and planning commission. Once a variance application has been deemed administratively complete by the city administrator, the commission must consider the item at its next meeting, subject to applicable notice requirements under the Texas Open Meetings Act and city code. Upon request of applicant, the commission may allow one postponement of the variance request to the following regular meeting of the commission, at which meeting the commission must either make a recommendation or forward the variance request to the board of adjustment/city council without a recommendation.~~

(a) ~~Upon recommendation of the zoning and planning commission, the city council may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In making the findings required in this section, the commission shall take into account the nature of proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.~~ No variance shall be recommended or approved unless the commission or city council finds that:

(1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the applicant's land;

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(2) The granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area;

(3) The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this article; and

(4) The variance request is of such a minor nature that the spirit and intent of this article are not violated.

(b) Such findings of the commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which such variance is recommended. Variances may be recommended only when in harmony with the general purposes and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

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~~(c)~~ Any recommendations or findings of the zoning and planning commission ~~may be appealed~~ shall be forwarded to the city council. The city council may reverse such recommendations or findings by simple majority vote of those present. ~~This appeal must be filed in writing within 30 calendar days.~~

(d) No variance of the minimum lot dimension requirements shall be recommended by the zoning and planning commission and granted by the city council except after a public hearing wherein notice is given to owners of real property within ~~2~~300 feet of the boundaries of the subject property as provided for in section 36.01.007.

(e) If the variance application(s) are denied or withdrawn prior to approval, the applicant has ten (10) days to bring the property into compliance. If the deviation(s) are not corrected within the ten (10) days or timeframe agreed to, in writing, by the city administrator, immediate enforcement action described by section 2.02.041 of this code may be taken to bring the property into compliance. A resulting conviction in municipal court shall not relieve any person from fully complying with any other requirement of this chapter.

(f) No submission for a plat shall be accepted that requires a variance as discussed in this section unless the submission includes proof of variance approval by the city council.

(Ordinance 2021-004, att. E, adopted 6/23/21; Ordinance 378 adopted 9/11/19)

§ 36.01.014. Limitations on reapplication.

No reapplication for a variance denied under this chapter may be filed by the same applicant within 365 days of the date upon which the city council denied such variance, request or application, unless other property in the immediate vicinity has, within the 365-day period, been changed or acted on by the board of adjustment or city council so as to alter the facts and conditions upon which the previous city council action was based. Such change of circumstances shall permit reapplication for the variance prior to the expiration of the 365-day period. Such subsequent reapplication shall be considered entirely on its merits and the peculiar and specific conditions related to the property with reference to which such proceeding is brought.

(Ordinance 378 adopted 9/11/19)

§ 36.01.015. Installation costs and bonds.

All expenses for the installation of utilities, water, sewer extensions, streetlights, signs and public streets, and all other installation expenses associated with the subdivision or minor plat, shall be borne by the subdivider. Before the plat is filed of record the applicant shall file with the city a corporate surety bond, in a form approved by the city attorney, in favor of the city, or cash escrow agreement as approved by the city attorney, in an amount equal to the cost of 110% of the installation expenses, to guarantee performance and completion of all such installations. Such bond or cash escrow shall be conditioned upon the applicant's compliance with this article and other ordinances of the city, and shall secure and may be used for the payment of any and all damages to persons or property which damages arise from, or are caused by, any act or conduct of or authorized by the applicant upon which any legal judgment results. No work may commence on any such installation until such performance bond or cash escrow has been posted and approved by the city.

(Ordinance 378 adopted 9/11/19)

§ 36.01.016. Submission of plan of entire subdivision where subdivision is portion of larger tract.

When the subdivision is a portion of a tract later to be subdivided in its entirety, a general development plan of the entire subdivision, showing a schematic layout of the entire tract, shall be submitted with

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the preliminary plat submission of the portion first to be subdivided.
(Ordinance 378 adopted 9/11/19)

§ 36.01.017. Release of easement.

(a) Purpose and intent.The purpose of a release of easement is to nullify a portion or the entire easement established by a previously recorded plat or by separate instrument. A release of easement may be initiated by the respective lot owner(s) or by the city.

(b) Application procedures.An applicant shall submit a release easement application containing a metes-and-bounds description and sketch of the proposed area to be released and signed by the owner of the land to the city administrator. The city administrator, or his or her designee, shall review the application and forward it to the zoning and planning commission (ZAPCO) for hearing and recommendation to the city council. If ZAPCO determines that the requirements in this section and all legal requirements have been met, ZAPCO shall forward the application along with its recommendation to the city council for approval. If ZAPCO determines that the requirements in this section have not been met, the request for a release of easement shall be denied.

(c) Application requirements.A release of easement application must include the following:

(1) A copy of the deed(s) identifying the owners of the property;

(2) If the applicant is not the owner, then a letter granting the owner's permission to apply for the release requested;

(3) A copy of the instrument granting the easement (either the plat showing the easement, or a separate document recorded in the official records of the Travis County);

(4) A signed letter (in the format provided below) by the owners of the property to the chair of the zoning and planning commission containing the following:

(A) A metes-and-bounds description and sketch of the easement or portion of the easement to be released, prepared by a registered surveyor (the portion to be released should be cross-hatched);

(B) An explanation of the purpose of the release requested;

(C) Signatures by each of the applicable entities authorized to use the easement agreeing to the requested easement release;

(5) Payment of all applicable fees in accordance with the fee schedule adopted by the city council.

(d) Notice of hearing.For any hearing conducted on the release of easement on a residential property, 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. For any hearing on release of easement on a nonresidential property, 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 sixteen (16) days prior to the date of the hearing before

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ZAPCO by depositing a copy of the notice in the mail addressed to each owner at the owner's address shown in the Travis Central Appraisal District database, with postage paid.

(e) Failure to comply with requirements or obtain all approvals.A release or partial release of an easement is not guaranteed. If one of the utilities with an interest in the easement refuses to grant the release or partial release then the city cannot approve the release of the easement.

(Ordinance 378 adopted 9/11/19; Ordinance 2025-005 adopted 6/25/2025)

§ 36.01.018. Minor plat.

(a) Purpose and intent.The purpose of the minor plat is to establish a simplified and expedited procedure for the platting of a previously unplatted lot or unit not requiring public improvements.

(b) Criteria.The zoning and planning commission shall review all applications for minor plats. The zoning and planning commission may recommend approval and city council may approve the issuance of a minor plat provided the plat meets the following criteria and is in accordance with the city's master plan:

(1) The plat is for no more than four (4) lot(s) or unit(s);

(2) No new public street shall be necessary the lots or units to access a public street; and

(3) No off-site improvements to the city's infrastructure are determined by the city to be necessary to serve the lots or units.

(c) Application requirements.The content and applicable fees of the minor plat application shall correspond with the content and fees for final plats as required by section 36.01.007 of this code, except that:

(1) Plans for proposed streets, alleys, drainage, or other rights-of-way are not required;

(2) Plans for proposed improvements to waterlines or city infrastructure are not required;

(3) Tax certificates from all applicable taxing authorities confirming that all taxes due on the property have been paid are required;

(4) A metes-and-bounds description or detailed map delineating the unplatted lot to be platted and the metes-and-bounds description or detailed map delineating the minor plat, prepared by a registered surveyor;

(5) The city council may permit omission of any informational requirements that are determined by the city council to place an excessive burden on the applicant and are not necessary for the city council's review of the application, including, but not limited to contours, centerlines of existing watercourses, etc.; and

(6) The waiver of any requirements for plats under this section shall not be interpreted as a waiver for any subsequent replat or plat amendment.

(d) Application review and approval.The procedure for review and approval of a minor plat is as follows:

(1) Prior to submission of a request for a minor plat, an applicant shall participate in a preliminary conference as required by section 36.01.005.

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(2) After a preliminary conference, applicant may submit a minor plat submission which shall comply with subsection (c) with the city administrator.

(A) The city administrator or city administrator's designee shall within ten (10) business days from the date the request for a minor plat:

(i) Review and confirm that the information required is on the minor plat.

(ii) Notify the applicant of any incomplete submissions and shall specify the necessary documents or other information needed to be provided to the city and the date the application will expire if the documents or other information is not provided.

(B) The minor plat application shall only be filed once it is determined to be administratively complete by the city administrator or the administrator's designee. Failure by the city administrator to make a determination of incompleteness within ten (10) business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application, and the filing date shall become the tenth (10th) business day following initial receipt of the application by the city.

(3) The minor plat application may be submitted without approval of a preliminary plat or construction plans to the city administrator for review. Once the application has been determined to be completed, the city administrator shall submit the application to the city engineer for review and recommendation before the zoning and planning commission may approve the application. Any expenses incurred for the city engineer's review shall be at the cost of the applicant seeking approval.

(4) Within thirty (30) days of receipt of a complete application, the zoning and planning commission may:

(A) Recommend approval of the minor plat;

(B) Recommend disapproval of the minor plat with citation to the law, including statute or city ordinance, that is the basis for the disapproval; or

(C) Recommend conditional approval of the minor plat with specific citation to the law, including statute or municipal ordinance, that is the basis for the conditions.

(5) Within thirty (30) days of receipt of the recommendation from the zoning and planning commission, the city council shall:

(A) Approve the minor plat;

(B) Disapprove the minor plat with citation to the law, including statute or municipal ordinance, that is the basis for the disapproval; or

(C) Conditionally approve the minor plat with specific citation to the law, including statute or municipal ordinance, that is the basis for the conditions.

(6) If the minor plat is conditionally approved or disapproved, then the subdivider may submit to the city council a written response that remedies each reason for disapproval or each condition provided.

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(A) If the subdivider provides written responses, the city council shall review the responses within fifteen (15) days of their submission. After the review, the city council may:

(i) Approve the conditionally approved or disapproved plat; or

(ii) Disapprove the plat based on noncompliance with city code or state law. If disapproved, the city council shall provide a written statement to the subdivider listing the deficiencies the plat has as related to specific city ordinances or other law.

(e) Recording.Upon approval, the recordation procedures for the minor plat shall be the same as the procedures for the final plat under this chapter of this code.
(Ordinance 378 adopted 9/11/19)

§ 36.01.019. Conflict with other ordinances.

Whenever the standards and specifications in this article conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.
(Ordinance 378 adopted 9/11/19)

§ 36.01.020. Remedies for violations.

(a) Prosecution or conviction under section 1.01.013 shall never be a bar to any other remedies or relief for violations of this article.

(b) A fine or criminal penalty for violation of the provisions of this article do not apply to a violation concerning a tract of real property in the extraterritorial jurisdiction of the city.

Appendix A. Required Statements and Certifications for All Plats

(a) Owner's acknowledgement.

STATE OF TEXAS

COUNTY OF TRAVIS

WHEREAS, _____, the owner(s) of _____acres of land out of the _____Survey, Abstract No. _____of Travis County, Texas, conveyed to me (us) by deed recorded in Volume _____, Page _____, of the Travis County Deed Records;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That I (we) the undersigned owner(s) of the land shown on this plat, and designated herein as the Subdivision of the City of West Lake Hills, Travis County, Texas, and whose name is subscribed hereto, hereby subdivides said _____ acres of land to be known as the Subdivision and do hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, public easements, and public places thereon shown for the purposes and consideration therein expressed.

WITNESS MY HAND this _____day of _____, 20 _____.

_____
Name, Record Owner

_____
Address

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STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____day of _____, 20 _____.

_____
Notary Public in and for Travis County, Texas

My Commission expires:

(b) Certification by Water Control and Improvement District No. 10. The tract of land described on this plat is within the boundaries of Travis County Water Control and Improvement District (WCID) No. 10 and has water service available.

DATED: _____

_____
President of the Board WCID No. 10

(c) Certification by the city administrator.

I, the undersigned, City Administrator of the City of West Lake Hills, Texas, hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the City for which my approval is required.

DATED: _____

_____
City Administrator City of West Lake Hills, Texas

(d) Certification of the surveyor responsible for surveying the subdivision area, attesting to its accuracy.

STATE OF TEXAS

COUNTY OF TRAVIS

I, the undersigned, a _____(Registered Professional Engineer/or Public Surveyor) in the State of Texas, hereby certify that this plat is true and correct and was prepared from the actual survey of the property made under my supervision on the ground.

DATED:_____

(Engineer or Surveyor's Seal)

_____
Registered Professional Engineer or registered Public Surveyor

(e) Recommendation by the zoning and planning commission (ZAPCO) of the city.This plat has been submitted to and considered by the Zoning and Planning Commission (ZAPCO) of the City of West Lake Hills, Texas.

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_____
ZAPCO Chairperson City of West Lake Hills, Texas

(f) Approval by the city council.Approved and authorized for record by the City Council of the City of West Lake Hills, Texas.

DATED this _____day of _____, 20 _____.

_____
Mayor City of West Lake Hills, Texas

ATTEST:

_____
City Secretary

(g) Notes.

(1) Septic tank note.Septic systems: Every lot within the City's municipal boundaries in this subdivision is subject to Chapter 18 of the West Lake Hills Code, as amended. No septic system or other private sewage facility may be constructed in the City until the City of West Lake Hills has issued a permit for its construction. No private sewage facility in the City limits may be used until the facility has been approved and licensed by the City. Lot size requirements for residential and commercial private sewage facilities shall conform to construction and development limitations in Chapter 18 of the West Lake Hills Code, as amended.

(2) Site clearance, site disturbance and impervious cover note.Site clearance, site disturbance, or impervious cover: Every lot or unit in this subdivision is subject to the City of West Lake Hills' site clearance procedures. No site clearance, excavation, grading or landfill shall commence unless a permit shall have first been issued for such work in accordance with the provisions of applicable ordinances. Impervious cover shall not exceed the maximum percentage permitted under City Ordinance.

(3) Flood hazard note.Flood hazard: The Federal Insurance Administration maps for the City of West Lake Hills, Texas, indicate that the property shown hereon does/does not lie within a special flood hazard area as defined by said maps, dated June 1993.

(4) Streets, roads and other public thoroughfares note.

a. For subdivisions within the city limits of the City of West Lake Hills: Streets, roads and other public thoroughfares shown on plat: The building of all streets, roads and other public thoroughfares shown on this plat, and any bridges or culverts necessary to be constructed or placed in such streets, roads or other public thoroughfares or in connection therewith, shall be the responsibility of the owner and/or developer of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the City Council of the City of West Lake Hills, Travis County, Texas, if said plat is within the City limits of the City of West Lake Hills, Texas. The City of West Lake Hills, Texas assumes no responsibility to build any of the streets, roads or other public thoroughfares shown on this plat or any bridges or culverts in connection therewith. All curb cuts, entrances and exits onto public streets or highways shall first be approved by the City of West Lake Hills, Texas.

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b. Add this paragraph for subdivisions within the extraterritorial jurisdiction of the City of West Lake Hills:

All or part of this subdivision is within the extraterritorial jurisdiction of the City of West Lake Hills. Under Chapter 241, Local Government Code, the City of West Lake Hills has sole and exclusive jurisdiction over approval of this plat. However, Travis County retains the sole and exclusive jurisdiction over maintenance of public roads in, and issuance of onsite sewage permits and development permits for this subdivision. The City of West Lake Hills' approval of this plat does not ensure Travis County's acceptance of the roads for maintenance, or approval of onsite sewage permits or development permits for this subdivision. The owner(s) or developer(s) is(are) responsible for ensuring that the requirements of this plat are consistent with and do not prevent acceptance of the roads or issuance of onsite sewage permits and development permits for this subdivision. In the event of a conflict, plat amendments may be required prior to accepting roads or issuing onsite sewage or development permits.

(5) Construction over the Edwards Aquifer Recharge Zone, if applicable.Recharge zone: Lots in this subdivision are located over the Edwards Aquifer Recharge Zone and subject to the Texas Commission on Environmental Quality Edwards Rules 31, Texas Administrative Code (TAC) 313, as amended. No building permit will be issued by the City of West Lake Hills until the requirements of the Edwards Rules TAC Chapter 313 are fully complied with. The applicant for a building permit is responsible to furnish the City written compliance to the Edwards Aquifer Rules from the Texas Commission on Environmental Quality.

(6) Restrictions or covenants filed as Document No. _____, of the Travis County Deed Records.

(7) All of the land depicted on this subdivision plat is/is not located within the full purpose municipal boundaries of the City of West Lake Hills on this the _____ day of _____20 _____, A.D.

(h) ETJ only, certification by clerk of Travis County, Texas.

STATE OF TEXAS

COUNTY OF TRAVIS

I, _____, Clerk of the County Court of Travis County, Texas, do hereby certify that on the _____ day of _____, A.D., 20, the Commissioners Court of Travis County, Texas, passed an Order authorizing the filing for record of this plat, and that said Order has been entered into the Minutes of Said Court, as Document No.

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF SAID COUNTY, this _____day of _____, A.D. 20 _____.

Clerk of the County Court Travis County, Texas

By _____Deputy

(i) Filing certification.

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STATE OF TEXAS

COUNTY OF TRAVIS

I, _____, Clerk of the County Court of Travis County, Texas, hereby certify that the foregoing instrument with its Certification of Authentification was filed in my office at _____o'clock _____.m. this the _____day of _____, 20 _____, and duly recorded at _____ o'clock _____ .m. on the _____day of _____, 20 _____, in the Plat Records of Travis County, Texas, as Document No. _____.

WITNESS MY HAND AND SEAL OF THE COURT OF TRAVIS COUNTY, TEXAS, this _____day of _____, A.D. 20 _____.

Clerk of the County Couert Travis County, Texas

By _____Deputy

STATE OF TEXAS

COUNTY OF TRAVIS

Filed for record this _____day of _____, 20 _____, at _____o'clock _____.m.

Clerk of the County Court Travis County, Texas

By _____Deputy

Appendix B. Letter of Notification

CITY OF WEST LAKE HILLS, TEXAS

GREETINGS:

YOU ARE HEREBY ADVISED that _____(the record owner), of _____(property description) more commonly known as _____ (street address), West Lake Hills, Texas, has filed an application with the Zoning and Planning Commission of the City of West Lake Hills, Texas, for the purpose of _____(e.g., subdividing a ten-acre tract into nine lots).

The following variance is requested: _____(e.g., none, minimum setback lines, etc.).

The Plat for said proposed subdivision may be inspected at City Hall, 4010 Bee Cave Road, West Lake Hills, Texas, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

This application is scheduled to be reviewed by the Zoning and Planning Commission on the _____ day of _____, 20 _____, at o'clock _____ .m. in the City Hall located at 4010 Bee Cave Road, West Lake Hills, Texas.

The application is scheduled to be reviewed by the City Council on the _____ day of _____, 20_____at _____o'clock. m. in the City Hall located at 4010 Bee Cave Road, West Lake Hills, Texas.

The City of West Lake Hills, Texas, shall provide an opportunity for all interested persons to be heard.

Issued this _____day of _____, 20 _____.

_____
Applicant

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(Ordinance 378 adopted 9/11/19; Ordinance 2025-011 adopted 8/13/2025)

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Chapter 38

ZONING

ARTICLE 38.01 GENERAL PROVISIONS

§ 38.01.001. Short title.
§ 38.01.002. Purpose of chapter.

ARTICLE 38.02 BOARD OF ADJUSTMENT

§ 38.02.001. Creation of board of adjustment.
§ 38.02.002. Terms.
§ 38.02.003. Organization.
§ 38.02.004. Meetings.
§ 38.02.005. Rules and regulations.
§ 38.02.006. Appeals to the board of adjustment.
§ 38.02.007. Interpretive criteria for the granting of variances.
§ 38.02.008. Procedure for appeals to the board.
§ 38.02.009. Variance may lapse after one year.
§ 38.02.010. Limitations.
§ 38.02.011. Review of board of adjustment's decision.
§ 38.02.012. Enforcement.

ARTICLE 38.03 ZONING DISTRICTS

DIVISION 1
Generally

§ 38.03.001. Classification of districts.
§ 38.03.002. Continuation of prior zoning classification; amendments to designation of districts.
§ 38.03.003. Official zoning map.
§ 38.03.004. Interpretation of district boundaries.
§ 38.03.005. Newly annexed areas.

§ 38.03.006. through § 38.03.030. (Reserved)

DIVISION 2

Use Regulations

§ 38.03.031. Compliance with chapter required.

§ 38.03.032. R-1 one-family residential district.

§ 38.03.033. R-2 two-family residential district.

§ 38.03.034. R-3 transitional residential district.

§ 38.03.035. O professional and business office district.

§ 38.03.036. B-1 business 1 district.

§ 38.03.037. B-2 business 2 district.

§ 38.03.038. B-3 business 3 district.

§ 38.03.039. GUI governmental, utility and institutional district.

§ 38.03.040. Mixed use 1 district.

§ 38.03.041. Conditional overlay district.

§ 38.03.042. PDD #1: Planned development district number one.

§ 38.03.043. PDD #2: Planned development district number two.

§ 38.03.044. PDD #3: Planned development district number three.

§ 38.03.045. PDD #4: Planned development district number four.

§ 38.03.046. PDD #5: Planned development district number five.

§ 38.03.047. PDD #6: Planned development district number six.

§ 38.03.048. through § 38.03.060. (Reserved)

DIVISION 3

General Regulations

§ 38.03.061. Prohibited uses.

§ 38.03.062. Accessory uses.

ARTICLE 38.04 SUPPLEMENTARY REGULATIONS

DIVISION 1

Generally

§ 38.04.001. through § 38.04.030. (Reserved)

DIVISION 2

Special Uses

§ 38.04.031. Criteria for establishment of special use categories; uses allowed in specific districts.

§ 38.04.032. Special use permit.

§ 38.04.033. General criteria applicable to all special uses.

§ 38.04.034. Criteria applicable to individual special uses.

§ 38.04.035. General conditions for all special uses.

§ 38.04.036. through § 38.04.060. (Reserved)

DIVISION 3

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ARTICLE 38.01
GENERAL PROVISIONS[1]

§ 38.01.001. Short title.

This chapter shall be known and may be cited as the Zoning Ordinance of the city.
(Ordinance 362 adopted 3/28/18)

§ 38.01.002. Purpose of chapter.

