

1. Agenda

Documents:

2023-01-05-CC-REG-PAK.PDF  
AGENDA-CC-JAN-05-23 REG MTG.PDF

Mayor  
Ed Tidwell

Mayor Pro-Tem  
Paul Prince



Council Members  
Gage Hunt  
Kevin Sullivan  
Rob Durbin  
Chelaine Marion  
Paul Roberts

## AGENDA CITY COUNCIL REGULAR MEETING

**NOTICE IS HEREBY GIVEN** that the Lago Vista City Council will hold a regular meeting on Thursday, January 5, 2022, beginning at 5:30 p.m. with Executive Session, in City Council Chambers at 5803 Thunderbird, Lago Vista Texas, as prescribed by Texas Government Code Section §551.041 to consider the following agenda items.

**THIS MEETING WILL BE HELD IN CITY COUNCIL CHAMBERS AT 5803 THUNDERBIRD, LAGO VISTA TEXAS AND UTILIZING THE GOTOMEETING VIDEOCONFERENCING TOOL.**

Please join my meeting from your computer, tablet or smartphone.  
<https://meet.goto.com/808088677>

You can also dial in using your phone.  
(For supported devices, tap a one-touch number below to join instantly.)  
United States: +1 (571) 317-3122  
- One-touch: tel:+15713173122,,808088677#  
**Access Code: 808-088-677**

### CALL TO ORDER, CALL OF ROLL

### EXECUTIVE SESSION

1. Convene into a closed Executive Session for:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
  - C. Consultation with Legal Counsel regarding Legislative guidelines concerning CapMetro and the Texas Transportation Code. (Government Code Section 551.071 Advice of Counsel).
  - D. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as "The

Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).

E. Discussion regarding City Attorney position. (Government Code Section 551.074 Personnel Matters).

**ACTION ITEMS** (action and/or a vote may be taken on the following agenda items):

2. Reconvene from Executive Session into open session to act as deemed appropriate in City Council’s discretion regarding:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
  - C. Consultation with Legal Counsel regarding Legislative guidelines concerning CapMetro and the Texas Transportation Code. (Government Code Section 551.071 Advice of Counsel).
  - D. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).
  - E. Discussion regarding City Attorney position. (Government Code Section 551.074 Personnel Matters).

**PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

**To participate in the citizen comments portion of the meeting, you must submit a completed form. If you are attending the meeting in the City Council Chambers you must complete the form available at that location and provide it to the Mayor prior to the start of the meeting. If you will be participating using the online videoconferencing tool, you must complete the form and submit it by email in accordance with the instructions included within the form. It is found on the City’s website at the link below. The regular City Council meeting will begin at 6:30 p.m.**

[Citizen Participation Registration Form](#)

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

**ITEMS OF COMMUNITY INTEREST:** Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations.
- d. Reminders regarding City Council events.
- e. Reminders regarding community events.
- f. Health and safety announcements.

## **DISCUSSION ITEMS**

3. Discuss current procedures for the submission and consideration of subdivision plats.

## **CONSENT AGENDA**

4. Approval of the November 17, 2022, meeting minutes.
5. Approval of the December 1, 2022, meeting minutes.
6. Approval of the December 12, 2022, special called meeting minutes.
7. Approval of the December 15, 2022, meeting minutes.
8. Discussion, consideration, and possible action on Resolution No. 23-1982, a Resolution by the City Council of the City of Lago Vista, Texas accepting by Special Warranty Deed 1.0300 acres of property conveyed by Montechino Ventures Group LLC, dedicating the property as parkland, and authorizing execution of the Special Warranty Deed.

## **PUBLIC HEARINGS**

9. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the existing “Lago Vista Retail Center Planned Development District” (PDD) established by Ordinance No. 05-07-07-01 to include relief from strict compliance with the sign regulations otherwise applicable to Lots 1 through 4 of Block A and Lots 1 and 2 of Block B of the Lago Vista Retail Center Subdivision.
  - Mayor’s presentation
  - Applicant’s presentation
  - Open public hearing
  - Close public hearing
  - Council discussion and possible decision (continue public hearing if no decision results)
10. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.20 and 11.30 of Chapter 14 of the Lago Vista Code of Ordinances to specifically recognize the ability of the Board of

Adjustment to consider any of the grounds included in Section 211.009(b-1) of the Texas Local Government Code in making the determination whether the strict application of a zoning ordinance provision would result in an unnecessary hardship; and providing for related matters.

- Mayor's presentation
- Open public hearing
- Close public hearing
- Council discussion and possible decision (continue public hearing if no decision results)

11. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances regarding the procedures for special exception approvals for additional height, including property within the 100-year floodplain; and providing for related matters.

- Open public hearing
- Mayor's presentation
- Close public hearing
- Council discussion and possible decision (continue public hearing if no decision results)

12. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances adding procedural and substantive requirements to amend the Future Land Use Map or other components of the adopted Comprehensive Plan for any reason, including accommodation of a subsequent zoning change request; and providing for related matters.

- Open public hearing
- Mayor's presentation
- Close public hearing
- Council discussion and possible decision (continue public hearing if no decision results)

## **ACTION ITEMS**

13. Discussion, consideration and possible action on an Ordinance of the City Council of Lago Vista, Texas amending Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances related to construction refuse and debris, including concerns about nails and other similar metal objects being deposited in an adjacent public right-of-way; and providing for related matters.

14. Discussion, consideration, and possible action amending the Bunker Bar & Grill concession agreement.

15. Discussion, consideration, and possible action on Resolution 23-1981, A Resolution receiving a list of publicly owned properties and directing the City Manager to contract with a real estate broker for the sale of certain real property located at 21106 National Drive.

16. Discussion, consideration, and possible action regarding an Ordinance amending the City of Lago Vista Rules of Procedures.

## **ADJOURNMENT**

**IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 4:49 p.m. on the 29th day of December 2022.**

*Lucy Aldrich*  
Lucy Aldrich, City Secretary

**THIS MEETING SHALL BE CONDUCTED PURSUANT TO THE TEXAS GOVERNMENT CODE SECTION 551.001 ET SEQ. AT ANY TIME DURING THE MEETING THE COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION ON ANY OF THE ABOVE POSTED AGENDA ITEMS IN ACCORDANCE WITH THE SECTIONS 551.071, 551.072, 551.073, 551.074, 551.075 OR 551.076.**

**THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.**

**AT THIS MEETING AT THE STATED LOCATION, A QUORUM OF THE CITY COUNCIL WILL BE PHYSICALLY PRESENT, AND THIS NOTICE SPECIFIES THE INTENT TO HAVE A QUORUM PRESENT THERE, AND THE MEMBER OF THE CITY COUNCIL PRESIDING OVER THE MEETING WILL BE PHYSICALLY PRESENT AT THAT LOCATION. ONE OR MORE MEMBERS OF THE CITY COUNCIL MAY PARTICIPATE IN THIS MEETING REMOTELY, AND IF SO, VIDEOCONFERENCE EQUIPMENT PROVIDING TWO-WAY AUDIO AND VIDEO DISPLAY AND COMMUNICATION WITH EACH MEMBER WHO IS PARTICIPATING BY VIDEOCONFERENCE CALL WILL BE MADE AVAILABLE.**

MEETING DATE: January 5, 2023

CALL TO ORDER:

AGENDA ITEM: CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE, INVOCATION

Comments:

ADJOURN:

TURN RECORDER OFF

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Content of Motion: \_\_\_\_\_  
\_\_\_\_\_

Vote: Hunt \_\_\_\_\_; Sullivan \_\_\_\_\_; Durbin \_\_\_\_\_; Marion \_\_\_\_\_;

Tidwell \_\_\_\_\_; Roberts \_\_\_\_\_; Prince \_\_\_\_\_

Motion Carried: Yes \_\_\_\_\_; No \_\_\_\_\_

**MEETING DATE: January 5, 2023**

**AGENDA ITEM: EXECUTIVE SESSION**

**Comments:**

- A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
- B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
- C. Consultation with Legal Counsel regarding Legislative guidelines concerning CapMetro and the Texas Transportation Code. (Government Code Section 551.071 Advice of Counsel).
- D. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).
- E. Discussion regarding City Attorney position. (Government Code Section 551.074 Personnel Matters).

**MEETING DATE: January 5, 2023**

**AGENDA ITEM: RECONVENE FROM EXECUTIVE SESSION**

- A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
- B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
- C. Consultation with Legal Counsel regarding Legislative guidelines concerning CapMetro and the Texas Transportation Code. (Government Code Section 551.071 Advice of Counsel).
- D. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).
- E. Discussion regarding City Attorney position. (Government Code Section 551.074 Personnel Matters).



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Citizens

**Subject:** Citizen Comments

**Request:** Other

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Citizen Comments

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:28:22 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Mayor Tidwell/Council

**Subject:** Items of Community Interest

**Request:** Other

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

For this agenda, we have included the items that can be communicated under this section. Those items are:

- a. Expressions of thanks, gratitude, and condolences
- b. Information regarding holiday schedules
- c. Recognition of individuals, including Proclamations
- d. Reminders regarding City Council events
- e. Reminders regarding community events
- f. Health and safety announcements

No action is required for these items.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Items of Community Interest

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:27:47 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** Discuss current procedures for the submission and consideration of subdivision plats.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The City Council requested a discussion occur to designate when a final plat may need to come to the City Council as opposed to just the Planning and Zoning Commission.

The Planning and Zoning Commission provides a final decision on most plat applications, absent an appeal. There was some recent confusion about the difference between the expected cost of an appeal that alleges error on the part of the staff (described as the design review committee in the ordinance) or an appeal by someone aggrieved by the decision of the Planning and Zoning Commission. Both might require professional costs in addition to a base fee of \$200, but the staff is able to provide an objective analysis of a Planning and Zoning Commission decision. While a legal opinion might also be required, it is not typical. Conversely, a third-party is almost always required to provide an objective analysis for an appeal that alleges error by the design review committee as all qualified staff are members.

The "Texas shot clock" recognizes many jurisdictions utilized a "two-step process" whereby the Planning and Zoning Commission provides a recommendation to the legislative body (the City Council) who makes the final decision. At a previous Council Meeting, the City Attorney explained that when a plat goes before two governmental bodies, the shot clock is increased from 30 to 60 days to adequately provide time for the "two-step process". Failure to provide a decision in that time frame results in the application being deemed approved regardless of a lack of compliance with any or all requirements.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:****Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.29 15:59:30 -06'00'



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Lucy Aldrich, City Secretary

**Subject:** Consent Agenda

**Request:** Consent Agenda

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

4. Approval of the November 17, 2022, meeting minutes.
5. Approval of the December 1, 2022, meeting minutes.
6. Approval of the December 12, 2022, special called meeting minutes.
7. Approval of the December 15, 2022, meeting minutes.
8. Discussion, consideration, and possible action on Resolution No. 23-1982, a Resolution by the City Council of the City of Lago Vista, Texas accepting by Special Warranty Deed 1.0300 acres of property conveyed by Montechino Ventures Group LLC, dedicating the property as parkland, and authorizing execution of the Special Warranty Deed.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Consent Agenda

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 16:56:35 -06'00'

**OFFICIAL MINUTES OF THE CITY COUNCIL  
REGULAR MEETING  
THURSDAY, NOVEMBER 17, 2022**

**BE IT REMEMBERED** that on the 17th day of November A.D., 2022, the City Council held a regular meeting at 5:30 p.m. in City Council Chambers, and via videoconference, there being present and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Gage Hunt	Council Member	Paul Roberts	Council Member
Kevin Sullivan	Council Member	Paul Prince	Council Member
Rob Durbin	Council Member (absent)		

**CALL TO ORDER, CALL OF ROLL**

Mayor Tidwell called the meeting to order at 5:34 p.m. and announced that all Councilmembers are present except Councilor Durbin who has an excused absence.

**EXECUTIVE SESSION**

1. At 5:35 p.m., Council convened into a closed Executive Session pursuant to:
  - A. Consultation with Legal Counsel concerning any regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Sections 551.071 Advice of Counsel and Section 1.05 Texas Disciplinary Rules of Professional Conduct).
  - B. Consultation with Legal Counsel concerning City-owned property (Sections 551.071 Advice of Counsel and Section 1.05 Texas Disciplinary Rules of Professional Conduct).

**ACTION ITEMS** (action and/or a vote may be taken on the following agenda items):

2. At 6:13 p.m., Council reconvened from Executive Session into open session, and recessed until 6:30 p.m., to act as deemed appropriate in City Council's discretion regarding:
  - A. Consultation with Legal Counsel concerning any regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Sections 551.071 Advice of Counsel and Section 1.05 Texas Disciplinary Rules of Professional Conduct).  
No action.
  - B. Consultation with Legal Counsel concerning City-owned property (Sections 551.071 Advice of Counsel and Section 1.05 Texas Disciplinary Rules of Professional Conduct).  
No Action.

**PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

Mayor Tidwell led the Pledge of Allegiance and Pledge to Texas Flag.

*Mayor Tidwell announced that Items of Community Interest would be next on the agenda.*

**02:44 – 17:00**

**ITEMS OF COMMUNITY INTEREST:** Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.  
Thanked the Chamber for putting on the Beer Fest.  
Thanked LVISD and everyone that put on the Veterans Day event.
- b. Information regarding holiday schedules.  
City is closed next Thursday for Thanksgiving.
- c. Recognition of individuals, i.e., Proclamations.  
Congratulate the Lago Vista High School football team who are bi-district champs and wish them luck in the upcoming playoff game.  
Mayor Tidwell presented a proclamation to the Lago Vista youth football Viking Team who captured the Hill Country Youth Football League Division 2 Championship.
- d. Reminders regarding City Council events.  
December 1, 2022 is the next scheduled City Council meeting.
- e. Reminders regarding community events.  
Annual tree lighting is scheduled for December 5, 2022.  
KLVB decorating event scheduled for Saturday is being rescheduled to November 26 due to weather conditions.  
Lion's Club will give out hot dogs and hot chocolate at the annual tree lighting.  
Baker's Brisket invites citizens of Lago Vista to join them in their 6th annual pay what you can Thanksgiving lunch on Thanksgiving.
- f. Health and safety announcements.  
Lake Travis is 640.33 feet above sea level, 26 feet below normal, 41 feet below full.

*Mayor Tidwell announced that Citizen Comments would be next on the agenda.*

**17:17 – 23:20**

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

Ms. Lisa Shaw spoke on an ethics complaint that she has filed with the city.

Ms. Emily Samples on behalf of the LVPOA submitted a statement for Mayor Tidwell to read.  
The LVPOA does not support the Turnback Ranch PDD.

*Mayor Tidwell announced that Agenda Item #12 is next on the agenda.*

**23:25 – 24:54**

12. Discussion, consideration and possible action regarding submission of a revised exemption request letter to the Federal Aviation Administration (FAA).

On a motion by Mayor Pro Tem Sullivan, seconded by Councilor Roberts, City Council voted unanimously to table the agenda item to the December 15, 2022, City Council meeting.  
Motion carried.

*Mayor Tidwell announced that Agenda Item #3 is next on the agenda.*

## **ELECTION ITEMS (ACTION ITEMS AND PRESENTATIONS)**

**25:29 – 36:00**

3. Discussion, consideration and possible action regarding Ordinance No. 22-11-17-01; An Ordinance of the City Council of the City of Lago Vista, Texas providing for an order canvassing the returns of the City of Lago Vista's November 8, 2022 General Election for the Office of Council Member Places 2, 4, and 6; and providing for an order canvassing the returns of the Special Election for the purpose of submitting to the duly qualified voters of the City of Lago Vista for the consideration of Proposition A and Proposition B; and providing for related matters.

On a motion by Mayor Tidwell, seconded by Councilor Roberts, City Council voted unanimously to approve the Ordinance canvassing the elections. Motion carried.

- Issue Certificate of Election.  
Mayor Tidwell issued Certificates of Election to Kevin Sullivan, Chelaine Marion and Paul Prince.
- Complete Statement of Officer.  
Kevin Sullivan, Chelaine Marion and Paul Prince completed the Statement of Officer.
- Take Oath of Office.  
City Secretary Lucy Aldrich administered the Oath of Office taken by Kevin Sullivan, Chelaine Marion and Paul Prince.

*Mayor Tidwell announced that Agenda Items #10 and #11 will be next on the agenda.*

**ACTION ITEMS****36:34 – 42:10**

10. Discussion, consideration and possible action regarding a request by Turnback Development LLC (Developer) to authorize negotiation of an agreement between the Developer and the City for the transfer of the property, locally known as 7602 Bar K Ranch Road, from the City to the Owner, by a method deemed appropriate by the Council, for the construction of a public right of way to serve as an extension of Dodge Trail.

On a motion by Councilor Roberts, seconded by Councilor Marion, City Council voted 5 to 1 with Mayor Tidwell in opposition to table the agenda item to the December 15, 2022, City Council meeting. Motion carried.

**42:29 – 1:41:27**

11. Discussion, consideration and possible action regarding a request by Turnback Development LLC (Developer) to authorize negotiation of an agreement between the Developer and City that governs the dedication of approximately 34 acres to the City as public parkland and establishes the terms for financing, constructing, operating, and maintaining the public park and park improvements.

On a motion by Mayor Pro-Tem Sullivan, seconded by Councilor Hunt, to table the agenda item to the December 15 ,2022, City Council meeting, Mayor Tidwell requested consideration of amending the motion to include tabling the agenda item to December 15, 2022 after hearing the applicant's presentation and citizen comments tonight. Mayor Pro-Tem Sullivan agreed to the amended motion, seconded by Councilor Hunt, City Council voted 5 to 1 with Councilor Roberts in opposition to table the agenda item as amended. Motion carried.

Representatives of the applicant gave a brief presentation on the proposed public park and park improvements.

Mayor Tidwell called on the following citizens who signed up to speak:

Ms. Rhonda Treaster spoke on the Turnback agenda items.

Ms. Robin Pond spoke on the park agenda item.

Mr. Charles Morrison spoke on the Turnback agenda items.

Mr. Charles Reichert spoke on the Turnback agenda items.

Ms. Rachael Rich spoke on the Turnback agenda items.

Mr. Russell Barnes spoke on the Turnback agenda items.

Ms. Louise Madigan spoke on the Turnback agenda items.

Ms. Shannon Hoover spoke on the Turnback agenda items.

Mr. Mark Acuff spoke on the Turnback agenda items.

Ms. Linda Ellis spoke on the Turnback agenda items.

Ms. Linda Lieber spoke on the park agenda item.

Mr. Barry Garth spoke on the Turnback agenda items.

Mr. Stephen Liebel spoke on the park agenda item.

Ms. Linda Walls spoke on the park agenda item.

Ms. Lisa Shaw spoke on the Turnback agenda item.

*Mayor Tidwell called for a recess at 8:13 p.m.*

*Mayor Tidwell reconvened the meeting from recess at 8:25 p.m. and announced that Agenda Item #4 would be next.*

## **WORK SESSION**

**1:41:57 – 2:09:15**

4. Presentation by city staff and discussion regarding Naming City Facilities Policy.

City Manager Tracie Hlavinka presented the policy to City Council and was available for comments and questions.

No action taken.

## **CONSENT AGENDA**

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

**2:09:18 – 2:11:37**

5. Approval of the October 20, 2022 regular meeting minutes.

6. Consider a request by Mr. Ron Goodrich and Ms. Patsy Goodrich to waive the building permit extension fees otherwise required for additional time to complete a single-family residence at 21501 Polk Cove.

7. Consider a request by Mr. Ron Goodrich and Ms. Patsy Goodrich to waive the requirement to replace protected trees displaced by a single-family residence at 21501 Polk Cove or to pay the fee in lieu of replacement otherwise required by Section 20 of the zoning ordinance.

8. Consider the procurement of a Ford F-250 from Sam Pack's Five Star Ford through the BuyBoard Cooperative in the amount of \$52,189.33.

