

**ORDINANCE NO. 22-305**

**CITY OF WOODCREEK, TEXAS**

**AN ORDINANCE OF THE CITY OF WOODCREEK ADDING, AMENDING AND REPEALING CERTAIN SECTIONS OF CHAPTER 30: OFFICIALS, EMPLOYEES, AND ORGANIZATIONS BY AMENDING SECTIONS 30.01, 30.13, 30.14, 30.15, 30.16; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE, AND FINDING PROPER NOTICE AND MEETING OF ORDINANCES**

**WHEREAS**, the City Council of the City of Woodcreek ("City Council") finds that the City of Woodcreek Code of Ordinances provides for various Officials, Employees, and Organizations within the City of Woodcreek; and

**WHEREAS**, the City Council finds that Chapter 22 of the Texas Local Government Code applies to a Type A General-Law Municipality; and

**WHEREAS**, the City Council acknowledges the City of Woodcreek is a Type A General-Law Municipality as set forth in Chapter 22 of the Texas Local Government Code; and

**WHEREAS**, the City Council finds that adding, amending, and repealing certain sections of Chapter 30 of the City of Woodcreek Code of Ordinances, is reasonable, necessary, and proper for the good government of the City of Woodcreek.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODCREEK:**

**I. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

**II. ADDING, AMENDING, AND REPEALING OF CERTAIN SECTIONS OF CHAPTER 30**

The City of Woodcreek Code of Ordinances Chapters 30 shall hereby be amended by Ordinance Number 22-305 as follows:

**CHAPTER 30: OFFICIALS, EMPLOYEES AND ORGANIZATIONS**

**30.01-TYPE A GENERAL-LAW MUNICIPALITY**

**30.02-MUNICIPAL RETIREMENT SYSTEM**

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**30.03-FIVE-YEAR VESTING**

**30.13-GOVERNING BODY**

- 30.13(a) Governing Body
- 30.13(b) Mayor- Powers and Duties
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- 30.13 (d) Council Members – Powers and Duties

**30.14 - OTHER MUNICIPAL OFFICERS**

- 30.14(a) Other Municipal Officers
- 30.14(b) Appointment of Other Municipal Officers
- 30.14(c) Removal of Other Municipal Officers
- 30.14(d) Annual Review.
- 30.14 (e) Powers and duties of other municipal officers; bond

**30.15— MUNICIPAL MANAGER/ADMINISTRATOR**

- 30.15(a) Office of Municipal Manager/Administrator Created
- 30.15(b) Powers & Duties of Municipal Manager/Administrator
- 30.15(c) Municipal Manager/Administrator to Serve as Municipal Treasurer
- 30.15(d) Powers & Duties of Municipal Manager/Administrator as Municipal Treasurer
- 30.15(e) Bond

**30.16—MUNICIPAL SECRETARY**

- 30.16(a) Office of Municipal Secretary Created
- 30.16(b) Powers & Duties of Municipal Secretary
- 30.16(c) Designation as Records Management Officer
- 30.16(d) Powers & Duties of Municipal Secretary as Records Management Officer
- 30.16(e) Municipal Secretary to Serve as Municipal Assessor & Collector Created
- 30.16(f) Powers & Duties of Municipal Assessor & Collector

**30.17— MUNICIPAL ATTORNEY**

- 30.17(a) Office of Municipal Attorney Created
- 30.17(b) Powers & Duties of Municipal Attorney

**30.18— MARSHAL/CHIEF OF POLICE**

- 30.18(a) Office of Marshal Abolished & Authority to Appoint and Contract with Peace Officer
- 30.18(b) Powers & Duties

**30.19— MUNICIPAL ENGINEER**

- 30.19(a) Office of Municipal Engineer Created
- 30.19(b) Powers & Duties of Municipal Engineer

**30.20—30.23 RESERVED**

**PLANNING AND ZONING COMMISSION**

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- 30.35 ENACTING CLAUSE**
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- 30.42 PROCEDURE ON ZONING HEARINGS**
- 30.43 JOINT MEETINGS WITH CITY COUNCIL**

**BOARD OF ADJUSTMENT**

- 30.55 POPULAR NAME**
- 30.56 PURPOSE**
- 30.57 DEFINITIONS**
- 30.58 MEMBERS**
- 30.59 MEETINGS**
- 30.60 AUTHORITY OF THE BOARD**
- 30.61 APPEALS ALLEGING ERROR**
- 30.62 VARIANCES**
- 30.63 PROCEDURE FOR REQUESTING AN APPEAL ALLEGING ERROR OR A VARIANCE**
- 30.64 HEARING AND DECISION**

**CHAPTER 30: OFFICIALS, EMPLOYEES AND ORGANIZATIONS**

***GENERAL PROVISIONS***

**§ 30.01 TYPE A GENERAL-LAW MUNICIPALITY.**

The City hereby changes to a Type A General-Law municipality, Aldermanic Form of Government.  
(Ord. 89-33, 10-11-1989)

**§ 30.02 MUNICIPAL RETIREMENT SYSTEM.**

(A) The City Council, on behalf of said City, hereby exercises its option and elects to have the City and all of the full-time employees of all departments now existing and those hereafter created participate in the Texas Municipal Retirement System as provided in the TMRS Act, being Tex. Gov't. Code Title 8, Subtitle G.

(B) The City Manager/Administrator is hereby directed to notify the Board of Trustees of the Texas Municipal Retirement System that the City has elected to participate and have the employees of the City covered in said system.

(C) Each person who becomes an employee of a participating City on or after the effective date of participation of such City whose position shall require more than 1,000 hours per year shall become a member of the Texas Municipal Retirement System as a condition of ~~his or her~~ their employment.

(D) In accordance with the provisions of the TMRS Act, the deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the several participating departments are hereby fixed at the rate of five percent of the full earnings of each employee of said departments.