The provisions of this chapter are deemed to be necessary to promote the health, safety, property and general welfare of the residents of the city.
(Ordinance 362 adopted 3/28/18)

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1. **Editor's Note–This Chapter Consists Of The Zoning Ordinance, Ordinance 362, Adopted By The City On March 28, 2018. This Ordinance Amends And Replaces What Was Originally Published As Chapter 94 In The 1996 Code Of Ordinances As Subsequently Amended. Due To The Nature Of The Ordinance And The Technicalities Involved In Adopting Or Amending It, Such Ordinance Is Printed Herein As Enacted, With Only Nonsubstantive Formatting And Style Changes. The Numbering System Has Been Changed To Be Consistent With The Remainder Of The Code. Capitalization In The Section And Subsection Catchlines Has Been Changed To Be Consistent With The Remainder Of The Code. Capitalization And Punctuation Within The Text Have Been Retained As Enacted. Obviously Misspelled Words Have Been Corrected Without Notation. Any Other Material Added For Purposes Of Clarification Is Enclosed In Brackets.**

ARTICLE 38.02

BOARD OF ADJUSTMENT

§ 38.02.001. Creation of board of adjustment.

~~(a) There is hereby created a board of adjustment of six members who are members of the governing body of the City of West Lake Hills.~~

(a) There is hereby created a board of adjustment, as authorized in Local Government Code Chapter 211, consisting of six (6) members appointed by the city council. Members of the board of adjustment shall not be members of the governing body of the city or employees of the city, and shall be residents of the city.

(b) Each of the six members of the board shall be entitled to one vote in all deliberations of the board.

~~(c) There shall be alternate members of the board of adjustment. Alternate board of adjustment members shall be appointed by the governing body. The city administrator may designate alternate board of adjustment members to participate in a particular board of adjustment meeting in the absence of members of the board of adjustment. Alternate board of adjustment members shall count toward the establishment of a quorum, and have full voting rights during the meeting for which the alternate is designated.~~

(c) The city council shall appoint four (4) alternate members of the board of adjustment. The presiding officer of the board may request an alternate to serve in the absence or recusal of a regular member. An alternate serving under this subsection shall have full voting rights for the duration of the meeting at which the alternate is designated.

(Ordinance 379 adopted 9/25/19)

§ 38.02.002. ~~Terms.~~ Qualifications and terms of office.

~~Each member of the board shall serve a two-year term, to run concurrently with his/her term of office as members of the governing body of the city.~~

(a) All members and alternates of the board of adjustment shall be bona fide residents of the city for a minimum of six months.

(b) Each member of the board shall serve a two-year staggered term and may be reappointed for succeeding terms. Vacancies shall be filled by the city council for the unexpired term.

(c) An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(d) A member may be removed for cause by the city council on a written charge and after a public hearing, pursuant to LGC § 211.008(b).

(Ordinance 379 adopted 9/25/19)

§ 38.02.003. Organization.

~~(a) The chairperson of the board shall be the mayor of the city and shall preside over all board meetings. The board shall elect a vice chairperson from the board's membership.~~

(a) The city council shall elect a chairperson and the board shall elect a vice-chairperson annually from its membership. The chairperson shall preside over all board meetings. The chairperson shall have full voting rights. Officers serve one-year terms and may be re-elected.

~~(b) The chairperson shall serve a term of two years concurrent with the term as mayor of the city.~~

(b) ~~Notice of each application considered by the board shall be made by the applicant in the manner~~

~~set forth in section 38.05.094(c) of the Code.~~
(Ordinance 379 adopted 9/25/19)

§ 38.02.004. Meetings.

(a) Meetings of the board of adjustment shall be held on a regular basis, but not less than once every two months, and such meetings shall be advertised and open to the public as required by the laws of the state.

(b) Each case before the board of adjustment must be heard by at least 75 percent of the members.

(c) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(d) All meetings of the board shall be open to the public and shall be subject to the Texas Open Meeting Act as set forth in chapter 551 of the Texas Government Code.

~~Meetings of the board shall commence at 7:00 p.m., or shall be held at the call of the chairperson and at such other times as the board may determine.~~

~~(b) All meetings of the board shall be open to the public and shall be subject to the Texas Open Meeting Act as set forth in chapter 551 of the Texas Government Code.~~

(Ordinance 379 adopted 9/25/19)

§ 38.02.005. Rules and regulations.

(a) The board shall adopt ~~rules~~ and maintain rules of procedure necessary to conduct its affairs, and shall furnish a copy of such rules to the city secretary ~~building official and city administrator~~. Rules adopted by the board shall be consistent with the provisions of state law, the City's Code of Ordinances~~, and this chapter~~.

(b) All orders and other enactments adopted by the board shall be in accordance with this chapter and its rules and regulations.

(c) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The office of the board shall be in the office of the city secretary where such records shall repose.

(d) ~~Each case shall be heard by at least 5 board members.~~ The concurring vote of ~~five~~ 75 percent of the members of the board shall be necessary to:

(1) Reverse an order, requirement, decision, or determination of an administrative official;

(2) Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or

(3) Authorize a variation from the terms of a zoning ordinance.

(Ordinance 379 adopted 9/25/19)

§ 38.02.006. ~~Appeals to~~ Authority of the board of adjustment.

(a) The board shall have the power to subpoena witnesses, administer oaths, and require the production of documents under regulations it may establish.

(b) The board shall have the power to:

(1) Hear and decide an appeal where it is alleged that there is an error in any order,

requirements, decision or determination made by an administrative official in the enforcement of chapters 22, 32, ~~36,~~ and 38 of the Code; ~~and~~

(2) Hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so; and,

(~~2~~3) Authorize, in specific cases, variances from the terms of a zoning ordinance if the variance is not ~~from the Code that will not be~~ contrary to the public interest~~; in these specific cases, owing to~~ due to special conditions, literal enforcement of the provisions of the Code provisions will result in unnecessary hardship, and so that the spirit of the Code shall be observed and substantial justice done. A variance shall not be granted, however, to authorize a change of use.

~~(3) Consider and take action concerning applications for special use permits made pursuant to article 38.04, division 2 of the Code.~~

~~(3) (4) References to chapter 38 in this section shall include all provisions in the Code which emanated from Ordinance 155-I, as amended.~~

(c) In exercising its authority under section 38.02.005(d)(3), the board may also consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

(1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the city under section 26.01, Tax Code;

(2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

(3) Compliance would result in the structure not being in compliance with a requirement of a city ordinance, building code, or other requirement;

(4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or

(5) The city considers the structure to be a nonconforming structure.

(Ordinance 379 adopted 9/25/19)

~~§ 38.02.007. Interpretive criteria for the granting of variances.~~

~~(a) The board, in performing its respective duties in reference to applications for variances, shall be guided by the interpretative criteria set forth in section 38.05.033 of the code.~~

~~(b) In exercising its authority under section 38.02.005(d)(3), the board may also consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:~~

~~(1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the city under section 26.01, Tax Code;~~

~~(2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;~~

~~(3) Compliance would result in the structure not being in compliance with a requirement of a city ordinance, building code, or other requirement;~~

~~(4) Compliance would result in the unreasonable encroachment on an adjacent property or~~

~~easement; or~~

~~(5) The city considers the structure to be a nonconforming structure.~~

(Ordinance 2022-001 adopted 2/9/22)

§ 38.02.0078. Procedure for appeals to the board.

~~(a) Appeal to board under section 38.02.006.~~

(a) Appeal of administrative official's decisions or actions. In exercising its authority under section 38.02.006, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

(b) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is not related to a specific application, address, or project under any chapter of this Code:

(1) A person aggrieved by the decision; or

(2) Any officer, department, board, or bureau of the municipality affected by the decision.

(c) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project under chapter 38 of the Code:

(1) A person who filed the application that is the subject of the decision;

(2) A person who is the owner or representative of the owner of the property that is the subject of the decision; or

(3) Any person who is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or

(4) Any officer, department, or board of the city affected by the decision.

(d) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project under chapters 22, 32, and 36 of the Code:

(1) A person who filed the application that is the subject of the decision; or

(2) A person is the owner or representative of the owner of the property that is the subject of the decision.

(e) The appellant must file with the secretary of the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal and pay a filing fee as may be prescribed by the city council. An appeal by a person aggrieved by an action of an administrative or building official in the enforcement of this chapter shall be filed with the secretary of the board not later than the 20th day after the date the decision is made. On receiving the notice, the secretary of the board shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(f) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by a court of record.

(g) The board shall give public notice of the hearing and due notice to the parties in interest for the appeal hearing for the next meeting for which notice can be provided, but not later than the 60th day after the date the appeal is filed. A party may appear at the appeal hearing in person or by agent or attorney.

§ 38.02.008 Procedure for special exceptions.

(a) Applicability. In accordance with the provisions of the Texas Local Government Code Chapter 211, the Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards, may make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

(b) Approval for Criteria. The Board of Adjustment may grant the requested special exception in accordance with Article 38.05 under specific circumstances therein established.

(c) Expiration. A special exception shall expire six (6) months from the date of Board of Adjustment approval, unless a certificate of occupancy has been issued.

§ 38.02.009 Procedure for (zoning) variances.

(a) ~~Generally. Appeals p~~ Applications pursuant to section 38.02.006(b)(3~~2~~) ~~and 38.02.006(b)(3)~~ shall be made in writing in a form provided by the city administrator and shall be accompanied by a site plan and additional information as may be requested in order to properly review the application. Such ~~appeals~~ requests shall be filed with the ~~board secretary~~ city secretary who shall transmit the same as soon as possible to the chairperson~~man~~ of the board. Such information may include, but is not limited to, ~~plat plans~~ survey, site and building plans, and contour maps. If applicant is not the legal owner(s) of the property, a statement from the owner that the applicant is the authorized agent of the owner should be provided with the application. Applications for ~~appeals~~ a variance to the board under this section shall be accompanied with the payment of the filing fee. When applications are made for variances to the terms of this chapter under section 38.02.006(b)(2), either the city administrator ~~or the city inspector~~ shall visit the site where the proposed variance will apply and the surrounding area and shall report ~~his~~ findings to the board. ~~Applications for special use permits shall be made in accordance with the procedures set forth in section 38.04.032 of this chapter.~~

(b) Review by board of adjustment at public hearings. The board shall review each application filed pursuant to section 38.02.006(b) after a public hearing and shall make a final written finding. Notice of a variance ~~an appeal~~ under section 38.02.006 shall be ~~given in the same manner as required for notice of a public hearing to consider a special use application~~ provided per ~~under~~ section 38.05.036~~4.032(e)~~ of the Code.

(c) Requirements for approving applications for variances. The board shall not approve a variance unless it finds, based on competent evidence, that each of the conditions in section 38.05.032 has been established. The burden of establishing such conditions is on the applicant. An approval may be conditioned on the applicant's adoption of specified changes, conditions, limitations, or safeguards deemed appropriate by the board. A violation of any such condition, limitation or safeguard shall constitute a violation of the Code.

(d) Any rights authorized by a variance which are not exercised within one year from the date of granting such variance shall lapse and may be reestablished only after notice and a new hearing pursuant to this article. The board may waive the requirement for the payment of fees for such variance renewal application if there has been no material change of

conditions pertaining to the property since the granting of the first variance. Variances originally granted concurrently and in connection with a change of a zoning designation as set forth in section 38.05.097 hearings shall expire when and if the zoning designation is changed or the site plan approved with variance(s) expires.

~~(4) Requirements for approving applications for special use permits. The board shall not approve a special use permit application unless it finds, based on competent evidence, that each of the conditions in section 38.04.033 and the criteria applicable to individual special uses under section 38.04.034 of this chapter have been established. The burden of establishing such conditions and criteria is on the applicant. An approval may be conditioned on the applicant's adoption of specified changes, conditions, limitations, or safeguards deemed appropriate by the board. A violation of any such condition, limitation or safeguard shall constitute a violation of this Code.~~

~~(4) (5) Appeal of administrative official's decisions or actions. In exercising its authority under section 38.02.006, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.~~

~~(5) (6) Board of adjustment findings.~~

~~(A) The final decision of the board shall be in writing and shall concisely state all pertinent and material facts upon which its findings are based and references to applicable sections of the chapter or rules that the board relied upon in reaching its decision. The final decision shall be verified by the city secretary.~~

~~(B) The board shall forward its findings to the city to the city council, to the applicant in writing, and the secretary of the board of adjustment.~~

~~(C) The board's final decision shall be immediately filed with the board of adjustment office, which shall be maintained by the board's secretary. The time and date that the board's final decision is filed with the board's office shall be stamped on the face of the decision.~~

(Ordinance 379 adopted 9/25/19)

§ 38.02.010. Board of adjustment findings.

(A) The final decision of the board shall be in writing and shall concisely state all pertinent and material facts upon which its findings are based and references to applicable sections of the chapter or rules that the board relied upon in reaching its decision. The final decision shall be verified by the city secretary.

(B) The board shall forward its findings to the city secretary ~~to the city council,~~ to the applicant in writing, and the secretary of the board of adjustment.

(C) The board's final decision shall be immediately filed with the board of adjustment office, which shall be maintained by the board's secretary. The time and date that the board's final decision is filed with the board's office shall be stamped on the face of the decision.

~~Any rights authorized by a variance which are not exercised within one year from the date of granting such variance shall lapse and may be reestablished only after notice and a new hearing pursuant to this article. The board may waive the requirement for the payment of fees for such variance renewal application if there has been no material change of conditions pertaining to the property since the~~

~~granting of the first variance. Variances originally granted concurrently and in connection with a change of a zoning designation as set forth in section 38.05.097 hearings shall expire when and if the zoning designation is changed or the site plan approved with variance(s) expires.~~
(Ordinance 379 adopted 9/25/19)

§ 38.02.011. Limitations.

(a) No ~~appeal under section 38.02.006~~ re-application may be filed by the same applicant within 365 days of the date upon which the board denied such ~~appeal~~, request ~~or application~~, unless other property in the immediate vicinity has, within the 365-day period, been changed or acted on by the board so as to alter the facts and conditions upon which the previous board action was based. Such change of circumstances shall permit the rehearing of a~~n appeal~~, request ~~or application~~ by the board prior to the expiration of the 365-day period, but such conditions shall in no way have any force in law to compel the board to reconsider the ~~appeal,~~ request ~~or application~~. Such subsequent rehearing shall be considered entirely on its merits and the peculiar and specific conditions related to the property with reference to which such proceeding is brought.

~~(b) Any appeal, request or application approved by the board, either under the provision of this chapter or under the authority granted to the board under the statutes of the State of Texas, shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of 90 days from the date of the favorable action on the part of the board unless the board in its minutes shall, at the same time, approve a longer period. If an application for such building permit or certificate of occupancy is not filed within the 90-day period or such extended period as the board may specifically approve, then the approval of the appeal or variance shall be deemed waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, request or application to the board in accordance with the rules and regulations herein contained.~~

(Ordinance 379 adopted 9/25/19)

§ 38.02.012. Review of board of adjustment's decision.

(a) Appeal. Any person or persons, jointly or severally, aggrieved by any decision of the board or any taxpayer, or any officer, department, or board of the city may present any such matter to a court of competent jurisdiction for review after the final action of the board thereon and in the manner and upon the terms provided by the laws of the state.

~~(b) Reconsideration. Any board of adjustment decision that fails by a vote of 4 to 1 may be appealed to all 6 members of the board of adjustment. The board of adjustment may reverse such recommendations or findings by supermajority vote of those present. This appeal must be filed in writing within 30 calendar days after the rendering of board of adjustment's recommendation.~~

(Ordinance 379 adopted 9/25/19)

§ 38.02.013. Enforcement.

If the variance application(s) are denied or withdrawn prior to approval, the applicant has ten (10) days to bring the property into compliance. If the deviation(s) are not corrected within the ten (10) days or timeframe agreed to, in writing, by the city administrator, immediate enforcement action described by section 2.02.041 of this code may be taken to bring the property into compliance.
(Ordinance 2021-004, att. F, adopted 6/23/21)

ARTICLE 38.03
ZONING DISTRICTS

DIVISION 1

Generally

§ 38.03.001. Classification of districts.

The city is hereby divided into the following zoning districts:

Abbreviated Designation	Zoning District
R-1	One-Family Residential
R-2	Two-Family Residential
R-3	Transitional Residential
O	Professional and Business Office
B-1	Business 1
B-2	Business 2
B-3	Business 3
GUI	Governmental, Utility and Institutional
MU-1	Mixed Use 1
CO	Conditional Overlay
PDD #1	Planned Development District Number 1
PDD #2	Planned Development District Number 2
PDD #3	Planned Development District Number 3
PDD #4	Planned Development District Number 4
PDD #5	Planned Development District Number 5
PDD #6	Planned Development District Number 6

(Ordinance 2020-216 adopted 12/9/20)

§ 38.03.002. Continuation of prior zoning classification; amendments to designation of districts.

Those portions of Ordinance No. 54 of the city, and the amendments thereto, that specify the zoning district classification for particular parcels or areas of land in the city are continued in full force and effect and are hereby amended to the extent necessary to comply with the district designation set out in section 38.03.001 as follows:

(1) All references to “A Residential” district are amended to read “R-1 One-Family Residential”;

(2) All references to “C Duplex Only” district are amended to read “R-2 Two-Family Residential”;

(3) All references to “B Public Building and Small Business in the Home” district are amended to read “GUI Governmental, Utility and Institutional” for such lawfully existing uses on August 24, 1980;

(4) References to “C Commercial” district are amended to read “B-1 Business 1” district; except, when a parcel of land in a C commercial district lawfully contained, on August 28, 1980, a use permitted or authorized in a B-2 business 2 district, that portion of the C commercial district where such parcel is located is redesignated as a B-2 business 2 district;

(5) All references to “D Commercial” district are amended to read “B-2 Business 2”;

(6) All references to “O Professional and Business Office District” shall be continued to read “O Professional and Business Office District.”

(Ordinance 362 adopted 3/28/18)

§ 38.03.003. Official zoning map.

(a) The locations and boundaries of zoning districts established by ordinance shall be recorded on an

official zoning map to be adopted by a resolution of the city council and identified and amended in the manner specified in this section. Recording on the official map is not a prerequisite to the effectiveness of a zoning ordinance.

(b) The official zoning map shall be identified by the signature of the mayor attested by the city administrator under the following words: "This is to certify that this is the Official Zoning Map of the City of West Lake Hills, Texas."

(c) Changes in the zoning classification of particular parcels or areas of land, approved by the city council in accordance with the provisions of this chapter, shall be noted promptly on the official zoning map with the following entry: "On (date), by official action of the City Council, the following changes were made in the Official Zoning Map: (brief description of the nature of the changes)", which entry shall be signed by the mayor and attested by the city administrator.

(d) No changes of any nature shall be made in the official zoning map except in conformity with the procedures in this chapter.

(e) If the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the city council may by resolution adopt a new official zoning map, which shall exactly duplicate the original except for corrections of errors or omissions.

(Ordinance 362 adopted 3/28/18)

§ 38.03.004. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries which appear to follow streets, roads or streams shall be construed to follow the centers thereof;

(2) Boundaries which appear to follow the lines of lots or other parcels of record shall be construed as following such lines;

(3) Boundaries which appear to follow city limit lines shall be construed as following such lines; and

(4) In case of uncertainty as to the true location of a district boundary line not covered by the rules set out in subsections (1) through (3) of this section, the city council shall make a determination of the true location of such line.

(Ordinance 362 adopted 3/28/18)

§ 38.03.005. Newly annexed areas.

(a) Any land hereafter annexed to the city shall immediately and automatically upon such annexation be temporarily classified as in the R-1 district. At the time of the final annexation hearing, or as soon thereafter as practicable, the city shall hold a public hearing to enact a temporary zoning ordinance for all newly annexed areas. The temporary zoning hearing shall fully comply with the requirements provided by law (V.T.C.A., Local Government Code sections 211.006, 211.007).

(b) Temporary classifications originating upon annexation shall be noted on the official zoning map in accordance with section 38.03.003.

(c) The city zoning and planning commission shall, as soon as practicable after the annexation of any territory to the city, institute proceedings on its own motion to give the newly annexed territory a permanent zoning classification. The procedure to be followed is provided in article 38.05, division 4, of this chapter.

(Ordinance 362 adopted 3/28/18)

§ 38.03.006. through § 38.03.030. (Reserved)

DIVISION 2

§ 38.03.031. Compliance with chapter required.

No structure or land shall be used, and no structure shall be constructed, erected, placed, enlarged, altered or continued, except as authorized by this chapter.
(Ordinance 362 adopted 3/28/18)

§ 38.03.032. R-1 one-family residential district.

(a) Purpose.The R-1 district is intended to establish and preserve peaceful, attractive and safe low-density residential neighborhoods of single-family detached dwelling units and to protect the integrity of such areas by prohibiting the intermixture of residential and incompatible nonresidential uses.

(b) Permitted uses.Permitted uses are as follows:

(1) One-family dwelling, limited to no more than one such building per lot occupied by no more than one family.

(2) Accessory structures and uses customarily incidental to the uses permitted under this subsection.

(3) Short-term rentals with an STR permit issued by the city administrator.

(c) Special uses.Special uses permitted upon authorization of the city council ~~or city administrator~~ are as follows:

(1) Guest or domestic employee quarters.

~~(2) Home Occupation.~~

(2) ~~(3)~~ Riding stable.

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.03.033. R-2 two-family residential district.

(a) Purpose.The R-2 district is intended to recognize and is limited to preexisting properties and annexed areas where such one-family residential and two-family residential units previously existed. Vacant land is not eligible for this zoning district designation.

(b) Permitted uses.Permitted uses are as follows:

(1) Two-family dwellings, limited to no more than one such building per lot and occupied by no more than a total of two families.

(2) Condominium regimes. The city council shall review the condominium regime.

(3) Accessory structures and uses customarily incidental to the uses permitted under this subsection.

(4) Short-term rentals with an STR permit issued by the city administrator.

(c) Parking requirements.Parking requirements are as follows:

(1) At least two parking spaces are required for each family dwelling unit.

(2) All unenclosed parking spaces shall be at the rear of the structure.

(3) Garage doors shall face either the side or rear yard property lines.

(4) Garages shall not be located beyond the street facing elevation.

(5) Parking shall not be permitted under any portion of the dwelling unit.

(d) Special uses. The following special uses are permitted upon authorization of the city council ~~or city administrator~~, special uses permitted in the R-1 district upon authorization of the city council.

(e) Note: All duplexes shall go through the same approval process as commercial projects (i.e., ZAPCO and city council).

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.03.034. R-3 transitional residential district.

(a) Purpose.The R-3 district is intended to provide a transitional zone between nonresidential districts and R-1 one-family residential districts where structures may be clustered to better utilize property topography and to better provide buffering greenbelts between traffic thoroughfares and to the adjacent R-1 one-family residential districts.