9. Consider adoption of the Purchasing, Travel, and Credit Card Policy.

Mayor Tidwell pulled items 5, 6, and 7 for separate consideration.

On a motion by Councilor Hunt, seconded by Mayor Pro-Tem Sullivan, City Council voted unanimously to approve the amended Consent Agenda. Motion carried.

**2:11:39 – 2:14:17**

5. Approval of the October 20, 2022 regular meeting minutes.

On a motion by Councilor Prince, seconded by Councilor Marion, City Council voted unanimously to approve the meeting minutes as presented by Councilor Prince. Motion carried.

**2:14:19 – 2:23:10**

6. Consider a request by Mr. Ron Goodrich and Ms. Patsy Goodrich to waive the building permit extension fees otherwise required for additional time to complete a single-family residence at 21501 Polk Cove.

Ms. Linda Wells signed up to speak but had left the meeting.

On a motion by Councilor Roberts, seconded by Councilor Hunt, City Council voted unanimously to deny the waiver request. Motion carried.

**2:14:19 – 2:27:54**

7. Consider a request by Mr. Ron Goodrich and Ms. Patsy Goodrich to waive the requirement to replace protected trees displaced by a single-family residence at 21501 Polk Cove or to pay the fee in lieu of replacement otherwise required by Section 20 of the zoning ordinance.

Ms. Robin Pond spoke on the agenda item.

On a motion by Mayor Pro-Tem Sullivan, seconded by Councilor Prince, City Council voted unanimously to deny the request for the waiver. Motion carried.

## **ACTION ITEMS**

**2:28:06 – 2:34:11**

13. Discussion, consideration and possible action regarding Request for Proposal No. 23-01, Ridesharing Public Private Partnership.

Ms. Robin Pond spoke on the agenda item.

On a motion by Councilor Roberts, seconded by Councilor Hunt, City Council voted unanimously to revoke request for proposal, RFP No. 23-01. Motion carried.

**2:34:16 – 2:53:53**

14. Discussion, consideration and possible action regarding Ordinance 22-11-17-02; An Ordinance of the City of Lago Vista, Texas amending Appendix A Fee Schedule of the Code of Ordinances, Article 3.000 Building Related Fees, Section 3.500 Impact Fees, Article 5.000 Subdivision Fees, Article 7.000 Zoning and Annexation Fees, Article 9.000 Airport Fees, and Article 10.000 Parks and Recreation Fees; providing codification and publication, an effective date; repealer, severability, proper notice, and open meeting clauses.

On a motion by Mayor Pro-Tem Sullivan, seconded by Councilor Marion, City Council voted unanimously to approve the ordinance with the addition of Sec. 10.200 Golf Course Fees (k)(13) Other damages – estimated cost of repair plus 15%. Motion carried.

**2:54:09 – 2:55:14**

15. Discussion, consideration and possible action on the Travis Central Appraisal District Board of Directors ballot.

On a motion by Councilor Roberts, seconded by Mayor Pro-Tem Sullivan, City Council voted unanimously to vote for Bob Lawrence on the TCAD ballot. Motion carried.

**ADJOURNMENT**

Mayor Tidwell adjourned the meeting at 9:39 p.m.

Respectfully submitted,

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Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved this 5th day of January 2023.

**OFFICIAL MINUTES OF THE CITY COUNCIL  
REGULAR MEETING  
THURSDAY, DECEMBER 1, 2022**

**BE IT REMEMBERED** that on the 1st day of December A.D., 2022, the City Council held a regular meeting at 5:30 p.m. in City Council Chambers, and via videoconference, there being present and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Gage Hunt	Council Member	Paul Roberts	Council Member
Kevin Sullivan	Council Member	Paul Prince	Council Member
Rob Durbin	Council Member		

**CALL TO ORDER, CALL OF ROLL**

Mayor Tidwell called the meeting to order at 5:30 p.m. and announced that all Councilmembers are present with Councilor Hunt attending via videoconference.

**EXECUTIVE SESSION**

1. At 5:31 p.m., Council convened into a closed Executive Session pursuant to:
  - A. Consultation with Legal Counsel concerning any regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Local Government Code Section 551.071); and
  - B. Consultation with Legal Counsel concerning the Ethics Complaint filed on November 17, 2022, by L. Shaw regarding certain public servants and Turnback Ranch. (Local Government Code Section 551.071).

**ACTION ITEMS** (action and/or a vote may be taken on the following agenda items):

2. At 6:17 p.m., Council reconvened from Executive Session into open session, and recessed until 6:30 p.m., to act as deemed appropriate in City Council's discretion regarding:
  - A. Consultation with Legal Counsel concerning any regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Local Government Code Section 551.071).  
No action
  - B. Consultation with Legal Counsel concerning the Ethics Complaint filed on November 17, 2022, by L. Shaw regarding certain public servants and Turnback Ranch. (Local Government Code Section 551.071).  
Ms. Lisa Shaw spoke on this agenda item.  
On a motion by Councilor Roberts, seconded by Councilor Marion, City Council voted 6 to 0 with Councilor Prince abstaining, made a motion to set a preliminary hearing for December 12, 2022, at 5:00 p.m. and mail notifications as necessary. Motion carried.

## **PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

Mayor Tidwell led the Pledge of Allegiance and Pledge to Texas Flag.

*Mayor Tidwell announced that Agenda Item #10 would be next on the agenda.*

### **08:02 – 36:34**

10. Discussion, consideration, and possible action regarding the concession services agreement for the Bunker and Grill at the Golf Course.

Mr. Dustin Martin, owner of the Bunker and Grill was available to provide additional information and address questions.

No action taken. A revised agreement will be brought back to City Council in the future.

### **36:42 – 36:59**

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

No one signed up to speak.

### **37:00 – 48:26**

**ITEMS OF COMMUNITY INTEREST:** Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

a. Expressions of thanks, gratitude, and condolences.

None.

b. Information regarding holiday schedules.

None.

c. Recognition of individuals, i.e., Proclamations.

Congratulations to LV Youth Association Varsity Football players and cheerleaders who participated in Red Zone at AT&T Cowboys Stadium.

Congratulations to the LVHS Varsity Football team for making it to the quarter finals.

d. Reminders regarding City Council events.

None.

e. Reminders regarding community events.

Travis County volunteer opportunity to serve on a Citizen Advisory Committee-future Park funding.

Monday, December 5 is the City's Annual Tree Lighting Event. The event will be held in the City Hall parking lot starting at 5:00 p.m.

Police Department is hosting Blue Santa. Donations are currently being accepted in blue bins at the Police Department.

Business contractor registrations were due today.

The Youth Advisory Committee is hosting a holiday bake sale at the Farmer's Market on Saturday, December 12th.

f. Health and safety announcements.

Lake Travis remains below normal. However, it has come up almost half a foot in the last 30 days.

Public Works will be conducting easement clean-up throughout the City.

## ACTION ITEMS

### 48:31 – 50:01

3. Discussion, consideration, and possible action regarding Resolution No. 22-1962; A Resolution by the City Council of the City of Lago Vista, Texas providing for the election of a Mayor Pro Tem.  
On a motion by Mayor Tidwell, seconded by Councilor Sullivan, City Council voted unanimously to elect Councilor Paul Prince as Mayor Pro Tem. Motion carried.

## WORK SESSION

### 50:33 – 1:07:34

4. Discuss the process for recommendations of citizen volunteers to Boards and Commissions.  
No action taken.

*Mayor Tidwell announced that Agenda Item #14 would be next on the agenda.*

## ACTION ITEMS

### 1:07:40 – 1:12:27

14. Discussion, consideration, and possible action regarding Resolution No. 22-1964 through Resolution No. 22-1972; Resolutions by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to various Boards, Commissions, Committees for the 2023 calendar year.
  - A. Resolution No. 22-1964; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Planning and Zoning Commission for the 2023 calendar year.
  - B. Resolution No. 22-1965; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Board of Adjustment for the 2023 calendar year.
  - C. Resolution No. 22-1966; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Building and Standards Commission for the 2023 calendar year.
  - D. Resolution No. 22-1967; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Airport Advisory Board for the 2023 calendar year.
  - E. Resolution No. 22-1968; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Economic Development Committee for the 2023 calendar year.
  - F. Resolution No. 22-1969; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Golf Course Advisory Committee for the 2022 calendar year.

- G. Resolution No. 22-1970; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Library Advisory Board for the 2022 calendar year.
- H. Resolution No. 22-1971; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Parks and Recreation Advisory Committee for the 2023 calendar year.
- I. Resolution No. 22-1972; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to serve as Council Liaison to the Emergency Response Planning Committee for the 2023 calendar year.

On a motion by Mayor Tidwell, seconded by Councilor Sullivan, City Council voted unanimously to approve the resolutions with Council Liaison's staying the same with the exception of the Parks and Recreation Advisory Committee which will now be Councilor Durbin serving as liaison and that Resolution No. 22-1972 is changed from the Emergency Response Planning Committee to the Youth Advisory Board and that Ed Tidwell continues serving as the Council Liaison. Motion carried.

*Mayor Tidwell announced that Agenda Item #13 would be next on the agenda.*

**1:12:32 – 1:57:15**

- 13. Discussion, consideration, and possible action regarding Ordinance No. 22-12-01-01; An Ordinance amending the City of Lago Vista Rules of Procedures.  
No action taken.

*Mayor Tidwell announced that Agenda Item #11 would be next on the agenda.*

**1:57:34 – 2:20:48**

- 11. Discussion, consideration, and possible action regarding the procurement of OpenGov software support for Finance transparency from the Texas Department of Information Resources (DIR) BuyBoard in the amount of \$86,799.93 in Fiscal Year 2023, \$22,870.00 in each of the following Fiscal Years: 2024, 2025, and 2026.  
On a motion by Councilor Sullivan, seconded by Councilor Marion, City Council voted unanimously to approve the agreement and authorize the City Manager to sign the appropriate contract. Motion carried.

*Mayor Tidwell announced that Consent Agenda would be next on the agenda.*

## **CONSENT AGENDA**

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

**2:21:14 – 2:23:06**

- 5. Approval of the November 3, 2022 regular meeting minutes.
- 6. Consider the procurement of a track loader for solid waste from Associated Supply company through the BuyBoard Cooperative in the amount of \$82,425.00.

7. Approval of the City Facility Naming Policy.
8. Allow temporary signs in the City right-of-way requested by Northlake Church.
9. Approval of Resolution No. 22-1963, A Resolution by the City Council of the City of Lago Vista, Texas accepting by Special Warranty Deed 1.0300 acres of property conveyed by Montechino Ventures Group, LLC, dedicating the property as parkland, and authorizing execution of the Special Warranty Deed.  
Mayor Tidwell pulled agenda item #9 as this item is not ready for consideration. Councilor Sullivan requested that agenda item #8 be pulled for separate consideration.  
On a motion by Councilor Durbin, seconded by Councilor Roberts City Council voted unanimously to approve the amended Consent Agenda. Motion carried.

**2:23:08 – 2:24:19**

8. Allow temporary signs in the City right-of-way requested by Northlake Church.  
On a motion by Councilor Sullivan, seconded by Councilor Marion voted unanimously to approve the request. Motion carried.

## **ACTION ITEMS**

**2:24:46 – 2:56:23**

12. Discussion, consideration, and possible action regarding the creation of a Utility Advisory Committee.  
No action taken.

## **ADJOURNMENT**

Mayor Tidwell adjourned the meeting at 9:25 p.m.

Respectfully submitted,

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Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved this 5th day of January 2023.

**OFFICIAL MINUTES OF THE CITY COUNCIL  
SPECIAL MEETING  
MONDAY, DECEMBER 12, 2022**

**BE IT REMEMBERED** that on the 12th day of December A.D., 2022, the City Council held a special called meeting at 5:00 p.m. in City Council Chambers, and via videoconference, there being present and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Gage Hunt	Council Member	Paul Roberts	Council Member
Kevin Sullivan	Council Member	Paul Prince	Council Member (in audience)
Rob Durbin	Council Member		

**CALL TO ORDER, CALL OF ROLL**

Mayor Tidwell called the meeting to order at 5:00 p.m. and announced that all Councilmembers are present with Mayor Pro Tem Prince in the audience.

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

Ms. Racheal Rich asked City Council and Planning and Zoning Commission members take the Ethics Complaint seriously.

Mr. Jim Awalt viewed the preliminary hearing as an opportunity for reflection.

**EXECUTIVE SESSION:** At 5:04 p.m., Council convened into a closed Executive Session pursuant to; Consultation with Legal Counsel concerning the Ethics Complaint filed on November 17, 2022, by L. Shaw regarding certain public servants and Turnback Ranch. (Local Government Code Section 551.071).

At 5:35 p.m., Council reconvened from Executive Session into open session.

**PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

Mayor Tidwell led the Pledge of Allegiance and Pledge to Texas Flag.

**PRELIMINARY HEARING:** Hold a preliminary hearing on the Ethic Complaint filed on November 17, 2022, by L. Shaw regarding

City Secretary Lucy Aldrich administered the oath to the complainant, Ms. Shaw and all public servants accused in the complaint that were attending the meeting. City Council heard from complainant Lisa Shaw stating the alleged violations. Mayor Tidwell asked if since Mr. Monahan did not participate in any tour is he still to be included in the list of accused. Ms. Shaw said no since he did not participate. Mayor Tidwell also asked about Mr. Prince being included in the list of accused. Ms. Shaw had included Mr. Prince in the list of accused not understanding his role as Council Liaison. Mayor Tidwell briefly explained Mr. Prince's role and Ms. Shaw said no, he is no longer to be included in the list of the accused. Ms. Shaw was available to provide additional information and address questions.

City Council heard from the following members of the Planning and Zoning Commission who were available to provide additional information and address questions:

Mr. Richard Brown  
Mr. Tom Monahan  
Mr. Don Johndrow  
Mr. Larry Hagler  
Mr. Paul Prince, Council Liaison  
Ms. Kathy Koza

Ms. Shaw provided a rebuttal after hearing from the accused public servants.

**EXECUTIVE SESSION:** At 6:27 p.m., Council convened into a closed Executive Session pursuant to; Consultation with Legal Counsel concerning the Ethics Complaint filed on November 17, 2022, by L. Shaw regarding certain public servants and Turnback Ranch. (Local Government Code Section 551.071).

At 7:15 p.m., Council reconvened from Executive Session into open session.

On a motion by Mayor Tidwell, seconded by Councilor Roberts, City Council voted unanimously to dismiss the complaint accusing Tom Monahan, Paul Prince, Roy Jambor, and Erin Selvera. Roy Jambor and Erin Selvera are not members of the board/commission, and this hearing does not apply to them. Motion carried. On a motion by Councilor Sullivan, seconded by Councilor Roberts, City Council voted unanimously to apply Sanction 9(B)(i) from the City's Ethics Policy on Planning and Zoning Commissioners: Larry Hagler, Richard Brown, Don Johndrow, Julie Davis, Thomas Burlew and Kathy Koza and that a letter of notification be sent to the mentioned members and that they undergo training to prevent future violations.

**ADJOURNMENT**

Mayor Tidwell adjourned the meeting at 7:31 p.m.

Respectfully submitted,

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Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved this 5th day of January 2023.

**OFFICIAL MINUTES OF THE CITY COUNCIL  
REGULAR MEETING  
THURSDAY, DECEMBER 15, 2022**

**BE IT REMEMBERED** that on the 15th day of December A.D., 2022, the City Council held a regular meeting at 5:30 p.m. in City Council Chambers, and via videoconference, there being present and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Gage Hunt	Council Member	Paul Roberts	Council Member
Kevin Sullivan	Council Member	Paul Prince	Council Member
Rob Durbin	Council Member		

**CALL TO ORDER, CALL OF ROLL**

Mayor Tidwell called the meeting to order at 5:30 p.m. and announced that all Councilmembers are present with Councilor Marion attending via videoconference.

**EXECUTIVE SESSION**

1. At 5:31 p.m., Council convened into a closed Executive Session pursuant to:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Local Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
  - C. Consultation with Legal Counsel regarding the City's Petition for Exemption submitted to the U.S. Department of Transportation on May 2, 2022 regarding Rusty Allen Municipal Airport (Government Code Section 551.071 Advice of Counsel).

**ACTION ITEMS** (action and/or a vote may be taken on the following agenda items):

2. At 6:37 p.m., Council reconvened from Executive Session into open session, and recessed until 6:47 p.m., to act as deemed appropriate in City Council's discretion regarding:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).  
No action taken.
  - B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Local Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).

No action taken.

C. Consultation with Legal Counsel regarding the City's Petition for Exemption submitted to the U.S. Department of Transportation on May 2, 2022 regarding Rusty Allen Municipal Airport (Government Code Section 551.071 Advice of Counsel).  
Did not discuss, will go back into Executive Session at the end of the regular session.

### **PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

Mayor Tidwell led the Pledge of Allegiance and Pledge to Texas Flag.

**03:46 – 09:37**

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

Mr. Justin Orban spoke about his concerns with the condition of Santa Rosa Road.

Mr. Don Gala spoke about building height and lot sizes.

**09:38 – 22:01**

**ITEMS OF COMMUNITY INTEREST:** Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.  
Thanked staff for the successful tree lighting event.  
City Council received a thank you card from Cox Springs School Restoration Society for receipt of the financial donation from the City.
- b. Information regarding holiday schedules.  
City Hall will be closed on December 22, December 26 and January 2. The library will be closed on December 23, December 24 and December 26.  
Municipal Court will be closed on January 4 and January 5 for staff training.
- c. Recognition of individuals, i.e., Proclamations.  
Local Fire Wives organization was recognized by the National Fire Protection Association.  
Congratulations to Lago Vista High School football team for an outstanding season.  
Congratulations to Lago Vista High School varsity volleyball team who advanced to all district in volleyball and academics.  
Both the varsity volleyball team and cross-country team were honored by the LVISD Board of Trustees.  
Lago Vista High School Cheer won the HS 4A Game Day division at regionals. They are now headed to state.
- d. Reminders regarding City Council events.  
None
- e. Reminders regarding community events.  
Tunnel to Towers organization will be presenting a forever home to a veteran here in Lago Vista on December 19, 2022.
- f. Health and safety announcements.  
Mayor Tidwell attended a CAPCOG meeting where he was informed that there are no identified projects pending/planned in Lago Vista for the next five years.

Mayor Tidwell and City Manager Tracie Hlavinka attended a “get to know you” meeting with CapMetro. Transportation services in the city were discussed and the CapMetro representatives were provided with a list of services Lago Vista would like to see in the city. The next possible route changes in the City will be June.

## ACTION ITEMS

### **22:06 – 3:08:38 (Items 3 and 4 were presented together)**

3. Discussion, consideration and possible action regarding a request by Turnback Development LLC (Developer) to authorize negotiation of an agreement between the Developer and the City for the transfer of the property, locally known as 7602 Bar K Ranch Road, from the City to the Owner, by a method deemed appropriate by the Council, for the construction of a public right of way to serve as an extension of Dodge Trail.
4. Discussion, consideration and possible action regarding a request by Turnback Development LLC (Developer) to authorize negotiation of an agreement between the Developer and City that governs the dedication of approximately 34 acres to the City as public parkland and establishes the terms for financing, constructing, operating, and maintaining the public park and park improvements.

The applicant gave a presentation and was available to provide additional information and address questions.

Mayor Tidwell called on the following citizens who signed up to speak:

Ms. Sandra Norris was not in attendance, Mayor Tidwell read her statement regarding the Turnback project.

Ms. Linda McCullough addressed concerns she has with the Turnback project.

Ms. Kristall Bruno addressed concerns she has with the Turnback project.

Mr. Dave Stewart was not in attendance. Mayor Tidwell read his statement regarding the Turnback project.

Ms. Gigi Covington was not in attendance. Mayor Tidwell read her statement regarding the Turnback project.