(E) Each employee who qualifies for such credit shall be allowed "prior service credit" (as defined in Tex. Gov't. Code § 853.101 of the TMRS Act) at the rate of 100 percent of the "base credit" of such member, calculated in the manner prescribed in Tex. Gov't. Code § 853.105 of said Act.

(F) Effective January 1, 2018, for each month of current service thereafter rendered to the City by each of its employees who are members of the Texas Municipal Retirement System, the City elects to provide for each such member at the time of their retirement, a sum that is 200 percent of such member's accumulated deposits for such month of employment; and said sum shall be a liability of the City's account in the Benefit Accumulation Fund.

(G) The City Secretary is hereby directed to remit to the Board of Trustees of the Texas Municipal Retirement System, at its office in Austin, Texas, the City contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by said Board under the provisions of the TMRS Act, and the said official is hereby authorized and directed to be certain and certify officially on behalf of the City the prior service rendered to the said municipality by each of the employees of the participating departments, and the average prior service compensation received by each of the employees of the participating departments and make and execute all prior service certifications and all other reports and certifications which may be required of the City under the provisions of the TMRS Act, or in compliance with the rules and regulations of the Board of Trustees of the Texas Municipal Retirement System.

(H) The City hereby elects to participate in the Supplemental Death Benefits Fund of the Texas Municipal Retirement System for the purpose of providing in-service death benefits for each of the City's employees who are members of said system, and for the purpose of providing post-retirement death benefits for annuitants whose last covered employment was as an employee of the City, in the amounts and on the terms provided for in Tex. Gov't. Code §§ 852.004, 854.601 through 854.605, 855.313, 855.314, 855.408 and 855.502 of Title 8, Subtitle G, as amended.

(I) The City is hereby authorized and directed to notify the Director of the System of adoption of this section and of the participation of the City in said Fund.

(J) Pursuant to Tex. Gov't. Code § 855.407(g) of the TMRS Act, the City hereby elects to make future normal and prior service contributions to its account in the municipal accumulation fund of the system at such combined rate of the total compensation paid by the City to employees who are members of the system, as the system's actuary shall annually determine as the rate necessary to fund, within the amortization period determined as applicable to the City under the TMRS Act, the costs of all benefits which are or may become chargeable to or are to be paid out of the City's account in said accumulation fund, regardless of other provisions of the TMRS Act limiting the combined rate of City contributions.

(Ord. 00-70, 10-11-2000; Ord. 17-239, 11-8-2017)

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**§ 30.03 FIVE-YEAR VESTING.**

(A) The City Council elects to revoke the prior election not to provide five-year vesting under Tex. Gov't. Code § 854.205 for its employees.

(B) The City shall promptly notify the Board of Trustees of the system of this action.

(Ord. 03-83, 1-8-2003)

**OFFICIALS AND EMPLOYEES**

**§ 30.13 GOVERNING BODY.**

(A) *Governing body.* The governing body consists of a Mayor and five Aldermen who are elected by the qualified voters of the municipality. The terms of office of the Mayor and Council Member of the city shall be two-year staggered terms of office, and until successors have qualified.

(B) *Mayor—Powers and duties.* The Mayor shall have all powers and duties explicitly conferred upon them by Texas Local Government Code, Sections 22.037, 22.038, 22.042, and 102., but shall have no implied powers unless specifically granted to them by state statute or the City Council by resolution or ordinance.

The Mayor is the Chief Executive Officer of the municipality. The Mayor shall at all times actively ensure that the laws and ordinances of the municipality are properly carried out. The Mayor shall perform the duties and exercise the powers prescribed by the governing body of the municipality.

The Mayor shall inspect the conduct of each subordinate municipal officer and shall cause any negligence, carelessness, or other violation of duty to be prosecuted and punished.

The Mayor shall give to the governing body any information, and shall recommend to the governing body any measure, that relates to improving the finances, police, health, security, cleanliness, comfort, ornament, or good government of the municipality.

The Mayor may administer oaths of office.

In the event of a riot or unlawful assembly or to preserve the peace and good order in the municipality, the Mayor may order and enforce the closing of a theater, ballroom, or other place of recreation or entertainment, or a public room or building and may order the arrest of a person who violates a state law or a municipal ordinance in the presence of the Mayor.

The Mayor shall preside at all meetings of the governing body of the municipality and, except in elections, may vote only if there is a tie.

The Mayor is generally recognized as the ceremonial and governmental head of the City for most purposes.

The Mayor may call a Special Council meeting on the Mayor's own motion and shall call a Special Council meeting on the application of three Council Members. Each member of the governing body, the

secretary, and the municipal attorney must be notified of the Special Council meeting. The notice may be given personally or left at the person's usual place of residence.

The Mayor shall allow a Council Member to add items to a Regular Council meeting agenda.

A Mayor may add items to a Special Council meeting agenda in which they called, and may add items to any Regular Council meeting agenda.

The Mayor's primary function is to carry out the legislative responsibilities they share with other members of Council: identifying the needs of the City, developing programs to satisfy those needs, and evaluating the extent to which municipal services reflect the policy goals of the Council.

The Mayor shall not have the power to expend funds of the City, sign agreements binding the City, or otherwise take any other action on behalf of the City without the express approval of the City Council.

The Mayor is hereby expressly authorized to expend funds in the daily operation of the City as they relate to payroll and accounts payable consistent with the approved annual budget, as it may be amended from time to time by the City Council.

In support of Council, the Mayor may create additional duties assigned to city staff.

Nothing in this Section is intended to alter the authority of the Mayor Pro Tempore under Texas Local Government Code, Section 22.037 "if the Mayor fails, is unable, or refuses to act."

**(C) *Mayor pro tempore.* At each new governing body's first meeting or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year. If the Mayor fails, is unable, or refuses to act, the president pro tempore shall perform the Mayor's duties and is entitled to receive the fees and compensation prescribed for the Mayor. If the Mayor and the president pro tempore are absent, any alderman may be appointed to preside at the meeting.**

**( Ord. No. 20-287 , § II, 11-10-2020)**

**(D) *Council Members-Powers and Duties***

Council Members shall have all powers and duties explicitly conferred upon them by Texas Local Government Code, Sections 22.037, 22.038, 22.042, 22.071, 22.072 and 102., but shall have no implied powers unless specifically granted to them by state statute.