(b) Definitions.

Clustered single-family dwelling. One (1) family home unit attached to one (1) or more family home units (e.g., duplex or fourplex).

Detached single-family dwelling. One (1) home unit for one family, not attached to any other home unit.

(c) Permitted uses.Permitted uses are as follows:

(1) Clustered or detached single-family (one) dwellings, provided:

(A) Structures are limited to no more than an average of two single-family dwelling units per acre; and

(B) The tract is adjacent to any nonresidential zoning district: and

(C) Not less than 15% of the total perimeter measure of the proposed R-3 tract shall share a common boundary line with the nonresidential district; and

(D) Centralized municipal wastewater facilities and capacity are available to serve the proposed development.

(2) Apartment dwelling units, limited to a minimum of ten and a maximum of 30 dwelling units to a single structure with disposal of effluent into the City of Austin public central sewage system. This apartment permitted use is intended to recognize, and is limited to, preexisting properties and annexed areas where such use previously existed. Vacant land is not eligible for this permitted use.

(3) Accessory structures and uses customarily incidental to the uses permitted under this subsection.

(4) Short-term rentals with an STR permit issued by the city administrator.

(d) Special uses.Special uses permitted upon authorization of the city council ~~or city administrator~~ are as follows:

(1) ~~Home Occupation.~~

~~(2)~~ Guest or domestic employee quarters.

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.03.035. O professional and business office district.

(a) Purpose.The O district is intended to provide sites for quiet low-density commercial office uses.

(b) Permitted uses.The following uses are permitted, provided that there is no nuisance factor:

(1) Office of an accountant, architect, attorney, engineer, physician, broker, consultant, insurance agent, real estate agent, massage therapy clinic, or similar professional or semiprofessional occupation.

(2) The business office of a publishing or printing firm not involving the production or distribution of printing materials. For purposes of this subsection, production or distribution of printing materials means the printing, manufacture, assembly, cutting, folding, binding, packaging or sorting of finished copies or portions thereof, for purposes of distribution or mailing. Printing includes plate production and offset printing, as well as other high-speed photocopying techniques. The discharge of chemicals associated with a photographic process, plate production or offset printing, as well as any other type of photocopying techniques, into a private sewage facility will be in accordance with chapter 18, article 18.03.

(3) Business offices where no sales of merchandise stored on the premises and money exchange occurs.

(4) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses.Special uses permitted upon approval of the ~~board of adjustment~~ city council are:

(1) Assembly and testing of electronic components.

(2) Child day care facility provided the use is in a separate structure on the lot and will not adversely affect other tenants.

(3) Employee dining facility (private dining facility for employees only) without drive-in service, and excluding establishments serving food for consumption off-premises, commonly referred to as fast food establishments. No intoxicating liquors may be sold for on-premises consumption unless authorized by a special use permit.

(4) Bank or savings and loan association permitted prior to May 1, 2005.

(5) Churches, excluding areas devoted to the residential housing of persons employed or associated with the church and areas devoted to a day care center for the care of children not during hours of regular worship unless otherwise authorized by this chapter.

(6) Massage therapy school.

(7) Charter school or private school provided the use is in a separate structure on the lot and will not adversely affect other tenants.

(8) Wireless telecommunication facilities.

(Ordinance 362 adopted 3/28/18)

§ 38.03.036. B-1 business 1 district.

(a) Purpose.The B-1 district is intended to provide sites for quiet, low-density retail businesses providing goods and services (with merchandise contained within the building or enclosure approved for such use, except for florist or garden shops and nurseries or greenhouses, where live vegetation may be kept outdoors) to meet the needs of the residents of the city in a manner and on a scale that is in harmony with the semi-rural character of the community.

(b) Permitted uses. The following uses are permitted, provided that there is no nuisance factor:

(1) Those uses permitted in O districts.

(2) Antique shop.

(3) Arts and crafts supply store.

(4) Bakery.

(5) Barbershop or beauty shop.

(6) Book or stationery store.

(7) Carpeting, floor covering and rug store.

(8) China or glassware shop.

(9) Clothing or shoe store.

(10) Confectionary store.

(11) Delicatessen or catering service.

(12) Fine arts and crafts gallery.

(13) Florist or garden shop.

(14) Gift shop.

(15) Ice cream parlor.

(16) Jewelry shop.

(17) Laundry and dry cleaning substation, with no actual cleaning work being performed on the premises except by special use permit in the B-3 district only.

(18) Nursery or greenhouse.

(19) Optical goods store.

(20) Pool supply and service.

(21) Seamstress, dressmaker or tailor shop.

(22) Studio for art, dance, drama, music, martial arts, photography or interior decorating.

(23) Tobacco shop.

(24) Toy store (5,000 square feet maximum floor area).

(25) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses. Special uses permitted upon approval of the ~~board of adjustment~~ city council are:

(1) Other quiet, low-density retail business uses to serve the needs of residents of the city, which may be permitted as special uses in accordance with the procedure for granting such uses

upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or to the adjoining land uses.

(2) Child day care facility.

(3) Hospital.

(4) Rehabilitation/wellness center.

(5) Special uses permitted in O professional and business office districts.

(Ordinance 362 adopted 3/28/18)

§ 38.03.037. B-2 business 2 district.

(a) Purpose. The purpose of the B-2 district is the same as for the B-1 district. District B-2 allows a more intense use, however, than is permitted in district B-1. The B-2 district should be reserved for areas where the anticipated impact of the permitted commercial uses is unlikely to have an adverse effect on residential uses or other elements of the community. All merchandise shall be contained under or within buildings or enclosures approved for such use.

(b) Permitted uses. The following uses are permitted, provided there is no nuisance factor:

(1) Those uses permitted in O and B-1 districts.

(2) Auto parts store.

(3) Furniture store.

(4) Grocery store.

(5) Health food store.

(6) Specialty food store.

(7) Hardware store.

(8) Pet shop and pet grooming shop.

(9) Pharmacy.

(10) Photocopying, typing or printing service.

(11) Restaurant without drive-in service. No intoxicating liquor may be sold for on- or off-premises consumption unless authorized by a special use permit. Drive-in/drive-through service authorized by a special use permit only.

(12) Sporting goods store, excluding the sale or servicing of boats, boat motors and motor vehicles.

(13) Variety store.

(14) Veterinary clinic.

(15) Health or athletic club.

(16) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(17) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.

(18) Alcoholic beverages sold in grocery stores for off-premises consumption

(c) Special uses.Special uses permitted upon approval of the city council are:

(1) Other quiet, low-density retail business uses providing goods and services to meet the needs of the residents of the city, which may be permitted as special uses in accordance with the procedure for granting such uses upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or the adjoining land uses.

(2) Commercial kennel.

~~(3) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.~~

~~(4) Alcoholic beverages sold in grocery stores for off-premises consumption.~~

(3) Research, development or clinical laboratory.

(4) Liquor store.

(5) Publishing business.

(6) Restaurants with drive-in/drive-through facilities.

(7) Special uses permitted in O professional office and B-1 business 1 districts. (Ordinance 362 adopted 3/28/18)

§ 38.03.038. B-3 business 3 district.

(a) Purpose.The B-3 district is intended to provide a more intense mixed use retail facility with frontage on a state-maintained highway. This zoning classification is limited to those tracts of land for which, prior to June 24, 1992, were issued by the city a building permit and a certificate of occupancy for buildings located on the subject property. This zoning district classification is no longer an extant zoning district classification except for those tracts of land which have been designated as B-3 business zoning districts in accordance with this section. The regulations set forth in this section shall apply to only those tracts of land which have heretofore been designated as a B-3 business zoning classification and have been developed or are being developed pursuant to such zoning classification.

(b) Permitted uses.The following uses are permitted, provided that there is no nuisance factor:

(1) Those uses permitted in O, B-1 and B-2 districts, except that only one stand-alone bank or savings and loan facility shall be permitted in any B-3 district, unless another bank or savings and loan facility applied for a permit prior to May 1, 2005, and subsequently received approval for such permit.

(2) Alcoholic beverages sold in grocery stores for off-premises consumption.

(3) Appliance store.

(4) Bicycle shop.

(5) Electronic equipment store.

(6) Camera store.

(7) Clothing store.

(8) Department store.

(9) Fabric store.

(10) Financial services.

(11) Hobby shop.

(12) Import store.

(13) Liquor store.

(14) Movie theaters.

(15) Record shop.

(16) Research, development or clinical laboratory.

(17) Restaurant.

(18) Shoe store or shoe repair.

(19) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses.Special uses permitted upon approval of the ~~board of adjustment~~ city council are:

(1) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.
(2) Cocktail lounge.

(3) Other retail business uses providing goods and services to meet the needs of the region, which may be permitted as special uses in accordance with the procedure for granting such uses upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or the adjoining uses.

(4) Special uses permitted in O, B-1 and B-2 districts, except that a bank or savings and loan facility shall not be allowed in any B-3 district by way of a special use permit.

(5) Laundry and dry cleaning plant operation.

(Ordinance 362 adopted 3/28/18)

§ 38.03.039. GUI governmental, utility and institutional district.

(a) Purpose.The GUI district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the GUI district generate a large amount of traffic. Only land abutting a collector or arterial street that can be used for access shall be considered appropriate for GUI classification. An appropriate site should also contain adequate space for required off-street parking and buffering.

(b) Permitted uses.The following uses are permitted, provided that there is no nuisance factor:

(1) Church.

(2) Facility owned and operated by the federal government, the state or a political subdivisions thereof.

(3) Fire station.

(4) School, either public, private or nonprofit.

(5) Uses required by public utilities.

(6) Philanthropic or fraternal associations.

(7) Accessory uses customarily incidental to any of the uses permitted under this subsection.

(8) The renting for profit or nonprofit of heated and air conditioned space, used for conventions, art and craft shows, antique/collectible shows, weddings, private parties, seminars and other similar events. Maximum rental time limit for any one event shall be three days. No simultaneous scheduling of events shall be allowed.

(c) Special uses.Special uses permitted upon authorization of the city council are as follows:

(1) Child day care facility.

(Ordinance 362 adopted 3/28/18)

§ 38.03.040. Mixed use 1 district.

(a) Purpose.

(1) The MU-1 district is intended to establish and preserve a peaceful, attractive, medium-density residential single-family dwelling to better utilize property topography, together with a mixture of compatible and complementary nonresidential uses. This district is intended to provide for well-designed and site-sensitive mixed facilities established on larger tracts of land of not less than 30 acres in size. Due to a more diverse and intense use, this district shall be limited to tracts near the outer city limits and with a minimum of 1,500 feet of frontage on a state-maintained highway.

(2) Sewage disposal for tracts designated MU-1 shall be processed through an off-site public sewage disposal system. Residential zoned lots, MUR-4 only, may utilize on-site private sewage disposal (septic) systems as approved by the city.

(3) The residential and nonresidential uses shall be separated. The integrity of these areas shall be preserved, utilizing topography and architectural features to achieve this effect. The residential and nonresidential areas shall have a separate ingress and egress to major thoroughfares bordering the zoned tract of land. There shall be no vehicular traffic allowed between the residential and nonresidential areas of the zoned tract. There shall be maintained a continuous 50-foot buffer zone that separates the residential and nonresidential districts that has a total of at least 4.5 acres of land, which is fully and thickly landscaped with plants and trees indigenous to the area.

(4) There is hereby created for exclusive use in a MU-1 zoning district, which has a minimum lot area of 30 acres, the following category zoning districts:

(A) MUB-4: Mixed Use Business 4 District.

(B) MUR-4: Mixed Use One-Family Residential District.

(C) MUGB: Mixed Use Conservation District.

(5) The categories described in subsection (4) of this subsection shall apply only to those tracts of land that have an overall zoning district designation of MU-1.

(6) The mix of land uses will be restricted as follows: 20 percent maximum office/business/governmental (MUB-4), 59 percent minimum one-family residential (MUR-4), and 21 percent minimum conservation (MUGB).

(7) The average impervious cover percentage for the total area zoned MU-1, which shall include MUB-4, MUR-4 and MUGB, shall not exceed a maximum of 30 percent.

(b) Nonresidential areas (MUB-4 district).

(1) Permitted uses.Permitted uses for the MUB-4 district are all uses permitted in the O, B-1, B-2, B-3 and GUI zoning districts.

(2) Special uses.Special uses for the MUB-4 district are all those special uses permitted in the O, B-1, B-2 and B-3 zoning districts.

(3) Site development requirements.Site development requirements for the MUB-4 district are as follows:

(A) Site area.The total cumulative land area devoted to nonresidential uses as permitted in the MUB-4 mixed use district combination of uses (O, B-1, B-2, B-3 and GUI) shall not exceed 20 percent of the total land area contained within the MU-1 zoned tract of land. The minimum lot size is six acres.

(B) Building area.Building square footage shall not exceed 60,000 gross square feet for each single business/commercial/governmental use.

(C) Buffer.A minimum 50-foot-wide densely planted buffer zone shall be provided on the rear and side property lines which abut any residential zoning district, which must total at least 1.80 acres of area, and be approved by the city council.

(D) Impervious cover.

(i) A maximum of 55 percent of the total site area (MUB-4) shall be permitted to be impervious cover. A developer may be permitted to increase the maximum impervious cover to 64 percent, as approved by the city council, by selecting from the following weighted incentives:

Incentive Items		Increase in Impervious Cover
a.	The developer may increase landscaping or setbacks (front and one side or rear) by more than 50 percent of requirements. Landscaping should provide for using predominantly native plants and grasses to minimize the use and impact of pesticides, herbicides and fertilizers.	Up to 3%
b.	The developer may construct detention basins with sedimentation/filtration basins in addition to required detention basins.	2%
c.	The developer may provide primarily ten feet or greater landscaped separations between parking aisles.	5%
Incentive Items		Increase in Impervious Cover

d.	Based on the evaluation by the zoning and planning commission and the city council, an increase in allowable impervious cover ranging from one percent to five percent may be approved for a project that demonstrates highly innovative architecture, site planning and land use techniques of a caliber not previously utilized in the city's area or of such a quality as to set an excellent example for subsequent developments.	Up to 5%

(ii) The criteria for evaluation shall include but not be limited to the following:

a. Reduction of building mass by breaking up buildings.

b. Techniques to enhance the pedestrian scale of the project, including sidewalks and covered walkways.

c. Measurable efforts to preserve greenbelts at the expense of street visibility.

d. Construction of berms to block off-street visibility of pavement and parking areas.

e. Noise abatement efforts to adjoining sites by providing solid walls and dense planting.

f. Other provisions to lessen the visual impact of the project on surrounding properties.

g. Revegetation of strategic, previously open setback areas with mature, indigenous landscaping. Other unscheduled project design elements may be considered in this incentive item.

(E) Setbacks.Building setbacks shall be 75 feet from state-maintained roadways and from any residential zoning district. All other front, side and rear side setback requirements shall conform to the dimensional regulations of this chapter. All nonresidential uses shall be designed according to the O, B-1, B-2 or GUI site requirements per this chapter.

(F) Building height.Building heights are restricted per section 22.03.281(b).

(G) Access.All vehicles, including truck and commercial vehicular traffic, shall have ingress and egress from a state-maintained highway not being utilized by the residential MUR-4 district for ingress and egress.

(H) Loading areas.Loading and unloading services for all businesses will be only at the rear of buildings and shall be visually and acoustically shielded from the residential areas.

(c) Residential areas (MUR-4 district).

(1) Permitted uses.Permitted uses for the MUR-4 district are all uses permitted for the R-1 zoning district.

(2) Special uses.Special uses for the MUR-4 district are special use numbers 1 and 2 as permitted for the R-1 zoning district.

(3) Site development requirements.Site development requirements for the MUR-4 district are as follows:

(A) Minimum area.A minimum of 59 percent of the total area zoned MU-1 shall be developed under the MUR-4 option.

(B) Lot area.Minimum dwelling unit lot size is one acre (43,560 square feet).

(C) Lot dimensions.Minimum dwelling unit lot dimensions are as follows: at least 150 feet wide by at least 150 feet deep, as measured according to the requirements in section 22.03.274. These dimensions shall not be construed to decrease the required minimum lot size as indicated in subsection b of this subsection.

(D) Setbacks.Minimum dwelling unit building setbacks shall be 50 feet front and 30 feet rear, and 25 feet on each side, measured according to section 22.03.275.

(E) Impervious cover.Impervious cover inside the boundaries of a dwelling unit lot shall not exceed 25 percent on each lot.

(F) Building height.Maximum building height shall not exceed 30 feet, measured according to section 22.03.279.

(G) Building floor area.The minimum floor area is 3,000 square feet of living area (with heat and air conditioning).

(H) Construction on individual lots.Lots under the MUR-4 designation may be built out by the individual property owner or a designated developer approved by the city.

(I) Exterior cover.Exterior cover shall be at least 80 percent masonry or brick construction.

(J) Access.Ingress and egress shall be from a state-maintained highway not being utilized by the commercial MUB-4 district for ingress and egress.

(K) Buffer.A minimum 50-foot-wide densely planted buffer zone shall be provided, which must total at least 1.12 acres of area, between residential and nonresidential areas.

(L) Additional requirements.The residential area in the MU-1 zoning district shall be designated as MUR-4 and shall be governed by the applicable requirements pertaining to all residential zoning districts outlined elsewhere in this chapter.

(d) Mixed use conservation areas (MUGB district).

(1) Generally.A mixed use conservation area is defined as land not open to the public, which shall remain closed, undisturbed and in its natural state and in which no building, parking lot, private sewage facility or other structure or improvement shall be constructed or maintained; provided, however, that stormwater detention ponds and vehicular access may be constructed and maintained on such land where necessary for the prevention of flooding and to facilitate drainage and to provide access to the residential development as approved by the city council. The city council may grant approval for the use of conservation areas for supervised civic or educational activities and to restore designated areas to their natural

state.

(2) Site development requirements.

(A) A minimum of 21 percent of the total areas zoned MU-1 shall be designated as MUGB, with a minimum of one lot being at least 10.5 acres.

(B) No construction is to occur within the greenbelt area except for sedimentation and filtration ponds and ingress/egress street access as approved by the city. Tree and bush trimming or clearing may be permitted upon approval by the city council.

(C) Conservation district area shall be utilized in computing the total MU-1 tract maximum impervious coverage percentage for mixed use residential, nonresidential and conservation areas.

(D) The area comprising the land contained in the MUGB district must be set forth in a restrictive covenant dedicating the tract of land as a greenbelt area, as approved by the city.

(e) General site development requirements; site plan.

(1) Development standards.General site development requirements for the MU-1 district are as follows:

(A) Street layout, landscaping, parking and lighting.Internal street layout, landscaping, parking and lighting requirements shall be those as required by this chapter, chapter 36, or other provisions of this Code.

(B) Signs.Signage will comply with chapter 32.

(C) Stormwater drainage.Stormwater drainage shall be in compliance with the current drainage and erosion control design manual available from the city.

(D) Sidewalks.Sidewalk construction, if required by the city council, shall comply with City of Austin standards.

(E) Right-of-way requirements.Minimum public right-of-way requirements are as follows: 40-foot right-of-way, and 27-foot pavement width, plus an 18-inch concrete ribbon curbing on each side of the roadway.

(F) Sewage disposal.The developer shall obtain City of Austin written approval to furnish the required living unit equivalents (LUEs) of wastewater service for the applicant’s planned residential and nonresidential development. Residential one-acre lots may have on-site private sewage disposal (septic) systems.

(G) Water service.The developer shall obtain Water Control and Improvement District (WCID) No. 10 written approval to furnish the required water service for the planned residential and nonresidential development.

(H) Site plan.The site plans for development of MUB-4 and MUR-4 zoning districts shall be an integral part of the zoning change approval process by the city council as outlined in section 38.05.095.

(2) Site plan information.Specific site plan submittal information is as follows:

(A) Per city ordinances.All information to be provided for city approval shall be in accordance with all city ordinances as they apply to specific zoning district regulations as set forth in this chapter. The checklist is available from the city.

(B) Additional information.The following additional information must be shown on submitted site plans. The plans shall:

(i) Show building coverage, building height and building square footages, and specify each use in each building by zoning district.

(ii) Show proposed development phasing, if applicable.

(C) Approval of site plan.Site plan approval by the city is required before any building permit can be issued. The city will approve a site plan which reflects a design which is most sensitive to the natural terrain of the tract, which lessens the environmental impact of the development to the greatest extent possible, and which attempts to mitigate traffic congestion with adequate roadway design and traffic roadway improvements on public streets surrounding the site.

(D) Expiration of site plan; extensions; modifications.The site plan connected to any MU-1 district shall be valid for a period of three years from its approval by the city. If necessary, it can be extended by the city for a period of two years if the request is submitted before the site plan expiration date. The city can approve an extension if it finds that the request is in good faith, and that it substantially meets the conditions of current ordinances in effect at the time of the extension request. Any significant modifications to the site plan must be approved by the city council.

(3) Other requirements.Applicable requirements pertaining to parking, landscaping, lighting, signs and street networks shall apply in accordance with all city ordinances and with specific corresponding zoning district regulations as set forth in this chapter.

(f) Application for MU-1 designation.Application for a MU-1 zoning designation shall be accompanied by a site plan. Such site plan shall set forth the segregated nonresidential, residential and greenbelt areas and specify zoning designations for each area so that the regulations pertaining to the specific zoning districts shall be applied to each area in the tract.

(Ordinance 362 adopted 3/28/18)

§ 38.03.041. Conditional overlay district.

(a) Purpose.

(1) The conditional overlay district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties. The conditional overlay district is appropriate to insure compatibility among competing or potentially incompatible uses, in order to ease the transition from one base district to another. This zoning designation is intended to address land uses or sites with special requirements, and to guide development in unusual situations or unique circumstances to ensure adequate mitigation of potentially unfavorable impacts. A conditional overlay district addresses special situations that are not appropriate to a specific zoning district.

(2) The conditional overlay district may be applied in combination with the basic zoning districts of “O” Professional and Business Office District, “B-1” Business 1 District, “B-2” Business 2 District, “B-3” Business 3 District, and “GUI” Governmental, Utility and Institutional District as set forth in section 38.03.001 of the Code.