Ms. Lissa Shaw addressed concerns she has with the Turnback project.

Ms. Linda Ellis addressed concerns she has with the Turnback project.

Mr. Russell Barnes addressed concerns he has with the Turnback project.

Mr. Mark Lee identified his support for the Turnback project.

Ms. Louise Madigan addressed concerns she has with the Turnback project.

Mr. Guy Burkhardt addressed concerns he has with the Turnback project.

Mr. Justin Webb signed up to speak but left the meeting before being called upon.

Ms. Nan Neesmith addressed concerns she has with the Turnback project.

Ms. Lynda Aird addressed concerns she has with the Turnback project.

Mr. Greg Murray addressed concerns he has with the Turnback project.

Mr. Mark Acuff addressed concerns he has with the Turnback project.

Ms. Linda Liber was not in attendance. Mayor Tidwell read her statement regarding the Turnback project.

Mr. Stephen Libel identified his support for the Turnback project.

Mr. Don Gala addressed concerns he has with the Turnback project.

On a motion by Mayor Tidwell, seconded by Councilor Sullivan, City Council voted 4 to 3 with Councilor Durbin, Councilor Marion and Councilor Roberts in opposition to authorize negotiations of an agreement between the Developer and city for the transfer of the property locally known as 7602 Bar K Ranch Road from the city to the owner by a method deemed appropriate by the Council, for the construction of a public right of way to serve as an extension of Dodge Trail and this item should not be brought back to City Council until legal liabilities issues concerning the extension of Dodge Trail are resolved. Motion carried.

On a motion by Councilor Sullivan, seconded by Mayor Tidwell, City Council voted 5 to 2 with Councilor Marion and Councilor Roberts in opposition to authorize staff to negotiate with the Developer over the dedication of approximately 34 acres to the city as public parkland and that it only be brought back to City Council as part as a whole with the PDD agreement and that the staff take the stance that the land is to be donated to the city that the developer agrees to gift one million dollars towards the construction of the park that there is no timeline for when the park would need to be potentially developed and that any ingress and egress to the park is completely controlled by the city and that the city is the only ones who benefit from the revenues that are generated. Motion carried.

*Mayor called for a recess at 9:54 p.m.*

*Mayor reconvened the meeting at 10:05 p.m.*

**3:09:19 – 3:27:44**

5. Discussion, consideration, and possible action regarding Resolution No. 22-1973 through Resolution No. 22-1980; Resolutions by the City Council of the City of Lago Vista, Texas appointing individuals to serve as members on various Boards/Commissions/Committees for partial and full terms.

**3:10:50 – 3:12:30**

A. Resolution No. 22-1973; A Resolution by the City Council of the City of Lago Vista, Texas appointing three individuals to fill expiring terms as members of the Airport Advisory Board; and to otherwise provide with respect thereto.

On a motion by Councilor Durbin, seconded by Councilor Prince, City Council voted unanimously to re-appoint Lynda Aird, Kristen Jernigan, and Stephen Lowry to the Airport Advisory Board. Motion carried.

**3:12:35 – 3:15:22**

B. Resolution No. 22-1974; A Resolution by the City Council of the City of Lago Vista, Texas appointing four individuals to fill expiring terms as members of the Board of Adjustment; and to otherwise provide with respect thereto.

On a motion by Councilor Marion, seconded by Councilor Durbin, City Council voted unanimously to re-appoint Anna Johndrow, Stacy Smith, DiAnn Tjon-Joe-Pin and to appoint David Steele to the Board of Adjustment. Motion carried.

**3:15:25 – 3:16:45**

C. Resolution No. 22-1975; A Resolution by the City Council of the City of Lago Vista, Texas appointing three individuals to fill expiring terms as members of the Building and Standards Commission; and to otherwise provide with respect thereto.

On a motion by Councilor Roberts, seconded by Councilor Sullivan, City Council voted unanimously to re-appoint Jim Cason and to appoint Lee Davis and Clifton McCullough to the Building and Standards Commission. Motion carried.

**3:16:54 – 3:18:17**

D. Resolution No. 22-1976; A Resolution by the City Council of the City of Lago Vista, Texas appointing three individuals to fill expiring terms as members of the Economic Development Advisory Committee; and to otherwise provide with respect thereto.

On a motion by Councilor Sullivan, seconded by Councilor Roberts, City Council voted unanimously to re-appoint Norma Owen, DuWayne Burge, and Shane Saum to the Economic Development Advisory Committee. Motion carried.

**3:18:32 – 3:20:27**

E. Resolution No. 22-1977; A Resolution by the City Council of the City of Lago Vista, Texas appointing three individuals to full terms as members to the Golf Course Advisory Committee; and to otherwise provide with respect thereto.

On a motion by Councilor Hunt, seconded by Mayor Pro-Tem Prince, City Council voted unanimously to re-appoint Larry Russell and Jacklyn Goodwin and to appoint Imelda Faught (non-golf member) to the Golf Course Advisory Committee. Motion carried.

**3:20:30 – 3:22:32**

F. Resolution No. 22-1978; A Resolution by the City Council of the City of Lago Vista, Texas appointing three individuals to fill expiring terms and one individual to fill an unexpired term as members of the Library Advisory Board; and to otherwise provide with respect thereto.

On a motion by Councilor Sullivan, seconded by Councilor Marion, City Council voted unanimously to re-appoint Elaine Hughes and Michael Zaydel and to appoint Gina Williams to a two-year term and appoint Mark Major to the un-expired one-year term on the Library Advisory Board. Motion carried.

**3:22:35 – 3:25:31**

G. Resolution No. 22-1979; A Resolution by the City Council of the City of Lago Vista, Texas appointing three individuals to fill expiring terms as members of the Planning and Zoning Commission; and to otherwise provide with respect thereto.

On a motion by Mayor Pro-Tem Prince, seconded by Councilor Roberts, City Council voted unanimously to re-appoint Don Johndrow and Tom Monahan and to appoint Norma Owen to the Planning and Zoning Commission. Motion carried.

**3:25:33 – 3:27:31**

H. Resolution No. 22-1980; A Resolution by the City Council of the City of Lago Vista, Texas appointing four individuals to fill expiring terms and one individual to fill an unexpired term as members on the Parks and Recreation Advisory Committee; and to otherwise provide with respect thereto.

On a motion by Councilor Durbin, seconded by Councilor Marion, City Council voted unanimously to re-appoint Andrew Gale; to appoint Robyn Burkhart, Zach Davis, and Don Motschall to two-year terms; and to appoint Mark Major to the un-expired one-year term on the Parks and Recreation Advisory Committee. Motion carried

**3:27:53 – 3:51:18**

6. Discussion, consideration, and possible action regarding future legislative opportunities pertaining to Capital Metropolitan Transportation Authority (CapMetro).  
No action taken.

**CONSENT AGENDA**

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

**3:51:20 – 3:54:20**

7. Consideration and approval of the use of City property and authorize the City Manager to accept an application for commercial filming in the City of Lago Vista.

On a motion by Councilor Roberts, seconded by Mayor Pro-Tem Prince, City Council voted unanimously to approve the Consent Agenda. Motion carried.

**EXECUTIVE SESSION**

1. At 10:53 p.m., Council reconvened into a closed Executive Session pursuant to;
  - A. Consultation with Legal Counsel concerning all regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - C. Consultation with Legal Counsel regarding the City's Petition for Exemption submitted to the U.S. Department of Transportation on May 2, 2022, regarding Rusty Allen Municipal Airport (Government Code Section 551.071 Advice of Counsel).

**ACTION ITEMS** (action and/or a vote may be taken on the following agenda items):

2. At 11:23 p.m., Council reconvened from Executive Session into open session to act as deemed appropriate in City Council's discretion regarding;
  - A. Consultation with Legal Counsel concerning all regular meeting agenda item requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).  
No action taken.
  - C. Consultation with Legal Counsel regarding the City's Petition for Exemption submitted to the U.S. Department of Transportation on May 2, 2022, regarding Rusty Allen Municipal Airport (Government Code Section 551.071 Advice of Counsel).  
On a motion by Mayor Pro-Tem Prince, seconded by Councilor Roberts, City Council voted 6 to 0 with Councilor Marion not in attendance for the vote, for Councilor Durbin and city staff to move forward on this subject as discussed in executive session.

**ADJOURNMENT**

Mayor Tidwell adjourned the meeting at 11:25 p.m.

Respectfully submitted,

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Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved this 5th day of January 2023.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Approval of Resolution 22-1982; a Resolution of the City Council of the City of Lago Vista, Texas accepting by Special Warranty Deed 1.0300 acres of property conveyed by Montechino Ventures Group LLC, dedicating the property as parkland, and authorizing execution of the Special Warranty Deed.

**Request:** Consent Agenda

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

On July 13, 2000 the final plat was approved for Marshall's Harbor and subsequently recorded with the Travis County Clerk on August 15, 2000. Note number 19 of that final plat reads as follows:

"In meeting the City's requirements for park land dedication 1.03 acres at the northwest intersection of Austin Boulevard and Shoreline Ranch Drive has been set aside for park land use."

In addition, a lot in that location includes the following label on the recorded final plat:

Lot C  
1.03 AC.  
Marshall's Park

However, the property was never formally conveyed to the City or dedicated as parkland. The current owner, Montechino Ventures Group LLC, has agreed to correct that omission by conveying the property to the City by a Special Warranty Deed. A draft copy of that Special Warranty Deed is included in your packet and their managing partner has agreed to execute and deliver the appropriate section for recording and attachment to this resolution.

This Resolution also authorizes the acceptance and dedication of this property as parkland by the Mayor. It further directs the City Manager to "take or cause all other appropriate action related to this agreement" which refers to having the Special Warranty Deed recorded in the Official Public Records of Travis County, Texas.

**Impact if Approved:**

The property conveyance and parkland dedication anticipated by the final plat approval on July 13, 2000 will be complete.

**Impact if Denied:**

The requirement to convey property for the purpose of it being dedicated as parkland would seemingly be waived, as no other alternative agreement can effectively be enforced more than 22 years after the final plat has been approved and recorded.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Approve Resolution  N/A -  N/A -  N/A

**Motion to**  Deny Resolution  N/A -  N/A -  N/A

**Motion to**  Table Resolution  N/A -  N/A -  N/A

**Known as:**

Accepting conveyance of property within Marshall's Harbor by special warranty deed and dedicating it as parkland in accordance with the final plat approved on July 13, 2000.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:36:06 -06'00'

**CITY OF LAGO VISTA, TEXAS**

**RESOLUTION 23-1982**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS  
ACCEPTING BY SPECIAL WARRANTY DEED 1.0300 ACRES OF PROPERTY  
CONVEYED BY MONTECHINO VENTURES GROUP LLC, DEDICATING THE  
PROPERTY AS PARKLAND, AND AUTHORIZING EXECUTION OF THE SPECIAL  
WARRANTY DEED.**

**WHEREAS**, the City of Lago Vista, Texas is statutorily authorized to require parkland as part of the property development process as provided for in Chapter 212 of the Texas Local Government Code; and

**WHEREAS**, the parkland dedication requirements of Marshall's Harbor were met by an agreement dated July 13, 2000, by the previous owners to dedicate Lot C of that subdivision, being approximately 1.0300 acres or 44,866.80 square feet of land, pursuant to Section 5, Parkland Dedication, of Chapter 10 of the Lago Vista Code of Ordinances; and

**WHEREAS**, at that time that property was not formally conveyed to the City of Lago Vista or dedicated as public parkland; and

**WHEREAS**, the City Council of the City of Lago Vista finds that it is in the best interest of the City and its residents to accept the property described in the Special Warranty Deed attached as "Exhibit A" of this resolution as public parkland.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF LAGO VISTA, TEXAS:**

**THAT**, Lot C of Marshall's Harbor, being approximately 1.0300 acres of land as described in the Special Warranty Deed conveying the property from Montechino Ventures Group LLC to the City of Lago Vista and attached as "Exhibit A" of this resolution is hereby accepted; and

**THAT**, the property described herein shall be parkland of the City of Lago Vista; and

**THAT**, the Mayor is authorized to execute the Special Warranty Deed attached as "Exhibit A" of this resolution on behalf of the City of Lago Vista and that the City Manager is directed to take or cause all other appropriate action related to this agreement.

**AND IT IS SO RESOLVED.**

**PASSED AND APPROVED** this 5th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing instrument was passed and approved.

STATE OF TEXAS §  
COUNTY OF TRAVIS §

**SPECIAL WARRANTY DEED DEDICATING**  
**PROPERTY AS PUBLIC PARKLAND**

That **MONTECHINO VENTURES GROUP LLC**, a Texas limited liability company (“Grantor”), for and in consideration of the sum of **TEN DOLLARS** (\$10.00) and other good and valuable consideration to it paid, by the **CITY OF LAGO VISTA, TEXAS** (“Grantee”) whose address is 5803 Thunderbird Drive, Lago Vista, Texas, the receipt of which is hereby acknowledged and confessed, has **GRANTED, SOLD and CONVEYED**, and by these presents does **GRANT, SELL and CONVEY**, unto Grantee as dedicated public parkland and for all other purposes for which a public parkland is commonly used, including installing, repairing, maintaining, altering, replacing, relocating and operating facilities in, into, upon, over, across and under all that certain lot, tract, or parcel of land, lying and being situated in the County of Travis, State of Texas, and more particularly described in the “**Legal Description**” attached hereto (the “Property”), subject, however, to the following reservations from and exceptions to the conveyance and warranty:

Taxes and assessments by any taxing authority for the year 2022 and thereafter, together with subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership;

Easements, restrictions, reservations, covenants, and rights-of-way of record and/or apparent on the Property;

Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, protrusions, or any overlapping of improvements;

Utility easements and prescriptive rights visible and apparent on the ground, including easements, or claims of easements, which are not recorded in the public records;

Rights to oil, gas and other minerals of every kind and character in, on and under the property, together with the rights, privileges and immunities relating thereto.

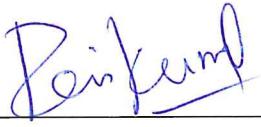
To have and to hold the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever, and it does hereby bind itself, its successors, and assigns, to warrant and forever defend, all and singular, the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, by and through Grantor, but not otherwise.

Grantee farther acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as is made "AS IS" AND WITH ALL FAULTS and Grantor has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied concerning or with respect to the Property regarding the Property's compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including the existence of hazardous substances in or on the Property, whether in the past or present.

EXECUTED by Grantor on December 22, 2022.

**GRANTOR:**

**MONTECHINCO VENTURES GROUP LLC**  
a Texas limited liability company

By: 

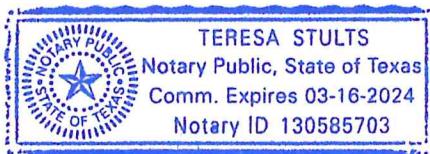
Ravi Polishetty, Managing Partner

**STATE OF TEXAS** §

**COUNTY OF COLLIN** §

**BEFORE ME**, a Notary Public, on this day personally appeared Ravi Polishetty, Managing Partner of **MONTECHINO VENTURES GROUP LLC**, a Texas limited liability company, on behalf of said company.

**GIVEN UNDER MY HAND AND SEAL** of office this 22<sup>nd</sup> day of December 2022.



T. Stults  
Notary Public, in and for the State of Texas

**STATE OF TEXAS** §

**COUNTY OF TRAVIS** §

The City of Lago Vista, Texas, a body politic and political subdivision of the State of Texas did at a regular meeting with a quorum being present, on January 5, 2023, vote to authorize the acceptance of this dedication of the Property as public parkland.

---

Ed Tidwell, Mayor

**STATE OF TEXAS** §

**COUNTY OF TRAVIS** §

**BEFORE ME**, a Notary Public, on this day personally appeared Ed Tidwell, in his capacity as Mayor of the City of Lago Vista, Texas.

**GIVEN UNDER MY HAND AND SEAL** of office this \_\_\_\_ day of January 2023.

---

Notary Public, in and for the State of Texas

**AFTER RECORDING, PLEASE RETURN TO:**

Lucy Aldrich, City Secretary  
City of Lago Vista, Texas  
P.O. Box 4727  
Lago Vista, Texas 78645-0008

**LEGAL DESCRIPTION**  
**OF PROPERTY**

Lot C, Marshall's Harbor, according to the subdivision plat recorded in Document No. 200000248, Official Public Records of Travis County, Texas.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 05 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the existing "Lago Vista Retail Center Planned Development District" (PDD) established by Ordinance No. 05-07-07-01 to include relief from strict compliance with the sign regulations otherwise applicable to Lots 1 through 4 of Block A and Lots 1 and 2 of Block B of the Lago Vista Retail Center Subdivision.

**Request:** Public Hearing

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Immediately following this summary and a draft zoning ordinance amendment is a staff report that describes the discussion and the recommendation of the Planning and Zoning Commission following the public hearing related to this request at their meeting on December 8, 2022. The balance of the packet is the material presented to the Planning and Zoning Commission prior to that meeting, including any written comments from property owners within 200 feet of the subject property. Any written comments received after that meeting would have been included in that packet, but segregated from those reviewed by the Planning and Zoning Commission members.

In this instance, two written comments have been received to date, both in favor of the request. In addition, the Planning and Zoning Commission members unanimously recommended approval of the request. All seven members were present for that portion of the meeting and participated in that recommendation. As a result, a simple majority is sufficient for adoption of the proposed amendment to the "Lago Vista Retail Center PDD" (Ordinance No. 05-07-07-01).

Unrelated to this request, but a concern nonetheless, is the lack of consistency of the property address with the data on file with 911 Addressing. With the assistance of the GIS staff, we made a request to the address management authority for them to modify their data to match what the property owner and USPS have been using. Google has used that same address (on FM 1431) on their maps. Unfortunately, the request has been denied. The staff will continue to seek solutions and will enlist the assistance of Travis County ESD-1 to ensure that no safety concerns are being ignored.

**Impact if Approved:**

The tenant (Brookshire Brothers) will apply for sign permits in accordance with the approval.

**Impact if Denied:**

The pending sign ordinance amendment would provide for administrative approval of the proposed changes without the requirement of a zoning ordinance amendment. However, it would possibly jeopardize the timely opening of the facility.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Approval of an amendment to the "Lago Vista Retail Center PDD" to allow for attached wall signs for an anchor tenant (Brookshire Brothers).

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 16:59:01 -06'00'

## **ORDINANCE NO. 23-01-05-01**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING THE EXISTING PLANNED DEVELOPMENT DISTRICT KNOWN AS “THE LAGO VISTA RETAIL CENTER” APPROVED BY ORDINANCE NO. 05-07-07-01 TO INCLUDE RELIEF FROM STRICT COMPLIANCE WITH THE SIGN REGULATIONS OTHERWISE APPLICABLE.**

**WHEREAS**, the owner of approximately 8.87 acres of land, as more particularly described in the attached **Exhibit “A”** (referred to hereinafter as the “Property”), has filed an application requesting an amendment to the existing Planned Development District (PDD) known as “The Lago Vista Retail Center” approved by Ordinance No. 05-07-07-01; and

**WHEREAS**, the Property currently resides within the corporate limits of the City of Lago Vista;

**WHEREAS**, the amended list and description of permitted uses for the Property is set forth in Section 4 below, which modifies the sign regulations otherwise applicable and as previously established in Ordinance No. 05-07-07-01, with all other aspects of the approval remaining intact; and

**WHEREAS**, after giving ten (10) days written notice to the owners of land in and within 200-feet of the area being rezoned, as well as having published notice to the public at least fifteen (15) days prior to the date of such hearings, the Planning and Zoning Commission and City Council each held separate public hearings on the proposed rezoning of the Property included in this Ordinance; and

**WHEREAS**, the Planning and Zoning Commission at its public hearing held on December 8, 2022 and the City Council at its public hearing held on January 5, 2023, have both reviewed the request and the circumstances of the Property, and find that a substantial change in the circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired; and

**WHEREAS**, the City, by and through its legislative discretion, has adopted a comprehensive plan for the City of Lago Vista, and having considered and reviewed it, the City Council finds the rezoning approved herein to be consistent with the comprehensive plan, which shall not otherwise be interpreted as inconsistent with this zoning change; and

**WHEREAS**, the City desires that development within its corporate limits occur in an orderly manner in order to protect the health, safety, and welfare of its present and future citizens, protect property values and provide for the growth of the City’s tax base; and

**WHEREAS**, the City desires to control the development standards for the Property, protect third party property owners in the City, and to ensure the benefits of planned development and an enhanced tax base that are achieved through rezoning the Property; and

**WHEREAS**, pursuant to *Texas Local Government Code* Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Chapter 211 of the *Texas Local Government Code*, the City has the authority to zone and rezone property; and

**WHEREAS**, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Lago Vista to adopt this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact. The Planning and Zoning Commission and City Council find that this Ordinance satisfies the requirements of Section 10 and Section 13 of the City of Lago Vista Zoning Ordinance, codified under Ordinance No. 98-04-27-03, as amended (the “Zoning Code”).

