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ORDINANCE NO. 2022-15

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES BY CREATING ARTICLE _____ ENTITLED "TEMPORARY STRUCTURES AND USES"; PROVIDING FOR THE REGULATION OF TEMPORARY STRUCTURES AND USES; PROVIDING FOR THE ESTABLISHMENT OF A MATRIX FOR TEMPORARY STRUCTURES AND TEMPORARY USES; PROVIDING FOR THE REGULATION OF SALE MODELS; PROVIDING FOR THE REGULATION OF TEMPORARY CONSTRUCTION TRAILERS AND PORTABLE STORAGE UNITS; PROVIDING FOR CODIFICATION; PROVIDING FOR A CONFLICTS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City seeks to promote quality development within the City of Westlake in the short and long term; and

WHEREAS, the City Council finds it in the public's interest to establish policies and procedures to allow for consistent, flexible, creative, and economically beneficial development within the City of Westlake while protecting health, safety, and general welfare of individuals and the community at large.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council hereby creates Article _____ as follows:

ARTICLE _____ . TEMPORARY STRUCTURES AND USES

Section 1. Temporary structures and uses. All temporary uses and/or structures which are not otherwise treated by these LDRs as a permitted use or conditional use in a particular zoning district, which are not otherwise subject to a special event permit, and which are not otherwise prohibited under the terms of these LDRs may be conducted or erected after obtaining a temporary permit. This section shall not override, and shall not substitute for, any other section of these LDRs which requires another type of permit, certificate, or approval.

(a) **Authorization.** The City Manager is authorized to issue a permit for temporary structures and temporary uses. The City Manager may impose reasonable conditions upon the Temporary Permit.

1 (b) **Application Review and Approval.** An application for temporary use shall
2 be submitted and reviewed in conformance with the procedures contained
3 in these LDRs. Notice and public hearing requirements shall not apply to
4 Temporary Permits. Temporary Permits application forms, along with all
5 established and required fees, documents, and plans, shall be submitted to
6 the Planning and Zoning department and Building department. All tax-
7 exempt organizations who qualify under section 501 of the Internal
8 Revenue Code are exempt from payment of the Temporary Permit fee.

9 (c) **Duration.** Unless otherwise provided below, permits for temporary
10 structures shall be limited as to time of service, but generally shall not be
11 permitted for more than six (6) months. The City Manager is authorized to
12 grant extensions for demonstrated cause.

13 (d) **Construction and Site Requirements.**

14 a. Temporary structures shall conform to the applicable structural
15 strength, fire safety, means of egress, accessibility, light, ventilation,
16 electrical, and sanitary requirements of the Florida Building Code
17 provisions governing temporary structures. A building permit or
18 temporary certificate of occupancy may be required, as determined
19 by the Building Official, before any structure used in conjunction with
20 the temporary use is constructed or modified. Adequate on-site solid
21 waste containers may be required.

22 b. The City Manager is authorized to give permission to temporarily
23 permit the supply and use of power for the construction and function
24 of temporary structures and uses, consistent with any requirements
25 specified for temporary lighting, heat or power in Chapter 27 of the
26 Florida Building Code, as reasonably interpreted by the Building
27 Official.

28 (e) **Use Compatibility:** The temporary use must be compatible with the
29 purpose and intent of the LDRs and the zoning district in which it will be
30 located. The temporary use shall not impair the normal, safe, and effective
31 operation of a permanent use on the same site. The temporary use shall not
32 endanger or be materially detrimental to the public health, safety, or welfare
33 or injurious to property or improvements in the immediate vicinity of the
34 temporary use, given the nature of the activity, its location on the site, and
35 its relationship to parking and access points.

36 (f) **Cessation.** Upon cessation of the temporary use, any structure associated
37 with the temporary use shall be promptly removed and the site shall be

1 returned to its previous condition, including the removal of all trash, debris,
 2 signage, or other evidence of the temporary use.

3 (g) **Traffic Circulation:** The temporary use shall not cause undue traffic
 4 congestion or accident potential as determined by the City Engineer, given
 5 anticipated attendance and the design of adjacent streets, intersections and
 6 traffic controls. If off-site parking is to be utilized, permission must be in
 7 writing from the subject property owner who must demonstrate that the
 8 parking requirement of the temporary use does not cause the permanent
 9 loss of legally required parking spaces for the site.