Council Members may add items to the Regular Council meeting agenda, and may add items to a Special Council meeting agenda in which they called.

The governing body of the municipality shall meet at the time and place determined by a resolution adopted by the governing body.

The governing body shall determine the rules of its proceedings and may compel the attendance of absent members and punish them for disorderly conduct.

A Council Member shall be fined \$3 for each meeting that the Council Member fails to attend unless the absence is caused by the Council Member's illness or the illness of a family member.

Council may describe by resolution or ordinance the duties and powers of the Mayor, not otherwise granted to that position by State Statute.

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The governing body by ordinance shall provide for the election or appointment of other municipal officers.

The governing body may confer on other municipal officers the powers and duties of an officer.

The governing body may prescribe the powers and duties of a municipal officer appointed or elected to an office under Chapter 22 whose duties are not specified under that code.

Council Members are the city's legislators. Their primary duty is policy making, which includes identifying the needs of local residents, formulating programs to meet the changing requirements of the community, and measuring the effectiveness of ongoing municipal services. Council Members provide direction and leadership, deciding what needs to be done and planning for the future of the City and its residents.

Council Members also perform the following duties as the governing body:

(a) **Regulator**—The Council exercises regulatory powers over the conduct and property of its citizens. It has the power to declare certain conduct to be criminal, to require that certain businesses and activities be licensed, and to tell property owners how and for what purposes they may use their property.

(b) **Financier**—The Council may levy taxes, assess fees and charges, and sell bonds in order to finance the many functions of the city government. The council also has to budget the expenditure of the city's funds.

(c) **Employer**—The Council is responsible for all of the city's employees, and looks to the City Manager and Mayor to see that they perform their duties effectively and professionally.

### **§ 30.14 OTHER MUNICIPAL OFFICERS.**

(A) ***Other municipal officers.*** In addition to the members of the governing body of the municipality, the other officers of the municipality are the Secretary, Treasurer, Assessor and Collector, Municipal Attorney, Marshal, Municipal Engineer, and any other officers or agents authorized by the governing body.

(B) ***Appointment of other municipal officers.*** If a vacancy exists in any office created herein, the Mayor or acting Mayor shall appoint a person to fill the vacancy, subject to confirmation by the governing body.

(C) ***Removal of other municipal officers.*** Other municipal officers serve at the pleasure of the governing body. The governing body of the municipality may remove a municipal officer for incompetency, corruption, misconduct, or malfeasance in office after providing the officer with due notice and an opportunity to be heard. If the governing body lacks confidence in a municipal officer appointed by the governing body, the governing body may remove the officer at any time. The removal is effective only if two-thirds of the elected aldermen vote in favor of a resolution declaring the lack of confidence.

(D) ***Annual Review.*** All other municipal officers shall be subject to an annual review, at which all such municipal officers may be considered for removal subject to section 30.14(c).

(E) ***Powers and duties of other municipal officers; bond.*** The governing body of the municipality may require municipal officers whose duties are set forth herein (or otherwise established by Texas law) to perform additional duties. The governing body may require a municipal officer to execute a bond

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payable to the municipality and conditioned that the officer will faithfully perform the duties of the office.

( Ord. No. 20-287 , § II, 11-10-2020)

### **§ 30.15 MUNICIPAL MANAGER/ADMINISTRATOR.**

(A) *Office of Municipal Manager/Administrator.* The Office of Municipal Manager/Administrator is created and shall receive such compensation as may be fixed by the Council.

(B) *Powers and Duties of Municipal Manager/Administrator.*

(1) The Municipal Manager/Administrator, who shall be referred to as the City Manager, shall be the Chief Administrative Officer of Woodcreek and shall be responsible to the governing body for the proper administration of the affairs Woodcreek not otherwise delegated to other Officers. To that end, the City Manager shall have the authority, duty and responsibility as required to carry out the following responsibilities and any others that may be assigned by the governing body, from time to time.

(2) The City Manager shall:

(a) Establish and maintain effective working relationships with the governing body, municipal officers, and municipal employees.

(b) Provide the governing body with pertinent information regarding the administration of all City departments and City activities, and make recommendations to the City Council for the administration and management of the City.

(c) Work with the governing body to develop and implement short- and long-range plans for the City's growth, including strategic and comprehensive plans.

(d) Complete all tasks generally assigned to the City Manager and working closely with City staff to develop, present, implement, administer and coordinate all of the following: (a) coordinate with the City Secretary and oversee elections; (b) serve as a liaison between vendors and Council; (c) assist the City Secretary with planning, zoning and permitting; (e) manage and oversee the City's website.

(e) Prepare job descriptions for approval by the City Council; delegate duties to the officers and employees of the City; supervise the day-to-day operations (including supervising and inspecting the conduct of all subordinate officers employees and causing all negligence, carelessness and violations of duty by the employees and officers to be given appropriate consideration), functions and programs of the City; and make recommendations to the governing body on any and all personnel, performance, administration, programs, projects, management, financial and general governance issues;

(f) Direct, coordinate and provide oversight over all departments, programs and projects of the City;

(g) Ensure that all applicable laws and ordinances are enforced;

(h) Ensure that a system of financial checks and balances is in place and is rigorously upheld to include, as a minimum, the segregation of duties as directed and approved by City Council;

(i) Supervise programs and projects, issue permits and perform other duties as assigned by the governing body.

(j) Attend all meetings of the City Council.

(k) Prepare, review and submit to the governing body prior to the beginning of each fiscal year a budget for proposed expenditures for the ensuing year together with a message describing the



important features of said budget; assist the City Council with respect to its consideration of said budget; and assure the proper administration of the budget after its adoption;

(l) Prepare and submit to the governing body as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.