(b) Use and site development regulations in the conditional overlay district.The conditional overlay district designation modifies and restricts the use and site development regulations otherwise applicable to basic zoning districts of “O” Professional and Business Office District, “B-1” Business 1 District, “B-2” Business 2 District, “B-3” Business 3 District, and “GUI” Governmental, Utility and Institutional District as set forth in section 38.03.001 of the Code. All requirements of a conditional overlay district are in addition to and supplement all other

applicable requirements of the Code applicable to the basic zoning district. Terms that may be imposed by the conditional overlay district shall include, but not limited to, the following:

(1) Prohibiting permitted uses, special uses and accessory uses otherwise authorized in the base district, or making a permitted use a conditional use;

(2) Decreasing the number or average density of dwelling units which may be constructed on the property;

(3) Increasing minimum lot size or minimum lot width requirements;

(4) Decreasing maximum floor area per building;

(5) Decreasing the maximum height permitted;

(6) Increasing the setback requirements;

(7) Decreasing the maximum building or impervious coverage permitted;

(8) Restrictions on access to abutting and nearby roadways, including specific design features intended to ameliorate potentially adverse traffic impacts;

(9) Alleviate the need for variances on the site; and

(10) Any other specific site development or subdivision regulations required or authorized by this code.

(c) Method of adoption.

(1) An applicant, as described by section 38.05.092 of this Code, for zoning, rezoning, or requesting a conditional overlay to be imposed on a parcel of land shall provide notice of the zoning and planning commission meeting and the city council meeting to consider such an application in accordance with the provisions of sections 38.05.094 and 38.05.095 of the Code, respectively. Such notice shall include a description of the restrictions requested by the applicant and a statement that additional notice will be provided if the council proposes to require fewer restrictions than requested by the applicant or to zone or rezone the property without the requested conditional overlay.

(2) The zoning and planning commission may recommend a conditional overlay designation for any application to establish zoning designation or a change of zoning without notice as required in section 38.03.041(c)(1).

(3) The city council may impose a conditional overlay designation to any requested zoning or rezoning of a parcel of land without the notice requirement set forth in section 38.03.041(c)(1) of this Code under the following conditions:

(A) Such conditional overlay designation requires the same or greater restrictions imposed by the zoning district sought by the applicant; and

(B) The owner of the property or his authorized agent or representative consents to the designation of the conditional overlay.

(4) Restrictions imposed by the conditional overlay ("CO") designation district shall be included in the ordinance effecting the zoning or rezoning of the property as a conditional overlay zoning district. All property included in a conditional overlay zoning district shall be identified on the zoning map by adding the letters "CO" to the base district symbol. The ordinance effecting the zoning or rezoning of property as a conditional zoning district shall specifically state the modifications imposed pursuant to section 38.03.041(b). The restrictions shall be considered a part of the text of this Code, and a violation of the

restrictions shall be a violation of this Code. The restrictions shall continue in full force and effect until repealed or modified by the council by amendment to the Code. The procedure to establish or modify a conditional overlay zoning district for a particular parcel of land shall be the same as the procedures set forth in article 38.05, division 4 of this chapter of the Code.

(Ordinance 362 adopted 3/28/18)

§ 38.03.042. PDD #1: Planned development district number one.

(a) Applicability.This section shall apply solely to the following parcels, which shall herein be referred to collectively as the property:

(1) Parcel 1:12.481 acres of land, consisting of the following two tracts:

(A) Tract 1:1.554 acres: Lot 3, Resubdivision of Lots 1, 2 and 3 of Summit Oaks, a subdivision of Travis County, Texas, according to the map or plat thereof recorded in Volume 79, Page 251 of the Plat Records of Travis County, Texas, more particularly described in exhibit A to Ordinance 388; and

(B) Tract 2:10.927 acres out of Lots 25, 26, 27 and 28 Barton Springs Estates, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 3, Page 192 of the Plat Records of Travis County, Texas, Texas, more particularly described in exhibit A to Ordinance 388; and

(2) Parcel 2:0.913 acres: Lot 1, Jay Counts Confirming Plat, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 80, Page 320 of the Plat Records of Travis County, Texas, more particularly described in exhibit B to Ordinance 388.

(b) Development approvals.

(1) Applications for permits for the project (including but not limited to building permits, site

plan, plats) shall be submitted in conformance with the Code of Ordinances, and this section (PDD #1). If there is a conflict between this section and any other rule or regulation of the city, and the conflicting rules or regulations cannot be harmonized so that both be given effect, the provisions of this section shall govern.

(2) Applications for permits for stages of development that require related approvals from other regulatory agencies with jurisdiction must be processed concurrently with the applications to the other regulatory agencies. No development activity that requires approval by another regulatory agency in addition to city approval may be commenced until the approval of that other regulatory agency is obtained, and evidence of the approval provided to the city.

(3) The city will not issue any permits for the project until the city has been provided with evidence of the approval of the following permits for the project from other regulatory agencies:

(A) Texas Department of Transportation (TxDOT), or a successor agency, authorization for driveway accessing Bee Cave Road.

(B) Texas Commission on Environmental Quality (TCEQ), or a successor agency, authorization for construction of an on-site sewage facility (if required in accordance with subsection (d)(17)(C)(i) below.

(c) Base zoning district.The property is hereby zoned office district (O), and shall hereafter be

governed by the rules applying in that zoning district.

(d) Development standards for parcel 1.The development regulations for parcel 1 will be consistent with those applicable to the base districts (see subsection (b) above), except as otherwise provided in these development standards.

(1) Land use.The sole approved use of the property is an assisted living facility with memory care. “Assisted living facility” means a senior living community licensed by the state that is designed to serve the needs of adults aged 55 and older who need assistance with the activities of daily life such as bathing, grooming, dressing, and meals. The residents of an assisted living facility live in individual apartments and are provided with three meals per day, housekeeping, transportation, and planned activities, with a trained staff, including a licensed nurse who provides personal care services for residents whose individual health needs include medication management and support for diabetes and incontinence, but do not require the 24-hour medical care of a nursing home. “Memory care” means care for residents of the assisted living facility who have mild to moderate memory loss and/or Alzheimer’s disease.

(2) Units.The maximum number of individual living units that may be constructed in the primary structure is 141.

(3) Mass.The total building footprint square footage is limited to 45,000 square feet. The total building square footage is limited to 101,900 square feet.

(4) Building design.

(A) Exterior design.The architectural features of the primary structure shall be consistent with the preliminary project elevation, included herein as exhibit E to Ordinance 388.

(B) Roof pitch.The roof line of the primary structure on parcel 1 will be varied in height

and width in order to prevent the appearance of a single plane monolithic roof line as seen from the properties of the contiguous residential property owners.

(C) Roof-mounted equipment.Any rooftop equipment, which would otherwise be visible from the properties of the contiguous residential property owners, will either be located in roof wells concealed in roof valleys or otherwise screened from view by means of screening walls.

(5) Building height.The primary structure is limited to 3 stories, and a maximum height of: (A) 30 feet above the average existing natural grade; or (B) 901 feet above sea level.

(6) Building construction.The primary structure will be constructed of non-combustible materials (steel and concrete).

(7) Cut and fill.Up to a maximum of 50 feet of cut, and 25 feet of fill is permitted.

(8) Steep slopes.Construction is permitted on slopes in excess of 25%, up to 1.5 acres, as shown on the PD master plan.

(9) Driveway slopes.Driveway slopes will not exceed 15%. Vehicular access to the Property is limited to Bee Cave Road.

(10) Roadway buffer.A driveway, a retaining wall and landscape improvements may be constructed in the roadway buffer area for Bee Cave Road, as shown on the PD Master Plan.

(11) Parking.The minimum parking ratio is at least 1 space per 4 beds, plus 1 space per 2 employees during the day shift. The maximum number of parking spaces is 71.

(12) Right-of-way.Approximately 0.49 acres of right-of-way for the future widening of Bee Cave Road are reserved for public dedication, as shown on the PD Master Plan, to be dedicated to the city by plat upon the recordation of the final plat of parcel 1, and deeded at that time to the city, subject to the reservation of an easement for the retaining wall and signage depicted on the PD Master Plan. This easement will terminate at such time as the widening of Bee Cave Road within the right-of-way is commenced.

(13) Water quality protection.Permanent water quality controls will be provided based on the Texas Commission on Environmental Quality's contributing zone requirements for the Edwards Aquifer. Stormwater detention facilities shall be constructed underground, as indicated on the PD Master Plan.

(14) Lighting.The lighting for the Project will comply with the non-residential lighting standards for Lighting Zone 2 under the model ordinance developed jointly by the Illuminating Engineering Society and The International Dark-Sky Association dated June 14, 2011.

(15) Trees and vegetation.

(A) Clearing vegetation and removal of trees (including trees 14-inches and greater) is permitted:

(i) Within the site development footprint shown on the PD Master Plan; and

(ii) Within the geotech paths described on exhibit D-1 to Ordinance 388 consistent with the agreement for tree removal and replacement between the city, the applicant and the owner (dated January 31, 2012); and

(iii) In accordance with the tree removal and replacement plan attached as exhibit D-4 to Ordinance 388.

(B) The calculations for trees removed and trees to be replaced set forth on exhibit D-4 to Ordinance 388 are approved. The tree removal to tree replacement ratio under exhibit D-4 is 35%, which the city agrees will fully satisfy the tree mitigation requirements for the project. In addition to the tree replacement provided for in exhibit D-4 to Ordinance 388,

(C) It is an offense under the City's Code of Ordinances to remove trees or vegetation except in accordance with this subsection (15), or as otherwise approved by the city.

(16) Signage.The project's signage must receive permits prior to construction and conform to the Code of Ordinances.

(17) Sewage.

(A) Centralized sewer.Applicant must use good faith efforts to secure the City of Austin's approval of the extension of centralized sewer service for the Project, and in conjunction with such approval, an opportunity for the owners of residential properties adjacent to the project on lower Buckeye Trail to obtain sewer service from the line serving the project, at their expense. The applicant's support for and request for a vote by the city council of the City of Austin on its application for such extension will constitute conclusive evidence of its good faith efforts.

(B) Lift station.If the project obtains centralized sewer service, a lift station may only be

constructed in the approximate location shown on the PD Master Plan. If the project uses an on-site sewage system there will not be a lift station and the proposed lift station area will be landscaped accordingly.

(C) OSSF.

(i) If the City of Austin does not approve the extension of centralized sewer service to the Project on or before July 31, 2012, the applicant's obligation to pursue approval of such service under subsection (17)(A), above, will terminate and the Applicant may install an on-site sewage system to serve the project. Any such on-site sewage system will be located substantially in accordance with the preliminary location plan attached as exhibit D-2 to Ordinance 388. Nothing herein shall be construed to preclude the city from fully participating in the TCEQ permitting process.

(ii) If the project receives service through an on-site sewage system, the applicant will install a four-inch wastewater line, only (without a lift station), to which owners of the residential properties adjacent to the project on lower Buckeye Trail could connect, at their expense, in order to obtain centralized sewer service if it is made available in the future. This wastewater line would be located substantially in accordance with the preliminary location plan attached as exhibit D-3 to Ordinance 388.

(e) Development standards for parcel 2.The development regulations for parcel 2 will be consistent with those applicable to the base district (see subsection (b) above), except as otherwise provided in these development standards.

(1) Regulations.The development regulations will be those applicable to city's residential (R-1) zoning district, except as otherwise provided below.

(2) Transferable credits.Certain development rights, including buffer space and impervious cover, from parcel 2 may be transferred to parcel 1. Although separately platted lots, parcels 1 and 2 will be considered as one platted lot for purposes of calculating transferable credits for buffer space and impervious cover.

(3) Driveway slopes.Driveway slopes will not exceed 15%. Vehicular access to the property is limited to Bee Cave Road.

(4) Right-of-way.Approximately 0.12 acres of right-of-way for the future widening of Bee Cave Road are reserved for public dedication, as shown on the PD Master Plan, to be dedicated to the city by plat upon the recordation of the final plat of parcel 2, and deeded at that time to the city, subject to the reservation of an easement for the retaining wall and signage depicted on the PD Master Plan. This easement will terminate at such time as the widening of Bee Cave Road within the right-of-way is commenced.

(5) Water quality protection.Permanent water quality controls will be provided based on the Texas Commission on Environmental Quality's contributing zone requirements for the Edwards Aquifer. Stormwater detention facilities shall be constructed underground, as indicated on the PD Master Plan.

(Ordinance 388 adopted 3/8/12)

§ 38.03.043. PDD #2: Planned development district number two.

(a) Applicability.This section shall apply solely to the following tracts, which shall herein be referred to collectively as the property:

(1) Tract 1:Lot 1B, Replat of Lot 1 Bee Cave Corners Subdivision, according to plat recorded

at 201300127, Official Public Records, Travis County Texas.

(2) Tract 2:Lot 2C, Replat of Lot 2, Bee Cave Corners Subdivision, according to plat recorded at 200900007, Official Public Records, Travis County Texas.

(3) Tract 3:Being 0.4152 acres of 18,084 square foot tract out of Lot 1B, amended plat of the amended plat of Tract 2, resubdivision of part of lot 15, Barton Springs Estates and Lot 1. M. McClure Subdivision and the remaining portion of Tract 1, Lamplighter Subdivision, City of West Lake Hills, Travis County, A Subdivision in Travis County, Texas, According to the map or plat of record in document No. 200300009, Official Public Records, Travis County Texas.

(b) Development approvals.Applications for permits for the project (including but not limited to building permits, site plan, plats) shall be submitted in conformance with the Code of Ordinances, and this PDD #2 section. If there is a conflict between this PDD #2 section, and any other rule or regulation of the city, and the conflicting rules or regulations cannot be harmonized so that both be given effect, the provisions of this PDD #2 section, shall govern.

(c) Base zoning districts.The property is hereby zoned government, utility, institutional (GUI), and shall hereafter be governed by the rules applying in that zoning district.

(d) Development standards.The development regulations for the project shall be consistent with those applicable to the base districts (see subsection (c) above), except as otherwise provided in these development standards.

(1) Parking.Any and all parking for the sports field by participants and visitors shall be located on the Austin Trinity School Campus.

(2) Tree fund payment.In addition to tree replacement requirements set forth in subsection (d)(6)(E) of this section, applicant will remit to the city a one-time payment of fifty thousand dollars ($50,000.00) for deposit into the city's landscape fund prior to commencement of construction.

(3) Exterior lighting.No exterior lighting on the sports field shall be allowed.

(4) Outdoor amplified sound.No outdoor mechanically or electronically amplified sound on the sports field shall be allowed.

(5) UDA and First Amendment to the UDA.Portions of the property are subject to the UDA and First Amendment to the UDA, attached as exhibits F and G to Ordinance 401.

(6) Variances.The following specific, enumerated provisions ("variances") set forth in this subsection (d)(6) vary from the requirements for the GUI base zoning district. Through this agreement and the PDD #2 section, they have been approved by all required city boards and commissions and the city council and are granted by the city with respect to the development of the project. This section shall serve as guidance for the review and approval of any additional waivers, variances, exceptions, or other municipal authorizations not specifically included in this section.

(A) Setbacks along common lot lines.The city hereby removes the requirement for twenty-five foot (25') side setbacks between: (i) tracts 1 and 2; and (ii) tracts 2 and 3 to allow the sports field to overlap common lot lines as depicted on the master plan. This provision would otherwise require a variance from city code section 22.03.281.

(B) Retaining wall.The city hereby allows the retaining wall for the sports field to be constructed and exist in the setback as depicted on the master plan. This provision would otherwise require a variance from city code section 22.03.276.

(C) Cut and fill in setbacks.The city hereby allows cut and fill to be located within the setbacks as depicted on the master plan. This provision would otherwise require a variance from city code section 22.03.210.

(D) Maximum cut and fill.The city hereby allows up to a maximum of eight (8) feet of cut, and twenty (20) feet of fill for the sports field as depicted on the grading & drainage plan (exhibit D to Ordinance 401). This provision would otherwise require a variance from city code section 22.03.210.

(E) Tree mitigation/tree removal and replacement plan.The city hereby approves the tree mitigation/tree removal and replacement plan as depicted in exhibit E to Ordinance 401, which allows the following:

(i) The removal of the following twenty nine (29) trees, which are fourteen (14) inches or greater:
a. 8 Cedars

b. 1 Elm

c. 16 Oak

d. 4 Unknown

This provision would otherwise require a variance from city code section 22.03.210(a)(4).

(ii) Replacement of 452 inches of the 1,742 inches of trees removed and the 1,692 inches required to be replaced, which is twenty-seven percent (27%) of the total number of replacement inches required. This provision would otherwise require a variance from city code section 22.03.304(c)(3).

The city agrees that the: (1) foregoing twenty-seven percent (27%) for tree replacement; and (2) the fifty thousand dollars ($50,000.00) deposit into the city's landscape fund set forth in subsection (d)(2) of this section is deemed to fully satisfy the tree mitigation requirements for the project.

(Ordinance 401 adopted 9/28/13)

§ 38.03.044. PDD #3: Planned development district number three.

(a) Applicability.This section shall apply solely to the following parcels, which shall herein be referred to individually as lot 2 and lot 3 and collectively as the property:

Lots 2 and 3, Westwood Villas, section 1, A Subdivision in Travis County, Texas, according to the map or plat recorded in volume 32, page 19, plat records, Travis County, Texas.

(b) Development approvals.Applications for permits for the project (including but not limited to building permits, site plan, plats) shall be submitted in conformance with the Code of Ordinances, and this section (PDD #3). If there is a conflict between this section and any other rule or regulation of the city, and the conflicting rules or regulations cannot be harmonized so that both be given effect, the provisions of this ordinance shall govern.

(c) Base zoning district.The property is hereby zoned office district (O), and shall hereafter be governed by the rules applying in that zoning district.

(d) Development standards for property.The development regulations for property will be consistent with those applicable to the base districts (see subsection (c) above), except as otherwise provided in these development standards.

(1) Land use.The approved use of the property is an existing 2 story building with 4 X 1 bedroom/1 bathroom units upstairs and 3 X 1 bedroom/1 bathroom units, a laundry room and an office downstairs and a planned 2 story apartment building next door with the following use: Six new similar individual units will be built, each a two-bedroom and two-bath type, with living/dining space, a kitchen, entry area, storage/closets, including related mechanical/electrical/plumbing supporting systems, and each will have an associated private patio or deck. There will be three units above and three units below in this two-story building design. They will be accessed, along the west side of the building, by a perimeter covered walkway system (ground floor) and covered balcony access, at the second floor, served by flanking metal/concrete stairways. Each apartment will be approximately 1,095 gross square feet in size (984 gross square feet of habitable area/ storage and 111 square feet of patio or deck, as combined)

(2) Units.The number of additional units that may be constructed is 6 X 2 bedroom/2 bathroom units.

(3) Mass.The new two-story building (lot 3 development) has a ground footprint of approximately 3,286 gross square feet (including the individual unit patios) overall, but excluding the freestanding stairways, the perimeter walkways/concrete pads, and the existing balconies that serve as entrance/exiting along the building's western face. The overall built building gross square footage (excluding stairs/walkways and exiting balconies) of the first and second story apartment units themselves, as combined, and their respective eastern private balconies/patios included, is 6,572 gross square feet.

(4) Building design.

(A) Exterior design.The architectural features of the primary structure shall be consistent with the preliminary project elevation, included herein as exhibit C to Ordinance 415. The proposed building's exteriors will generally consist of various combinations of the following: 2 different profiles of cement-board horizontal embossed and painted siding used in combination, stone accent veneer -clad wainscots and screen walls to various extents and locations, exposed-to-view stained cedar/pine timber columns/ beams/joists/trim elements, composition or hard-wood decking at second floor balconies/decks, aggregate, reinforced concrete walkways/steps/ramps at ground levels, and painted or stained trim/fascias/eaves. See exhibit for a typical exterior elevation (front "west" side shown). Other elevations will utilize same materials/ finishes detailed above, but in different combinations and extents. Windows/door sidelites will be low-tint, double-insulated glazed types, set in metal or PVC frames, with perimeter painted trim. Exterior doors will be solid-core wood and painted, in wood frames/trim.

(B) Roof pitch.Roofing will consist of "timberline" varying profile-type composition shingles, set over underlayment and plywood decking, with wood trusses or roof/ ceiling joists framing supports beneath. Roof slopes will be a maximum of 5 in 12 pitch. Gutters, rain chains, and/or downspouts will be applied for rainwater collection and transference to grade drainage direct ion and/or collection/filtration systems, per exhibit B to Ordinance 415.

(5) Building construction.General apartment building framing construction will be out of wood components, per type 5-B (non-rated construction) code standards, except for demising walls, and floor/ceiling assemblies, between units, which will be fire-rated to industry-recognized one-hour fire-rated standards. The proposed development (on lot 3) shares parking and drives, fire lanes, and the street access approach point with an existing two-story apartment development to the west (lot 2 and part of lot 3) and its related parking.

(6) Parking.New parking shown for the new 6-unit building on lot 3 is provided at a rate of 2 spaces per apartment unit, for a total of 12 overall added to the overall site, per the exhibits. The current existing driveway adjacent to the new proposed parking will be modified to serve the spaces as shown, per exhibit B to Ordinance 415. No other modifications to current existing parking (8 spaces), existing building use requirements or zoning, or access drives that served the original apartment building (lot 2) are required, or mandated, at this time. The new parking shown, as directly-attributable and part of the new 6-Unit building development, is allowed to extend to within minimum building setback zones, as shown.

(7) Right-of-way.Approximately .052 acres of right-of-way for the future widening of Bee Cave Road (parcel 42) shall be reserved for public dedication, and in fact be conveyed to the city by execution of a donation deed within 10 calendar days of the passage of this section.

(8) Setbacks.The building, and serving stairways/balconies/patios/walkways will be setback from neighboring property lines per the exhibits and the standards set as herein: front property line minimum setback is 30 feet; side property line (with residential lot to east) minimum setback is 15 feet; and rear property line (with commercial lot to the north, specifically a detention pond facility) minimum setback is 9 feet. The new building's overhangs, eaves, and/or support beam outriggers may extend up to 36 inches past the finished surfaces of the exterior walls, and are allowed to extend within the aforementioned setback zones to the same extent, where applicable. Site retaining walls, as required, may occur within the side and rear building setback zones. HVAC site-located condenser units and support pads may occur within the side or rear setback zones, but will be properly screened from view by use of buffering landscaping or low masonry walls, from street-side viewpoints along Blueridge Trail. The required water-quality detention ponds and related structures/appurtenances may occur within the front setback zones, as shown on Exhibits.

