

**ORDINANCE NO. 22-307**

**AN ORDINANCE OF THE CITY OF WOODCREEK, TEXAS, ESTABLISHING AND LOCATING THE BROOKMEADOW OVERLAY DISTRICT BY AMENDING THE WOODCREEK ZONING ORDINANCE DULY ADOPTED UNDER ORDINANCE NO. 00-65N ON JUNE 1, 2005 AND AMENDED UNDER ORDINANCE NO. 19-255 ON MARCH 13, 2019; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY.**

**WHEREAS**, Chapter 211 of the Texas Local Government Code empowers a city to enact zoning regulations and provide for their administration, enforcement and amendment; and

**WHEREAS**, the City Council of the City of Woodcreek, Texas, deems it necessary and desirable to establish zoning regulations to provide for the orderly development of property within the City by governing the use of land in order to promote the public health, safety, morals and general welfare of the residents of the City; and

**WHEREAS**, Property regulation must substantially advance a legitimate governmental interest to pass constitutional muster, which thus requires examination of effect of regulation and legitimate state interest it is supposed to advance, although requirement is not equivalent to rational basis standard applied to due process and equal protection claims. U.S.C.A. Const. Amends. 5, 14.; and

**WHEREAS**, protecting against the ill effects of urbanization has been found to substantially advance a legitimate governmental interest; and

**WHEREAS**, this ordinance is intended to protect against the ill effects of urbanization; and

**WHEREAS**, preserving the rate and character of community growth has been found to substantially advance a legitimate governmental interest; and

**WHEREAS**, in addressing the issue of preserving the rate and character of community growth, the Texas Supreme Court has found that justification for the foregoing can be preserving uniquely rural and suburban communities with undivided two-lane roads, clusters of trees, and houses on large lots; and

**WHEREAS**, in addressing the issue of preserving the rate and character of community growth, the Texas Supreme Court has also found that protecting a community from drastic change of at least three residences per acre and vastly increasing the estimated population is justification for zoning regulation; and

**WHEREAS**, this ordinance is intended to preserve the rate and character of community growth by preserving the uniquely rural Brookmeadow area of Woodcreek with undivided two-lane roads, clusters of trees, and houses on large lots; and

**WHEREAS**, this ordinance is intended to preserve the rate and character of community growth by protecting the Brookmeadow area of Woodcreek from drastic change of at least three or more residences per acre and vastly increasing the estimated population, when most lots in the Brookmeadow area of Woodcreek are now 1 acre or more; and

**WHEREAS**, the City of Woodcreek recognizes that the Brookmeadow area of Woodcreek falls within the Jacob's Well Groundwater Management Zone, thus creating a sound basis for a reduction in impervious coverage in this area to preserve and protect groundwater supply, it being a noble and worthy goal for the City of Woodcreek to ensure all residents have access to safe and clean water.

**WHEREAS**, the Planning & Zoning Commission held a public hearing on April 1, 2022 and recommended approval of the proposed overlay district; and

**WHEREAS**, the City of Woodcreek has complied with all requirements of notice of public hearing as required by the Texas Local Government Code; and

**WHEREAS**, the City Council held a public hearing on the proposed overlay district on April 1, 2022 and desires to amend the Zoning Map by providing for a zoning overlay for

Brook Meadow Section One; Brookmeadow Section 2; Brookmeadow Section 3; a Resubdivision of Brookmeadow Section 3, Lots 1 thru 35, 39 and 40; Brookmeadow, Section 4 a Subdivision of 15.98 Acres of Land out of the Ransom Weed Survey No. 63 excluding: Brookmeadow IV Lot 20, Brookmeadow 21 Condominium Building AB, Units A and B, Brookmeadow 21 Condominium Building CD, Units C and D, Brookmeadow Condominium Building EF, Units E and F, Brookmeadow Sec 4 Lot 1, Brookmeadow IV Lot 2, Brookmeadow IV Lot 3, Brookmeadow Sec 4 Lot 4, Brookmeadow IV Lot 5 Duplex, Villas of Brookmeadow (more particularly described being 3.306 acres of land and being the resubdivision of part of Lot 19 of Brookmeadow, Section Four as recorded in Volume 3, pages 249-250 of the Plat Records of Hays County, Texas) and Amended Plat of a Portion of Lot 19, Brookmeadow Section 4; Brookmeadow, Section 5 a Subdivision of 3.77 Acres of Land out of the Ransom Weed Survey No.63; Brookmeadow, Section 6 a Subdivision of 17.02 Acres out of the Ransom Weed Survey No 63 (see attached); and

**WHEREAS**, the City Council hereby finds and determines that adopting the proposed zoning overlay is in the best interest of the citizens of Woodcreek.

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

#### **I. FINDING OF FACT**

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

## II. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

## III. 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.

## IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its passage and the publication of caption of this ordinance.

## V. 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.

## VI. OVERLAY CREATION

That the Brookmeadow Overlay District is hereby established by amending the Woodcreek Zoning Ordinance, duly adopted under Ordinance No. 00-65N on June 1, 2005 and amended under Ordinance No. 19-255 on March 13, 2019, to read as set out, and as located on Exhibit "A".

**PASSED AND APPROVED** this, the 1<sup>st</sup> day of April, 2022, by a vote of 4 Ayes to 0 Nays to 0 Abstentions of the City Council of Woodcreek, Texas.

**CITY OF WOODCREEK:**

**ATTEST:**

  
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Jeff Rasco, Mayor

  
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Brenton B. Lewis, Interim City Secretary