**Section 2. Enactment.** The Zoning Code and other applicable ordinances are hereby modified and amended by rezoning the Property as set forth in Section 3.

**Section 3. Rezoned Property.** The Zoning Ordinance is hereby amended by zoning the approximately 8.87 acres of land, more particularly described in **Exhibit “A”** as an update to “The Lago Vista Retail Center Planned Development District” (PDD) and Ordinance No. 05-07-07-01, with the amended sign regulations as set forth in this Ordinance.

**Section 4. Zoning Requirements.** All applicable use restrictions and development requirements in the existing Planned Development District” (PDD) known as “The Lago Vista Retail Center” as established in Ordinance No. 05-07-07-01 shall remain intact except for the following provisions of Section 4 which shall be repealed and re-enacted as follows:

5. All signage shall comply with the City of Lago Vista ordinances and development regulations except as follows:
  - A. a single ID or logo sign attached to the building façade shall be permitted for each business with a maximum display surface area of 144 square feet;
  - B. in addition to the single ID or logo sign as described immediately above, each business shall be permitted up to a maximum of four additional hanging wall signs attached to the building façade mounted at a maximum height of forty feet above the adjacent grade elevation; and
  - C. the maximum display surface area for a single hanging wall sign shall be 285 square feet and the cumulative total display surface area for all hanging wall signs for the same business shall be a maximum of 425 square feet.

**Section 5. Amendment of Applicable Zoning Ordinances.** The zoning requirements established in this Ordinance shall apply to the Property. The comprehensive zoning requirements of the Zoning Code and all other applicable ordinances, as they may be amended by this Ordinance, shall apply to the Property. Should any conflict appear between the requirements of the zoning and development ordinances of the City of Lago Vista as compared with the requirements for the Property set forth in this Ordinance, the requirements set forth in this Ordinance shall control.

**Section 6. Repealer.** The Zoning Ordinance and all other applicable portions of the Lago Vista Code of Ordinances are amended as required to incorporate the amendment to “The Lago Vista Retail Center Planned Development District” (PDD) as described herein. Any portion of the Zoning Ordinance, Comprehensive Master Plan, or any applicable ordinance in conflict with this Ordinance is hereby repealed or amended to the extent of such conflict only.

**Section 7. Severability.** Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

**Section 8. Penalty.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances, Section 1.109 General Penalty for Violations of Code; Continuing Violations of the City of Lago Vista, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

**Section 9. Publication Clause.** The City Secretary of the City of Lago Vista is hereby directed to publish in the Official Newspaper of the City of Lago Vista the Caption, and Effective Date Clause of this Ordinance as required by Section 52.013 of the *Texas Local Government Code*.

**Section 10. Effective Date.** This Ordinance shall be in force and effect from and after its passage on the date shown below in accordance with the provisions of the *Texas Local Government Code* and the City’s Charter.

**Section 11. Change of Zoning Map.** The City Manager is hereby authorized to and shall promptly note the zoning change on the official Zoning Map of the City of Lago Vista, Texas.

**Section 12. Proper Notice and Meeting.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the  
above and foregoing ordinance was passed and approved.

**EXHIBIT “A”**  
**Legal Description**

Lots 1, 2, 3, and 4 of Block A of the Lago Vista Retail Center Subdivision.

Lots 1 and 2 of Block B of the Lago Vista Retail Center Subdivision.

**LAGO VISTA CITY COUNCIL**  
**STAFF LAND USE REPORT – JANUARY 5, 2023**



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<b>P&amp;Z CASE NO:</b>	22-2265-PDD-MOD: 20900 FM 1431
<b>APPLICANT:</b>	LVV Investments LLC (Brookshire Brothers, Tenant)
<b>LANDOWNER:</b>	LVV Investments LLC (Jasmyn Yu)
<b>LOCATION:</b>	Southeast side of Bar-K Ranch Road north of FM 1431
<b>ZONING:</b>	“Lago Vista Retail Center PDD” (Ordinance No. 05-07-07-01)
<b>PROPOSED USE:</b>	Signage Design Standards Amendment

---

**PLANNING AND ZONING COMMISSION MEETING AND RECOMMENDATION:**

- The property owner was represented at the December 8, 2022, meeting of the Planning and Zoning Commission by a member of the Brookshire Brothers staff. Perhaps more importantly he brought the contractor that will be fabricating and installing the proposed signs. He had a full-size sample of a portion of a similar sign and demonstrated his somewhat unique solution to ensure compliance with our “dark sky” regulations.
- The sign includes an amount of the display surface that is “stark white” in color that would normally preclude any backlighting of that same portion of the sign at night. However, rather than modifying the color of the material to an “off-white” (the typical response) he employed a lamp color and fixed dimmer (one that cannot be adjusted without removing the sign). This allows the sign to include an unlimited amount of material that appears “stark white” in daylight but appears “off-white” at night when the backlighting is employed.
- There was no opposition present at the public hearing. Two written comments were received and included in the meeting packet, included for review by the City Council. With relatively little discussion, the Planning and Zoning Commission members confirmed their opinion that the proposed signs were proportional to the building elevations and attractive.
- All seven members were present during this specific application, although attendance fluctuated at other times during the meeting. The recommendation for approval of the amendment to the PDD to permit the proposed signage was unanimous.

**POTENTIAL ALTERNATIVE DECISIONS:**

- A. Approve the requested amendment.
- B. Deny the requested amendment.

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**LAGO VISTA PLANNING AND ZONING COMMISSION  
STAFF LAND USE REPORT – DECEMBER 8, 2022**



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<b>P&amp;Z CASE NO:</b>	22-2265-PDD-MOD: 20900 FM 1431
<b>APPLICANT:</b>	LVV Investments LLC (Brookshire Brothers, Tenant)
<b>LANDOWNER:</b>	LVV Investments LLC (Jasmyn Yu)
<b>LOCATION:</b>	Southeast side of Bar-K Ranch Road north of FM 1431
<b>ZONING:</b>	“Lago Vista Retail Center PDD” (Ordinance No. 05-07-07-01)
<b>PROPOSED USE:</b>	Signage Design Standards Amendment

---

**GENERAL INFORMATION / LOCATION:**

- The “Lago Vista Retail Center PDD” consists of a total of six lots in a subdivision that includes one additional lot (Lot 5 of Block A) that is not within the legal description of that approval. That seventh lot of the Lago Vista Retail Subdivision is located on Bronco Lane at the east end of the subject property and is instead within the C-1C zoning district. Only one of those six lots, .Lot 4 of Block A includes the existing tenant structure and parking, although a significant amount of the existing parking is on a portion of Lots 1 through 3 of Block A.
- Although none of those four lots has frontage on FM 1431, the applicant asserts that the municipal address is 20900 FM 1431. That same address is indicated on “Google Maps” for all this property, and it was used to establish the utility account for the existing building in the name of the property owner. However, that address appears to be unknown to Travis County 911 Addressing which has six different addresses for this property, all within the 8000 block of Bronco Lane. As this presents a potentially serious safety concern, the staff will contact Travis County 911 Addressing to determine the best way to resolve this problem before this new tenant begins to operate.
- Notwithstanding the safety concerns described immediately above, this new tenant is in the process of completing the renovations to operate a Brookshire Brothers grocery store within the entirety of the taller single-story component on the west end of the existing structure nearest Bar-K Ranch Road. Our existing sign ordinance contemplates a large retail structure with multiple tenants, each with their own entry and distinct attached (“hanging”) wall signs. However, it does not contemplate a single tenant large enough to occupy a space with multiple public entries and separate services that justifies multiple large signs for that same enterprise.
- Since this property is within a PDD (“Planned Development District”) rather than one of our existing defined zoning districts, it is not eligible for any other form of relief from the sign ordinance and an amendment to the PDD is required. While no use change is involved, it is nonetheless an amendment to the zoning ordinance and the official zoning map. However, the process is not significantly lengthier than a sign variance application, which requires a recommendation from the Building and Standards Commission and approval by the City Council.

**SITE PLAN / CONTEXT CONSIDERATIONS:**

- The applicant seeks approval for a single ID or logo sign, defined in the current sign ordinance as an attached or “hanging wall sign displaying text, initials or other symbols that distinctively identifies a business.” A logo sign is further defined as a “design or insignia of an organization , individual, company or product that is commonly used in advertising.” The validity of this distinction is highly questionable considering more recent U.S. Supreme Court decisions and is not being preserved in the current comprehensive sign ordinance amendment effort. It is nonetheless part of our current ordinance and cannot be ignored while considering this application.
- It should be noted that if this property were in one of our existing defined commercial zoning districts such as C-1, C-2, or C-6, then no relief would be required for the use of an ID or logo sign with a display area of 144 square feet or less as proposed. An ID or logo sign is only allowed in a PDD when it is specifically provided for in the approval ordinance, and no such language appears in Ordinance No. 05-07-07-01.

- The applicant is also requesting an increase in the maximum number of hanging wall signs for a single business that are not considered an ID or logo sign. The ordinance limits each business within a PDD to a single hanging wall sign absent relief contained in the approval ordinance. The application proposes a total of four such attached or hanging wall signs.
- Using the building permit application, the staff has prepared a site plan that identifies the portion of the existing building that will serve as the location of the new grocery store. The same source provided a color rendering of the front elevation and the relevant building elevations. This provides the context and location for the sign details submitted with this application. The hanging wall signs are numbered sequentially beginning at the west end of the front (south) elevation.

#### **RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:**

- The request also seeks an increase to the maximum display area for each hanging wall sign and the maximum height above grade on the building it can be located. The relief sought is an increase in the maximum display area from 24 square feet to 285 square feet and an increase to the maximum mounting height from 12 feet above grade to 40 feet above grade.
- However, both the display area and mounting height vary significantly for each proposed hanging wall sign. Hanging Wall Sign #3 includes the largest display area and the highest proposed mounting height. The rest are significantly smaller and lower on the building. However, all seem proportionate in height and size given the specific proposed location for each sign on the building.
- Although not applicable to a PDD, the existing ordinance seems to recognize that larger buildings warrant additional signs without creating or increasing “clutter,” the avoidance of which is consistent with the “content neutral” regulations (“time, place and manner” restrictions) demanded by the U.S. Supreme Court to avoid “strict scrutiny.” Section 4.808 of Chapter 4 specifies that one additional hanging wall...sign for each additional 25 linear feet of store front length exceeding a basic storefront length of 18 linear feet... may be installed.” As such, the existing ordinance would seem to be primarily concerned with the form of the approval by consistently requiring that all forms of relief related to a PDD be included in the ordinance approval.
- Nonetheless, the Building and Standards Commission has recommended the inclusion of a “master sign program” as part of the comprehensive sign ordinance amendment currently in progress and nearing completion. It would provide for administrative approvals under very strict and specific conditions for a multi-tenant or mixed use development of this scale or larger. Included among those strict approval conditions is a mandate to increase the quality of the design and construction of all signs in comparison to the applicable ordinance provisions.
- The Comprehensive Plan includes two issues indirectly relevant to this application. While the recommendation is limited to freestanding signs, page 43 within Chapter 3 (Land Use) mentions the need to consider increases to the display area of signs within a multi-tenant development. Chapter 9 (Appendix) is a summary of the public input that informed the plan. Public comments frequently mention a stigma associated with vacant commercial facilities. At the time that this Comprehensive Plan was adopted, this location was completely vacant. That is no longer the case, but this establishment might generate the level of patronage to ensure the success of the smaller retailers.

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#### **POTENTIAL ALTERNATIVE RECOMMENDATIONS:**

- A. Recommend approval of the request as meeting the requirements of a PDD detail plan amendment.
- B. Recommend denial of the request.

---

22-2265-PDD-MOD

Existing “Lago Vista Retail Center PDD” Amendment

Attachment 1

Application



**CITY OF LAGO VISTA · DEVELOPMENT SERVICES  
5803 THUNDERBIRD STREET · P.O. BOX 4727 · LAGO VISTA, TX 78645**

Tel. (512) 267-5259

Fax (512) 267-5265

**NOTE:** Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

**APPLICATION FOR ZONING DISTRICT CHANGE**

Contact Person: Jasmyn Yu Fee: See Ordinance Appendix A (non-refundable)

Contact Phone: 512 999-8819 Contact Email: jasmynyu@yahoo.com

Property Owner(s):\* LVV Investments

Owner's mailing address: 10901 N Lamar Blvd, Suite G, Austin, TX 78753

**COMPLETE LEGAL DESCRIPTION OF SUBJECT PROPERTY**

Subdivision, Section and Lot Number(s) if platted. Attach metes & bounds or equal description otherwise\*

Lot 4, Block A, Lago Vista Retail Subdivision

Municipal Address(es)\* if applicable: 20900 2090 Ranch Road 1431, Lago Vista Texas, 78645

**NATURE OF REQUEST**

Current Zoning District(s): PDD Requested District: PDD

Purpose or Basis of Request\* (if PDD, include whether concept and/or detail plan approval is sought):

Amend PDD to allow additional signage on the 40,320 S.F. retail space, on west side of the property.

Additional individual(s) authorized to act on behalf of the property owner(s)\* regarding this application:

Name of Agent: Jasmyn Yu Email: jasmynyu@yahoo.com

Mailing Address: 10901 N. Lamar Blvd, suite G Austin, TX 78753 Phone: 512-999-8819

**NOTE:** Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending a completion review. PLEASE TAKE SPECIFIC NOTICE AND INCORPORATE OR ADDRESS ALL LOCAL ORDINANCE REQUIREMENTS IN YOUR APPLICATION.

Property Owner's signature(s)\*

11-9-22

Date

\*Attach additional sheets as required

Roy Jambor, AICP/PA  
Director of Development Services  
City of Lago Vista, Texas

Mr. Jambor,

Brookshire Brothers is excited to have a new store opening soon in Lago Vista Texas. Unfortunately, during development, we have discovered that the sign ordinance is very restrictive for a large food store. The ordinance allows for only one wall sign. A typical food store would have several signs and the Pharmacy signage is required by law. The attached sign package is part of the Brookshire Brothers branding and is used in all their locations. Therefore, Brookshire Brothers inc. is requesting to amend Ordinance #05-07-07-01. Below is a summary of the changes requested:

Add:

Section 4, Item 15:

At westmost 40,320 S.F. Retail Space, hanging wall signage shall be limited to four (4) signs, attached to the building, with a total aggregate area, for all four signs, of 425 S.F. Signs shall be mounted so that the top of sign is no higher than 40.'

At westmost 40,320 S.F. Retail Space, one (1) ID or Logo sign mounted to the façade and limited to 144 S.F. shall be allowed.

Outdoor internally illuminated signs (backlit), whether freestanding or building-mounted, shall be permitted with a white background and darker letters and symbols. The internally illuminated or backlit portion of the sign can be white, cream, off-white, or yellow.

Please let us know if you have any questions. Our signage contractor is available to discuss sign specifics and can be available, if required, at the zoning meeting.

Thank you,

William Lonsdale, RA, NCARB  
Principal, Sr. Associate



**Heights Venture**

Architecture + Design

5741 Legacy Drive, Suite 320

Plano, Texas 75024

D: 281.854.6136

[Will.Lonsdale@hva.cc](mailto:Will.Lonsdale@hva.cc)