10 (h) **Nuisance and Revocation.** Any temporary structure or use that becomes a
 11 nuisance, violates the conditions of the permit, endangers the public health
 12 or safety, is not maintained in accordance with this Chapter, poses an
 13 immediate threat to public health, safety, or welfare shall be immediately
 14 subject to revocation by the City Manager. The City Manager may revoke a
 15 temporary use permit if it is determined that the applicant has
 16 misrepresented any material fact on the application or any supporting
 17 materials, or the operation of the temporary use violates any statute, law,
 18 ordinance or regulation.

19 **Section 2. Permitted Temporary Uses and Structures.**

20 **Table X.X Temporary Structures and Use Permit Matrix**

<u>Table X.X</u>				
<u>Temporary Uses and Structures:</u>	<u>Permit</u>	<u>Review Dept.</u>	<u>Duration¹</u>	<u>Number of Permits/Year²</u>
<u>Sales Models</u>	<u>Y</u>	<u>Planning & Zoning and Building</u>	<u>See Note 5</u>	<u>N/A</u>
<u>Sales and Management office</u>	<u>Y</u>	<u>Planning & Zoning and Building</u>	<u>See Note 5</u>	<u>N/A</u>
<u>Temporary Emergency Structure</u>	<u>N</u>	<u>Planning & Zoning and Building</u>	<u>N/A</u>	<u>N/A</u>
<u>Tents Accessory to Non-residential uses⁶</u>	<u>Y</u>	<u>Planning & Zoning and Building</u>	<u>90 Days</u>	<u>4/year</u>
<u>Temporary Construction trailer</u>	<u>Y</u>	<u>Planning & Zoning and Building</u>	<u>See Note 3</u>	<u>N/A</u>

<u>Portable Storage Units (PSUs)</u>	<u>Y</u>	<u>Planning & Zoning and Building</u>	<u>14 calendar days</u>	<u>2/year</u>
<u>Temporary Signs</u>	<u>Y</u>	<u>Planning & Zoning and Building</u>	<u>See Note 4</u>	<u>2/year</u>
Notes:				
<u>1. Duration is defined as consecutive calendar days.</u>				
<u>2. Each permit or extension requires a separate payment.</u>				
<u>3. Construction and sales trailers may be permitted for the duration of construction activities.</u>				
<u>4. Temporary Signs are defined in the LDRs and are regulated by Section 6.35.</u>				
<u>5. Use shall be temporary and shall expire upon the issuance of the last Certificate of Occupancy of any developments using the models within City boundaries.</u>				
<u>6. These requirements do not apply to tents permitted under the Special Events Ordinance (2022-03).</u>				

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2 (a) **Sales Models.** A builder, contractor, or developer may use any
3 building within any zoning district as a sales model. Sales models shall be clearly
4 depicted on the development site plan. Use of a building as a sales model is
5 contingent upon issuance of a certificate of occupancy and compliance with this
6 section. A building shall be used as a sales model primarily for the purpose of the
7 sale of similar buildings and land sites by the builder, contractor, or developer. The
8 sales model may be used as a construction office or general office. Construction
9 equipment or maintenance equipment shall not be parked or stored temporarily in
10 a location outside the Sales Model that is visible from the public rights of way or
11 adjacent properties unless appropriately screened. The City Manager may review
12 periodically and in the event of non-compliance with this Chapter or expiration,
13 shall provide a 30 day notice to applicant if permit is subject to closure. The permit
14 holder may submit information to the City Manager within that 30 days after
15 receipt of such notice to show evidence of compliance and that use is consistent
16 with this section and may appeal a decision to close a permit to the City Council.
17 Residential sales models may be sold as residences after their temporary use as a
18 sales model has expired.

19 (b) **Sales and Management Office.** Use of a sales and/or management
20 office shall be limited to on-site office work with no overnight habitation.

21 (c) **Temporary Emergency Structure.** This section is intended to allow
22 placement or erection of temporary structures that address immediate public

1 needs including but not limited to temporary fire stations, hurricane shelters, utility
2 facilities and other similar public facilities.

3 a. **Determination of Public Emergency.** The City Manager may
4 authorize in any district the issuance of a building permit for a
5 temporary structure upon determination that a public emergency
6 exists or an overwhelming public purpose is served by the
7 temporary permit.

