

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY CREATING SECTION \_\_\_\_\_ ENTITLED "NON-CONFORMING LOTS, USES, AND STRUCTURES"; PROVIDING FOR REGULATIONS FOR LOTS, USES, AND STRUCTURES LAWFULLY EXISTING AT THE TIME OF AN AMENDMENT TO THE CITY'S CODE OF ORDINANCES AND THEREAFTER DEEMED NON-CONFORMING; PROVIDING FOR CODIFICATION; PROVIDING FOR A CONFLICTS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Westlake finds the need for additional regulations allowing non-conforming uses for property owners to maximize utilization of their property and to provide for the adequate health, safety, and welfare of the City; and

WHEREAS, the City Council of the City of Westlake deems it in the best interest of the City to amend the Code of Ordinances by creating Section \_\_\_\_ entitled "Non-Conforming Lots, Uses, and Structures" to allow certain lots, uses, and structures to continue to exist in conformance with the provisions herein; and

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 Section \_\_\_\_\_ of the City's Code of Ordinances as follows:

Non-Conforming Lots, Uses, and Structures.

1. Intent: Currently within the City or by virtue of amendments to this Code of Ordinances that may be later adopted, there may exist:

a. Lots;

b. Structures;

c. Uses of Land and Structures.

Non-Conforming uses are declared by this Ordinance to be incompatible with permitted uses in the zoning districts involved. A Non-conforming use of a structure, a Non-conforming use of land, or a Non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance.

1 2. Non-Conforming Single Family Lots of Record: Any lot or parcel, of record prior to  
2 adoption of an amendment to the City's Code of Ordinances, that does not thereafter meet  
3 the requirements of the City's Code for lot area or lot width, may nevertheless be utilized  
4 for single-family residence purposes only, provided that the lot area and lot width are  
5 within two-thirds of that required by the terms of the regulations.

6 3. Non-conforming Structures: Where a lawful structure exists at the effective date of  
7 adoption or amendment to the City's Code by reason of restrictions on area, lot coverage,  
8 height, yards, its location on the lot, or other requirements concerning the structure, such  
9 structure may be continued so long as it remains otherwise lawful, subject to the  
10 following provisions:

11 a. No such non-conforming structure may be enlarged or altered in any way which  
12 increases its non-conformity, but any structure or portion hereof may be altered  
13 to decrease its non-conformity.

14 b. Should such non-conforming structure be destroyed by any means to an extent  
15 of more than fifty (50) percent of its replacement cost at the time of destruction,  
16 it shall not be reconstructed except in conformity with the provisions of the  
17 current City's Code of Ordinances.

18 c. Should any such structure be moved for any reason for any distance whatever,  
19 it shall thereafter conform to the regulations for the zoning district in which it is  
20 located after it is moved.

21 4. Non-Conforming Use of Structures or of Structures and Premises in Combination: If  
22 lawful use involving individual structures, or of structures and premises in combination,  
23 exists at the effective date of an amendment to the City's Code of Ordinances, that would  
24 not thereafter be allowed in the zoning district under the terms of the City's Code, the  
25 non-conforming use may be continued so long as it remain subject to the following  
26 provisions:

27 a. No existing structure devoted to a use not permitted in the zoning district in  
28 which it is located shall be enlarged, extended, constructed, reconstructed,  
29 moved, or structurally altered except in changing the use of the structure to  
30 a use permitted in the zoning district in which it is located, except that the City  
31 Council shall have the discretion to allow reasonable alterations for the purpose  
32 of allowing the non-conforming use to modernize or redesign when it is deemed  
33 that such changes are in the interest of the City's health, morals, safety and/or  
34 welfare.

35 b. Any structure, or structure and land in combination, in or on which a non-  
36 conforming use is superseded by a permitted use, shall thereafter conform to the  
37 regulations for the zoning district, and the non-conforming use may not  
38 thereafter be resumed.

1           c. When a non-conforming use of a structure, or a structure and premises in  
2           combination, is discontinued or abandoned for one hundred eighty (180)  
3           calendar days from the time at which the license for said use expires (except  
4           when governmental action impedes access to the premises), the structure, or  
5           structure and premises in combination, shall not thereafter be used except in  
6           conformity with the regulations of the zoning district in which it is located.

7           d. Where non-conforming use status applies to a structure and premises in  
8           combination, removal or destruction of the structure shall eliminate the non-  
9           conforming status of the land. Destruction for the purpose of this sub-section is  
10          defined as damage to an extent of more than fifty (50) percent of the replacement  
11          cost at the time of the destruction.

12          e. If a non-conforming structure or portion of a structure containing a non-  
13          conforming use becomes physically unsafe or unlawful due to lack of repairs and  
14          maintenance, and is declared by any duly authorized official to be unsafe or  
15          unlawful by reason of physical condition, it shall not thereafter be restored,  
16          repaired, or rebuilt except in conformity with the regulations of the zoning  
17          district in which it is located.

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

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

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

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

**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  
John Paul O'Connor, Mayor

**ATTEST:**  
\_\_\_\_\_  
Zoie Burgess, City Clerk

**APPROVED AS TO LEGAL FORM:**  
\_\_\_\_\_  
**OFFICE OF THE CITY ATTORNEY**