(m) Report to the governing body in a timely fashion as specific issues arise, as part of regular City Council meetings, on the financial condition and needs of the City; provide timely information and assistance to City Council, as requested by the City Council; and work with City Council to ensure an annual audit is completed as required.

(3) The City Manager/Administrator shall have such further authority, duties and responsibilities as reasonably implied from the terms of this section and as heretofore or hereafter provided by the City Council; and shall be bonded in an amount determined by the City Council which bond shall be conditioned upon the good and faithful performance of the authorities and performances of the office and position of City Manager. The premium of the bond shall be paid by the City.

(C) *Municipal Manager/Administrator to Serve as Municipal Treasurer.* The Office of Municipal Treasurer is created. The Municipal Manager/Administrator shall also serve as the Municipal Treasurer.

(D) *Powers and Duties of Municipal Manager/Administrator as Municipal Treasurer.*

(1) The Municipal Manager/Administrator as the Municipal Treasurer shall (1) receive and securely keep all money belonging to the municipality; (2) make all payments on the order of the Mayor, attested by the secretary of the municipality under the seal of the municipality; (3) render to the governing body a full statement of the receipts and payments which must be rendered at the governing body's first regular meeting in every quarter and at other times as required by the governing body.

(2) The Municipal Manager/Administrator as the Municipal Treasurer will also perform the following duties which are statutorily given to the Municipal Secretary:

(a) Serve as the general accountant of the municipality and shall keep regular accounts of the municipal receipts and disbursements. The Secretary shall keep each cause of receipt and disbursement separately and under proper headings. The Secretary shall also keep separate accounts with each person, including each officer, who has monetary transactions with the municipality. The Secretary shall credit accounts allowed by proper authority and shall specify the particular transaction to which each entry applies. The Secretary shall keep records of the accounts and other information covered by this subsection.

(b) Keep a register of bonds and bills issued by the municipality and all evidence of debt due and payable to the municipality, noting the relevant particulars and facts as they occur.

(E) *Bond.* The Municipal Manager/Administrator as the Municipal Treasurer shall be bonded as required by Section 30.15(B)(3), and also as required by the law.

(Ord. 00-67, 6-14-2000; Ord. 13-173, 1-9-2013; Ord. 19-254, 2-25-2019; Ord. No. 20-287 , § II, 11-10-2020)

### **§ 30.16 MUNICIPAL SECRETARY.**

(A) *Office of Municipal Secretary Created.* The Office of Municipal Secretary is created, shall be referred to as the City Secretary, and shall receive such compensation as may be fixed by the Council. The Municipal Secretary may also be referred to as the Municipal Clerk.

(B) *Powers and Duties of Municipal Secretary.*

(1) The Municipal Secretary shall:

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- (a) Attend each meeting of the governing body of the municipality and shall keep, in a record provided for that purpose, accurate minutes of the governing body's proceedings.
  - (b) Engross and enroll all laws, resolutions, and ordinances of the governing body.
  - (c) Keep the corporate seal.
  - (d) Take charge of, arrange, and maintain the records of the governing body.
  - (e) Countersign all commissions issued to municipal officers and all licenses issued by the Mayor and keep a record of those commissions and licenses.
  - (f) Prepare all notices required under any regulation or ordinance of the municipality.
  - (g) Draw all the warrants on the Treasurer, countersign the warrants, and keep, in a record provided for that purpose, an accurate account of the warrants.
  - (h) Carefully keep all contracts made by the governing body.
  - (i) Perform all other duties required by law, ordinance, resolution, or order of the governing body.
- (C) *Designation as Records Management Officer.* In addition to all other powers and duties set forth herein, the Municipal Secretary is also designated as the Records Management Officer for the City of Woodcreek.
- (D) *Powers and Duties of Municipal Secretary as Records Management Officer.*
- (1) The City Secretary shall file ~~his or her~~ their name with the Director and Librarian of the Texas State Library within 30 days of the initial designation or assumption of the office, as applicable. In addition to other duties assigned, the Records Management Officer shall:
- (a) Assist in establishing and developing policies and procedures for a records management program for the City of Woodcreek.
  - (b) Administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping.
  - (c) In cooperation with the custodians of the records: (i) prepare and file with the director and librarian the records control schedules and amended schedules required by Local Government Code § 203.161 and the list of obsolete records as provided by Local Government Code § 203.164; and (ii) prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Local Government Code § 203.165, of requests to destroy the originals of permanent records that have been microfilmed as provided by Local Government Code § 204.008, and of electronic storage authorization requests as provided by Local Government Code § 205.007.
  - (d) In cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value.
  - (e) In cooperation with custodians, identify and take adequate steps to protect essential local government records.
  - (f) In cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;
  - (g) Disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and
  - (h) In cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for: (i) the duties and responsibilities of custodians that may be imposed by law; and (ii) the confidentiality of information in records to which access is restricted by law.

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(E) *Municipal Secretary to Serve as Municipal Assessor and Collector Created.* The Office of Municipal Assessor and Collector is created and shall receive such compensation as may be fixed by the Council. The Municipal Secretary will serve as the Municipal Assessor and Collector.

(F) *Powers and Duties of Municipal Assessor and Collector.* The Municipal Assessor and Collector will, in addition to the duties of Municipal Secretary, perform all other duties required by law, ordinance, resolution, or order of the governing body.

(Ord. 90-34, 5-24-1990; Ord. No. 20-287, § II, 11-10-2020)

### **§ 30.17 MUNICIPAL ATTORNEY.**

(A) *Office of Municipal Attorney Created.* The Office of Municipal Attorney is created, shall be referred to as the City Attorney, and shall receive such compensation as may be fixed by the Council. The Municipal Attorney shall be a law firm or individual in private legal practice, licensed in the State of Texas, that contracts with the City to provide services as needed.

(B) *Powers and Duties of Municipal Attorney.* The Municipal Attorney will perform all duties required by law, ordinance, resolution, or order of the governing body.