(9) Water quality protection.Permanent water quality controls will be provided based on the Texas Commission on Environmental Quality's recharge zone requirements for the Edwards Aquifer. Storm water detention facilities shall be constructed as required by the TCEQ.

(10) Trees and vegetation.The clearing of vegetation and removal of trees shall be permitted in accordance with the landscape plan attached as exhibit D to Ordinance 415.

(Ordinance 415 adopted 10/22/14)

§ 38.03.045. PDD #4: Planned development district number four.

(a) Applicability.This section shall apply solely to the parcel:

Approximately 5.68 acres of land, more or less, out of the Alexander Eanes Survey No. 507, in Travis County, Texas, being the same property conveyed to Ben Hur Temple by deed of record in Volume 5144, Page 1087, Deed Records, Travis County, Texas. (See exhibit A to Ordinance 419)

(b) Development approvals.Applications for permits for the project (including but not limited to building permits, site plan, plats) shall be submitted in conformance with the PD Master Plan, Code of Ordinances, and this section. If there is a conflict between this section and any other rule or regulation of the city, and the conflicting rules or regulations cannot be harmonized so that both be given effect, the provisions of this section shall govern.

(c) Base zoning district.The Parcel is hereby zoned PDD #4, base district GUI, and shall hereafter be governed by the rules applying in that zoning district, as may be modified by this section.

(d) Development standards for parcel.The development regulations for parcel will be consistent with those applicable to the base district (see subsection (c) above), except as otherwise provided in these development standards.

(1) Land use.The approved use of the parcel is described as follows: Development of a multi-purpose indoor athletic and community center, which shall include court facilities, turf fields, physical therapy, athletic training, and storage, as well as an outdoor area on the southwest side of the building for lacrosse wall ball. Alcohol possession and sales are prohibited as primary and accessory uses.

(2) Mass.The building shall have a ground footprint of approximately 66,650 gross square feet.

(3) Height.The building shall have a maximum height of 38'-0" above current grade.

(4) Building design.

(A) Exterior design.

(i) The architectural features of the primary structure shall be consistent with the preliminary project elevation, included herein as exhibit C to Ordinance 419. The proposed building's exteriors will consist of various combinations of the following: Masonry (split face concrete masonry units) that has a limestone color, stucco (earth tone color) and metal panels (earth tone colors) with exterior metal brackets that act as roof supports and downspouts. Windows for natural light and overhead doors for ventilation will be used. Exterior HVAC units will be incorporated into the exterior design and will be screened as per the Code of Ordinances.

(ii) See exhibit C to Ordinance 419 for a typical exterior elevation. Other elevations will utilize the same materials/finishes detailed above, but in different combinations and extents. Windows/door sidelites will be low-tint, double-insulated glazed types, set in metal or PVC frames, with perimeter painted trim. Exterior doors will be painted solid metal or storefront style set in aluminum frames.

(iii) The north side of the building, facing the residential properties on Konstanty Circle, will consist of all metal panel siding.

(B) Roof pitch.Roofing will consist of metal panels (light color/non-reflective) to resist heat gain. Roof slopes will be a maximum of 1/12 pitch. Gutters, rain chains, and/or downspouts will be applied for rainwater collection and transference to grade drainage direct ion and/or collection/filtration systems, per exhibit B to Ordinance 419.

(5) Building construction.General building framing construction will be a concrete foundation on grade with a pre-engineered metal building super structure. This consists of steel frames (bents) at about 23'-0"+ on center, steel wall girts and steel roof purlins. Building insulation will be R-13 minimum in the walls and R-30 minimum in the roof.

(6) Parking.Parking is provided at a rate of one (1) space per 551 square feet as per the exhibits. Parking at Westlake High School will be used for overflow parking when available. The currently existing driveway will continue to be utilized, per exhibit B to Ordinance 419.

(7) Wall and fencing.

(A) Existing nonconforming front yard fencing will remain. Security (chain link) fencing that is 8 feet high and covered with green screening material will be erected at or near the property line prior to construction as a condition of the issuance of building permits and will remain in place until the certificate of occupancy is obtained. A wall comprised of earth tone concrete masonry units (CPMs) between 8 and 10 feet high will be erected north of the structure abutting the fire lane and running down to the hammerhead separating the site from neighboring residential lots, as illustrated on exhibit E to Ordinance 419.

(B) Earth tone is a color scheme that draws from a color palette of browns, tans, warm grays, and greens. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt, moss, trees and rocks. The CPM wall mandated by this section will be landscaped with green fig ivy on the north side, which shall be irrigated by the project owner.

(C) A fence comprised of cedar pickets 10 feet high will be erected commencing at the Northwest corner of the CMU wall and extending to the northwest corner of the property as illustrated in exhibit E to Ordinance 419.

(8) Setbacks.Setbacks from the property line to the building are established at 220 feet from the front, 75 feet from the rear and 50 feet from the side. Water quality pond wall setbacks are established at 3 feet from the property line.

(9) Water quality protection.Permanent water quality controls will be provided in accordance with the current development guidelines of the City of West Lake Hills and the Texas Commission on Environmental Quality.

(10) Trees and vegetation.

(A) Clearing vegetation and removal of trees (including trees 14-inches and greater) is permitted:

(i) Within the site development footprint shown on the PD Master Plan; and

(ii) In accordance with the landscape plan attached as exhibit D to Ordinance 419.

(iii) All vegetation will have irrigation and is the responsibility of the record owner and parcel owner to maintain in perpetuity. Dead vegetation must be replaced and maintained.

(B) Vegetation will primarily be used to screen residential properties abutting the Parcel and Westbank Drive.

(C) Six feet of blacktop (asphalt) will be removed and replaced with 2 evergreen trees in accordance with exhibit D to Ordinance 419.

(11) Signage.The project's signage must receive permits prior to installation and conform to the Code of Ordinances.

(12) Noise.Noise generated by the project will be mitigated and reduced through the following measures: (A) use of 2-layers of 5/8 inch thick drywall (sheetrock) on the north wall of the building; and (B) restricting the athletic and community center to primarily an indoor facility. No outdoor speakers will be installed. Outdoor activities are limited to the lacrosse wall, which will be placed near the southwest corner of the building, away from the surrounding residential properties on Konstanty Circle, and will only occur between the hours of 8:00 a.m.–8:30 p.m.

(13) Access.Issues of vehicular access will be addressed as follows: Primary site access will be achieved by utilizing the existing driveway location providing connection to Westbank Drive. Emergency gated access will be provided at or near the northeast property corner of the tract. No parking will be allowed in the fire lane, and a gate with a KNOX device (approved by Emergency Services District No. 9) will be installed to allow emergency access.

(14) Impervious cover.A maximum of 54.9% of the total site area shall be permitted to be impervious cover. Impervious cover is defined by the current city code.

(15) On-site parking.No minimum separation between rows or aisles in parking areas is required.

(16) Site disturbance.Cut depths and fill heights on the site are limited to 18 feet.

(17) Lighting.All proposed lighting will comply with the City of West Lake Hills Lighting Ordinance and be Dark Sky compliant. There will be motion-sensing lighting north of the building for security. Appropriate light shielding will be used to reduce light trespass to residences abutting the parcel.

(18) Operating hours.The facility may operate from 6:00 a.m. to 11:00 p.m. Monday through Friday and from 8:00 a.m. to 11:00 p.m. Saturday, Sunday, and federal holidays recognized by the Eanes Independent School District.

(Ordinance 419 adopted 3/25/15)

§ 38.03.046. PDD #5: Planned development district number five.

(a) Applicability.This section shall apply solely to the following parcel, which shall herein be referred to individually as Lot 1, E. Shelton Land, Wilkinson Sparks Survey No. 4, A Subdivision in Travis County, Texas, according to the map or plat recorded in volume 90, page 236, plat records, Travis County, Texas.

(b) Development approvals.Applications for permits for the project (including but not limited to building permits, site plan, plats) shall be submitted in conformance with the Code of Ordinances, and this section (PDD #5). If there is a conflict between this section and any other rule or regulation of the city, and the conflicting rules or regulations cannot be harmonized so that both be given effect, the provisions of this ordinance shall govern.

(c) Base zoning district.The property is hereby zoned commercial, and shall hereafter be governed by the rules applying in that zoning district.

(d) Development standards for property.The development regulations for property will be consistent with those applicable to the base districts (see subsection (c) above), except as otherwise provided in these development standards.

(1) Land use.The approved use of the property is an existing one story stone & concrete service station with approximately 1,632 square feet and an existing one story stone grocery store with approximately 2,106 square feet.

(2) Building design.The exterior of the existing one story service station is stone and concrete and the grocery store is stone.

(3) Building construction.Existing service station and grocery store building framing construction are constructed out of cinder blocks and steel beams and concrete.

(4) Parking.Existing parking shown for the service station and the grocery store will remain the same.

(5) Setbacks.The building, and patio and walkways are setback from neighboring property

lines per the exhibits and the standards set as herein: Front property line minimum setback is 50 feet; side property line (with Westlake Drive) minimum setback is 50 feet; and rear property line (with commercial lot to the north) minimum setback is 30 feet.

(6) Outdoor lighting.All new lighting must conform to article 23.04 of the Code of Ordinances. All existing lighting must be brought into conformance with article 23.04 within six (6) months of the passage of this section.

(Ordinance 438 adopted 3/8/17)

§ 38.03.047. PDD #6: Planned development district number six.

(a) Applicability.This section shall apply solely to the following tracts, which shall herein be referred to collectively as the property:

Tract 1: Lot 1 of Westlake Cove Addition, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 82, Page 41 of the Plat Records of Travis County, Texas. Said plat corrected as to surveyor's notes by instrument recorded in Volume 13020, Page 284 of the real property records of Travis County, Texas.

Tract 2: Being all of that certain 0.4 acre tract of land, more or less, out of the Wilkenson Sparks Survey No. 4 situated in Travis County, Texas, being the same tract of land described by metes and bounds under "second tract" in deed dated July 24, 2002, to Robert E. Price, Trustee of the Westlake Cove Apartments Trust recorded under Document No. 2002152483, of the official public records of Travis County, Texas.

(b) Development approvals.Applications for permits for the project (including but not limited to building permits, site plan, plats) shall be submitted in conformance with the Code of Ordinances, and this section (PDD #6). If there is a conflict between this section and any other rule or regulation of the city, and the conflicting rules or regulations cannot be harmonized so that both be given effect, the provisions of this section shall govern.

(c) Base zoning district.The property is hereby zoned PDD #6, base district transitional residential (R-3), and shall hereafter be governed by the rules applying in that zoning district, as may be modified by this section.

(d) Development standards for property.The development regulations for property will be consistent with those applicable to the base districts (see subsection (c) above), except as otherwise provided in these development standards.

(1) Land use.The approved use of the property is a new 18-unit condominium project described as follows:

(A) Building 1:A 3-story building with 3 x 2-bedroom units and 8 x 3-bedroom units. Each 2 bedroom unit will not exceed 2,200 square feet of floor area and each 3-bedroom unit will not exceed a floor area of 2,575 square feet.

(B) Building 2:A 3-story building with 2 x 2-bedroom and 5 x 3-bedroom units. Each 2-bedroom unit will not exceed a floor area of 2,200 square feet and each 3-bedroom unit will not exceed a floor area of 2,575 square feet.

(2) Height.The maximum roof height of building 1 will be 35 feet, and the maximum roof height of building 2 will be 35 feet.

(3) Density.The maximum number of units will be 18 units: 11 units in building 1 and 7 units in building 2.

(4) Mass.The entire project will have a ground footprint of 20,465 square feet: 12,675 square feet in building 1 and 7,790 square feet in building 2.

(5) Parking and access.Access shall include a fire truck access lane and turnaround; 22 covered parking spaces for residents in building 1 (2 spaces per unit); 14 covered parking spaces in building 2 (2 spaces per unit); and 5 uncovered parking spaces for guests which will include 2 handicap parking spaces, one of which will be van accessible.

(6) Impervious cover.The maximum impervious cover will be 30,653 square feet (29.55%).

(7) Setbacks.The footprint of the two buildings will have the following setback lines: Front street setback is 40 feet; rear setback is 40 feet along the creek; 25 feet on the south side; and 40 feet on the north side property line.

(8) Building design and construction.All building construction will conform to the applicable code provisions of the International Building Code as adopted by the city. The building will likely be steel or concrete structure with primarily glass curtain walls. Both buildings will have a flat roof with a gravel or turf finish.

(9) Condominium management.A condominium declaration will be recorded; a condominium owners association will be formed; and the association's board will manage assessments, maintenance over general common areas, and review and approval of all repairs or remodeling to any units. A copy of the declaration will be made available for final approval by the city council.

(Ordinance 2020-216 adopted 12/9/20)

§ 38.03.048. through § 38.03.060. (Reserved)

DIVISION 3

General Regulations

§ 38.03.061. Prohibited uses.

All uses not expressly permitted or authorized by this chapter are prohibited in the city, including, but not by way of limitation, the following:

(1) The operation of activities or facilities between 11:00 p.m. and 6:00 a.m., except for those in B-3 zoning districts, bank automatic teller machines (ATMs), and any other activities or facilities in nonresidential zoning districts specifically authorized by the city council by way of a special use permit or a zoning change ordinance.

(2) Commercial kennels, except by special use permit in district B-2.

(3) Open air commercial amusements, except those in place for one week or less for which a permit has been issued by the city.

(4) Junkyards, salvage yards and all open air storage of junk, waste products and salvage materials.

(5) All open air storage of building materials, equipment and merchandise (except live vegetation), except that necessary to a construction project, provided that the materials and equipment are located on the site of the construction and are removed immediately upon completion or discontinuance of work.

(6) Outside display of products for sale. The open air (outside of a building) display of any product, materials, vehicles or equipment for sale, lease or rent (except approved nursery live vegetation) is prohibited throughout all districts; however, the city administrator is authorized to approve display of seasonal products or materials for sale upon written request.

(7) Landing or take-off of aircraft. No person shall ascend or land with any aircraft, or permit the ascending or landing of any aircraft, within the city limits. This proscription shall not apply to any medical helicopter nor shall it apply to emergency landings or to military or National Guard aircraft.

(8) Placing, locating or erecting a mobile home.

(9) Mobile home or recreational vehicle parks.

(10) All signs except as expressly permitted in this chapter and in chapter 32.

(11) Quarrying.

(12) Hotel and motels (this prohibition does not apply to properly permitted short-term rentals as defined by article 6.04).

(13) The sale or rental of automobiles and other motor vehicles, mobile homes, recreational vehicles and boats.

(14) Storage warehouses and building material storage yards.

(15) Activities or facilities with a drive-in/drive-through facility except for bank ATM facilities and any activities or facilities located in B-2 or B-3 zoning districts.

(16) Industrial, mining or extractive uses of all descriptions.
(17) Taverns, bars or cocktail lounges, except in the B-3 business 3 district.

(18) Amusement centers or parlors.

(19) Automobile wash services.

(20) Sexually oriented businesses, as defined in V.T.C.A., Local Government Code section 243.002, as amended.

(21) The sale of fireworks.

(22) Automobile service stations.

(23) Cemetery, graveyard or burial ground, for the interment of dead persons and domestic farm animals.

(24) Uses attended by substantial nuisance factors.
(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.03.062. Accessory uses.

The uses of land, buildings and other structures permitted in each of the districts established in this chapter are designated by listing the principal uses. In addition to such principal uses, accessory uses are also permitted in each district. Each accessory use shall:

(1) Be customarily incidental to the principal use established on the same lot;

(2) Be subordinate to and serve such principal use;

(3) Be intended for the comfort, convenience or necessity of users of such principal use;

(4) Not be designed or used for human habitation except for guest and domestic quarters as provided in this chapter;

(5) Not be attended by nuisance factors; and

(6) Not be permitted on lots upon which a principal use has not been established.
(Ordinance 362 adopted 3/28/18)

ARTICLE 38.04
SUPPLEMENTARY REGULATIONS

DIVISION 1

Generally

§ 38.04.001. through § 38.04.030. (Reserved)

DIVISION 2

Special Uses

§ 38.04.031. Criteria for establishment of special use categories; uses allowed in specific districts.

(a) General criteria for establishment of a special use category are as follows:

(1) Special and associated expenses for regulatory oversight;

(2) Higher probability of chance of nuisance to the surrounding areas;

(3) Greater impact on surrounding properties with respect to the following:

(A) Parking;

(B) Waste products and disposal methods;

(C) Noise (peace and quiet of the neighborhood);

(D) Light or glare;

(E) Smell, fumes, dust and odor;

(F) Traffic; and

(G) Infectious or contagious diseases;

(4) Activities which increase potentially objectionable sensory responses for surrounding areas;

(5) Greater adverse impact on appraised valuations of surrounding properties;

(6) Higher level of impediment to development of surrounding properties;

(7) Increase in traffic congestion and reduction of pedestrian safety to a significant degree;

(8) Regulatory control for number and type of animals to prevent menace or disturbing of neighbors;

(9) Regulatory control for selective activities in other than permitted zoning districts;

(10) Regulatory control for activities that have a potential to harm the environment; and

(11) Regulatory control for continuance of activity.

(b) Specific special uses authorized by zoning district are as follows:

Special Use	District Allowed
~~Alcoholic beverages sold in grocery stores for off-premises consumption~~	~~B-2, B-3~~
~~Alcoholic beverages sold in restaurants for on- or off-premises consumption~~	~~B-2, B-3~~
Assembly and testing of electronic components	O
Special Use	District Allowed

Bank or savings and loan association	B-2
Charter school or private school	O
Child day care facility	O, GUI, B-1, B-2, B-3
Church	O, B-1, B-2, B-3
Cocktail lounge	B-3
Commercial coach	All (temporary during construction)
Commercial kennel	B-2, B-3
Employee dining facility	O, B-1, B-2, B-3
Guest or domestic employee quarters	R-1, R-2, R-3
~~Home occupation~~	~~R-1, R-2, R-3~~
Hospital	B-1, B-2, B-3
Laundry and dry cleaning plant	B-3
Massage therapy school	O, B-1
Private horse stable	R-1, R-2
Publishing business	B-2, B-3
Rehabilitation/wellness center	B-1, B-2, B-3
Research, development or clinical laboratory	B-2, B-3
Restaurant with drive-in/drive-through facilities	B-2
Retail liquor store	B-2
Riding stable	R-1, R-2
Wireless telecommunication facilities	O, B-1, B-2, B-3, GUI

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 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 by ~~board of adjustment~~ city council. 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. A special use permit may only be issued by the city council upon recommendation of the zoning and planning commission ~~board of adjustment~~ acting after a public hearing. In considering any application for a special use permit, the ~~board of adjustment~~ zoning and planning commission in their recommendation and city council in their final action shall give due regard to the nature and condition of all adjacent land, uses, and structures. The ~~board of adjustment~~ city council 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~~ designee. Either the city administrator or the ~~city inspector~~ designee 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~~ zoning and planning commission and city council.

(e) Notice of public hearing before ~~board of adjustment~~ zoning and planning commission and city council.

(1) The ~~board~~ zoning and planning commission and city council shall each 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. For nonresidential special uses, 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 sixteen (16) days prior to the date of the hearing by depositing a copy of the notice in the mail addressed to each owner at the owner's address shown in the Travis Central Appraisal District database, with postage paid.

(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) City staff shall be responsible for drafting the notice and serving it after it has been approved by the city administrator for form and content.

(5) ~~s~~Sign(s) shall be posted per section 38.05.002.

(f) Review and approval by ~~board of adjustment~~ zoning and planning commission and city council.

(1) The ~~board~~ commission shall review the application for a special use permit to determine whether the proposed special use complies with each of the general criteria in section 38.04.033 and with each of the specific criteria in section 38.04.034 applicable to the proposed use, and shall make a separate finding thereon for each criterion.

(2) The ~~board~~ commission shall not make a recommendation to approve an application unless it finds that the proposed special use as presented complies with each of the general and applicable specific criteria.

(3) ~~The board shall make a written finding of its decision in accordance with section.~~ -The commission shall forward their recommendation to city council for review and final action.

(4) The ~~b o a r d~~ city council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods designed to ensure compliance with the criteria.

(5) The ~~board~~ city council shall not grant a special use permit unless it finds that the proposed special use complies with each of the applicable general and specific criteria; otherwise, it shall deny the application.

(Ordinance 2021-013, att. B, adopted 12/8/21; Ordinance 2025-005 adopted 6/25/2025)

§ 38.04.033. General criteria applicable to all special uses.

A proposed special use permit must comply with all the following criteria:

(1) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;

(2) The proposed use will not have an adverse effect on the value of surrounding properties or impede their proper development;

(3) The proposed use will not create a nuisance factor or otherwise interfere with a neighbor's enjoyment of the neighbor's property or operation of the neighbor's business;

(4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create or add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

(5) The proposed use shall comply with all other applicable ordinances and regulations.

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.04.034. Criteria applicable to individual special uses.