22-2265-PDD-MOD

Existing “Lago Vista Retail Center PDD” Amendment

Attachment 2

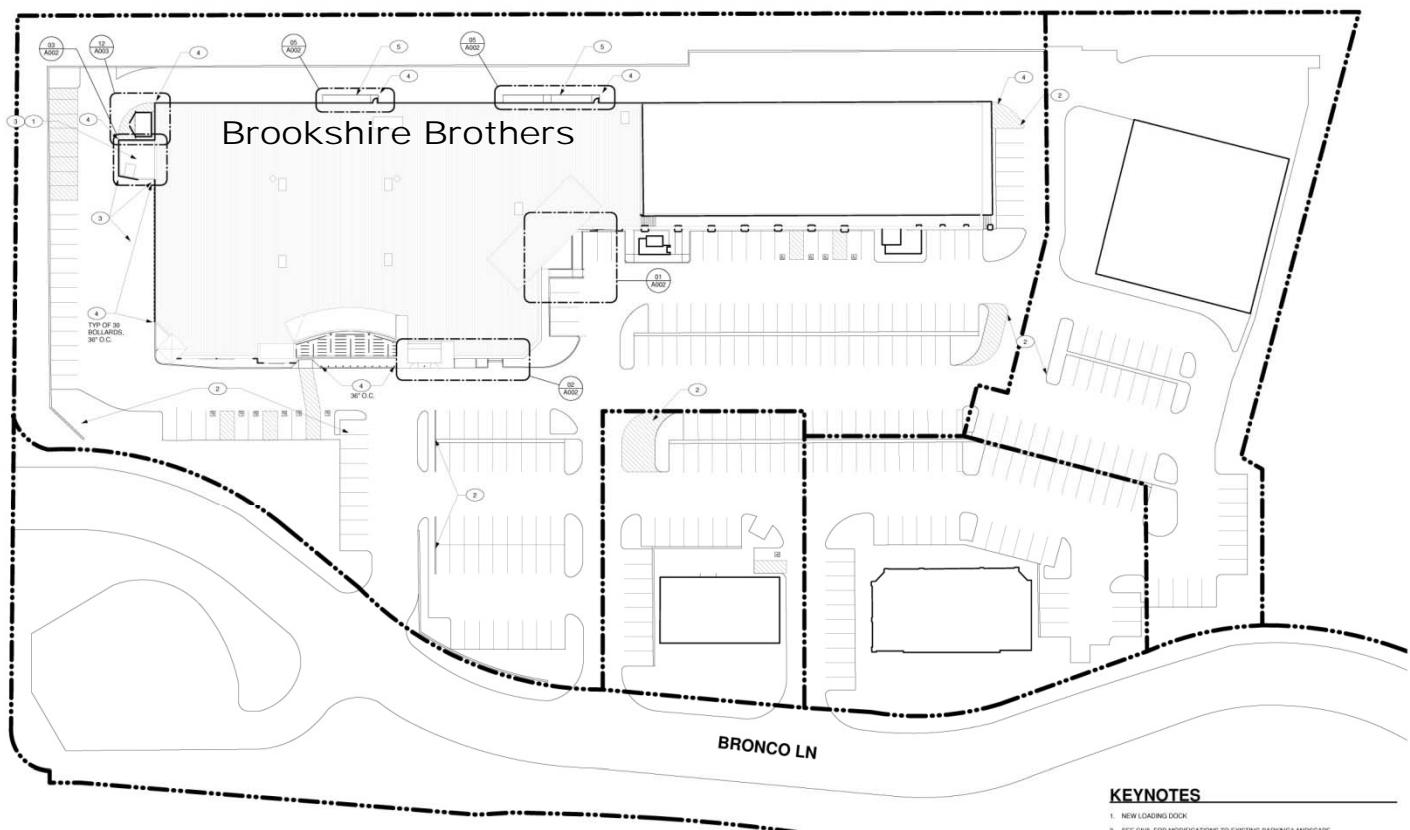
Proposed Sign Design Standard Amendment



East Elevation



South Elevation



Site Plan

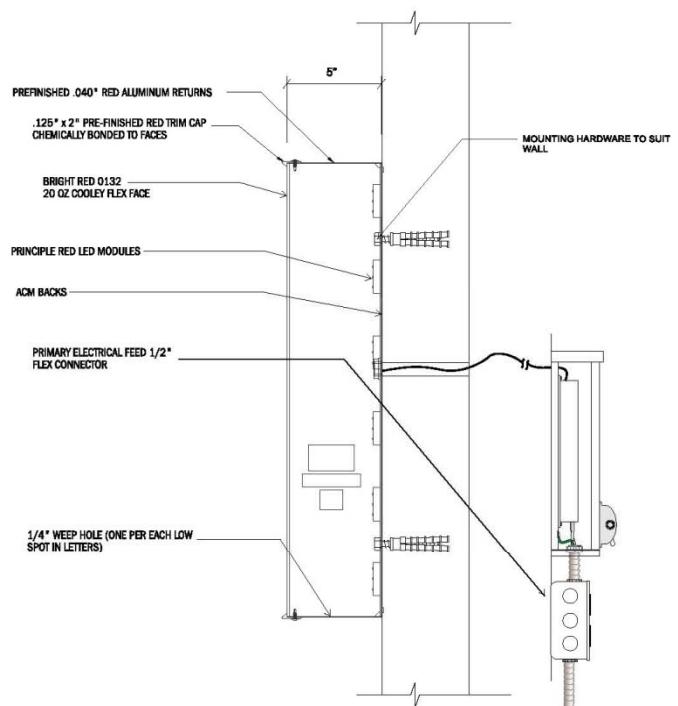


Rendering - Front Elevation



## ID / Logo Sign

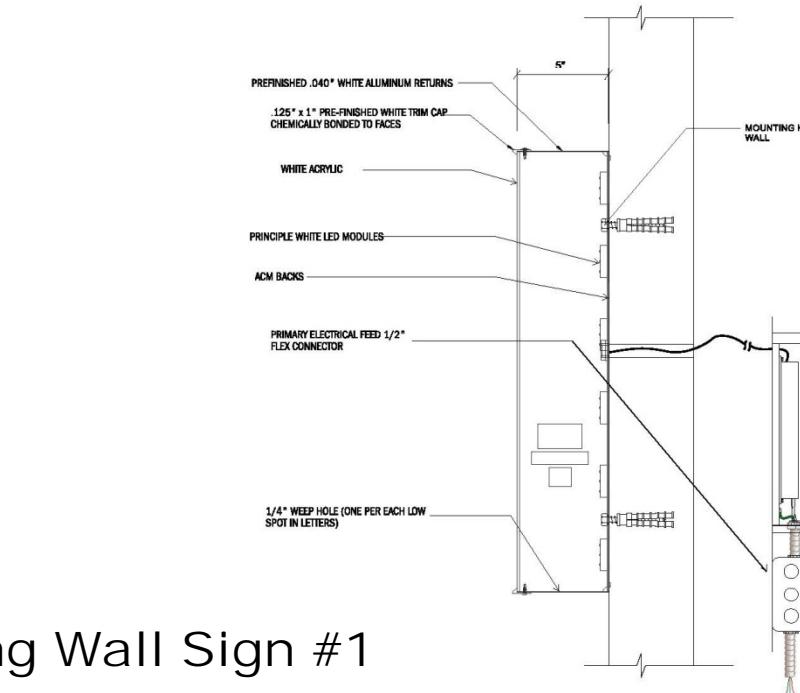
front lighted channel cabinet with flex face 20 oz cooley flex faces in bright red 0132 / red 2" trim / red returns



front lighted channel letters white faces / white trim / white returns / direct mount



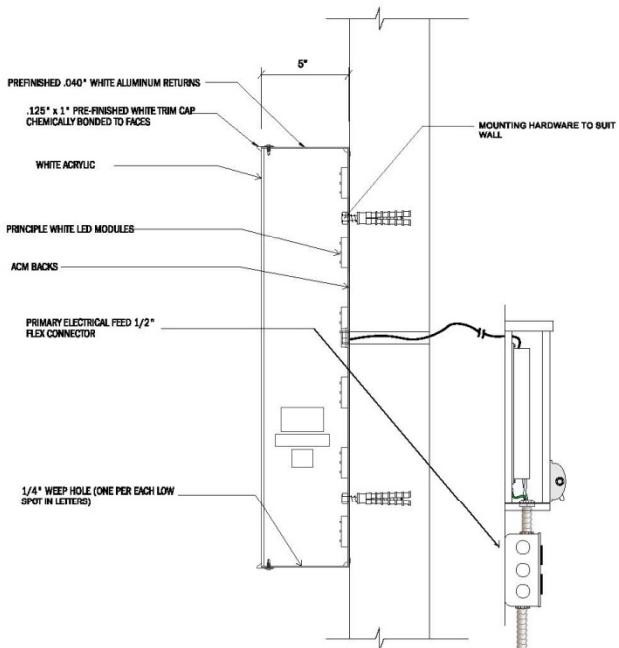
Hanging Wall Sign #1



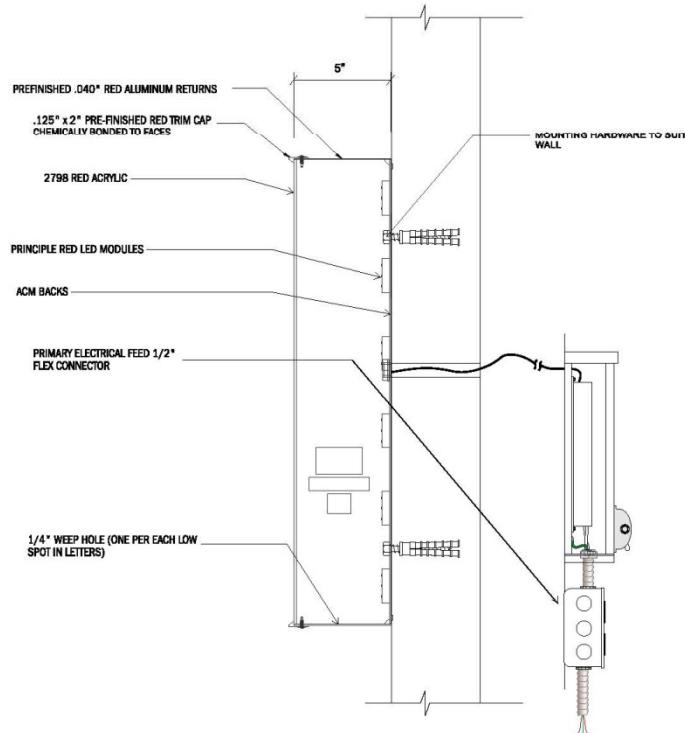
front lighted channel letters white faces / white trim / white returns / direct mount



Hanging Wall Sign #2

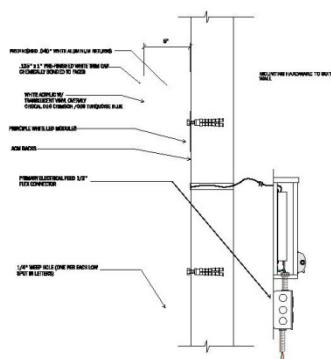


front lighted channel letters red 2793 faces / 2" jewelite red rim / red aluminum returns / red LED's / eyebolts for lifting / mounting pattern



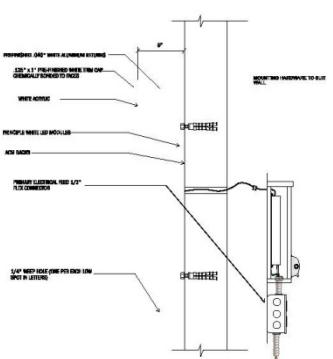
Hanging Wall Sign #3

LOGO CABINET



CHANNEL LETTERS

front lighted channel cabinet with white face and 2 color translucent vinyl orocal 016 crimson & orocal 066 turquoise blue / white trim / white returns  
front lighted channel letters / white face/ 1" white trim / white returns / direct mount



Hanging Wall Sign #4

**TABLE A**

Sign type	C-4	G-1	P, P-1, P-2	CR Resorts	PDD	LI	ETJ and TR-1
<b>ID or Logo</b>				1	Unless otherwise stated in the PDD text		attached to bldg.
Number allowed per business	1	Not allowed	Not allowed	Not allowed	Not allowed	1	Not allowed
Location (distance from property line)	runway side only	Not allowed	Not allowed	Not allowed	Not allowed	attached to bldg. within facade	Not allowed
Maximum display surface area (sq. ft.)	within facade 144	Not allowed	Not allowed	Not allowed	Not allowed	144	Not allowed
<b>Hanging wall (see Section 4.808)</b>				144	Unless otherwise stated in the PDD text		
Number allowed per business	1	1	1	1	4	1	1
Location	attached to bldg.	attached to bldg.	attached to bldg.				
Maximum height above grade	12'	12'	12'	12'	12'	12'	12'
Maximum display surface area (sq. ft.)	24	24	24	24	24	24	24

\*\*\*\*\*

40'

285 (max.)  
425 (cumulative)

22-2265-PDD-MOD

Existing “Lago Vista Retail Center PDD” Amendment

Attachment 3

Previously Approved PDD Plan / Applicable Ordinance

CITY OF LAGO VISTA, TEXAS

ORDINANCE NO. 05-07-07-01

AN ORDINANCE OF THE CITY OF LAGO VISTA, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING THE LOTS KNOWN AS THE LAGO VISTA RETAIL CENTER FROM C-1C AND C-6 ZONING TO A "PLANNED DEVELOPMENT DISTRICT" TO BE KNOWN AS THE LAGO VISTA RETAIL CENTER PLANNED DEVELOPMENT DISTRICT; ESTABLISHING THE ZONING REQUIREMENTS FOR THE PLANNED DEVELOPMENT DISTRICT, MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.

**WHEREAS**, the owner/developer of the property known as Lago Vista Retail Center (described hereinafter as the "Property") has requested that the Property be rezoned; and

**WHEREAS**, the lots currently described as Lots 18001, 18002, 18003, 18004, 18012, 18013, and 18014 of the Bar K Ranches Subdivision, Section 18 is in the process of being replatted and the new plat will establish the properties as Lots 1, 2, 3 and 4 of Block A and Lots 1 and 2 of Block B of the Lago Vista Retail Center Subdivision, and

**WHEREAS**, the properties as mention above will be commonly referred to as the Lago Vista Retail Center, and

**WHEREAS**, after publishing notice to the public at least fifteen (15) days prior to the date of such hearing, the Planning and Zoning Commission and the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property; has transpired;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Amendment of Zoning Ordinance.** Ordinance No. 98-04-27-03, as amended, and all subsequent ordinances of the City of Lago Vista relating to the zoning of the property, is hereby modified and amended by rezoning the Property as set forth in Section 3.

**Section 3. Rezoned Property.** The Zoning Ordinance is hereby amended by changing the zoning district for the land and parcel of property being a 10.21 acre tract of land out of the Bar K Ranches Subdivision, Section 18, amended, of the deed records of Travis County, Texas, more fully described in Exhibit "A" to this ordinance from the

current zoning district C-1C and C- 6 to zoning district "PDD". The Property is hereby rezoned to Planned Development District ("PDD") with the uses of individual lots as set forth on the approved subdivision plat as provided in Section 4.

**Section 4. Zoning Requirements.** The zoning requirements established herein shall apply to the Planned Development District (“PDD”) known as Lago Vista Retail Center Planned Development District. The comprehensive zoning requirements of Ordinance No. 98-04-27-03, as amended, shall apply to each property as individually zoned; provided that should any conflict appear between the requirements in the comprehensive zoning ordinance and the requirements for the individual lots set forth herein, the requirements set forth herein shall control:

1. Zoning. All properties within the development shall be zoned C-1 and shall comply with the zoning requirements of C-1 District except as hereinafter specifically modified.
2. The impervious cover for the entire development contained in PDD may exceed normal commercial development limits of 60% so long as adequate water quantity and/or quality facilities are designed and constructed to accommodate runoff. Under no circumstances shall the impervious cover of the PDD exceed 70%.
3. Minimum parking requirements for all lots included in the PDD shall meet or exceed a ratio of 1 parking space for every 300 square foot of building area.
4. Exterior lights shall not be permitted to shine directly in the eyes of any occupant of any vehicle on any roadway or directly on to adjoining private property. Except for business that are open 24 hrs. per day, lighting other than that necessary for security, shall be turned off at 11:00 PM.  
Exception: Holiday lighting between Thanksgiving and New Years Day may be on all night provided it does not blind motorists or cause a nuisance to adjoining residences.  
Light Poles shall not exceed 25 feet in height measured from the base of the pole to the top of the fixture, have no more than 2 fixtures per pole, not exceed 200 watts per fixture, have hooded fixtures that direct the light down, and have no more than one single light per every other pole illuminated after 11:00 PM for security purposes.
5. All signage will comply with City of Lago Vista ordinances and development regulations and shall be dimmed to half their original illumination after 11:00 PM.
6. Use of Lot 2, Block B of the Lago Vista Retail Center shall be restricted to solely provide for storm water retention and/or detention and for other drainage purposes for all other lots within in the Retail Center.
7. Use of Lots 1, 2, 3 and 4, Block A shall be permitted as additional uses such uses as allowed under C-2, and/or C-6 zoning categories.
8. Use of Lot 1, Block B shall be restricted to such uses as allowed under the C-1 zoning category.
9. The maximum building height for the lots in the Lago Vista Retail Center are as follows:

Block A: Lot 1 – 35 feet above the first finished floor elevation of 941.5 feet above sea level;

Lot 2 – 35 feet above the finished first floor elevation of 938.5 feet above sea level;

Lot 3 – 35 feet above the first finished floor elevation of 943.5 feet above sea level;

Lot 4 – 35 feet above the first finished floor elevation of 951 feet above sea level; however, the building on Lot 4 will be allowed to include a clock tower with width of approximately 17 feet that does not exceed 55 feet above the first finished floor elevation and two or three roof dormers not to exceed 45 feet above the first finished floor elevation.

Block B:      Lot 1 – 35 feet above the first finished floor elevation of 953.5 feet above sea level;

Lot 2 – drainage structures and retaining walls shall not exceed a maximum height of 930 feet above sea level.

10. Parking for all lots in the Lago Vista Retail Center may be shared among the various buildings in the Center as well as all driveways and other related facilities, provided the minimum requirements are met for the proper ratio of cumulative buildings to cumulative parking and adequate ingress and egress is provided for each building and each building sharing a parking lot and driveway have the uninhibited right to use the parking lot and driveway from the other owners.

11. Constrictors or poisonous snakes, lions, tigers and bears, or other exotic animals are prohibited.

12. Professional kennel operations are prohibited.

13. Accessory use structures shall not be permitted.

14. All development shall be constructed in accordance with the Lago Vista Retail Center Site Development Plan attached hereto, and made a part hereof.

**Section 5. Amendment of Ordinances.** Ordinance No. 98-04-27-03 and any subsequent ordinances are hereby amended to add the above-described planned development district.

**Section 6. Severability.** Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

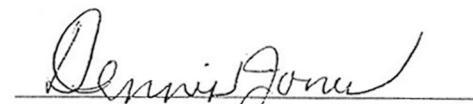
**Section 7. Conflicts.** Any portion of ordinance in conflict herewith is hereby repealed to the extent of such conflict only.

**Section 8. Effective Date.** This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

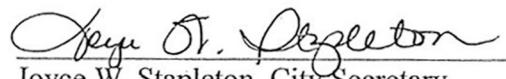
**Section 9. Open Meetings.** It hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 1<sup>st</sup> day of July,  
2005.

  
\_\_\_\_\_  
Dennis Jones, Mayor

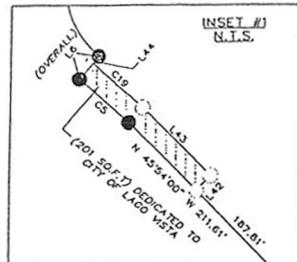
ATTEST:

  
\_\_\_\_\_  
Joyce W. Stapleton, City Secretary

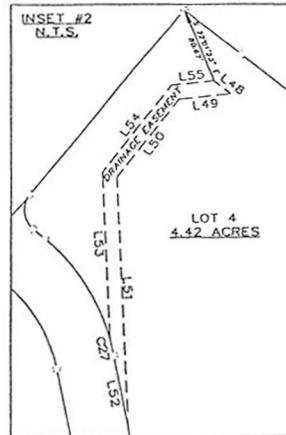
On a motion by Council Member Hugh Farmer, seconded by Council Member Randy Kruger, the above and foregoing ordinance was passed and approved.

# EXHIBIT "A"

FINAL PLAT OF THE  
LAGO VISTA RETAIL SUBDIVISION  
12.08 ACRES OUT OF THE DALLAS & WICHITA RAILROAD COMPANY SURVEY NO. 97  
TRAVIS COUNTY, TEXAS



LEGEND	
●	1/2" IRON PIN FOUND (UNLESS OTHERWISE NOTED)
○	1/2" IRON PIN SET w/YELLOW PLASTIC CAP "CS, LTD"
□	SANITARY SEWER MANHOLE
DE	DRAINAGE EASEMENT
UE	UTILITY EASEMENT
PE	PUBLIC UTILITY EASEMENT
BL	PUBLIC LINE
P.R.C.	PLAT RECORDS TRAVIS CO., TX



OWNER/SUBDIVIDER:

DAVID CONSTRUCTION, INC.  
DAVID YOUNG (PRESIDENT)  
1515 CAPITAL OF TEXAS HWY., STE 107  
AUSTIN, TEXAS 78746

OWNER/SUBDIVIDER:

MICHAEL W. KURNIAWAN  
PINTU AIR 36 K-L  
JAKARTA PUSAT, INDONESIA

LAND USE:

TOTAL ACREAGE: 12.08  
R.O.W. DEDICATED: 1.34 ACRES  
LINEAR FEET OF STREET: 963.68 LF  
TOTAL NO. OF BLOCKS: 2  
TOTAL NO. OF LOTS: 7  
ZONING: P.D.  
USE: COMMERCIAL

SURVEYOR:

CASTLEBERRY SURVEYING, LTD.  
203 SOUTH IH 35, SUITE 101 C  
GEORGETOWN, TEXAS 78628  
(512) 930-1600 - PHONE  
(512) 930-9389 - FAX

ENGINEER:

AUSTIN CIVIL ENGINEERING, INC.  
2700 S. LAMAR BLVD., STE 200A  
AUSTIN, TEXAS 78704  
(512) 306-0010 - PHONE  
(512) 306-0048 - FAX



# CHAPTER 4

## BUSINESS REGULATIONS AND TAXATION

\*\*\*\*\*

### ARTICLE 4.800 SIGNS AND GRAFFITI

#### Sec. 4.801 Definitions

\*\*\*\*\*

Hanging Wall Sign. A sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall.

ID or Logo Sign. A hanging wall sign displaying text, initials, or other symbols that distinctively identifies a business. The size of the display area is that area that completely encloses the text, initials, or symbols within no more than three geometric shapes. The maximum allowable display size shall be no more than 10% of the facade to which it is hung. In no case may the display area be more than 144 sq. ft. and the display may not project above the or beyond the facade lines.