(Ord. 85-4, 2-14-1985; Ord. No. 20-287, § II, 11-10-2020)

### **§ 30.18 MARSHAL.**

(a) *Office of Marshal Abolished and Authority to Appoint and Contract with Peace Officer.* As Woodcreek is a municipality with a population of less than 5,000, the Office of Marshal is hereby abolished. The governing body is hereby authorized to appoint and contract with any peace officer of Hays County.

(b) *Powers and duties.* The peace officer with whom Woodcreek contracts shall (a) be qualified and trained to meet standards as prescribed by the State Commission of Law Enforcement Officer Standards and Education (TCLEOSE); (b) obtain and maintain all certifications as prescribed by law; (c) be the chief law enforcement officer of the city, and as such, have supervision over the other enforcement officers on their staff; and (d) perform all duties required by law, ordinance, resolution, or order of the governing body.

(Ord. 85-10, 5-1-1985; Ord. No. 20-287, § II, 11-10-2020)

### **§ 30.19 MUNICIPAL ENGINEER.**

(A) *Office of Municipal Engineer created.* The Office of Municipal Engineer is created, shall be referred to as the City Engineer, and shall receive such compensation as may be fixed by the Council. The Municipal Engineer shall be a firm or individual, certified as a Professional Engineer with the State of Texas, that contracts with the City to provide services as needed.

(B) *Powers and Duties of Municipal Engineer.* The Municipal Engineer will perform all duties required by law, ordinance, resolution, or order of the governing body.

(Ord. No. 20-287, § II, 11-10-2020)

Editor's note(s)—Ord. No. 20-287, adopted Nov. 10, 2020, repealed § 30.19 and enacted a new § 30.19 to read as set out herein. Former § 30.19 pertained to Mayor and Council members; staggered terms, and derived from Ord. 85-6, adopted Feb. 14, 1985.

**§§ 30.20—30.23 RESERVED.**

Editor's note(s)—Ord. No. 20-287, adopted Nov. 10, 2020, repealed §§ 30.20—30.23 in their entirety.

Former §§ 30.20—30.23 pertained to the City Treasurer, City Secretary, City Attorney and Director of Public Works, and derived from Ord. 85-1, adopted Feb. 14, 1985; Ord. 85-2, adopted Feb. 14, 1985; Ord. 85-3, adopted Feb. 14, 1985; Ord. 00-67, adopted June 14, 2000; Ord. 13-186, adopted Oct. 9, 2013; and Ord. 19-254, adopted Feb. 25, 2019.

***PLANNING AND ZONING COMMISSION***

**§ 30.35 ENACTING CLAUSE.**

This subchapter is hereby enacted and adopted as the "Planning and Zoning Commission Ordinance of the City of Woodcreek, Texas", in its entirety to provide for membership and operating procedures as follows.

(Ord. 13-179, 5-20-2013)

**§ 30.36 GENERAL.**

The Planning and Zoning Commission (also referred to as the "Commission") shall function according to the following criteria that establish membership and operating procedures.

(Ord. 13-179, 5-20-2013)

**§ 30.37 POWERS AND DUTIES.**

(A) The Commission shall have all the rights, powers, privileges and authority authorized and granted by the City Council and through the statutes of the state authorizing and granting cities the power of zoning and subdivision regulation as found in Tex. Local Gov't. Code Ch. 211 and 212, as amended from time to time.

(B) (1) The Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the municipal Comprehensive Plan, changes of zoning, zoning ordinance amendments and zoning to be given to newly annexed areas, and shall consider approval of plats of subdivisions as may be submitted to it for review and other planning related matters. The Commission shall conduct an biennial review (every two years) of the City's municipal Comprehensive Plan and shall be prepared to make recommendations to the City Council as deemed necessary to keep the City's plan current with changing conditions and trends and with the planning needs of the City.

(2) The Commission shall also serve in an advisory capacity on any planning related item(s) in the City.

(Ord. 13-179, 5-20-2013)

**§ 30.38 CREATION; MEMBERSHIP; OFFICERS; RULES AND BYLAWS.**

(A) There is created, in accordance with Tex. Local Gov't. Code Ch. 211, the Planning and Zoning Commission, hereafter sometimes referred to as the "Commission", which shall consist of five people (and two alternates) residing within the City limits.

(B) Members and alternates shall be nominated by the Mayor and appointed by the City Council.

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(C) All appointments to the Commission shall serve as a member of the Commission for a term of office of three years. Members may be reappointed with no limitation on the number of terms one may serve. When a term expires without request for renewal or resignation from the member, the City Council may, at its discretion, extend the member's term for a one-year period.

(D) Any vacancy(s) on the Commission shall be filled via appointment by a simple majority vote of the City Council.

(E) Members of the Planning and Zoning Commission may be removed from office at any time by a simple majority vote of the full City Council either upon its own motion or upon recommendation of the Commission. Failure to attend three consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family, or if the Commission or Council approves the absence(s) as excused. A vote to remove a Commission member shall be placed on the appropriate agenda as a regular item, and shall be voted upon accordingly.

(F) The members of the Commission shall regularly attend meetings and public hearings of the Commission, shall serve without compensation and shall not hold any other office within, or serve as an employee of, the City while serving on the Commission. Appointments to non-voting commissions and/or boards (e.g., the Beautification Committee) shall be permitted. The Commission shall meet a minimum of twice per year at a time established by the City Council. If there have been no applications filed for review by the Commission, the City Secretary shall notify the Chairperson and no meeting shall be required.

(G) The Commission shall elect a Chairperson and a Vice-Chairperson from among the Commission membership, and each officer shall hold office for a term of three years or until replaced by a two-thirds vote of the full Commission. The City Manager's/Administrator's designee shall serve as Secretary to the Commission, and shall keep minutes of all meetings held by the Commission as well as the full record of all recommendations made by the Commission to the City Council.