~~(a) Home-based business.A proposed home-based business in a single-family or two-family residential district must comply with all the following specific criteria as well as the general criteria in section 38.04.033:~~

~~(1) External evidence of the business shall not be detectable at any lot line. The interior/exterior of the dwelling shall not be structurally altered to comply with nonresidential construction codes, nor additional structures built on the property to accommodate the home-based business.~~

~~(2) The business shall not change the residential character of the lot and dwelling, nor alter the exterior appearance of the principal building from that of a dwelling for human habitation, nor require the installation of machinery or equipment other than that customary to domestic, hobby, standard office, or ordinary household activities.~~

~~(3) The business shall be carried on entirely within a dwelling unit or within only one accessory building (not to include a carport) by a bona fide resident(s) of the premises and not more than one nonresident assistant.~~

~~(4) The business shall be operated by a permanent full-time resident (or residents) of the dwelling unit, and no other persons.~~

~~(5) There shall be no in-person contact at the premises with customers or clients except that music lessons may be given to one pupil at a time, and cultural, art, or dance instruction may be given to four or less pupils at one time.~~

~~(6) The business shall be conducted as an accessory use that is clearly incidental and secondary to the residential use of the premises, shall not use an area exceeding 20 percent of the gross under roof floor areas of the dwelling, nor cause a substantial increase in any utility usage.~~

~~(7) Adequate off-street parking shall be available on the property where the use is located without exceeding the impervious cover limits for residential property. Business guests or invitees parking shall be restricted to on-site use of the driveway and parking areas wholly~~

~~contained within the property. All vehicular traffic to and from the home-based business shall be limited in volume, type, and frequency to what is normally associated with other residential uses in the residential neighborhood and not to exceed 10 average daily trips.~~

~~(8) Merchandise, materials and equipment associated with the business shall not be displayed or stored where visible from any location off the premises. The direct sale of merchandise on the premises is prohibited. In other words, no on-site retail in-person sales; however, sales via internet, telephone, or mail is permitted as long as no sales are made in-person.~~

~~(9) There shall be no signage or advertising, linking the residential property with the home-based business including, but not limited to, any billboard, internet, pamphlets, newspaper, radio, television, phone directory, sign, or vehicle advertising.~~

~~(10) The home-based business shall not be detrimental or injurious to adjoining property by the creation of dust, electrical interference, fumes, gas, glare, heat, light, noise, vibration, waste runoff, or other objectionable or obnoxious conditions.~~

~~(11) A home-based business shall not create any ultra-hazardous risk or condition on the premises or to surrounding neighbors or their property, or any other health or fire hazard, whether regulated by statute or rule promulgated by any administrative body of the federal government, State of Texas, City of West Lake Hills, or which would constitute a common law nuisance.~~

~~(12) Nothing herein shall be construed to allow animal breeding, animal hospitals, pet grooming, commercial kennels, commercial stables, veterinary offices, clinics, hospitals, barber shops, beauty parlors, contractor's yards, junk yards, lodging houses, "bed and breakfast" lodges, short-term rentals, massage parlors/therapy clinics, restaurants, rental outlets, or vehicle repairs shops as home-based businesses.~~

(b) Churches.A proposed church sanctuary or parsonage to be located in a residential district shall comply with all the following specific criteria as well as the general criteria in section 38.04.033:

(1) Hours of operation shall not begin before 10:00 a.m. and shall end by 3:30 p.m., weekdays and weekends.

(2) Noise shall not exceed 60 decibels as measured from any of the church's lot lines.

(3) Lighting shall conform to all Code requirements for the residential district in which the structure is located. All lighting shall be shielded with zero (0) footcandle spillover across property lines.

(4) No signage is permitted. Land use notice shall be limited to address only. Name, graphic representation, and any signage is prohibited.

(5) The total number of car trips per hour entering or leaving the church sanctuary or parsonage, whether the same or different cars, shall not exceed 10, unless fronted on a collector street.

(6) The structure and development should be situated on the lot in such a way that their visibility is minimized. The use of natural materials and unobtrusive colors is required.

(7) A buffer zone of tree growth is required between roads and building improvements to preserve the wooded, rural character of the hills. A buffer zone is required as well, on each of the other property lines, to preserve the wooded, rural character of the hills and to protect individuals' privacy. Trees must be from the City's approved tree list, and planted in accordance with a landscaping plan approved by the City.

(8) Churches shall provide on all property lines, a fifty (50) foot undisturbed conservation easement for all subdivisions. Churches shall comply with all tree requirements in the city's code, including protection and preservation.

(9) Driveway entrances must be laid as inconspicuously as possible in order to maintain the look of unbroken, undisturbed landscape along the right-of-way.

(10) Surfacing.

(A) The color of church parking lot surface asphalt and/or concrete shall be dark (e.g. asphalt or dark colored concrete) in order to blend with the natural landscape of the neighborhoods.

(B) All off-street driveway, parking, and loading areas shall be well drained and maintained with a durable and dustless all-weather surface approved by the city inspector and shall be kept in a state of good repair.

(11) Parking. All parking spaces shall comply with the following requirements:

(A) The minimum number of off-street parking spaces provided shall be the more restrictive of either:

(i) 1 space for each 4 people normally expected on the premises at the time of maximum use; or

(ii) 1 space for each 200 square feet of floor area.

(B) Adequate aisles and driveways shall also be provided to permit proper maneuvering within the parking area and for safe and orderly entry and exit. Parking area design is included as an integral part of the site plan development.

(C) Handicap parking requirements are a minimum of one percent of total parking spaces. Dimensional requirements are 12-foot width and 18-foot depth per handicap space.

(D) Parking dimensional and design regulations shall conform to section 22.03.242 of this code.

(E) On-site parking and circulation regulations. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. Separate rows or aisles in parking areas shall be divided by a five-foot wide region of trees, shrubbery and other

landscaping devices. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provision shall be made for access by police, fire and emergency vehicles. All parking facilities or structures shall be on one level.

(F) Off-street loading space. Property owners shall ensure adequate off-street space exists on the lot for loading and unloading vehicles receiving or distributing materials or merchandise.

(G) Required parking spaces shall be maintained. Required parking and loading areas shall not be encroached upon, reduced in any manner, or devoted to any other use. A maximum of 25 percent of the parking spaces shall be allocated to compact cars.

(H) Drainage. No off-street driveway, parking or loading area may be drained onto or across a public right-of-way or walkway, or onto any adjacent property except into a natural watercourse or drainage easement. Drainage facilities for each parking area shall be designed and constructed in accordance with the drainage and erosion control design manual.

(I) Driveway, parking, and loading area setbacks.

(i) It is the policy of the city to encourage adjoining lot owners to share a common driveway. A variance to the side setback stipulations is required by both adjoining lot owners; however, variance fees may be waived by the city administrator or the board of adjustment.

(ii) Off-street parking and loading shall be located no closer to the street right-of-way lines and to lot boundary lines than the applicable minimum distances prescribed in the following schedules:

a. The minimum setback distance for driveways, parking areas, and loading areas from street right-of-way shall be 50 feet.

b. The minimum setback distance for driveways, parking areas, and loading areas from the boundary lines of the R-1 and R-2 lot is 50 feet.

c. The term “driveways” includes those areas used for required vehicle turnaround or other maneuvering. Where nonresidential driveways adjoin R-1, R-2 and R-3 districts, the 50-foot setback shall preserve existing landscape vegetation and natural features as provided in article 22.03.

d. All driveways are limited to undeveloped slopes below 25 percent gradient. They shall not exceed a maximum of 15 percent grade after construction.

(12) Fire safety standards required for a church to receive a special use permit:

(A) The church must be within 200 feet of a fire hydrant that provides adequate fire flow for fire protection.

(B) The driveway must provide adequate space for all appropriate fire equipment to access property and turnaround to exit in order to provide protection to large groups of people.

(13) Churches shall be located with frontage on collector or arterial streets.

(14) Setbacks. Setbacks for proposed structures, if the proposed structure has an R-1 or R-2 property adjacent to or immediately in front of the proposed property, are:

(A) A minimum front setback of 100 feet;

(B) A minimum rear setback of 50 feet;

(C) Minimum side setbacks of 50 feet each.

(15) Lot size. Dimensional minimums of lots:

(A) 2 acres;

(B) Depth of 200 feet; and

(C) 150 feet wide.

(16) Height of structure. Maximum 30 feet.

(17) All other requirements shall conform to the regulations of the residential district in which the structure is located as stated in this code.

(18) A sanctuary shall be defined as a congregating meeting place of worship for sermons, ceremonies, prayers, etc., and not to include instruction rooms, the place of residence for ministers, priests, rabbis, teachers, clergy, directors of the premises, etc.; or accessory uses on the same site, including child care facilities operated during services/events sponsored by the organization. A sanctuary authorized by special use permit issued under this section may not exceed 2,000 square feet for total building area.

(19) No accessory structures or uses may be authorized by special use permit. This includes schools, recreational facilities, offices, and child day care unless operation occurs during regular service, etc.

(c) Riding stable.A proposed riding stable must comply with the following specific criteria, as well as the general criteria in section 38.04.033:

(1) The parcel on which the use is conducted shall contain a minimum of three acres of land.

(2) The stable shall not be located any closer than 150 feet to a residence on an adjoining lot.

(3) The operations of a riding stable shall be limited to providing riding lessons and the boarding, training and renting of horses. No horse racing shall be permitted on the premises.

(4) A limit on the number of horses permitted to be stabled on the lot shall be set by the city council applying the general criteria in section 38.04.033; provided that the number of horses permitted on the premises used for a riding stable shall never exceed one horse for every acre of land, except for riding stables located on ten or more acres where the number of horses permitted on the premises shall never exceed one horse for every three-fourths acre of undeveloped land.

(5) The following facilities shall be provided and properly maintained:

(A) Adequate enclosures to keep the horses from running at large;

(B) Adequate space within each enclosure for proper exercise;
(C) Adequate shelter from the elements;

(D) Enclosures that properly drain; and

(E) Facilities and program for proper waste disposal and for eliminating odor.

(6) An applicant shall maintain the horse stable in a sanitary condition at all times and keep odor to a minimum.

(7) All horses brought into or maintained in the city shall be free of all infectious or contagious diseases that the state animal health commission has determined to be dangerous.

(d) Kennel, commercial.A proposed commercial kennel must comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:

(1) The operations of a commercial kennel, unless otherwise limited by the city council, shall be limited to boarding, training, breeding, selling, veterinary treatment, care and grooming of dogs and cats, and may include the sale of dog and cat accessories and supplies.

(2) The following facilities shall be provided and properly maintained:

(A) Adequate enclosures to keep animals from running at large;

(B) Adequate space within each enclosure for proper exercise;

(C) Adequate shelter from the elements;

(D) Enclosures that drain properly; and

(E) Facilities and program for proper waste disposal and for eliminating odor.

(3) An applicant shall maintain animal enclosures in a sanitary condition at all times and shall keep odor from being detectable from off the premises.

(4) All dogs and cats brought into or maintained in the city shall be free of infectious or contagious diseases and shall be effectively inoculated against rabies at all times.

(5) An applicant shall provide and maintain an effective means to prevent barking sounds from being audible off the premises.

(6) The number of animals on the premises at any one time shall be no greater than authorized in the permit issued by the city council.

~~(e) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.A proposal to sell alcoholic beverages in a restaurant for on- or off-premises consumption must comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:~~

~~(1) The restaurant where the alcoholic beverage is proposed to be sold shall not be located within 300 feet of a church or school as measured by state law.~~

~~(2) The restaurant where the alcoholic beverage is proposed to be sold shall not be located on property, two or more sides of which abut property in a residential zoning district.~~

~~(3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of food.~~

~~(4) The permit shall be reviewed annually by the city administrator and, if reissued, reissued at the end of the calendar year.~~

~~(5) Additional fees are to be collected after three years' operation in accordance with the alcoholic beverage commission permit rules.~~

~~(6) Special offers to the public promoting the sale of alcoholic beverages commonly known as "happy hour" shall be conducted only at times when the permittee offers full food service and only during the period of time from 4:00 p.m. through 7:00 p.m. during the days of Monday through Friday inclusive except as indicated in this subsection. The permittee may select a period of time not to exceed three hours per each day to conduct a happy hour promotion for the days of Saturday and Sunday. The permittee shall give written notification to the city administrator of the hour selected for such a happy hour and any changes thereto. The permittee shall give a 72-hour notice to the city administrator of changes to any happy hour designation.~~

~~(7) Live entertainment utilizing electronically amplified musical instruments or an associated sound system shall not be permitted. Live entertainment is permitted as follows:~~

~~(A) The group of performers is limited to not more than four persons;~~

~~(B) The entertainment must be located within the confines of the restaurant interior;~~

~~(C) The sound is not to be heard outside the restaurant premises; and~~

~~(D) All performances must end at 10:30 p.m. daily.~~

(e) Alcoholic beverages sold in liquor ~~or grocery stores~~ for off-premises consumption.

(8) The liquor or grocery store where the alcoholic beverage is proposed to be sold shall not be located within 300 feet of a church or school as measured by state law.

(9) The liquor or grocery store where the alcoholic beverage is proposed to be sold shall not be located on property, two or more sides of which abut property in a residential zoning district.

(10) The permit shall be reviewed annually by the city administrator, and, if reissued, reissued at the end of the calendar year.

(11) Additional fees are to be collected after three years' operation in accordance with the alcoholic beverage commission permit rules.

(12) A permit shall only be granted if the applicant agrees that all litter associated with off-premises consumption of alcoholic beverages within 200 feet of the applicant's premises is presumed to be the applicant's. In addition, the applicant agrees to collect and dispose of all litter within 200 feet of the boundary line of the premises from which alcoholic beverages are sold.

(13) Wine or beer tasting is permitted on-site by prospective purchasers provided required state permits are obtained.

(f) Employee dining facilities.

(1) The employee dining facility must be operated within the office buildings and only in projects that total over 100,000 total surface feet of building floor area within one lot.

(2) The employee dining facility shall be limited in size so as to serve the employee population of the office complex. No advertising of the facility shall be permitted outside the complex.

(3) The employee dining facility shall not serve meals after 6:00 p.m.

(4) The employee dining facility shall have a separate wastewater system approved in advance by the city.

(5) The permit shall be reviewed annually.

(g) Banking or savings and loan establishments.A proposed bank or savings and loan association in a B-2 district or must comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:

(1) The parcel must have direct access to Bee Cave Road or the Capital of Texas Highway.

(2) The remodeling of a financial facility in existence prior to May 1, 2005, located within a B-2 district shall be limited to a maximum floor area of the lesser of the existing area or 2,000 square feet, excluding any drive-in facility area.

(3) The building, if located within a B-2 district shall be a minimum of 200 feet from any major thoroughfare is limited to two lanes of drive-in windows.

(4) The site plan must provide adequate anticipated stack space for automobile drive-in needs within the facility complex.

(5) The anticipated traffic load from the banking facility shall not interfere with residential traffic.

(6) The site plan shall provide for adequate landscaping, and the maintenance of landscaped areas shall be the subject of restrictive covenants which are enforceable by the city.

(7) There shall be no more than one curb cut for access to the office complex unless otherwise approved by the city council.

(h) Hospital in B-1 district.A proposed hospital must comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:

(1) The parcel of land shall have a minimum of 500 feet frontage on either the Capital of Texas Highway or Bee Cave Road.

(2) The parcel must have direct access to Bee Cave Road or the Capital of Texas Highway.

(3) The anticipated traffic load from the hospital shall not interfere with traffic from residential streets.

(4) There shall be no more than one curb cut unless otherwise approved by the city council.

(5) The hospital shall be operated by a physician licensed to practice medicine in the state and currently in good standing with the state board of medical examiners.

(6) The disposal system for the hospital shall be specifically designed by a licensed engineer for water consumption or capacity typically associated with hospitals.

(i) Laundry and dry cleaning plant operation in B-3 district.

(1) Dry cleaning machines shall be an EPA-approved nonvent unit and have an enclosed trough to accommodate any solvent spill.

(2) Solvent use shall be PERC, which is nonflammable perchloroethylene, and which is limited to 50 gallons on-site at any one time.

(3) No fumes, odor or noise shall be detectable beyond the premises of the business.

(4) No chemical discharge shall be allowed into an organized central sewer system or private septic disposal system.

(5) There shall be a maximum of 1,800 square feet for the gross area of the business.

(6) Dry clean processing is limited to on-site business, not trucked-in processing.

(7) Used chemicals and filters shall be disposed of weekly or after every 8,000 pounds of processing and be transported by a state-licensed disposal company.

(j) Massage therapy school in O district.A proposed massage therapy school shall comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:

(1) The owner and instructors shall be registered massage therapists pursuant to Vernon's Ann. Civ. St. art. 4512k (V.T.C.A. Occupations Code, chapter 455).

(2) The massage therapy school shall have at least two registered instructors that teach the course of instruction required for registration as a massage therapist, as specified by the provisions of Vernon's Ann. Civ. St. art. 4512k (V.T.C.A. Occupations Code, chapter 455).

(3) The hours of operations are limited to 6:00 a.m. to 10:00 p.m.

(4) Hazardous chemicals as defined by Ordinance No. 240, as amended, shall not be discharged into a private sewage disposal system or into an organized central sewer system.

(5) The parcel of land on which the school is located shall have direct ingress and egress to Bee Cave Road or Capital of Texas Highway.

(6) Employee and student parking spaces shall be allocated on a one-to-one ratio. The number may be reduced upon presentation of evidence that the provided parking is adequate due to shared parking between retail facility users.

(7) The anticipated traffic load from the school shall not interfere with traffic within the multitenant complex.

(k) Charter school or private school in O district.A proposed charter school or private school shall comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:

(1) The charter school or private school presents to the city proper credentials, licenses or certifications to operate as provided by the Texas Education Code.

(2) Outdoor recreational activities are permissible so long as the noise from the activity does not interfere with the other tenants or neighbors.

(3) A fence must be constructed surrounding any outdoor recreational activity area at a height of at least four (4) feet but no higher than six (6) feet.

(4) The hours of operations are limited to 8:00 a.m. to 5:00 p.m.

(5) Employee parking spaces shall be allocated on a one-to-one ratio. Additional parking must be provided for transportation of students, unless documentation is provided that the available parking is adequate due to shared parking between other tenants.

(6) The anticipated traffic load from the school, including loading and unloading, shall not interfere with other traffic within a multi-tenant complex.

(7) As part of the operation of a private or charter school, food and drink may be provided for on-premises consumption by the students and staff without having to obtain a food establishment permit under Chapter 10 provided that: (A) the provision of food or drink, and disposal of refuse, does not create a nuisance for other tenants or neighbors; (B) the food or drink is provided as a part of the educational services being provided, and not primarily for retail sale; and (C) the food is pre-packaged, nonperishable, and does not require cooking or other preparation. The terms in this subsection have the meaning assigned to them by chapter 10 of this code.

(8) The private or charter school must meet the minimum ratio of classroom size per student as required by the Texas Education Agency and the number of persons occupying the space may not violate the occupancy limits set by the fire code.

(l) Wireless telecommunication facilities.For the purposes of special use permits, the term "wireless telecommunication facilities" includes antennae, satellite dishes, mounts, power cabinets, platforms, and any other equipment or fixtures necessary for the provision of cellular or wireless internet service. A property owner within an O, B-1, B-2, B-3, or GUI district may obtain permission to install, or permit to be installed, wireless telecommunication facilities in compliance with the general criteria in section 38.04.033, any other section of this code, and the following:

(1) The installation and use of such facilities may not inhibit or otherwise interfere with an existing, lawful wireless telecommunication facility within the city limits.

(2) The facilities will be installed in the least visually intrusive manner practicable, using paint colors to make the facilities blend in, screening of structures at ground level, and other measures to reduce the visual impact.

(3) Facilities may not be constructed within the setback from the property line.

(m) Restaurant with drive-in/drive-through facilities.A proposed restaurant with drive-in/drive-through facilities must comply with the general criteria in section 38.04.033.

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.04.035. General conditions for all special uses.

(a) Adherence to approved plans and limitations.A special use shall be established, operated and maintained in accordance with the plans, terms, conditions and limitations contained in the permit approved by the ~~BOA~~ city council.

(b) Duration of permit; renewal.Special use permits shall be granted for a definite period of time, not to exceed two years. Upon the special use permit's expiration, renewals may be granted at the discretion of the city administrator provided no written complaints were received during the use period. If there is a record of complaints or if the city administrator opts not to approve the renewal, the applicant can seek renewal from the ~~BOA~~ city council. If the ~~BOA~~ city council declines the renewal, the applicant can reapply for the special use permit. The applicant shall pay new fees.

(c) Revocation of permit.The ~~BOA~~ city council, after notice and a public hearing, may revoke any special use permit for one or more of the following reasons:

(1) A substantial violation of any of the plans, terms, conditions and limitations applicable to the special use;

(2) A substantial violation of any applicable ordinance or regulation;

(3) Operation or maintenance of the special use in a manner that is detrimental to the public's health or safety, or so as to constitute a nuisance; or

(4) Discontinuance of the use.

(d) Lapse of permit.A special use permit shall lapse if the use has not been commenced, or, in the case of construction, if construction has not been commenced, within one year of the date the permit was issued.

(e) Transfer of permit.A special use permit is not transferable and shall cease upon transfer of the property or business.

(Ordinance 2021-013, att. B, adopted 12/8/21)

§ 38.04.036. through § 38.04.060. (Reserved)

DIVISION 3

Nonconforming Uses and Structures

§ 38.04.061. Nonconforming uses of land and structures.

Any use of land or structures lawfully existing on the effective date of the ordinance from which this chapter is derived, or the effective date of any amendment to this chapter, that is not permitted in the district in which the use is located may be continued, subject to the following conditions:

(1) No nonconforming use of land shall be extended to occupy a greater area of land than was occupied on April 15, 1990, or on the effective date of the ordinance from which this chapter is derived or the effective date of an amendment of this chapter.

(2) No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of the ordinance from which this chapter is derived or the effective date of an amendment of this chapter.

(3) When a nonconforming use of land is discontinued for a period of more than 90 consecutive days, it shall be deemed to be abandoned and subsequent use of such land shall conform to the regulations specified by this chapter for the district in which the land is located.

(4) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(5) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(6) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(7) When a nonconforming use of a structure, or structure and premises in combination, is discontinued for three consecutive months, except for repairs covered by an approved building permit, not exceeding six months, it shall be deemed to be abandoned, and the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(8) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

(9) The city council, after notice and hearing, may require that a nonconforming use be screened from view of the street or surrounding property, or may require the elimination of any nuisance factor caused by a nonconforming use.

(10) The following nonconforming uses of land shall be entirely discontinued in all districts within one year from April 15, 1990, or the effective date of the ordinance from which this chapter is derived or the effective date of an amendment of this chapter, or from the date of annexation of land containing such uses:

(A) Wrecking, junk, scrap or salvage yards.

(B) Automotive and other sales lots, and outdoor storage yards for lumber, building materials and contractor's equipment.

(C) Extraction or removal of stone, sand, gravel, caliche, minerals, earth, topsoil or other natural material for commercial purposes.

(D) Shooting ranges.

(11) The following nonconforming uses of structures, or of structures and land in combination, shall be entirely discontinued within eight years after their inception, or within five years after becoming nonconforming under this chapter, or an amendment to this chapter, whichever is later:

(A) All commercial uses in R districts; and

(B) All industrial uses in any district.

(Ordinance 362 adopted 3/28/18)

ARTICLE 38.05
ADMINISTRATION AND ENFORCEMENT

DIVISION 1
Generally

§ 38.05.001. Joint/combined hearings.