8 (d) **Tents accessory to non-residential use.** A tent not part of a Special
9 Event Permit, may be used as a temporary structure for non-residential purposes
10 accessory to the principal use subject to the Planning and Zoning Director’s
11 approval as a special use and the standards contained in this subsection.

12 a. **Frequency.** The use of the tent and the proposed non-residential use
13 or event shall not exceed four times per calendar year, at any given
14 parcel.

15 b. **Duration.** The tent may be used for a maximum period of ninety (90)
16 days provided that an additional thirty-day administrative
17 extension may be approved subject to the Planning and Zoning
18 Director’s finding that the tent and use continue to meet all the
19 applicable requirements of these LDRs and the Building Code, and
20 the tent and use is in harmony with the surrounding area.

21 c. **On-Site Location.** The tent shall be located on the lot so that it does
22 not adversely interfere with on-site circulation and shall not be
23 located in any required parking space(s). All setback requirements
24 of the underlying district shall be met.

25 d. **Access.** The primary access for the use shall not cause traffic to flow
26 through nearby residential areas. Back-out parking directly onto a
27 public street shall be prohibited.

28 (e) **Temporary Construction Trailer.** Temporary construction trailers,
29 temporary structures, vehicles and attendant parking and storage areas are
30 permitted subject to the requirements below.

31 1. Use of this facility shall be limited to storage and on-site office work
32 with no overnight habitation.

33 2. Condition. Trailers, temporary structures, or vehicles used for
34 construction offices on a construction site or in a subdivision shall only
35 be permitted during the period of construction and only after a building
36 permit for the construction job has been issued.

- 1 3. Duration. The construction trailer, temporary structures, or vehicles
2 used for construction offices remain on site only for the duration of the
3 permitting and building of the construction project.
- 4 4. Location. The construction trailer, temporary structures, vehicles and
5 attendant parking and storage areas be located on site so as not to
6 interfere with safe ingress and egress to developed areas or areas under
7 construction. All temporary structures and construction trailers shall be
8 located on the site adhering to the setback requirements as required by
9 the applicable zoning district, unless such setbacks cannot be met due to
10 special conditions or circumstances.
- 11 5. Removal. The construction trailer, temporary structures, vehicles and
12 attendant parking and storage areas be removed if construction ceases
13 for more than five (5) months unless it can be demonstrated that
14 construction will proceed within thirty (30) days from notice from the
15 City.
- 16 6. Certificate of occupancy. The construction trailer, temporary
17 structures, vehicles and attendant parking and storage areas be removed
18 no later than thirty (30) days after the final certificate of occupancy for
19 the construction project is issued.
- 20 7. Abandonment. Abandoned trailers, temporary structures, vehicles
21 and attendant parking and storage areas shall not be permitted on
22 the site.
- 23 8. Unsafe structure. If all building permits for the construction project
24 have expired, and no further permits have been issued for six (6)
25 months, the trailer shall be removed from the property immediately.
26 Upon notice from the City any trailers, temporary structures, vehicles
27 and attendant parking and storage areas which have been abandoned
28 under these provisions shall be considered an unsafe structure and shall
29 be abated pursuant to the City Building Code.

30 (f) **Portable storage units (PSUs)** shall be allowed in all residential zoning
31 **districts and in residential areas in mixed use zoning districts so long as the**
32 **following conditions are met:**

- 33 1. PSUs must be placed on driveways or approved parking areas;
34 and
- 35 2. PSUs are allowed at a location for no more than 14 calendar
36 days per placement with no more than two placements per year.
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38 (g) **Permit not required. A permit for temporary structures or uses are**
39 **not required:**

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- a. When such use or structure is part of a construction project by or for the City or SID; provided however a building permit shall be required.
- b. When such use or structure shall be at a site that has been approved for or is customarily associated with special events.
- c. When a special events permit has been obtained.

SECTION 3. Codification. It is the intention of the City Council of the City of Westlake that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Westlake, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 5. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 6. Effective Date. This ordinance shall be effective upon adoption on second reading.

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PASSED this ____ day of _____, 2022, on first reading.
PUBLISHED on this ____ day of _____, 2022 in the Palm Beach Post.
PASSED AND ADOPTED this ____ day of _____, 2022, on second reading.

City of Westlake
JohnPaul O'Connor, Mayor

ATTEST:

Zoie Burgess, City Clerk

APPROVED AS TO LEGAL FORM:

OFFICE OF THE CITY ATTORNEY