\*\*\*\*\*

#### Sec 4.808 Design Requirements

All signs erected in the city shall conform to the requirements prescribed in table A and table B of this article and shall be constructed in a workmanlike manner:

- (a) A business or organization may install one additional set of signs if it has regular customer or client access from a second separate street.
- (b) One additional hanging wall, projecting wall, window and awning sign for each additional 25 linear feet of store front length exceeding a basic storefront length of 18 linear feet, for instance to show the name of the building which may have multiple tenants, may be installed.
- (c) Tenants of a multitenant building may install, if feasible, a hanging wall, projecting wall, window or awning sign in addition to their advertisement on a multitenant freestanding sign.

\*\*\*\*\*

**TABLE A**

Sign type	C-4	G-1	P, P-1, P-2	CR Resorts	PDD	LI	ETJ and TR-1
<b>ID or Logo</b>					Unless otherwise stated in the PDD text		
Number allowed per business	1	Not allowed	Not allowed	Not allowed	Not allowed	1	Not allowed
Location (distance from property line)	runway side only	Not allowed	Not allowed	Not allowed	Not allowed	attached to bldg. within facade	Not allowed
Maximum display surface area (sq. ft.)	within facade 144	Not allowed	Not allowed	Not allowed	Not allowed	144	Not allowed
<b>Hanging wall (see Section 4.808)</b>					Unless otherwise stated in the PDD text		
Number allowed per business	1	1	1	1	1	1	1
Location	attached to bldg.	attached to bldg.	attached to bldg.				
Maximum height above grade	12'	12'	12'	12'	12'	12'	12'
Maximum display surface area (sq. ft.)	24	24	24	24	24	24	24

\*\*\*\*\*

22-2265-PDD-MOD

Existing “Lago Vista Retail Center PDD” Amendment

Attachment 4

Maps



0 40 80 160 240 320

$$1 \text{ in} = 240 \text{ ft}$$

**20900 FM 1431**

Request Type	PDD Amendment	Project	22-2265-PDD-MOD
Change Requested	Sign regulations	Date	11/21/2022
Map Purpose	Aerial & Topo Map	Drawn By	chris.martinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

## Contours

— 10 ft

— 50 ft

— Street

Project A

TaxParcel  
73

- City Limits



0 40 80 160 240 320

$$1 \text{ in} = 240 \text{ ft}$$

**20900 FM 1431**

Request Type	PDD Amendment	Project	22-2265-PDD-MOD
Change Requested	Sign regulations	Date	11/21/2022
Map Purpose	Zoning Map	Drawn By	chris.martinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

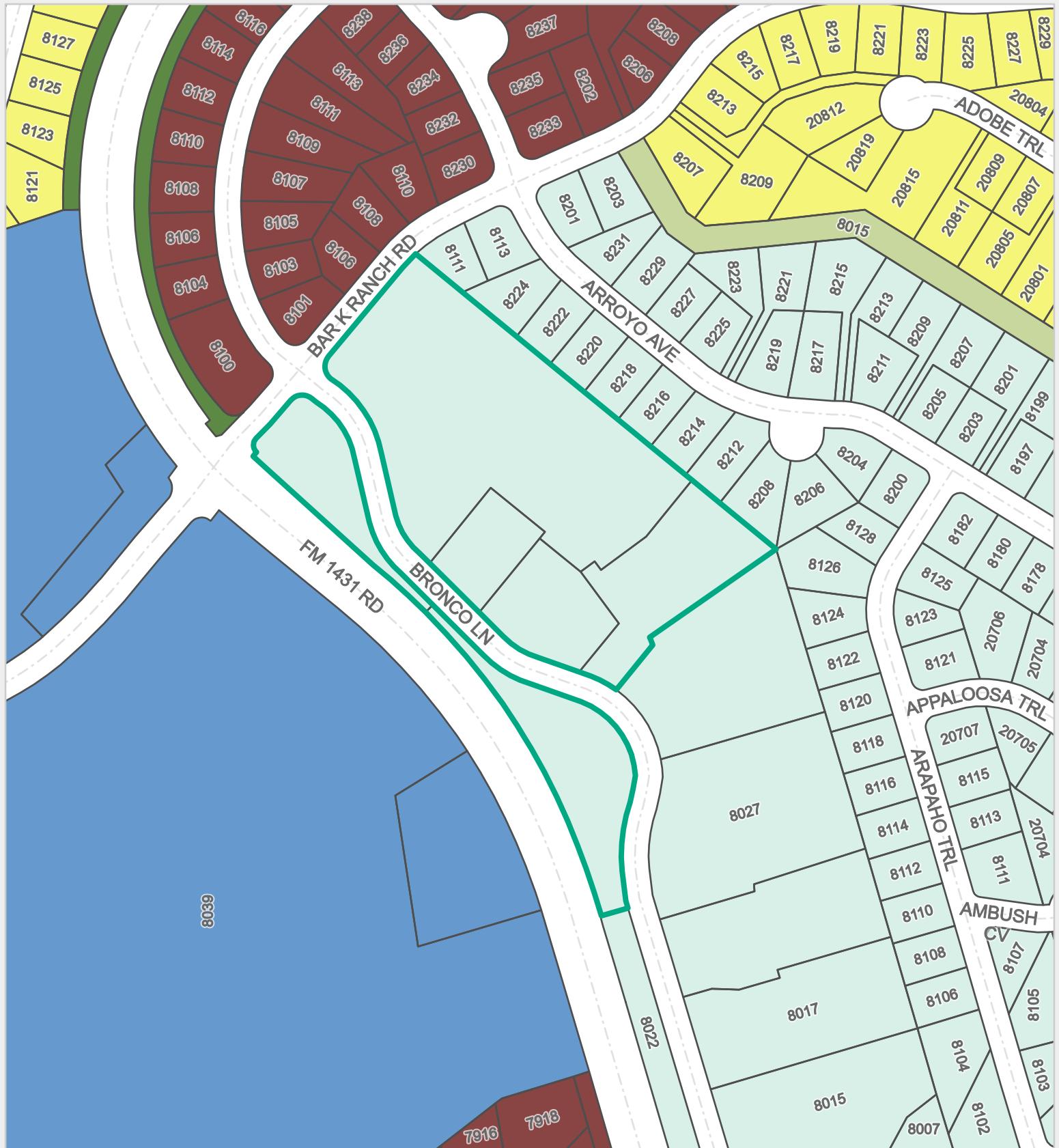
74

- Street
- Project Area
- TaxParcel
- City Limits

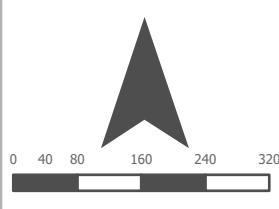
**Zoning Districts**

- C-1C
- PDD
- R-1A
- TR-1
- U-1

**74**



N



## 20900 FM 1431

Request Type	PDD Amendment	Project	22-2265-PDD-MOD
Change Requested	Sign regulations	Date	11/21/2022
Map Purpose	Future Land Use Map	Drawn By	chris.martinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

- Street
- Project Area
- TaxParcel
- City Limits
- City Park
- Low Density Residential
- Mixed Use
- POA Park
- Public Semi-Public
- Regional Retail/Office/Commercial

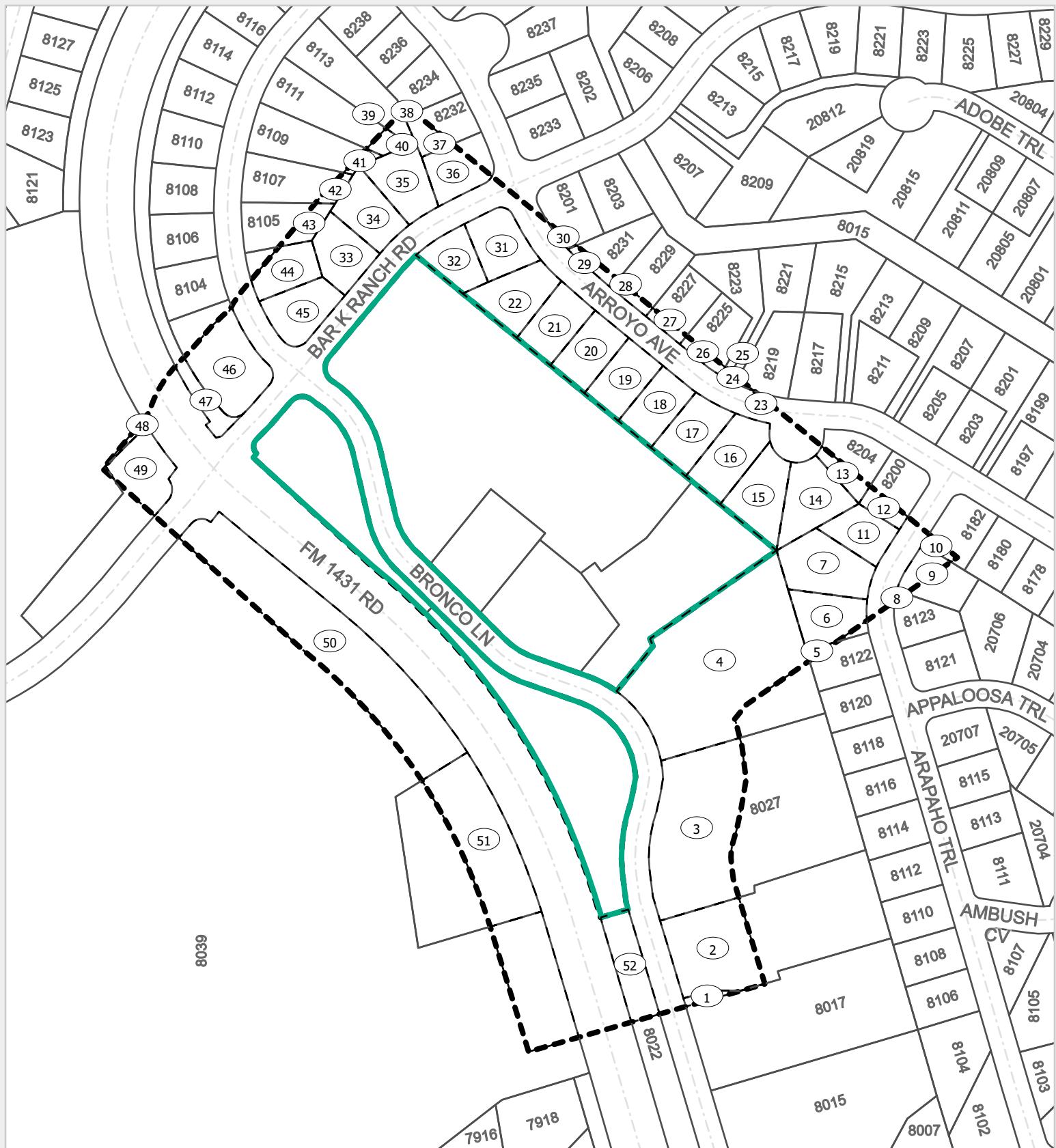
75

22-2265-PDD-MOD

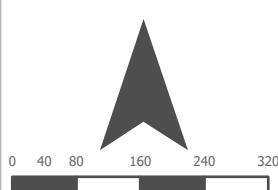
Existing “Lago Vista Retail Center PDD” Amendment

Attachment 5

Notice Comments



N



## 20900 FM 1431

Request Type	PDD Amendment	Project	22-2265-PDD-MOD
Change Requested	Sign regulations	Date	11/21/2022
Map Purpose	Notification Boundary Map	Drawn By	chris.martinez

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

- Street
- Project Area
- 200ft Notice Boundary
- TaxParcel
- City Limits

77



## Notice of Public Hearing

RECEIVED

DEC 08 2022

BY:

**Project #:** 22-2265-PDD-MOD

**Hearing Date and Time:** Thursday, December 8, 2022, at 7:00 P.M. in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas and/or using an online videoconferencing tool to receive citizen input. Additional information, details, and instructions on how to participate will be included in the agenda posted at City Hall and on the City website ([lagovistatexas.gov](http://lagovistatexas.gov)) prior to the scheduled meeting dated in accordance with the Open Meetings Act.

**Project Property Location:** 20900 FM 1431 (Lago Vista Retail Center Subdivision, Lots 1 through 4 of Block A and Lots 1 and 2 of Block B)

**200' Notification Mailing ID:** 9

November 22, 2022

CARUSO NATHAN A  
13805 Field Spar Dr  
Manor, TX 78653

The Planning and Zoning Commission will make a consideration of a recommendation to amend the "Lago Vista Retail Center PDD" established by Ordinance No. 05-07-07-01 to include relief from strict compliance with the sign regulations otherwise applicable to this property commonly described as being located at 20900 FM 1431 (Lago Vista Retail Center Subdivision, Lots 1 through 4 of Block A and Lots 1 and 2 of Block B).

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

**E-mail:** [development@lagovistatexas.gov](mailto:development@lagovistatexas.gov)  
**Phone Number:** 512-267-5259

---

Please return your comments as soon as possible. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. **Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.**

In Favor;  Opposed

Comments:

Signed: Kitt A. Lee

This whole page may be returned as follows:

**E-mail:** [development@lagovistatexas.gov](mailto:development@lagovistatexas.gov)  
**Postal Address:** City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645  
**In Person at Front Counter:** Development Services Dept., Lago Vista City Hall 5803 Thunderbird St.



## Notice of Public Hearing

**Project #:** **22-2265-PDD-MOD**

**Hearing Date and Time:** Thursday, December 8, 2022, at 7:00 P.M. in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas and/or using an online videoconferencing tool to receive citizen input. Additional information, details, and instructions on how to participate will be included in the agenda posted at City Hall and on the City website (lagovistatexas.gov) prior to the scheduled meeting dated in accordance with the Open Meetings Act.

**Project Property Location:** 20900 FM 1431 (Lago Vista Retail Center Subdivision, Lots 1 through 4 of Block A and Lots 1 and 2 of Block B)

**200' Notification Mailing ID:** 49

November 22, 2022

LAGO VISTA I S D  
20801 FM 1431  
LAGO VISTA, TX 78645

The Planning and Zoning Commission will make a consideration of a recommendation to amend the "Lago Vista Retail Center PDD" established by Ordinance No. 05-07-07-01 to include relief from strict compliance with the sign regulations otherwise applicable to this property commonly described as being located at 20900 FM 1431 (Lago Vista Retail Center Subdivision, Lots 1 through 4 of Block A and Lots 1 and 2 of Block B).

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**Phone Number:** 512-267-5259

---

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In Favor;  Opposed

Comments:

Signed: Daren Webb Lago Vista ISP

This whole page may be returned as follows:

**E-mail:** [development@lagovistatexas.gov](mailto:development@lagovistatexas.gov)  
**Postal Address:** City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645  
**In Person at Front Counter:** Development Services Dept., Lago Vista City Hall 5803 Thunderbird St.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 05 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.20 and 11.30 of Chapter 14 of the Lago Vista Code of Ordinances to specifically recognize the ability of the Board of Adjustment to consider any of the grounds included in Section 211.009(b-1) of the Texas Local Government Code in making the determination whether the strict application of a zoning ordinance provision would result in an unnecessary hardship; and providing for related matters.

**Request:** Public Hearing

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The mandatory requirements for the Board of Adjustment to approve a zoning variance are enumerated in Section 11.20 of Chapter 14 of the Lago Vista Code of Ordinances, as amended by this Council in Ordinance Number 21-08-19-03. The purpose of that amendment was to maximize consistency with all applicable state statutes. Shortly thereafter (effective September 1, 2021), HB 1475 provided authority for additional discretion that the Board of Adjustment might exercise in determining whether the basis of a specific variance application is an "unnecessary hardship" (the statutory requirement). The following five potential considerations were added to the evaluation authorized by the Texas Local Government Code: 1) if the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal; 2) if compliance would result in a loss of at least 25 percent of the area on which development may occur; 3) if compliance would result in the structure being unable to conform to another ordinance, code, or requirement; 4) if compliance would result in the unreasonable encroachment on an adjacent property or easement; or 5) the municipality considers the structure to be nonconforming.

The delay in the staff drafting this potential amendment was to ensure that we fully understood the purpose of HB 1475 as it seemed to set a low approval standard. The explanation from several sources was a reminder that these were discretionary factors that could be considered, but did not supersede the mandatory requirements of our ordinance or the Texas Local Government Code. The staff subsequently prepared this draft, unanimously recommended by the Planning and Zoning Commission at their July 14, 2022 regular meeting and forwarded to this Council on August 18, 2022. The Council asked that we remand it back to the Planning and Zoning Commission in order for them to receive input from the Board of Adjustment.

The Vice-Chair of the Board of Adjustment was willing to work with the staff to include language that fully explained the nature of the added discretion and emphasized that it was intended to help define the requirements and not supersede them. The Board of Adjustment confirmed that input at their December 6, 2022 meeting and the amended version was unanimously recommended by the Planning and Zoning Commission on December 8, 2022. No one spoke during the public hearing.

**Impact if Approved:**

Notice of this additional discretion available to the Board of Adjustment in consideration of a variance application would be more apparent to both the board members and potential applicants.

**Impact if Denied:**

The exercise of that discretion would presumably be equally valid. However, it is far less likely that potential applicants would know of their ability to urge the Board of Adjustment to exercise that discretion.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Integration of HB 1475 of the 2021 Texas Legislature into Chapter 14 of the Lago Vista Code of Ordinances.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:22:24 -06'00'

## **ORDINANCE NO. 23-01-05-02**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS,  
AMENDING SECTIONS 11.20 AND 11.30 OF CHAPTER 14 OF THE LAGO  
VISTA CODE OF ORDINANCES TO SPECIFICALLY RECOGNIZE THE  
ABILITY OF THE BOARD OF ADJUSTMENT TO CONSIDER ANY OF THE  
GROUNDS INCLUDED IN SECTION 211.009(B-1) OF THE TEXAS LOCAL  
GOVERNMENT CODE IN MAKING THE DETERMINATION WHETHER  
THE STRICT APPLICATION OF A ZONING ORDINANCE PROVISION  
WOULD RESULT IN AN UNNECESSARY HARDSHIP; AND PROVIDING  
FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously specified the findings required for the Board of Adjustment to approve a zoning variance in Section 11.20 of Chapter 14, the Zoning Ordinance; and

**WHEREAS**, the City Council of the City of Lago Vista has also previously provided guidance to the Board of Adjustment by including language in Section 11.30 of Chapter 14, the Zoning Ordinance, that specifies what is described as their “interpretive role” in making the required determinations; and

**WHEREAS**, Section 211.009(b-1) of the *Texas Local Government Code* now includes enumerated discretionary authority that the Board of Adjustment may exercise in the determination of whether the basis of a specific variance application is an “unnecessary hardship;” and

**WHEREAS**, the staff and members of the Planning and Zoning Commission believe that it is in the best interest of the residents and property owners of the City if local ordinances are as consistent as possible with state statutes so that the Board of Adjustment can more effectively rely on the guidance of Texas courts in making decisions involving zoning variance requests; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista has undertaken a review of those regulations which included input from the Board of Adjustment and conducted multiple public hearings concerning those regulations at their meetings between November 11, 2021, and December 8, 2022; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend those requirements contained within Sections 11.20 and 11.30 of Chapter 14 of the Lago Vista Code of Ordinances as described below; and

**WHEREAS**, the City Council at its public hearing to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Sections 11.20 and 11.30 of the Zoning Ordinance found in Chapter 14 of the Lago Vista Code of Ordinances as shown in **Exhibit “A.”**

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase, or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**SECTION 6. OPEN MEETINGS.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**EXHIBIT “A”**

**CHAPTER 14**

**ZONING**

**11.20 Conditions Required for Variance**

No variance shall be granted unless the Board of Adjustment finds:

- (a) That approval of the variance is not contrary to the public interest (see Section 2.10 above).
- (b) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. A hardship shall:
  - (1) Not be self-imposed or personal in nature;
  - (2) Not be purely financial or pecuniary; and
  - (3) Must relate to a unique aspect of the property for which the variance is sought, such as irregularity of shape or topography, and not common or generally characteristic of the area.
- (c) That the variance will be no greater than the minimum required to alleviate the difficulty or hardship for which the variance is requested; and
- (d) That the spirit of the ordinance is observed, and substantial justice is done.