Applications for special use permits, variances, zoning changes and subdivision approvals which involve the same development may be considered together, before either the zoning and planning

commission, the board of ~~adjustments~~ adjustment, the city council, or all of the above, at a single hearing, rather than at a separate hearing for each related application. Amendments to this chapter may be heard and acted upon at joint meetings of the zoning and planning commission and the city council.
(Ordinance 362 adopted 3/28/18)

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

The city shall cause one or more weather resistant signs to be erected in conspicuous locations on property for which a special use permit, variance, or zoning change approval has been requested. The sign shall state the purpose, date, time and place of the hearing before the commission. 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. Such signs shall be erected no later than sixteen
(16) 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
(Ordinance 362 adopted 3/28/18; Ordinance 2025-005 adopted 6/25/2025)

§ 38.05.003. Reapplication after denial of special use permit or change of zoning classification.

No application made by a property owner for a special use permit or changed zoning classification shall be accepted if the same or similar application on the same property has been denied by the city council within the preceding 12-month period.
(Ordinance 362 adopted 3/28/18)

§ 38.05.004. Fees.

All applications and submissions required by this chapter are to be accompanied by such fees and costs as may be required pursuant to such schedule of fees as may be adopted and amended from time to time by resolution of the city council. Fees are not refundable.
(Ordinance 362 adopted 3/28/18)

§ 38.05.005. Provisions of chapter are minimum requirements; conflicting provisions; private restrictions.

The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of any other applicable law are in conflict with the requirements of this chapter, the most restrictive requirement, or that imposing the higher standard, shall apply. The provisions of this chapter are not intended to repeal or interfere with private restrictions placed upon property by covenant, deed, easement or other private agreement.
(Ordinance 362 adopted 3/28/18)

§ 38.05.006. through § 38.05.030. (Reserved)

DIVISION 2

Variances

§ 38.05.031. Provisions subject to variance.

Variances may be granted by the board of adjustment to the provisions of this chapter in accordance with the rules and conditions of this division. A variance may not be granted, however, to authorize a change of use. Variances run with the land, but each variance is specific to the project for which it was granted.
(Ordinance 2021-004, att. G, adopted 6/23/21; Ordinance 379 adopted 9/25/19)

§ 38.05.032. Conditions required for granting variance.

No variance shall be granted unless the following conditions are fulfilled:

(1) The applicant has established by competent evidence that:

(A) The strict or literal enforcement of the terms of this chapter, because of special conditions,

will result in unnecessary hardship to the applicant.

(B) There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.

(C) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.

(D) The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

(2) The ~~recommendation~~ action of ~~zoning and planning commission~~ the board of adjustment shall include ~~an~~ a ~~analysis~~ consideration of whether:

(A) The variance may violate the intent of this chapter or the goals of the city's comprehensive plan.

(B) (Reserved).

(C) (Reserved).

(D) The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof.

(3) *Alternative grounds for existing structures.* In determining whether the condition described in subsection (a)(1) has been established with respect to a structure that is the subject of the application, the board may also consider the grounds set forth in section 38.02.006(c).

(Ordinance 2021-004, att. G, adopted 6/23/21; Ordinance 379 adopted 9/25/19)

§ 38.05.033. Interpretative criteria.

The board of adjustment ~~and the zoning and planning commission~~, in performing their ~~respective~~ duties in reference to applications for variances, may be guided by these interpretative criteria:

(1) Variances from the terms of this chapter should be granted sparingly.

(2) Deviations from the requirements of this chapter are justified only where the hardship resulting from their application is substantial.

(3) Usually, the granting of a variance must be predicated on a finding that the applicant's hardship arises from unusual conditions or circumstances, such as exceptional irregularity of shape or topography, which are peculiar to the parcel of land involved and not shared generally by other parcels in the neighborhood or district, or because no other reasonable alternative is available that will alleviate the unnecessary hardship complained of.

(4) Normally, a variance is to be denied if conditions or circumstances relied on for a variance were self-created by the person having an interest in the property in disregard of city regulations.

(5) The variance shall not violate the goals of the master plan for the city.

(6) The variance shall not have an adverse effect on neighborhood properties or unreasonably interfere with the respective owners' enjoyment thereof.

(7) The fact that lots, structures, uses or dimensional conditions on properties or structures within 200 feet of the property involved are, because they are nonconforming or because of previously granted variances, similar to the condition which would be created by the variance requested shall be relevant to, but not determinative of, the granting of the requested variance.

(8) See section 22.03.009(c) for variances to enable the efficient use of solar energy devices.

(9) When considering variance requests for nonresidential projects, whether granting the variance furthers achievement of the land planning principles set forth in the City's Master Plan, Attachment "B," as codified in the Code of Ordinances.

(Ordinance 2021-004, att. G, adopted 6/23/21; Ordinance 379 adopted 9/25/19)

§ 38.05.034. Procedure.

(a) Application.An application for a variance shall be made in writing in a form prescribed by the city administrator and shall be accompanied by a site plan and additional information as may be requested in order to properly review the application. Such information may include but is not limited to ~~plat plans~~ survey, site and building plans, and contour maps. If the applicant is not the legal owner of the property, a statement from the owner that the applicant is the authorized agent of the owner should be provided with the application.

(b) Report by city administrator or designee.Either the city administrator or the city administrator's representative may visit the site where the proposed variance will apply and the surrounding area and shall report any findings to the ~~zoning and planning commission and city council~~ board of adjustment.

~~(c) Review by zoning and planning commission.The commission shall review each application for a variance after a public hearing and shall make a recommendation to the board of adjustment. Upon request of applicant, the commission may allow one postponement of the variance request(s) to the following regular meeting of the commission, at which meeting the commission must either make a recommendation or forward the variance request(s) to the board of adjustment without a recommendation.~~

~~(d) Requirements for recommending approval.The commission shall not recommend approval of a variance unless it finds, based on competent evidence, that each of the conditions in section 38.05.032 has been established. The burden of establishing such conditions is on the applicant.~~

~~(e) Conditional recommendation of approval.A recommendation of approval may be conditioned on the applicant's adoption of specified changes, conditions, limitations or safeguards deemed appropriate by the commission.~~

~~(f) Findings and recommendations to be in writing.The commission shall forward its findings and recommendations to the board in writing. The commission's report shall show that each of the conditions in section 38.05.032 has or has not been satisfied. The report may be in the form of minutes of the commission's meeting.~~

(c) Review by board of adjustment.The board shall review each application for a variance at a public hearing after receiving findings and a ~~recommendation from the zoning and planning commission~~ any information from staff.

(d) Action by board of adjustment.The board shall not grant a variance unless it finds, based on competent evidence, that each of the conditions in section 38.05.032 has been established. ~~The board may adopt the findings made by the commission.~~ The board shall make its findings ~~and recommendations~~ in writing and shall follow the requirements of section 38.02.009.

(e) Imposition of conditions by board of adjustment.The board of adjustment may impose such conditions, limitations and safeguards as it deems appropriate upon the grant of any variance. Violation of any such condition, limitation or safeguard shall constitute a violation of this chapter.

(f) Lapse of variance.Any rights authorized by a variance which are not exercised within one year from the date of granting such variance shall lapse and may be reestablished only after notice and a new hearing pursuant to this division. The city ~~council~~ administrator may waive the requirement for the payment of fees for such variance renewal application if there has been no

material change of conditions pertaining to the property since the granting of the first variance. Variances originally granted concurrently and in connection with a change of a zoning designation as set forth in section 38.05.097 shall expire when and if the zoning designation expires.

(g) Proceeding without a variance.If work requiring a variance is begun or completed before obtaining approval of the variance, the city administrator shall investigate the circumstances of the failure to obtain such a variance and make the report a part of the variance request application. A stop-work order shall be in effect until a decision on approval or denial is made. Approval of such variance by the board of adjustment shall not preclude the responsible party from being cited for a violation of this chapter and being prosecuted in municipal court pursuant to section 38.05.064. If the variance application(s) are denied or withdrawn prior to approval, the applicant has ten (10) days to bring the property into compliance. If the deviation(s) are not corrected within the ten (10) days or timeframe agreed to, in writing, by the city administrator, immediate enforcement action described by section 2.02.041 of this code may be taken to bring the property into compliance. A resulting conviction in municipal court shall not relieve any person from fully complying with any other requirement of this chapter.

(h) Waivers from the drainage and erosion control design manual shall follow the procedure included in section 22.03.511(d).

(Ordinance 2021-004, att. G, adopted 6/23/21; Ordinance 379 adopted 9/25/19)

(Ordinance 362 adopted 3/28/18)

§ 38.05.035. Conditions.

The ~~city council~~ board can impose, ~~and the zoning and planning commission can recommend imposition of~~ reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential projects, whether, the City can recommend the imposition of reasonable conditions that are necessary to achieve one or more of the land planning principles set forth in the City's Master Plan, Attachment "B", as codified in chapter 28 of the Code of Ordinances.

§ 38.05.036. Notice of public hearing before the ~~zoning and planning commission~~ board of adjustment.

(a) The ~~commission~~ board 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 sixteen (16) days prior to the date of the hearing by depositing a copy of the notice in the mail addressed to each owner at the owner's address shown on in the Travis Central Appraisal District database, 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) The city shall be responsible for drafting the notice and serving it after it has been approved by the city administrator for form and content.

(e) A sign shall be posted per Section 38.05.002.

(f) 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.

(Ordinance 362 adopted 3/28/18; Ordinance 2025-005 adopted 6/25/2025)

§ 38.05.037. Regulatory authority of board of ~~adjustments~~ adjustment and city council over variances.

~~Types of Variances~~	~~Code of Ordinances Section~~	~~Recommendation~~	~~Approved By~~
Board of Adjustment Action			
Swimming pools	22.03.168, 22.03.207	N/A	BOA
Site disturbance	22.03.171, 22.03.210	N/A	BOA
Off-street parking	22.03.241 through 22.03.251	N/A	BOA
Minimum lot dimensions	22.03.272	N/A	BOA
Building setbacks	38.03.040, 22.03.275	N/A	BOA
Setbacks for accessory structures	22.03.276	N/A	BOA
Lot coverage	22.03.278	N/A	BOA
Height of structures	22.03.279, 38.03.040	N/A	BOA
Trees and vegetation	22.03.304, 22.03.305, 36.01.009	N/A	BOA
Impervious cover	22.03.059 and 22.03.281	N/A	BOA
ZAPCO Recommendation and City Council Action			
Water use	18.06.043	N/A	City Council
Visibility along streets and at street corners	22.03.007	ZAPCO	City Council
Screening of nonresidential uses from residential district or use	22.03.008	ZAPCO	City Council
Solar energy devices	22.03.009	ZAPCO	City Council
Solid waste containers in setback area	22.03.010	ZAPCO	City Council
Satellite dish antennas	22.03.011	ZAPCO	City Council
Reflective exterior building materials	22.03.012	ZAPCO	City Council

International Codes	22.03.091 through 22.03.098	ZAPCO	City Council
Fences	22.03.173, 22.03.216	ZAPCO	City Council
Flood hazard areas	26.02.064	ZAPCO	City Council
Signs	All of chapter 32, 38.03.040	ZAPCO	City Council
Special provisions (for subdivision approval)	36.01.004	ZAPCO	City Council
General rules and regulations (plat approval)	36.01.009, Table 36-1, Table 36-2	ZAPCO	City Council
Residential subdivisions of five acres or greater	36.01.010	ZAPCO	City Council
Private sewage facilities	36.01.011	ZAPCO	City Council

~~Types of Variances~~	~~Code of Ordinances Section~~	~~Recommendation~~	~~Approved By~~
~~Signs~~	~~All of chapter 32, 38.03.040~~	~~ZAPCO~~	~~City Council~~
~~Site disturbance~~	~~22.03.171, 22.03.210~~	~~N/A~~	~~BOA~~
~~Swimming pools~~	~~22.03.168, 22.03.207~~	~~N/A~~	~~BOA~~
~~Fences~~	~~22.03.173, 22.03.216~~	~~ZAPCO~~	~~City Council~~
~~Trees~~	~~22.03.304, 22.03.305, 36.01.008~~	~~N/A~~	~~BOA City Council~~
~~Landscaping~~	~~22.03.300~~	~~N/A~~	~~BOA City Council~~
~~Off-street parking~~	~~22.03.241 through 22.03.251~~	~~N/A~~	~~BOA~~
~~Minimum lot dimensions~~	~~22.03.272~~	~~N/A~~	~~BOA~~
~~Setbacks for accessory structures~~	~~22.03.276~~	~~N/A~~	~~BOA~~
~~Impervious cover~~	~~38.03.040 and Table 36-1~~	~~N/A~~	~~BOA~~
~~International and Uniform Codes~~	~~22.03.091 through 22.03.098~~	~~ZAPCO~~	~~City Council~~
~~Visibility along streets and at street corners~~	~~22.03.007~~	~~ZAPCO~~	~~City Council~~
~~Screening of nonresidential uses from residential district or use~~	~~22.03.008~~	~~ZAPCO~~	~~City Council~~
~~Solar energy devices~~	~~22.03.009~~	~~ZAPCO~~	~~City Council~~
~~Solid waste containers in setback area~~	~~22.03.010~~	~~ZAPCO~~	~~City Council~~
~~Satellite dish antennas~~	~~22.03.011~~	~~ZAPCO~~	~~City Council~~
~~Reflective exterior building materials~~	~~22.03.012~~	~~ZAPCO~~	~~City Council~~

~~Special provisions (for subdivision approval)~~	~~36.01.004~~	~~ZAPCO~~	~~City Council~~
~~General rules and regulations (plat approval)~~	~~36.01.008, Table 36-1, Table 36-2~~	~~ZAPCO~~	~~City Council~~
~~Residential subdivisions of five acres or greater~~	~~36.01.009~~	~~ZAPCO~~	~~City Council~~
~~Private sewage facilities~~	~~36.01.010~~	~~ZAPCO~~	~~City Council~~
~~Building setbacks~~	~~38.03.040, 22.03.275~~	~~N/A~~	~~BOA~~
~~Lot coverage~~	~~22.03.278~~	~~N/A~~	~~BOA~~
~~Height of structures~~	~~22.03.279, 38.03.040~~	~~N/A~~	~~BOA~~
~~Water use~~	~~18.06.043~~	~~N/A~~	~~City Council~~
~~Flood hazard areas~~	~~26.02.064~~	~~ZAPCO~~	~~City Council~~

BOA = Board of Adjustment

Table: Regulatory Authority of Board of Adjustment and City Council of Certain Types of Variances

(Ordinance 362 adopted 3/28/18)

§ 38.05.038. through § 38.05.060. (Reserved)

DIVISION 3

Enforcement and Penalties

§ 38.05.061. Stop-work orders.

The city inspector or the city administrator may order all work, including site clearing or other site preparation, stopped on any site where a significant violation of this chapter or a final site plan is found. Any person, including a workman on the site, who fails to comply with a stop-work order shall be guilty of a misdemeanor, punishable as provided in section 38.05.064.

(Ordinance 362 adopted 3/28/18)

§ 38.05.062. Revocation of final site plan approval.

If the city council finds, after notice and hearing, that a significant violation of the final site plan has occurred, the council may revoke its approval of such site plan. It shall be unlawful for any person to do any work on the site covered by the site plan unless and until a new application for site plan approval has been filed and processed in accordance with the provisions of this chapter and the city council grants approval to a new final site plan which corrects the violations of the original site plan.

(Ordinance 362 adopted 3/28/18)

§ 38.05.063. Injunction and other remedies.

Any structure erected or used, or any work done, contrary to any of the provisions of this chapter or to any of the details contained in the final site plan approved by the city council is hereby declared to be unlawful and shall constitute a violation of this chapter. The city council may initiate injunction, mandamus, abatement or any other action available in law or equity to prevent, enjoin, abate, correct or remove such unlawful structure, use or work.

(Ordinance 362 adopted 3/28/18)

§ 38.05.064. Penalties.

(a) Any person who violates any provision of this chapter or any order made under the authority of this chapter, or who causes or permits any such violation, or who fails to perform any act required under this chapter, or who does any prohibited act or takes any action contrary to the final site plans approved by the city council or fails to take any action required by such site plan, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more

than $2,000.00. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(b) Any person who violates any provision of this chapter is subject to a civil penalty of not less than $100.00, or more as permitted by law, for each act of violation and for each day of violation.

(c) The owner or tenant of any building, structure or premises and any architect, builder, contractor, agent or other person who knowingly commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section, and shall likewise be subject to civil penalties as provided in this section.

(Ordinance 362 adopted 3/28/18)

§ 38.05.065. through § 38.05.090. (Reserved)

DIVISION 4

Amendments

§ 38.05.091. Generally.

(a) Amendments to this chapter shall be made by the city council in accordance with the provisions of this section.

(b) The city council shall not enact any amendment to this chapter without first having received a report and recommendation from the zoning and planning commission and having held a public hearing on the proposed amendment.

(c) Amendments to this chapter shall be of two types:

(1) Those that change the zoning classification of a particular parcel of land; and

(2) All others, which include amendments that supplement, change or repeal general provisions of this chapter.

(d) All amendments shall conform to the goals and standards and the land use map of the comprehensive plan of the city. Zoning classification changes that do not conform to the land use map in the comprehensive plan of the city are permitted only under the circumstances and conditions specified in this division.

(Ordinance 362 adopted 3/28/18)

§ 38.05.092. Procedure for changing zoning classification of particular parcels of land.

(a) Persons who may initiate request.A request to change the zoning classification of a particular parcel of land may be initiated by the owner of such parcel or the zoning and planning commission. The city council, however, may initiate a proposed change on its own motion without such request.

(b) Manner of initiating request.

(1) Application by property owner.A property owner may file an application with the city administrator requesting the city council to consider changing the zoning classification of such person's property. Such application shall be accompanied by a fee set by the city council and shall contain the following information:

(A) Legal description and address of the parcel affected.

(B) Present zoning classification of the parcel and of all contiguous parcels around it.

(C) Present use of the parcel and of all contiguous parcels around it.

(D) Type and location of any structures on the applicant's parcel and on adjoining land.

(E) Appropriate evidence of any significant changes that have occurred in the area affected

which support the requested rezoning in accordance with the comprehensive plan.

(F) The zoning change requested and the proposed use;

(G) A traffic impact analysis, where development is proposed which would generate 200 or more trips per day with access to a collector street with less than 40 feet of pavement width and 400 or more trips per day with access to an arterial street with 40 feet or more of pavement width. Submittal shall occur simultaneously with the applications for zoning, special use permits or building permits; and

(H) Any other relevant information requested by the city administrator.

(2) Resolution from zoning and planning commission.The zoning and planning commission, by resolution directed to the city council, may request a change in the zoning classification of particular parcels of land in order that such parcels will conform to the classification specified on the land use map of the comprehensive plan of the city.

(3) Initiation on city council's own motion.The city council, by motion, may initiate a proposal to change the zoning district classification of a particular parcel of land.

(c) City administrator report.The city administrator shall review each application for a zoning change and prepare a brief report on whether the requested change conforms to the classification specified in the land use map of the comprehensive plan of the city for such parcel. If the requested change does not conform to the comprehensive plan, the city administrator's report may indicate whether any significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the land use map was adopted which make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the comprehensive plan. The report shall also indicate whether the requested zoning classification is the most appropriate classification for the area affected. The report shall also make a determination as to whether the zoning classification is designed to promote those values set forth in section 38.05.094(d) of the Code.

(Ordinance 362 adopted 3/28/18)

§ 38.05.093. Procedure for amending general zoning provisions.

(a) Initiation by zoning and planning commission.

(1) The zoning and planning commission, by resolution directed to the city council, may request that certain general provisions of this chapter be amended. The resolution shall contain the reasons for such request and indicate whether the proposed amendment conforms to the comprehensive plan of the city.

(2) The city council may approve the request, deny the request, or return it to the zoning and planning commission for additional consideration.

(b) Initiation on city council's own motion.The city council, by motion, may initiate a proposal to amend the general provisions of this chapter.

(Ordinance 362 adopted 3/28/18)

§ 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 in the official newspaper of the city and on the city's official website before the 15th 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, in accordance with Texas Local Government Code Chapter 211.

(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 sixteen (16) days before the hearing, in accordance with Texas Local Government Code Chapter 211.

(3) A sign shall be posted per Section 38.05.002.

(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 to the next regular meeting. The zoning and planning commission may elect to defer its decision on the request to its next regular meeting, and the request will reappear on the next zoning and planning commission's agenda. After review at these meetings, the commission shall forward the amendment to the city council with or without a recommendation.

(Ordinance 379 adopted 9/25/19; Ordinance 2025-005 adopted 6/25/2025)

§ 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(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.

(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

(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.

(6) Parcel of land.As used in this section, "parcel of land" shall mean that area designated by the 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).

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

(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.

(Ordinance 362 adopted 3/28/18)

§ 38.05.096. Suspension of issuance of permits pending amendments.

No application shall be accepted for filing or be processed, and no building, site clearance or grading permit shall be issued for any work, other than in connection with a single-family residential use, for a period not to exceed 90 days, on land which is being considered for a change in zoning classification, with such 90-day period to begin on the date the city council submits the proposed zoning change to the zoning and planning commission for a report and recommendation.

(Ordinance 362 adopted 3/28/18)

§ 38.05.097. Undeveloped parcels zoned before July 24, 1996.

Undeveloped parcels (zoned property/lots without building permits) for which zoning was approved before July 24, 1996, shall retain such zoning until another zoning classification is requested and approved in accordance with the procedures in this chapter, as amended. All zoning expiration/due dates and zoning extension expiration/due dates are rescinded. Site plans, which were approved when the zoning for such parcels was granted, shall expire on the next zoning expiration/due date or zoning extension expiration/due date of the parcel for which each of these site plans was submitted and approved.

(Ordinance 362 adopted 3/28/18)

DIVISION 5

Administrative Exceptions

§ 38.05.098. Eligibility.

An administrative exception may be granted by the City Administrator subject to the provisions of this chapter in accordance with the rules and conditions of this division. Administrative exceptions run with the land, but each exception is specific to the project for which it was granted. Only those

administrative exceptions listed below are eligible for approval by the City Administrator:

(1) Up to a maximum of 5% relief from any numerical standard for permitted work with identified "after-the-fact" construction errors. This relief is not available at the building permit stage, but only to correct construction errors.

§ 38.05.099. Conditions required for granting administrative exception.

(1) That granting the administrative exception serves an obvious and needed purpose.

(2) That granting the administrative exception will ensure an equal or better level of design or land use compatibility as the otherwise applicable standards.

(3) That granting the administrative exception will not materially and adversely affect adjacent land uses and the physical character of development in the immediate vicinity of the proposed project.