(H) The Commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform with those set forth by the City Council, and such rules, regulations and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for the following:

- (1) Regular and special meetings, open to the public;
- (2) A record of its proceedings, to be open for inspection by the public;
- (3) Reporting to the City Council and the public, from time to time and annually; and
- (4) Reviewing the City's municipal Comprehensive Plan on a biennial basis.

(Ord. 13-179, 5-20-2013)

### **§ 30.39 PARLIAMENTARY PROCEDURE; QUORUM; VOTING.**

The Commission will follow the parliamentary procedure adopted by the City Council, and procedures shall not be in conflict with the laws applicable to the Commission on the following.

(A) *Quorum.* A quorum shall consist of a majority of the membership of the Commission, and any issue to be voted upon shall be resolved by a majority of those members present.

(B) *Voting.* All Commission members, including the Chairperson, shall be entitled to one vote each upon any question, a quorum being present. Voting procedures shall be in accordance with the parliamentary procedures adopted by the City Council.

(C) *Conflict of interest.*

(1) If any member has a conflict of interest regarding any item on the Commission's agenda, that member may remove themselves from the room and shall refrain from discussing and/or voting only on the item for which a conflict exists.

(2) Refer to Tex. Local Gov't. Code Ch. 171 and any applicable City policies or regulations governing the same.

(Ord. 13-179, 5-20-2013)

### **§ 30.40 MEETINGS; PUBLIC RECORDS.**

(A) Unless otherwise provided for, the Planning and Zoning Commission shall meet in City Hall or in some other specified location as may be designated by the presiding Chairperson and at such intervals as may be necessary to orderly and properly transact the business of the Commission, but not less than twice each year.

(B) Meetings shall be conducted in accordance with the Open Meetings Law. Refer to Tex. Gov't. Code Ch. 551.

(Ord. 13-179, 5-20-2013)

§ 30.41 PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. (Texas Local Code Sec. 211.006)

Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality. (Texas Local Code Sec. 211.006)

The Zoning commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. (Texas Local Code Sec. 211.007)

The Zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the Zoning commission unless the governing body creates a joint public hearing with the zoning commission, to be held after the public notice required has been given. In either case, the governing body may not take action on the matter until it receives the final report of the Zoning commission. (Texas Local Code Sec. 211.007)

Before the 10th day before the hearing date, written notice of each public hearing before the Zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an

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official newspaper or a newspaper of general circulation in the municipality. (Texas Local Code Sec. 211.007)

**§ 30.42 PROCEDURE ON ZONING HEARINGS.**

(A) (1) The City declares the enactment of zoning regulations governing the use and development of land, buildings and structures as a measure necessary to the orderly development of the community.

(2) Therefore, change may be made in the zoning regulations or in the boundaries of the zoning districts:

- (a) To correct any error in the regulations or map;
- (b) To change the property to uses in accordance with the City's adopted municipal Comprehensive Plan; or
- (c) To align with Texas statutes.

**(Ord. 13-179, 5-20-2013)**

(B) In making a recommendation regarding a requested zoning change, the Planning and Zoning Commission shall consider the following factors:

(1) Whether the request purposes to promote the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance. (Texas Local Government Code Sec. 211.001)

(2) ZONING REGULATIONS GENERALLY. The governing body of a municipality may regulate:

- (a) the height, number of stories, and size of buildings and other structures;
- (b) the percentage of a lot that may be occupied;
- (c) the size of yards, courts, and other open spaces;
- (d) population density;
- (e) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (f) the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Texas Local Government Code Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

(3) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures. (Texas Local Government Code Sec. 211.003)

(4) COMPLIANCE WITH COMPREHENSIVE PLAN. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (a) lessen congestion in the streets;

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- (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. (Texas Local Government Code Sec. 211.004)

(5) DISTRICTS.

(a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out Texas Local Government code Chapter 211. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land (in accordance with Texas Statutes including 212, 214, the International Building Code, the International Residential Code, and the International Swimming Pools and Spa Code.)

(b) Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality. (Texas Local Government Code Sec. 211.005)

**§ 30.43 JOINT MEETINGS WITH CITY COUNCIL.**

Whenever the City Council and the Commission are required by the laws of the state to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at such other times when it is in the best interest of the City to do so, the City Council and the Commission are hereby authorized, after publishing notice as required by law, to hold joint meetings and to conduct joint public hearings.

(Ord. 13-179, 5-20-2013)

***BOARD OF ADJUSTMENT***

**§ 30.55 POPULAR NAME.**

This subchapter shall be commonly cited as the "Board of Adjustment Ordinance".

(Ord. 12-171, 10-10-2012)



### **§ 30.56 PURPOSE.**

This subchapter provides the functions and authority of the City's Board of Adjustment.

(Ord. 12-171, 10-10-2012)

### **§ 30.57 DEFINITIONS.**

(A) *Rules of interpretation.* Words and phrases used in this subchapter shall have the meanings set forth in this section. Words and phrases not defined in this subchapter 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 discretionary. Headings and captions are for reference purposes only.

(B) *Specific terminology.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Board.* The Board of Adjustment of the City of Woodcreek.

*Board of Adjustment.* The Board of Adjustment shall consist of the governing body of the City; including the Mayor, tasked with presiding over requests for variances and preside over appeals due to alleged errors of an administrative official in accordance with the terms of the City's applicable ordinances (examples include zoning, site development and water quality) that are consistent with the general purpose and intent of the aforementioned ordinances and in accordance with any applicable rules contained in the aforementioned ordinances.

*City.* The City of Woodcreek, an incorporated municipality located in Hays County, Texas.

*Planning and Zoning Commission.* The Planning and Zoning Commission for the City.

*Site Development Ordinance.* Ch. 154 of this Code of Ordinances, as may be amended.

*Variance.* An adjustment or deviation in the application of specific regulations of Ch. 50, 154 and 156 of this Code of Ordinances or other applicable ordinances under the purview of the City and applicable to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property owner from being deprived rights and privileges enjoyed by other owners of similarly situated parcels in the same vicinity and district.

*Water Quality Protection Ordinance.* Ch. 50 of this Code of Ordinances, as may be amended.