**11.30 Interpretive Role**

At the sole discretion of the Board of Adjustment, any of the grounds allowed under state law, including but not limited to those enumerated in Section 211.009(b-1) of the Texas Local Government Code or any successor statute thereto, may be considered in making the determination whether the strict application of a zoning ordinance provision in a specific circumstance would result in an unnecessary hardship.

Nonetheless, the exercise of this legislatively authorized discretion does not supplant, supersede, or eliminate the mandatory findings of each of the enumerated requirements in Section 11.20 above. That includes but is not limited to the requirement that the unnecessary hardship must be based on special conditions related to a unique, uncommon, or unusual aspect of the property in question. It also specifically limits relief to the minimum required to alleviate the unnecessary hardship, to the exclusion of potential reasonable alternatives.

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# CHAPTER 14

## ZONING

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### **11.20 Conditions Required for Variance**

No variance shall be granted unless the Board of Adjustment finds:

- (a) That approval of the variance is not contrary to the public interest (see Section 2.10 above).
- (b) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.  
A hardship shall:
  - (1) Not be self-imposed or personal in nature;
  - (2) Not be purely financial or pecuniary; and
  - (3) Must relate to a unique aspect of the property for which the variance is sought, such as ~~irregularity of shape or topography, rather than one commonly found on other property~~ and not common or generally characteristic of the area.
- (c) That the variance will be no greater than the minimum required to alleviate the difficulty or hardship for which the variance is requested; and
- (d) That the spirit of the ordinance is observed, and substantial justice is done.

### **11.30 Interpretive Roles**

- (a) ~~Variances to provisions to this chapter should be granted sparingly.~~
- (b) ~~Granting of a variance must be predicated on a finding that the applicant's request for variance arises from unusual conditions or circumstances, such as exceptional irregularity of shape or topography, which are peculiar to the parcel of land involved and not shared generally by other parcels in the neighborhood, or because no other reasonable alternative is available.~~

At the sole discretion of the Board of Adjustment, any of the grounds allowed under state law, including but not limited to those enumerated in Section 211.009(b-1) of the Texas Local Government Code or any successor statute thereto, may be considered in making the determination whether the strict application of a zoning ordinance provision in a specific circumstance would result in an unnecessary hardship.

Nonetheless, the exercise of this legislatively authorized discretion does not supplant, supersede, or eliminate the mandatory findings of each of the enumerated requirements in Section 11.20 above. That includes but is not limited to the requirement that the unnecessary hardship must be based on special conditions related to a unique, uncommon, or unusual aspect of the property in question. It also specifically limits relief to the minimum required to alleviate the unnecessary hardship, to the exclusion of potential reasonable alternatives.



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 05 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances regarding procedures for special exception approvals for increased height, including requests involving property within the 100-year floodplain; and providing for related matters.

**Request:** Public Hearing

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The Planning and Zoning Commission forwarded a recommended amendment to Section 11.60 of Chapter 14 to the City Council on October 11, 2022. It addressed an anomaly for applications within the 100-year floodplain that were seemingly unanticipated by the original version of the ordinance. The Council took this opportunity to remand the recommended amendment back to the Planning and Zoning Commission for them to consider shifting consideration of those applications to the Board of Adjustment. That change is supported by the staff and seems much more consistent with the intent of the Texas Local Government Code.

However, the staff also pointed out that there are some existing conditional use approvals that allow relief from zoning ordinance development standards for accessory buildings (setbacks and maximum area) instead of anything related to a use. As a result, that relief should be in the form of a variance, or a special exception request if a unique and specific approval standard is desired. Unfortunately, the existing conditional use provisions do not include any intended approval standards.

Both changes were welcomed by the members of the Planning and Zoning Commission. In fact, they did not want to delay the changes to the increased height approval procedures in order to develop the approval standards related to accessory building setbacks or maximum area. As a result, they have forwarded a recommended amendment that modifies the procedures for special exceptions for increased height, but also accommodates the addition of future special exception approvals.

No one spoke during the public hearing. Six of the seven Planning and Zoning Commission members were present for this portion of the meeting. The recommendation for approval of the amendment was unanimous.

**Impact if Approved:**

Special exception requests for increased height will now be considered by the Board of Adjustment with other types of special exception approvals (such as those associated with accessory buildings) accommodated in the near future. This amendment will also resolve an existing anomaly related to increased height requests on property that is well below the 100-year floodplain.

**Impact if Denied:**

The Planning and Zoning Commission will continue to consider special exception requests for increased height. The problem related to some increased height requests within the 100-year floodplain will remain unresolved.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Special exception approvals for increased height amended for consideration by the Board of Adjustment and to include additional requirements for some applications within the 100-year floodplain.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:40:11 -06'00'

## **ORDINANCE NO. 23-01-05-03**

### **AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTIONS 11.60 AND 13.40 OF CHAPTER 14 OF THE LAGO VISTA CODE OF ORDINANCES REGARDING PROCEDURES FOR SPECIAL EXCEPTION APPROVALS FOR INCREASED HEIGHT, INCLUDING REQUESTS INVOLVING PROPERTY WITHIN THE 100-YEAR FLOODPLAIN; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously specified the procedures for the approval of special exceptions to increase the maximum height of a building within the jurisdiction in Chapter 14, the Zoning Ordinance; and

**WHEREAS**, those procedures included approval standards within Section 11.60(b) that limited applications, including those within the 100-year floodplain, to those that would not exceed a maximum height of thirty-five feet above the ground when measured from the geometric center of the proposed foundation; and

**WHEREAS**, it was subsequently discovered that the precise wording of this provision would preclude a special exception application for some properties within the City of Lago Vista; and

**WHEREAS**, the potential unintended consequence of this provision might be zoning variance applications for additional height at any location within the jurisdiction that might instead be approved without the benefit of the intended standards and procedures within Chapter 14; and

**WHEREAS**, it was also determined that having all current and future special exception requests considered by the Board of Adjustment rather than the Planning and Zoning Commission would be more efficient and consistent with the intent of the *Texas Local Government Code*; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista has undertaken a review of those regulations and conducted a public hearing at their meetings between June 9, 2022, and September 8, 2022, and again on December 8, 2022; and

**WHEREAS**, the proposed changes should yield results that are more aligned with the expectations of the residents and property owners of the City of Lago Vista; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista forwarded a recommendation to the City Council to amend those requirements contained within Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances as described below; and

**WHEREAS**, the City Council at its public hearing to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit “A.”

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**SECTION 6. OPEN MEETINGS.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**EXHIBIT “A”**

**CHAPTER 14**

**ZONING**

\*\*\*\*\*

**11.60 Special Exception Approvals**

- (a) **Purpose.** Except as specifically described elsewhere herein, these land use regulations are based upon the division of the City of Lago Vista into zoning districts, within which the treatment of land and improvements is substantially uniform. It is recognized, however, that there are certain improvements that, because of their unique characteristics or circumstances, must be considered individually to address the impact on neighboring land and the community while considering a specific need at a particular location. As such, the Board of Adjustment may approve a special exception in accordance with the various specific procedures described in this section. Such approval, with or without conditions, shall be based on the standards described below.
- (b) **Generally.**
  - (1) **Application and Fee.** An application for a special exception approval in accordance with the provisions of this chapter shall be made in writing to the City using a form prescribed by the City Manager or their designee and shall be accompanied by the application fee prescribed by ordinance. Applications shall also include all documents required to describe relevant aspects of the proposed construction and additional information as may be requested to facilitate a proper and complete evaluation. Such information shall include, but not be limited to site plans, surveys of existing improvements and protected trees, topographic information, and accurate building plans drawn to scale.
  - (2) **Public Hearing.** The Board of Adjustment shall hold a public hearing prior to consideration of any special exception application.
    - (A) Notice requirements for a public hearing by the Board of Adjustment for a special exception approval shall meet the standards in Section 13.40.
    - (B) The public hearing to consider a special exception application shall be held at a regularly scheduled Board of Adjustment meeting. The Commission may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.
    - (C) Board of Adjustment members should visit the site. Board members who have not visited the site may not vote on the consideration of a special exception application.

- (3) Appeal. Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court of record for review.
- (4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager of their designee may approve a maximum of two extensions pursuant to a formal written request alleging hardship received prior to expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.

(c) Special Exception to Height Standards.

- (1) Approval Standards. Provided the applicant has fully complied with all requirements, the Board of Adjustment may approve an increase to the maximum height of a principal building, an accessory building, or an addition to a principal or accessory building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the lowest proposed foundation or for more than two stories, outside of the 100-year floodplain. Within the 100-year floodplain, the maximum height above the ground measured from the geometric center of the lowest proposed foundation shall be 45 feet with no more than three floor levels. Approvals for a height greater than 35 feet from the geometric center of the lowest proposed foundation shall also be required to demonstrate an “unnecessary hardship” as defined in Section 11.20 and 11.30 above.

(2) Process.

- (A) Ridgepole. Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2-inch-wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.

The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100-year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100-year floodplain shall be indicated on the ridgepole by a yellow mark.

The primary ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Board of Adjustments may require additional ridgepoles and that a registered professional land surveyor certify the location and heights of all ridgepoles and markings in a stamped report.

All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed because of pending or anticipated litigation, the ridgepoles shall be removed no later than two weeks after the final decision by the Board of Adjustments.

(B) Other Application Requirements. In addition to the form referenced in Section 11.60(b)(1) above, the application package shall include the following:

- (i) Site Plan. Accurately scaled drawings that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.
- (ii) Depiction of proposed height. Requirements include some form of accurate scaled depiction, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the lowest proposed foundation. The depiction shall include all ancillary information relevant to the evaluation such as relevant finish grade elevations, finish floor elevations, ceiling heights, framing depth and the proposed pitch of any sloped roof.

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#### **13.40 Procedures for Public Hearings**

The Council and Commission shall hold at least one (1) public hearing on all proposed zoning classification changes, special uses, conditional uses, amendments to the comprehensive plan, and general amendments to this chapter. The Board shall hold a public hearing on all appeals and requests for a variance or special exception to this chapter.

(a) Notice.

(1) Written Notice to Property Owners.

(A) Written notice of a proposed zoning change, comprehensive plan amendment, special use, conditional use, special exception, or variance request shall be given by the City to owners of real property located within two hundred feet (200') of the boundaries of the property included within the request. Such notice shall be mailed, first class, not less than ten (10) days prior to the date set for Commission, Council and Board hearings to all property owners who appear on the last approved Travis County Tax Rolls. The notice shall state that a request is pending and shall include the date, time,

and place of the Commission or Board meeting and a description of the matter under consideration. However, in accordance with Section 13.20(e)(3)(B)(iii) above, only the written protests received from the owners of property within the municipal limits will be considered in determining whether the affirmative vote of at least three-fourths of all members of the governing body shall be required for a proposed zoning change.

- (B) A copy of the notice may be delivered to the person to be served, or to his duly authorized agent either in person or by mail to his last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City.
- (C) The City shall complete and mail the individual notices.

(2) By Publication. The City shall publish at least one notice of a proposed Commission, Board, or Council hearing in the official City newspaper or in a newspaper of general circulation in Lago Vista, Texas, at least fifteen (15) days prior to the date on which the hearing is to occur. The notice shall include the date, time, and place of the Council, Commission or Board meeting and a description of the matter under consideration.

(b) Signs Required for Proposed Change. At least fifteen (15) days prior to the date on which the hearing is to occur, the City shall place signs on the property easily visible to the public. Signs shall meet the following requirements:

- (1) Each sign shall be erected on the property for which an application has been filed. For the purposes of this requirement, separate contiguous tracts or lots that are part of the same application shall be considered a single property. The sign shall be placed at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to pedestrians and motorists. A sign shall be placed on each non-contiguous street frontage that cannot be seen from a single vantage point. Additional signs shall be placed at approximately equal intervals along the street frontage of large properties to help ensure visibility. However, only one (1) sign shall be required for any frontage less than or equal to three hundred feet in length and no more than three (3) signs shall be required for any contiguous property frontage that is part of an application.
- (2) All required signs shall remain on the property until final disposition of the action is determined.

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## CHAPTER 14

### ZONING

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#### **11.60 Special Exception Approvals**

(a) **Purpose.** Except as specifically described elsewhere herein, these land use regulations are based upon the division of the City of Lago Vista into zoning districts, within which the treatment of land and improvements is substantially uniform. It is recognized, however, that there are certain improvements that, because of their unique characteristics or circumstances, must be considered individually to address the impact on neighboring land and the community while considering a specific need at a particular location. As such, the Board of Adjustment may approve a special exception in accordance with the various specific procedures described in this section. Such approval, with or without conditions, shall be based on the standards described below.

(b) **Generally.**

(1) **Application and Fee.** An application for a special exception approval in accordance with the provisions of this chapter shall be made in writing to the City using a form prescribed by the City Manager or their designee and shall be accompanied by the application fee prescribed by ordinance. Applications shall also include all documents required to describe relevant aspects of the proposed construction and additional information as may be requested to facilitate a proper and complete evaluation. Such information shall include, but not be limited to site plans, surveys of existing improvements and protected trees, topographic information, and accurate building plans drawn to scale.

(2) **Public Hearing.** The Board of Adjustment shall hold a public hearing prior to consideration of any special exception application.

(A) Notice requirements for a public hearing by the Board of Adjustment for a special exception approval shall meet the standards in Section 13.40.

(B) The public hearing to consider a special exception application shall be held at a regularly scheduled Board of Adjustment meeting. The Commission may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.

(C) Board of Adjustment members **should** are encouraged to visit the site, subject to **compliance with the City's ethics policy.** **Board members who have not visited the site may not vote on the consideration of a special exception application.**

(3) **Appeal.** Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court **of record for review** provided under state law.

(4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager of their designee may approve a maximum of two extensions ~~of one year each pursuant to a formal written request alleging upon a showing of~~ hardship received prior to expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.

(c) Special Exception to Height Standards.

(1) Approval Standards. ~~Provided the applicant has fully complied with all requirements, the~~ The Board of Adjustment may only approve an increase to the maximum height of a principal building, an accessory building, or an addition to a principal or accessory building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with ~~the standard, this immediately preceding provision. but~~ However, in no case shall ~~it~~ an approval allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the lowest proposed foundation or for more than two stories, outside of the 100-year floodplain. Within the 100-year floodplain, the maximum height above the ground measured from the geometric center of the lowest proposed foundation shall be 45 feet with no more than three floor levels. Approvals for a height greater than 35 feet from the geometric center of the lowest proposed foundation shall also be required to demonstrate an “unnecessary hardship” as defined in Section 11.20 and 11.30 above.

(2) Process.

(A) Ridgepole. Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2-inch-wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.

The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100-year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100-year floodplain shall be indicated on the ridgepole by a yellow mark.

The primary ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Board of Adjustments may require additional ridgepoles and that a

registered professional land surveyor certify the location and heights of all ridgepoles and markings in a stamped report.

All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed because of pending or anticipated litigation, the ridgepoles shall be removed no later than two weeks after the final decision by the Board of Adjustments.

(B) Other Application Requirements. In addition to the form referenced in Section 11.60(b)(1) above, the application package shall include the following:

- (i) Site Plan. Accurately scaled drawings that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.
- (ii) Depiction of proposed height. Requirements include some form of accurate scaled depiction, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the lowest proposed foundation. The depiction shall include all ancillary information relevant to the evaluation such as relevant finish grade elevations, finish floor elevations, ceiling heights, framing depth and the proposed pitch of any sloped roof.

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#### **13.40 Procedures for Public Hearings**

The Council and Commission shall hold at least one (1) public hearing on all proposed zoning classification changes, special uses, conditional uses, amendments to the comprehensive plan, and general amendments to this chapter. The Board shall hold a public hearing on all appeals and requests for a variance or special exception to this chapter.

(a) Notice.

(1) Written Notice to Property Owners.

(A) Written notice of a proposed zoning change, comprehensive plan amendment, special use, conditional use, special exception, or variance request shall be given by the City to owners of real property located within two hundred feet (200') of the boundaries of the property included within the request. Such notice shall be mailed, first class, not less than ten (10) days prior to the date set for Commission, Council and Board hearings to all property owners who appear on the last approved Travis County Tax Rolls. The notice shall state that a request is pending and shall include the date, time, and place of the Commission or Board meeting and a description of the matter under consideration. However, in accordance with Section 13.20(e)(3)(B)(iii) above, only the written protests received from the owners of property within the municipal limits will be considered in determining whether the affirmative vote of at least three-fourths of all members of the governing body shall be required for a proposed zoning change.

- (B) A copy of the notice may be delivered to the person to be served, or to his duly authorized agent either in person or by mail to his last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City.
- (C) The City shall complete and mail the individual notices.

(2) By Publication. The City shall publish at least one notice of a proposed Commission, Board, or Council hearing in the official City newspaper or in a newspaper of general circulation in Lago Vista, Texas, at least fifteen (15) days prior to the date on which the hearing is to occur. The notice shall include the date, time, and place of the Council, Commission or Board meeting and a description of the matter under consideration.

(b) Signs Required for Proposed Change. At least fifteen (15) days prior to the date on which the hearing is to occur, the City shall place signs on the property easily visible to the public. Signs shall meet the following requirements:

- (1) Each sign shall be erected on the property for which an application has been filed. For the purposes of this requirement, separate contiguous tracts or lots that are part of the same application shall be considered a single property. The sign shall be placed at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to pedestrians and motorists. A sign shall be placed on each non-contiguous street frontage that cannot be seen from a single vantage point. Additional signs shall be placed at approximately equal intervals along the street frontage of large properties to help ensure visibility. However, only one (1) sign shall be required for any frontage less than or equal to three hundred feet in length and no more than three (3) signs shall be required for any contiguous property frontage that is part of an application.
- (2) All required signs shall remain on the property until final disposition of the action is determined.

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# CHAPTER 14

## ZONING

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### **11.60 Special Exceptions To Height Standards Approvals**

(a) Purpose. Except as specifically described elsewhere herein, these land use regulations are based upon the division of the City of Lago Vista into zoning districts, within which the treatment of land and improvements is substantially uniform. It is recognized, however, that there are certain improvements ~~or uses~~ that, because of their unique characteristics or circumstances, must be considered individually to address the impact on neighboring land and the community while considering a specific need at a particular location. As such, ~~the Planning and Zoning Commission, or the Board of Adjustment upon appeal, may approve an increase in the maximum “building height” as defined in Section 2.10 and established in the development standards for each zoning district~~ a special exception in accordance with the various specific procedures described in this section. Such approval, with or without conditions, shall be based on the standards described below.

(b) Approval Standards Generally. ~~Provided the applicant has fully complied with all requirements, the Planning and Zoning Commission, or the Board of Adjustment upon appeal, may approve an increase to the maximum height of a principal building or an addition to a principal building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the proposed foundation or for more than two stories.~~

(1) Application and Fee. An application for a special exception approval in accordance with the provisions of this chapter shall be made in writing to the City using a form prescribed by the City Manager or their designee and shall be accompanied by the application fee prescribed by ordinance. Applications shall also include all documents required to describe relevant aspects of the proposed construction and additional information as may be requested to facilitate a proper and complete evaluation. Such information shall include, but not be limited to site plans, surveys of existing improvements and protected trees, topographic information, and accurate building plans drawn to scale.

(2) Public Hearing. The Board of Adjustment shall hold a public hearing prior to consideration of any special exception application.

(A) Notice requirements for a public hearing by the Board of Adjustment for a special exception approval shall meet the standards in Section 13.40.

(B) The public hearing to consider a special exception application shall be held at a regularly scheduled Board of Adjustment meeting. The Commission may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.