(4) That granting the administrative exception will be consistent with the purposes and intent of the zoning ordinance and comprehensive plan.

§ 38.05.100. Interpretive criteria.

(1) The condition is not intentionally self-created.

(2) The condition does not result from a disregard of the approved plans, specifications, or applicable code requirements.

§ 38.05.101. Procedure.

(1) **Application.** An application for an administrative exception must be made in writing in a form prescribed by the city administrator, accompanied by a site plan and additional information as may be requested in order to properly review the application. Such information may include but is not limited to survey, site and building plans, and contour maps. If the applicant is not the legal owner of the property, a statement from the owner that the applicant is the authorized agent of the owner should be provided with the application.

(2) **Report by city administrator or designee**. Either the city administrator or the city administrator's representative may visit the site where the proposed administrative exception will apply and the surrounding area and prepare a site report on the conditions affecting the request for administrative exception.

(3) **Review by city administrator**. The city administrator will review each application for an administrative exception and the accompanying site report.

(4) **Requirements for recommending approval.** The city administrator must not recommend approval of an administrative exception unless they find, based on competent evidence, that each of the interpretive criteria herein has been established. The burden of establishing such conditions is on the applicant.

(5) **Findings and recommendations to be in writing**. The city administrator must make their findings and recommendations in writing. The report must show that the conditions herein have or have not been satisfied.

(6) **Imposition of conditions by city administrator**. The city administrator may impose such conditions, limitations and safeguards as they deem appropriate upon the grant of any administrative exception. Violation of any such condition, limitation or safeguard shall constitute a violation of this chapter.

(7) **Lapse of administrative exception**. Any rights authorized by an administrative exception that are not exercised within one year from the date of granting such exception will lapse and may be reestablished only through re-application and approval of a new administrative exception. The city administrator may waive the requirement for the payment of fees for such renewal application if there has been no material change of conditions pertaining to the property since the granting of the first administrative exception.

(8) **Proceeding without an administrative exception**. If work requiring an administrative exception is begun or completed before obtaining approval of the exception, the city administrator will investigate the circumstances of the failure to obtain the administrative exception. A stop-work order will be in effect until a decision on approval or denial is made. Approval of such administrative exception by the city administrator does not preclude the responsible party from being cited for a violation of this chapter and being prosecuted in municipal court pursuant to section 38.05.064. If the administrative exception application is denied or withdrawn prior to approval, the applicant has 10 days to bring the property into compliance. If the deviations are not corrected within the 10 days or timeframe agreed to, in writing, by the city administrator, immediate enforcement action described by section 2.02.041 of this code may be taken to bring the property into compliance. A resulting conviction in municipal court will not relieve any person from fully complying with any other requirement of this chapter.

ARTICLE 38.06
PLANNED DEVELOPMENT DISTRICTS

DIVISION 1
Generally

§ 38.06.001. Popular name.

This article shall be commonly cited as the “planned development district ordinance.”
(Ordinance 362 adopted 3/28/18)

§ 38.06.002. Scope.

This article applies to all property within the incorporated municipal boundaries (i.e., “city limits”), and may also extend to the extraterritorial jurisdiction (“ETJ”) to the extent property owners are willing to be voluntarily annexed into the city concurrently with the adoption of the planned development district. This chapter applies solely to projects that are not single-family residential projects.
(Ordinance 362 adopted 3/28/18)

§ 38.06.003. Definitions.

(a) General.Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

(b) Specific.

City. The City of West Lake Hills, an incorporated municipality located in Travis County, Texas.

City administrator. The chief administrative officer of the City of West Lake Hills. The term may also include the deputy city administrator, development coordinator, or any other agent of the city specifically designated by the city council to perform the duties of the city administrator, as set out in this article.

PD district. Planned development district.

PD master plan. A development plan that serves as the basis for the enactment of a planned development district. The plan may be for one or more lots. The plan depicts the existing and proposed conditions of the lot, including: water features; landscaping and open spaces; walkways, means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; screening devices; and any other information required by this article. A PD master plan is not required to have an engineer's seal.

Site plan. See section 1.01.003.

(Ordinance 362 adopted 3/28/18)

§ 38.06.004. Purpose.

(a) This article provides standards and procedures for the legislative creation of specialized zoning districts that are crafted specifically for certain land endeavors. Planned development districts are intended to allow flexibility and encourage creative land use and site development while providing natural resource preservation and protecting adjoining properties. Through planned development districts the city is better able to give developers the flexibility they need for complicated projects, while protecting the public interest by mitigating externalities related to traffic, noise, aesthetics, lighting and drainage.

(b) Planned development districts are established by ordinance and, thus, are not agreements, although often they are developed through negotiations between the city and property owners.

(c) Unless clearly stated in the ordinance creating the PD district, the development project must comply with all applicable city regulations. PD districts are intended to implement generally the goals and objectives of the city's comprehensive plan. PD districts are also intended to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes:

(1) To designate a town center(s) and "main street" area as the commercial or mixed use area but still protect and preserve City of West Lake Hill's rural appeal.

(2) To protect or preserve native natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, hills, viewscapes, and wildlife habitats.

(3) To provide streets to accommodate bikes and pedestrians[.]

(4) To encourage environmentally-friendly construction and construction of energy efficient buildings[.]

(5) To protect or preserve existing historical buildings, structures, features or places.

(6) To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and,

(7) To meet or exceed the present standards of this article.

(Ordinance 362 adopted 3/28/18)

§ 38.06.005. Nature of district.

Each PD district shall be a free-standing zoning district in which land uses and intensities of land use may be tailored to fit the physical features of the site and to achieve compatibility with existing and planned adjacent uses.

(Ordinance 362 adopted 3/28/18)

§ 38.06.006. through § 38.06.030. (Reserved)

DIVISION 2

Minimum Standards

§ 38.06.031. Standards by ordinance.

Minimum standards proposed for the PD district must be incorporated within an ordinance adopted by the city council. In the adopting ordinance, the city council may incorporate minimum standards by making reference to a standard zoning district. In considering whether a PD district is appropriate and in the public interest, the city council shall consider the principles outlined in attachment "B" of the city's master plan.

(Ordinance 362 adopted 3/28/18)

§ 38.06.032. Land use.

(a) Principles.When proposing that the city creating a PD district and confer that status on a particular tract of property, the applicant shall provide specific information to the city explaining in detail how the proposed pdd addresses the principles established in attachment "B" of the city's master plan.

(b) Uses.An application for a PD district shall specify the use or the combination of uses proposed, particularly if any of the proposed uses are not allowed by right in the base zoning district.

(c) Base district.In the PD district, uses shall conform to the standards and regulations of the base zoning district to which it is most similar. The particular zoning district must be stated in the granting ordinance.

(d) Variances.All applications to the city shall list all requested variances from the standard requirements set forth throughout this article (applications without this list will be considered incomplete).

(e) Conditional uses.Conditional use permits allowed in a base zoning district may be allowed in a PD only if specifically identified at the time of PD approval, and if specifically cited as an "additional use" in the ordinance establishing the PD. Additional uses included in the PD ordinance shall then be allowed by right in the PD district.

(f) Location.The location of all authorized uses shall be consistent with the PD master plan and the PD site plan.

(g) Residential uses.Unless otherwise provided by the PD ordinance, the following standards shall apply to all residential uses within a PD district:

(1) Density.Except on the basis of exceptional design and provision of enhanced open space, residential density shall be no smaller than the lot sizes allowed in the base zoning district for each type of housing except for minor changes in a small percentage of the lots in order to provide improved design or flexibility in the layout of the subdivision.

(2) Drainage.Drainage features shall be in accordance with the drainage and erosion control design manual.

(Ordinance 362 adopted 3/28/18)

§ 38.06.033. Open space standards.

(a) Public or private.Unless otherwise provided by the PD ordinance, a site-appropriate area or areas within the entire PD district shall be devoted to open space. Open space for PD districts may be satisfied by space that can be classified as public, such as a central gathering space, or by a combination of public and private open space. Open space requirements specified in this subsection are in addition to the city's general requirements for landscaping and buffering. Public open space shall be dedicated to the city.

(b) Preservation of natural features.Unless otherwise provided by the PD ordinance or PD master plan:

(1) Floodplain areas shall be preserved and maintained as open space; and

(2) Significant stands of native trees and other natural features of the City of West Lake Hills shall be preserved and protected from destruction or alteration. Applicant shall submit a nature preservation plan to the city.

(c) Open space allocation and preservation.Open space requirements shall be satisfied for each phase of a multi-phased development. If open space is not to be provided proportionally among phases of development, the applicant must execute a reservation of open space in a form that will assure the city that such open space will be provided. The city may require that all open space within the PD district must be provided prior to completion of development within the PD district.

(Ordinance 362 adopted 3/28/18)

§ 38.06.034. Height regulations.

Unless otherwise provided by the PD ordinance, height regulations for uses shall be those established within the city's zoning regulations for the base zoning district.

(Ordinance 362 adopted 3/28/18)

§ 38.06.035. Area regulations.

Unless otherwise provided by the PD ordinance, area regulations for uses shall be those established within the city's zoning regulations for the base zoning district. There is no minimal allowable size.

(Ordinance 362 adopted 3/28/18)

§ 38.06.036. through § 38.06.090. (Reserved)

DIVISION 3

Master Plan

§ 38.06.091. Mandatory.

The PD master plan is the mandatory first step in the creation of a PD district. It establishes general guidelines for the PD district by identifying the proposed land uses and intensities, building locations, building footprints, thoroughfare locations, and open space boundaries, including any proposed public trail systems. The PD master plan, as incorporated in the PD ordinance and together with the text of the ordinance, establishes the development standards for the PD district. The PD master plan shall incorporate (to the extent reasonably possible) the principles set forth in attachment "B" of the city's master plan.

(Ordinance 362 adopted 3/28/18)

§ 38.06.092. Compliance with approved plans.

Except as otherwise provided by the city's subdivision regulations, no development shall begin and no building permit shall be issued for any land within a PD district until a PD site plan that is substantially consistent with the PD master plan has been approved. Each PD district shall be developed, used, and

maintained in compliance with the approved PD master plan, and conform to site plans for the PD district.
(Ordinance 362 adopted 3/28/18)

§ 38.06.093. Establishment of district.

(a) Zoning Amendment.The procedures for establishing a PD district shall be the same as for any other type of zoning request, except that more information is typically needed along with the request, and a PD master plan shall be submitted along with the request.

(b) Application.An application for the establishment of a PD district shall be submitted in accordance with this article. The application shall include:

(1) A PD master plan.

(2) A list of proposed PD district development standards.

(3) Identification of a zoning district, if any, which shall apply to the extent not otherwise provided by the PD master plan or by the proposed PD district development standards.

(4) A PD master plan informational statement, and

(5) A traffic impact analysis, unless waived by the city council.

(Ordinance 362 adopted 3/28/18)

§ 38.06.094. Governing regulations.

Except to the extent provided by the PD master plan and the PD ordinance, development within the PD district shall be governed by all of the city's ordinances, rules, and regulations in effect at the time of such development, including the standards of the zoning district identified in the application. Of particular importance when deliberating approval and implementation of PD master plans and PD districts are the principles contained in attachment "B" of the city's master plan.
(Ordinance 362 adopted 3/28/18)

§ 38.06.095. Conflict.

In the event of any conflict between the PD master plan, the PD ordinance, and/or the ordinances, rules, and regulations of the city in effect at the time of the establishment of the PD, the terms, provisions, and intent of the PD master plan and PD ordinance shall control.
(Ordinance 362 adopted 3/28/18)

§ 38.06.096. PD master plan requirements.

(a) A PD master plan shall be submitted along with a PD zoning request, and shall be processed simultaneously with the PD zoning request. The PD master plan shall be reviewed by the city's building design committee and zoning and planning commission. If the PD zoning application is approved, the PD master plan shall be incorporated and made a part of the PD ordinance.

(b) Development standards.Proposed PD district development standards shall be processed simultaneously with the PD zoning application, and if the PD zoning application is approved, such standards shall be incorporated as part of the PD ordinance. Such proposed development standards may include, but shall not be limited to, uses; density; lot size; building size; lot dimensions; setbacks; coverage; height; landscaping; lighting; screening; fencing; parking and loading; signage; open space; drainage; and utility and street standards. Any graphic depictions used to illustrate such standards, unless otherwise provided in the PD ordinance, shall be considered as regulatory standards. In the event of any conflict, the more stringent standards shall apply. At the city administrator's discretion, the city administrator may waive any of items listed in this subsection. The city council may require submission of the above information or any other item deemed necessary by the council for creation of a PD district. In weighing the standards and regulations to apply to the PD master plan and PD district, the city administrator

shall principles contained in attachment "B" of the city's master plan.

(c) Informational statement.A PD master plan shall be accompanied by an informational statement containing the information set forth below. If the PD zoning application is approved, the informational statement shall be binding on the applicant or the land owner, but shall not be considered part of the PD master plan or the PD ordinance. If the PD master plan and the PD ordinance conflict in any way, the PD ordinance shall be considered the controlling document. Informational statements shall be updated concurrently with any amendment to the PD master plan. Each statement shall include the following:

(1) A general statement setting forth how the proposed PD district will relate to the city's comprehensive plan.

(2) The total acreage within the proposed PD district.

(3) If the development is to occur in phases, a conceptual phasing plan that identifies the currently anticipated general sequence of development, including the currently anticipated general sequence for installation of major capital improvements to serve the development; and

(4) An aerial photograph with the boundaries of the PD master plan clearly delineated.

(Ordinance 362 adopted 3/28/18)

§ 38.06.097. Master plan amendments.

(a) PD master plans.PD master plans, excluding informational statements, are considered part of the PD ordinance. Any substantive amendment to a PD master plan, as determined by the city administrator, shall be considered a zoning change. Nonsubstantive modifications may be approved by the city administrator.

(b) PD site plans.PD site plans are not considered part of a PD ordinance. Except as otherwise provided within this subsection, any amendment/revision to an approved site plan shall be in accordance with the city's site development ordinance.

(Ordinance 362 adopted 3/28/18)

§ 38.06.098. Lapse of master plan.

A PD master plan shall be effective for a period of one year (365 calendar days).

(Ordinance 362 adopted 3/28/18)

§ 38.06.099. Extension and reinstatement.

Extension of a PD master plan or site plan shall be in accordance with the following:

(1) Prior to the lapse of approval for a PD master plan, the applicant may request in writing that the city extend the plan approval.Such request shall be considered at a public meeting before the zoning and planning commission and the city council, and an extension may be granted by city council at such meeting. Two (2) extensions of six (6) months each in length may be granted, unless otherwise specified by ordinance. If no petition for extension of PD master plan approval is submitted, then the plan shall be deemed to have automatically expired by operation of law and shall become null and void.

(2) Determination of extension.In determining whether to grant a request for extension, the city council shall take into account the reasons for the lapse, the ability of the applicant to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the concept plan or site plan at that point in time. The city council shall either extend the PD master plan or deny the request, in which instance the originally approved plan shall be deemed null and void. However, the two (2) aforementioned extensions shall not be unreasonably withheld without due cause.

(Ordinance 362 adopted 3/28/18)

§ 38.06.100. Contents of master plans.

(a) Objective.A PD application and the master plan must include enough information to allow the city to plan for infrastructure and to demonstrate that the plan will be an enhancement to the city, while allowing for flexible and creative planning.

(b) Scale.The master plan shall be prepared at a scale no smaller than one inch equals two hundred feet (1" = 200') and on sheets twenty-four inches by thirty-six inches (24" x 36")[.]

(c) Contents.The master plan shall show the following:

(1) A title block within the lower right hand corner of the concept plan with the proposed name of the project or subdivision, the name and address of the owner and the land planner, engineer architect or surveyor responsible for the design or survey, the scale of the drawing, both written and graphic scale, the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Travis County, Texas.

(2) A vicinity or location map that shows the location of the proposed development within the City or its extraterritorial jurisdiction and in relationship to existing roadways.

(3) The boundary survey limits of the tract and scale distances with north clearly indicated.

(4) The names of adjacent additions or subdivisions, or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads and creeks. The concept plan shall include a depiction of all contiguous holdings of the property owners, the existing and proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any residential uses anticipated, and a generalized circulation plan for the subject property.

(5) The existing zoning and existing and proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements with recording information; existing buildings; railroad rights-of-way; topography, including contours at two-foot intervals with existing drainage channels or creeks, including the 100-year floodplain, if applicable; any other important natural features (such as rock outcroppings, wildlife habitats, etc.); all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and/or school district boundaries.

(6) Proposed strategies for tree preservation, which may include showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction.

(7) The layout and width, including right-of-way lines and curb lines, of existing and proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets, lots and blocks, including proposed median openings and left turn lanes on future divided roadways. Existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings.

(8) A general arrangement of land uses and buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages, massing, orientation, loading and service areas, recycling containers, compactors and dumpster enclosures, pedestrian walkways, and parking areas; any proposed sites for parks, schools, public facilities, public or private open space; floodplains and drainage ways; and other pertinent development related features; and

(9) The phasing scheduled for the development.

(Ordinance 362 adopted 3/28/18)

§ 38.06.101. through § 38.06.120. (Reserved)

DIVISION 4

Submission and Review Process

§ 38.06.121. Submission of complete application.

(a) For the purpose of this article, the "official submission date" shall be the date that a complete application for approval of a PD master plan is first submitted to the city administrator. No application shall be deemed officially submitted until the city administrator determines that the application is administratively complete and a fee receipt is issued by the city.

(b) PD master plan applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the city, and shall not be scheduled on a P&Z agenda until the proper information is provided to city staff.

(Ordinance 362 adopted 3/28/18)

§ 38.06.122. Additional information.

The city's staff may require information and data other than that set out in this section for specific PD master plans. This information data may include but is not limited to: geologic information, water yields, flood data and hydrological studies, environmental information, traffic impact analysis, road capacities, market information, historic structure(s) and/or land, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, and similar information. Approval of a PD may establish conditions for construction based upon such information.

(Ordinance 362 adopted 3/28/18)

§ 38.06.123. Principles and standards for review.

The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the City of West Lake Hills, and to ensure that all developments are, to the best extent possible, constructed according to the city's codes and ordinances.

(1) Compliance with the spirit and intent of the principles contained in attachment "b" of the city's master plan.

(2) The city administrator shall review the PD master plan for compliance with all applicable city ordinances and with the comprehensive plan; for harmony with surrounding uses and with long-range plans for the future development of west lake hills; for the promotion of the health, safety, order, efficiency, and economy of the city; and for the maintenance of property values and the general welfare.

(3) PD master plan review and evaluation by the city administrator shall be performed with respect to the following:

(A) The plan's compliance with all provisions of the zoning ordinance and other ordinances of the City of West Lake Hills.

(B) The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.

(C) The relationship of the development to adjacent uses in terms of harmonious design, facade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.

(D) The provision of a safe and efficient vehicular and pedestrian circulation system.

(E) The general design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

(F) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings.

(G) The coordination of streets so as to arrange a convenient system consistent with the transportation plan of the City of West Lake Hills.

(H) The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.

(I) Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.

(J) The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

(K) Protection and conservation of soils from erosion by wind or water or from excavation or grading.

(L) Protection and conservation of watercourses and areas subject to flooding.

(M) The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.

(N) Consistency with the comprehensive plan.

(Ordinance 362 adopted 3/28/18)

§ 38.06.124. Approval process.

(a) Pre-application conference.The applicant(s) shall consult with the city administrator and/or other designated administrative officers before preparing a concept plan in order to save time, to save money and to avoid potential unnecessary delays.

(b) Prior to formal application for approval of any PD master plan, the applicant(s) shall request and attend a pre-application conference with the city administrator, and any other pertinent city official(s) in order to become familiar with the city's development regulations and the development process.

(Ordinance 2020-014 adopted 10/14/20)

§ 38.06.125. City staff review.

Upon official submission of a complete application for PD master plan approval, the city shall commence technical review of the development proposal by forwarding a copy of the application to development review team members, such as the city administrator, and any other pertinent city official(s). Development review team members shall review the application and shall ascertain its compliance with these and other applicable city regulations.

(Ordinance 362 adopted 3/28/18)

§ 38.06.126. Supplementation and corrections.

Following city staff review of the plan and supporting documents, and following with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected or supplemented plan to the city administrator within sixty (60) calendar days following the date on which the applicant received official notification of the completion of the review by the city administrator.

(Ordinance 362 adopted 3/28/18)

§ 38.06.127. Approval by administrator.

Prior to consideration by the zoning and planning commission or city council, all PD proposals must

be reviewed by the city administrator. At the city administrator's discretion, the city administrator may forward a planned development proposal to the zoning and planning commission, and city council with or without a recommendation.
(Ordinance 2020-014 adopted 10/14/20)

§ 38.06.128. Action by ZAPCO/city council.

(a) The zoning and planning commission shall review the planned development application and shall recommend approval, approval subject to certain conditions, or disapproval of the planned development application. If the zoning and planning commission recommends approval, with or without conditions, of the plan, then it will be forwarded to the city council for consideration. Upon request of applicant, the commission may allow one postponement of the planned development application to the following regular meeting of the commission, at which meeting the commission must either make a recommendation or forward the planned development application to the city council without a recommendation.

(b) The city council shall consider the PD application at a public meeting following receipt of a determination by the zoning and planning commission. The city council may also, where appropriate, remand the planned development application back to the zoning and planning commission for reconsideration if it believes that there is a compelling reason to do so, such as the introduction of significant new facts or testimony.

(Ordinance 2020-014 adopted 10/14/20)

§ 38.06.129. Public hearing and notice.

(a) Public hearing and notice will follow the same procedure in Section 38.05.094.

(Ordinance 362 adopted 3/28/18; Ordinance 2025-005 adopted 6/25/2025)

§ 38.06.130. Administrative fees.

The city shall impose its standard fees for the negotiation, preparation and implementation of PD districts. These fees shall be established by the city council in accordance with the city's rate schedule. The city may also recoup from applicants any out-of-pocket expenses related to professional services the city requires in order to design the PD district.
(Ordinance 362 adopted 3/28/18)

§ 38.06.131. Grandfathering.

PD districts are an option available to developers and the city. PD districts do not constitute a permit required by law. For purposes of Texas Local Government Code chapter 245, the "project" shall be the endeavor described in an approved PD master plan for an approved PD district.
(Ordinance 362 adopted 3/28/18)