*Zoning Ordinance.* Ch. 156 of this Code of Ordinances, as may be amended.

(Ord. 12-171, 10-10-2012)

### **§ 30.58 MEMBERS.**

(A) *Members of the Board.* There is hereby created a Board of Adjustment of six members of the governing body of the City. Each of the six members of the Board shall be entitled to one vote in all deliberations of the Board.

(B) *Term.* Each member will serve until the expiration of their term on the governing body of the City.

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- (C) *No compensation.* The members of the Board will serve without compensation.
  - (D) *Removal of member.*
  - (1) Board members may be removed if the Mayor and a majority vote of City Council decide to remove the member for:
    - (a) Incompetency, corruption, misconduct or malfeasance in office; or
    - (b) Lack of confidence by the City Council.
  - (2) Any Board member may be removed for cause on a written charge after a public hearing.
  - (E) *Alternate members.* There shall be alternate members of the Board of Adjustment. Alternate Board of Adjustment members shall be appointed by the governing body. The City Manager/Administrator may designate an alternate Board of Adjustment member to participate in a particular Board of Adjustment meeting in the absence of a member of the governing body. Alternate Board of Adjustment members shall count towards the establishment of a quorum, and have full voting rights during the meeting for which the alternate is designated.
  - (F) *Cases before the Board.* Each case before the Board of Adjustment must be heard by a minimum of five of the members.
- (Ord. 12-171, 10-10-2012)

**§ 30.59 MEETINGS.**

- (A) *Calling a meeting.* Meetings of the Board shall be held at the call of the Chair and at other times as determined by the Board. Five members of the Board shall constitute a quorum for the Board to conduct business.
- (B) *Public meetings.* All meetings shall be public; however, upon the advice and consent of the City Attorney, the Board may go into executive session pursuant to Tex. Gov't. Code § 551.071.
- (C) *Minutes.*
- (1) 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.
- (2) Findings of the Board together with any recommendations it receives, and the specific facts upon which its findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting.
- (D) *Act by resolution.* When four members concur, the Board shall act by resolution. Said resolution shall provide the Board's findings, decision and any other such material used by the Board to reach a decision and shall be signed by a minimum of five members and maintained with the records of the Board.
- (E) *Adoption of rules.* The Board may adopt rules in accordance and consistent with this subchapter as necessary and required. A copy of any such rules shall be furnished to any person requesting the same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

(Ord. 12-171, 10-10-2012)

**§ 30.60 AUTHORITY OF THE BOARD.**

(A) The Board shall have the authority, subject to the standards established in Tex. Local Gov't. Code §§ 211.008 to 211.011 and those established herein, to exercise the following powers and perform the following duties:

- (1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of City ordinances; and
- (2) Hear and decide requests for variances from the requirements of Ch. 50, 154 and 156 of this Code of Ordinances; provided that, the variance is not contrary to public interest and due to special conditions.

(B) In exercising its authority under division (A) above, 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 purposes, the Board has the same authority as the administrative official;

(C) The concurring vote of at least 75 percent of the members of the Board hearing a matter is required to:

- (1) Reverse an order, requirement, decision or determination of an administrative official; or
  - (2) Authorize a variance from the terms of Ch. 50, 154 and 156 of this Code of Ordinances.
- (D) The Board shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, where required, has not been finally acted upon by both the Planning and Zoning Commission and, where required, the City Council.

(Ord. 12-171, 10-10-2012)

**§ 30.61 APPEALS ALLEGING ERROR.**

(A) *General.* The Board shall have the power to hear and decide an appeal that alleges an error in an order, requirement, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't. Code Ch. 211 and Ch. 154 and Ch. 156 of this Code of Ordinances.

(B) *Procedures.* The procedure for asserting an appeal alleging error before the Board shall be consistent with the procedure for requesting a variance. See § 30.63 of this chapter for procedures.

(Ord. 12-171, 10-10-2012)

**§ 30.62 VARIANCES.**

(A) *General.* The Board shall have the power to authorize in specific cases a variance from the terms of Ch. 50, 154 and 156 of this Code of Ordinances, if the variance is not contrary to the public interest and, due to special conditions, requiring strict compliance of the provisions within the aforementioned ordinances would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

(B) *Zoning variances.*

(1) *General.* Zoning variances that may be brought before the Board may include, but are not limited to:

(a) *Yard and fence setbacks permit.* A variance in the setback requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that, such variance will not significantly affect any adjoining property or the general welfare of the community; and

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(b) *Structures permit.* A variance whenever a property owner can show that a strict application of the terms of Ch. 156 of this Code of Ordinances relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship.

(2) *Requirements for zoning variances.*

(a) The Board shall ensure that any surrounding property pertaining to a variance request will be properly protected.

(b) The Board shall not, in any event, permit a use on any property that is not permitted within the zoning category for which such property is zoned.

(C) *Site development plan variances.* The Board shall take into account the nature of the proposed use of the land involved, the existing uses of land in the vicinity, the number of persons who will reside or work in the proposed development and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

(1) *Requirements for site development and water quality variance.* No variance shall be granted unless the Board finds that all of the following provisions are met.

(a) Special circumstances or conditions affecting the land involved such that the strict application of the provisions of Ch. 50 or Ch. 154 of this Code of Ordinances would deprive the applicant of the reasonable use of the involved land.

(b) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(c) Granting of the variance will neither be detrimental to the public health, safety or welfare, nor injurious to other property in the area.

(d) Granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of Ch. 154 of this Code of Ordinances.

(2) *Burden of proof for site development variance.* The burden shall be on the applicant to demonstrate that the requirements listed in division (C)(1) above are met prior to or at the time of requesting the variance.

(D) *Minimum departure.* When the Board determines that a variance is warranted, the variance permitted shall be the minimum departure from the terms of the relevant ordinance, either Ch. 50 or Ch. 156 of this Code of Ordinances.

(E) *Recommendation.* The Board may seek the recommendation of the Planning and Zoning Commission, and the City Engineer prior to taking any action on a proposed variance. The Board shall obtain the recommendation of the Planning and Zoning Commission and/or the City Engineer should the City Manager/Administrator direct the Board to do so.

(F) *Pecuniary hardship.* Pecuniary hardship of the applicant, property owner or developer, by itself, shall not be deemed sufficient to constitute undue hardship.

(G) *Granting variance for more favorable outcome for general public.* It shall be an adequate basis for granting a variance if doing so will enable the applicant to create additional open space, reduce impervious cover, preserve trees, maintain critical environmental features, ensure more wildlife preservation or bring non-conforming structures (including signs) into compliance with current regulations. This section is designed to achieve a more favorable outcome for the general public than would be possible complying with Ch. 50, 154 and 156 of this Code of Ordinances.

(H) *Necessary percentage of vote.* The concurring vote of at least 75 percent of those Board members in attendance is 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 Ch. 50, 154 and 156 of this Code of Ordinances; and/or
- (3) Authorize a variance from the terms of Ch. 154 and 156 of this Code of Ordinances.

(Ord. 12-171, 10-10-2012)

### **§ 30.63 PROCEDURE FOR REQUESTING AN APPEAL ALLEGING ERROR OR A VARIANCE.**

(A) *Appellants.* In the event that any person has been aggrieved by the decision of an administrative official, pertaining to Tex. Local Gov't. Code Ch. 211 and Ch. 50, 154 and 156 of this Code of Ordinances, such person may submit an appeal to the Board. Any officer, department, board or bureau of the City affected by an administrative officer's decision may also submit an appeal to the Board.

(B) *Written request.* A request for an appeal alleging error (as provided in § 30.61 of this chapter) or a variance shall be made in writing and include information to support the request for an appeal or a variance. Such information may include, but is not limited to, documentation provided to the administrative official, plat plans, site and building plans, contour maps and locations of existing flora. The request for an appeal alleging an error shall clearly state the grounds for the appeal. The request for a variance shall clearly state the unusual conditions or circumstances which, in the applicant's opinion, justifies a variance.

(C) *Stay of proceedings after appeal is filed.* An appeal stays all proceedings in furtherance of the action that is appealed unless the administrative official, from whom the appeal is taken, certifies in writing to the Board of Adjustment 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 the Board or a court of record on application, after notice to the official, if due cause is shown.

(D) *Fee.* The fee for an appeal or a variance is provided for in Ch. 35 of this Code of Ordinances.

(E) *Address.* The request for appeal or variance and the appropriate fee shall be mailed or hand-delivered to the City of Woodcreek, 41 Champion Circle, Woodcreek, Texas, 78676.

(F) *Notice/request and deadline for appeal alleging error.* The appellant must file a notice of appeal with the Board and the administrative official. The notice of appeal must be filed no more than ten business days from the date of the administrative official's decision. On receiving the notice, the administrative official shall immediately prepare a copy of all the papers constituting the record of the action that is appealed.

(G) *Deadline for decision on variance request.* The request for variance will be approved or denied within 60 days from the date the request was received by the City. Failure to take action on a submitted request for variance within the prescribed 60 days results in an automatic denial of the request.

(Ord. 12-171, 10-10-2012)

### **§ 30.64 HEARING AND DECISION.**

(A) *Setting a hearing.* After receiving a request for an appeal, the Board shall set a reasonable time for an appeal hearing and shall give public notice of the hearing and due notice to the parties in interest.

(B) *Public hearings.* All hearings relating to an appeal alleging error or a request for a variance shall be public; provided that, upon the advice and consent of the City Attorney, the Board may go into executive session pursuant to Tex. Gov't. Code § 551.071. At any hearing, any party may appear in person, by agent or by attorney.

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(C) *Decision by Board.* The Board shall decide appeals and requests for variances within a reasonable time. The Board, upon the concurring vote of 75 percent of its members in attendance at any meeting, 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.

(D) *Denials by the Board.* In the event the Board denies a request submitted within the prescribed time frame under this subchapter, the following appeal procedures will apply accordingly.

(E) *Denial of appeal alleging error.* An appeal of a decision rendered by the Board must be filed within ten business days after the date the decision is filed with the Board's office in accordance with Tex. Local Gov't. Code Ch. 211.

(F) *Request to reconsider.* Upon the denial of a request for a variance, an applicant for the variance may file a request to reconsider the initial decision rendered by the Board. The request to reconsider must be in writing any must contain additional information not previously submitted to the Board in support of the request. A filing fee in accordance with Ch. 35 is required to be submitted to the City along with the request to reconsider. Upon the denial of the request for a variance, an applicant as defined under Tex. Local Gov't. Code Ch. 211 may file an appeal of the denial within ten business days after the date the decision is filed with the City Manager/Administrator, in accordance with Tex. Local Gov't. Code Ch. 211.

(Ord. 12-171, 10-10-2012)

### **III. REPEALER**

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of the City of Woodcreek Code of Ordinances are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein, all other Ordinances in effect and not in conflict with this Ordinance shall remain in full force and effect.

### **IV. SEVERABILITY**

If any section, article, paragraph, sentence, clause, phrase, or word in this Ordinance, or application thereof to any person or circumstances, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

### **V. CODIFICATION**

The City Secretary is hereby authorized and directed to record and publish the language of this repealing Ordinance, and any changes thereto, in the City's Code of Ordinances.

### **VI. EFFECTIVE DATE**

This Ordinance shall take effect from and after its date of passage in accordance with law, and it is so ordained.

**VII. PROPER NOTICE & MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED this the 9<sup>th</sup> day of March 2022 by a vote of 4 ayes, 0 nays, 0 abstentions of the City Council of Woodcreek Texas.

**CITY OF WOODCREEK:**

**ATTEST:**

  
\_\_\_\_\_  
Jeff Rasco, Mayor

  
\_\_\_\_\_  
Brenton B. Lewis, Interim City Secretary