(C) Board of Adjustment members should visit the site. Board members who have not visited the site may not vote on the consideration of a special exception application.

- (3) Appeal. Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court of record for review.
- (4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager of their designee may approve a maximum of two extensions pursuant to a formal written request alleging hardship received prior to expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.

(c) Process Special Exception to Height Standards.

- (1) Ridgepole Approval Standards. ~~Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2 inch wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property. Provided the applicant has fully complied with all requirements, the Board of Adjustment may approve an increase to the maximum height of a principal building, an accessory building, or an addition to a principal or accessory building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the lowest proposed foundation or for more than two stories, outside of the 100-year floodplain. Within the 100-year floodplain, the maximum height above the ground measured from the geometric center of the lowest proposed foundation shall be 45 feet with no more than three floor levels. Approvals for a height greater than 35 feet from the geometric center of the lowest proposed foundation shall also be required to demonstrate an “unnecessary hardship” as defined in Section 11.20 and 11.30 above.~~

~~The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100 year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100 year floodplain shall be indicated on the ridgepole by a yellow mark.~~

~~The primary ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Planning and Zoning Commission or the Board of Adjustments on appeal, may require additional ridgepoles and that a licensed surveyor certify the location and heights of all ridgepoles and markings in a stamped report.~~

~~All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed, the ridgepoles shall be removed no later than two weeks after the final decision by the Planning and Zoning Commission or the Board of Adjustments, upon appeal.~~

(2) ~~Application Process. Applications shall be made on a form provided by the city and are accepted provisionally, pending an inspection of all required ridgepoles. In addition to the form, the application package shall include the following:~~

(A) ~~Site Plan Ridgepole. Drawings preferably sealed, that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both of these heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights. Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate, as prescribed below, both the proposed maximum “building height” and the maximum “building height” allowed by right in the development standards for the zoning district in which the property is located. The ridgepole shall also include clear and visible marking of the reference points described below that are related to the proposed maximum “building height.” Required height indication markings shall be the top edge of a minimum 2-inch-wide, brightly colored, high adhesion tape around the circumference of the ridgepole. Both the pole and markings shall be visible from the street that fronts the property.~~

The proposed maximum “building height” shall be indicated by an orange or red mark that is coincidental to the top of the ridgepole. The maximum “building height” allowed by right in the development standards for the zoning district in which the property is located shall be indicated on the ridgepole by a green mark. Each primary finish floor level of the proposed residence shall be indicated on the ridgepole by a blue mark. If the highest undisturbed natural grade on the property is at least foot or above the federally designated 100-year floodplain, that height shall be indicated on the ridgepole by a yellow mark. Otherwise, one foot above the federally designated 100-year floodplain shall be indicated on the ridgepole by a yellow mark.

The primary ridgepole shall be placed at the approximate location of the highest peak or the center of the highest ridgeline and be constructed of such sturdiness as to remain within five degrees of a true vertical position throughout the application and hearing process. The Board of Adjustments may require additional ridgepoles and that a registered professional land surveyor certify the location and heights of all ridgepoles and markings in a stamped report.

All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed because of pending or anticipated litigation, the ridgepoles shall be removed no later than two weeks after the final decision by the Board of Adjustments.

(B) ~~Depiction of proposed height Other Application Requirements. Some form of accurate depiction is required, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the proposed foundation. In addition to the form referenced in Section 11.60(b)(1) above, the application package shall include the following:~~

- (i) Site Plan. Accurately scaled drawings that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.
- (ii) Depiction of proposed height. Requirements include some form of accurate scaled depiction, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the lowest proposed foundation. The depiction shall include all ancillary information relevant to the evaluation such as relevant finish grade elevations, finish floor elevations, ceiling heights, framing depth and the proposed pitch of any sloped roof.

(C) Fee Fees shall be the same as for a variance to the zoning ordinance.

(3) Public Hearing. The Planning and Zoning Commission shall hold a public hearing prior to consideration of any special exception application.

- (A) Notice requirements for a public hearing by the Planning and Zoning Commission shall meet the standards in Section 13.40.
- (B) The public hearing to consider a special exception application shall be held at a regularly scheduled Planning and Zoning Commission meeting. The Commission may adjourn the public hearing and reopen the hearing on the site seeking the special exception approval at a time announced during the meeting that includes the original public hearing.
- (C) Commissioners should visit the site. If the Commission’s decision is appealed in accordance with the requirements included herein, the Board of Adjustments members should visit the site. Commissioners or Board members who have not visited the site may not vote on the consideration of a special exception application.

(4) Appeal. An applicant or any aggrieved person, as defined in section 2.10, may appeal the final decision of the Planning and Zoning Commissions to the Board of Adjustments in accordance with the requirements of section 11.50.

(5) Term. Absent a formal written request alleging hardship to the City Manager or his designee for an extension, a special exception approval shall expire in one calendar year if not incorporated in a building permit. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. Extensions beyond a term of three years would require a new special exception application and approval.

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#### 13.40 Procedures for Public Hearings Conducted By The Council, Commission Or Board

The Council and Commission shall hold at least one (1) public hearing on all proposed zoning classification changes, special uses, conditional uses, amendments to the comprehensive plan, and general amendments to this chapter. The Board shall hold a public hearing on all appeals and requests for a variance or special exception to this chapter.

(a) Notice.

(1) Written Notice to Property Owners.

(A) Written notice of a proposed zoning change, ~~comprehensive plan amendment, special use, conditional use, special exception~~, or variance request shall be given by the City to owners of real property located within two hundred feet (200') of the boundaries of the property ~~to be developed, zoned, or rezoned~~ included within the request. Such notice shall be mailed, first class, not less than ten (10) days prior to the date set for Commission, Council and Board hearings to all property owners who appear on the last approved Travis County Tax Rolls. The notice shall state that a ~~zoning change proposal or variance~~ request is pending and shall include the date, time, and place of the Commission or Board meeting and a description of the matter under consideration. However, in accordance with Section 13.20(e)(3)(B)(iii) above, only the written protests received from the owners of property within the municipal limits will be considered in determining whether the affirmative vote of at least three-fourths of all members of the governing body shall be required for a proposed zoning change.

(B) A copy of the notice may be delivered to the person to be served, or to his duly authorized agent either in person or by mail to his last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City.

(C) The City shall complete and mail the individual notices.

(2) By Publication. The City shall publish at least one notice of a proposed Commission, Board, or Council hearing in the official City newspaper or in a newspaper of general circulation in Lago Vista, Texas, at least fifteen (15) days prior to the date on which the hearing is to occur. The notice shall include the date, time, and place of the Council, Commission or Board meeting and a description of the matter under consideration.

(b) Signs Required for Proposed ~~Zoning~~ Change. At least fifteen (15) days prior to the date on which the hearing is to occur, the City shall place signs on the property easily visible to the public. Signs shall meet the following requirements:

(1) Each sign shall be erected on the property for which ~~a zoning change or variance~~ an application has been filed. For the purposes of this requirement, separate contiguous tracts or lots that are part of the same application shall be considered a single property. The sign shall be placed at a prominent location on the property, near the sidewalk or public right-of-way so that it is visible to pedestrians and motorists. A sign shall be placed on each non-contiguous street frontage that cannot be seen from a single vantage point. Additional signs shall be placed at approximately equal intervals along the street frontage of large properties to help ensure visibility. However, only one (1) sign shall be required for any frontage less than or equal to three hundred feet in length and no more than three (3) signs shall be required for any contiguous property frontage that is part of an application.

(2) All required signs shall remain on the property until final disposition of the action is determined.

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## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 05 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Section 13.20(d) of Chapter 14 and Article 7.000 of Appendix A of the Lago Vista Code of Ordinances adding procedural and substantive requirements to amend the Future Land Use Map or other components of the adopted Comprehensive Plan for any reason, including accommodation of a subsequent zoning change request; and providing for related matters.

**Request:** Public Hearing

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The need to address this issue was originally raised by the City Council's Comprehensive Master Plan subcommittee in 2020. It was subsequently added to the agenda of the Planning and Zoning Commission for discussion at their June 11, 2020 meeting. For a variety of reasons including the pandemic, this effort was abandoned until recently. One of the primary reasons for it again becoming a priority is the need for consistent and explicit requirements, including approval standards that address each distinct basis for change that might be alleged. Otherwise the staff resources will continue to be burdened by zoning change requests that inaccurately assert consistency with the Comprehensive Plan.

Currently we have no sound basis for rejecting such an application. Even when the staff is successful in convincing the property owner to first seek an amendment to the Comprehensive Plan, the cost of the request is being subsidized because of the lack of a required application procedure and fee. Council Member Prince suggested something similar as a policy at the Council Meeting on November 3, 2022. The Development Services Department staff agrees, but thinks it would be even more effective with the procedures and approval standards explicitly established in the zoning ordinance.

However, additional comments seem warranted regarding the procedures and approval standards. The staff did research on the provisions employed by other jurisdictions that similarly require amendments to their comprehensive plan to be separate from zoning change applications. Some like Cedar Park employed policies, while others like Baton Rouge adopted ordinances. While the recommended amendment is not very similar to any of those, we attempted to borrow the best language from each which occasionally was found on application forms. The exception involves the approval standards for an amendment based on a significant and unanticipated change, which is identical to the current ordinance with the exception of a request by the Planning and Zoning Commission to remove one adjective.

There were no public comments in 2022 regarding this potential recommendation. Six of the Planning and Zoning Commission members were present for this portion of the meeting on December 8, 2022. The recommendation for approval of the amendment was unanimous.

**Impact if Approved:**

An orderly and specifically prescribed set of procedures and approval standards for any amendment to the adopted Comprehensive Plan will be incorporated into the zoning ordinance, including an application form, fee and opportunity to appeal the determination that an amendment is required.

**Impact if Denied:**

The current lack of rigidly defined requirements and procedures will continue, requiring the expenditure of ample staff resources expended in relation to these requests (including those seemingly required by a zoning change application) without an existing application fee.

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Ordinance prescribed procedures and approval standards for amendments to the Comprehensive Plan (for any reason).

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:26:46 -06'00'

## **ORDINANCE NO. 23-01-05-04**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS,  
AMENDING SECTION 13.20(d) OF CHAPTER 14 AND ARTICLE 7.000 OF  
APPENDIX A OF THE LAGO VISTA CODE OF ORDINANCES ADDING  
PROCEDURAL AND SUBSTANTIVE REQUIREMENTS TO AMEND THE  
FUTURE LAND USE MAP OR OTHER COMPONENTS OF THE ADOPTED  
COMPREHENSIVE PLAN FOR ANY REASON, INCLUDING  
ACCOMODATION OF A SUBSEQUENT ZONING CHANGE REQUEST;  
AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously established requirements within Chapter 14, the Zoning Ordinance, for zoning changes to be consistent with the current comprehensive plan; and

**WHEREAS**, the staff, the Planning and Zoning Commission and the Lago Vista City Council have been confronted with increasing volumes of zoning change requests that seem inconsistent with the current comprehensive plan despite the very persistent assertions of the applicants or property owners to the contrary; and

**WHEREAS**, on the occasions when the applicants and property owners seeking a zoning change that is inconsistent with the current comprehensive agree to first seek an amendment to that plan, the Lago Vista Code of Ordinances does not include an explicit process to be followed or approval standards to be met, beyond amendments that are needed because of a significant and unanticipated change; and

**WHEREAS**, the result is that inordinate public resources are currently being expended that might be avoided by a more explicit and defined process included in the Lago Vista Code of Ordinances; and

**WHEREAS**, the Planning and Zoning Commission has undertaken an extensive review of those existing regulations as well as the methods employed by other cities; and

**WHEREAS**, the Planning and Zoning Commission has forwarded a recommendation to the City Council to amend the provisions of Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances to establish explicit procedural requirements and approval standards for amendments to the current comprehensive plan, including provisions that preclude a simultaneous zoning change request; and

**WHEREAS**, the Development Services Department staff has recommended amendments to Article 7.000 of Appendix A of the Lago Vista Code of Ordinances to establish an application fee for property owners to request amendments to the current comprehensive plan to offset some of the required administrative and notification costs that is commensurate with existing fees for similar requests; and

**WHEREAS**, the City Council at its public hearing to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:**

**Section 1. Findings.** All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**Section 2. Amendment.** The City Council of the City of Lago Vista, Texas, does hereby amend Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit "A" and Article 7.000 of Appendix A of the Lago Vista Code of Ordinances as shown in Exhibit "B."

**Section 3. Repealer.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**Section 4. Severability.** If any section, subsection, article, paragraph, sentence, clause, phrase, or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 5. Publication and Codification.** The City Secretary is hereby directed to publish the caption of this ordinance, including the penalty, in accordance with City Charter Section 3.17 and record the attached regulation in the City's Code of Ordinances as authorized in Section 52.001 of the *Texas Local Government Code*.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**Section 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January 2023.

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Ed Tidwell, Mayor

ATTEST:

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Lucy Aldrich, City Secretary

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**EXHIBIT “A”**

**CHAPTER 14**

**ZONING**

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**13.20 Procedure for a Change of Zoning Classification of a Parcel of Land**

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(d) **Required Conformance to Master Plan.** The adopted Comprehensive Plan documents the current land use policy recommendations applicable within the municipality and serves as a guideline for future zoning decisions that will yield a balanced, diversified, and compatible pattern of development consistent with the vision of its citizens. While it does not establish zoning regulations or establish zoning district boundaries, no zoning application deemed to be inconsistent with the Comprehensive Plan shall be considered without first successfully seeking an amendment, in accordance with the provisions below, that eliminates that inconsistency.

(1) An application for an amendment to the Comprehensive Plan shall be required prior to a zoning change application whenever the City Manager or their designee determines that the application is otherwise inconsistent with the adopted Comprehensive Plan. An appeal of that determination shall comply with the procedures outlined in Section 11.50 of this chapter.

(2) An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.

(3) The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan.

(4) An application is required regardless of the alleged source of the proposed amendment, including those that originate from:

(A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an impactful facility, and disinvestment or deterioration of a development, neighborhood or area;

(B) a demonstrable error, oversight, or omission; or

- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.

(5) Approval of an amendment to the Comprehensive Plan based on significant and unanticipated change shall include but not be limited to the following requirements:

- (A) that the change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
- (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
- (C) that the proposed change is an appropriate designation for both the property and the surrounding area.

(6) Approval of an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission shall include identification of specific and tangible items rather than generalities or unsupported conclusions.

(7) Approval of an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes shall include but not be limited to the following requirements:

- (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;
- (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
- (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
- (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

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**EXHIBIT “B”**

**APPENDIX A**

**FEE SCHEDULE**

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**ARTICLE 7.000 ZONING AND ANNEXATION FEES**

- (a) Rezoning request (except for PDD), one acre or less: \$250.00.
- (b) Rezoning request (except for PDD), for more than 1 acre: \$250.00 plus \$50.00 per acre.
- (c) PDD rezoning request
  - (1) Concept Plan only: \$250.00 plus \$50.00 per acre (\$1,000.00 minimum).
  - (2) Detail Plan only: \$500.00 plus \$50.00 per acre (\$2,000.00 minimum).
  - (3) Combined Concept and Detail Plan: \$500.00 plus \$50.00 per acre (\$2,500.00 minimum).
- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use approval: \$250.00.
- (h) Short-term occupancy permit: \$50.00.
- (i) Zoning Ordinance Variance and Special Exception Requests: \$250.00.
- (j) Protected tree replacement fee: \$250.00 per inch, with a maximum of \$10,000 for one or two-family residential properties.
- (k) Home-based business
  - (1) Permit: \$50.00.
  - (2) Permit renewal (every 2 years): \$50.00.
  - (3) Conditional use permit or appeal of denial of permit: \$250.00.

- (l) Zoning Verification Letter: \$75.00.
- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).
- (n) Comprehensive Plan amendment request
  - (1) Future Land Use Map, 1 acre or less and any other plan component: \$250.00.
  - (2) Future Land Use Map, for more than 1 acre: \$250 plus \$50 per acre.
- (o) Appeal request (administrative determination): \$250 plus professional cost plus 15% (\$1,000 initial escrow deposit required).

\*\*\*\*\*

Note: the text in green below are changes recommended by the City Attorney

## CHAPTER 14

### ZONING

\*\*\*\*\*

#### 13.20 Procedure for a Change of Zoning Classification of a Parcel of Land

\*\*\*\*\*

(d) Required Conformance to Master Plan. The adopted Comprehensive Plan documents the current land use policy recommendations applicable within the municipality and serves as a guideline for future zoning decisions that will yield a balanced, diversified, and compatible pattern of development consistent with the vision of its citizens. While it does not establish zoning regulations or establish zoning district boundaries, no zoning application deemed to be inconsistent with the Comprehensive Plan shall be considered without first successfully seeking an amendment, in accordance with the provisions below, that eliminates that inconsistency.

(1) An application for an amendment to the Comprehensive Plan shall be required prior to the approval of a zoning change application whenever the City Manager or their designee determines that the application proposed zoning change is otherwise inconsistent with the adopted Comprehensive Plan. An appeal of that determination shall comply with the procedures outlined in Section 11.50 of this chapter.

(2) An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.

(3) The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan.

(4) Notwithstanding anything in this subsection 13.20(d) to the contrary, the City Council maintains full discretion to adopt a Comprehensive Plan and define the content and design of such Comprehensive Plan. A complete application for the amendment of the Comprehensive Plan shall in no way bind the City Council to amend the Comprehensive Plan. An application ~~is required regardless of the alleged source of the proposed amendment, including those that originate from~~ for an amendment shall not be considered unless one of the following is shown:

(A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an impactful facility, and disinvestment or deterioration of a development, neighborhood or area;

- (B) a demonstrable error, oversight, or omission; or
- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.

(5) **Approval of An application for** an amendment to the Comprehensive Plan based on significant and unanticipated change ~~under subsection 4(A), above shall include but not be limited to~~ must show the following **requirements**:

- (A) that the change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
- (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
- (C) that the proposed change is an appropriate designation for both the property and the surrounding area.

(6) **Approval of An application for** an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission ~~under subsection 4(B), above must shall include identification of identify~~ specific and tangible items rather than generalities or unsupported conclusions.

(7) **Approval of An application for** an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes ~~under subsection 4(C), above shall include but not be limited to the following requirements~~ must show the following:

- (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;
- (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
- (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
- (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

\*\*\*\*\*

# **APPENDIX A**

## **FEES SCHEDULE**

\*\*\*\*\*

### **ARTICLE 7.000 ZONING AND ANNEXATION FEES**

- (a) Rezoning request (except for PDD), one acre or less: \$250.00.
- (b) Rezoning request (except for PDD), for more than 1 acre: \$250.00 plus \$50.00 per acre.
- (c) PDD rezoning request
  - (1) Concept Plan only: \$250.00 plus \$50.00 per acre (\$1,000.00 minimum).
  - (2) Detail Plan only: \$500.00 plus \$50.00 per acre (\$2,000.00 minimum).
  - (3) Combined Concept and Detail Plan: \$500.00 plus \$50.00 per acre (\$2,500.00 minimum).
- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use approval: \$250.00.
- (h) Short-term occupancy permit: \$50.00.
- (i) Zoning Ordinance Variance and Special Exception Requests: \$250.00.
- (j) Protected tree replacement fee: \$250.00 per inch, with a maximum of \$10,000 for one or two-family residential properties.
- (k) Home-based business
  - (1) Permit: \$50.00.
  - (2) Permit renewal (every 2 years): \$50.00.
  - (3) Conditional use permit or appeal of denial of permit: \$250.00.
- (l) Zoning Verification Letter: \$75.00.

- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).
- (n) Comprehensive Plan amendment request
  - (1) Future Land Use Map, 1 acre or less and any other plan component: \$250.00.
  - (2) Future Land Use Map, for more than 1 acre: \$250 plus \$50 per acre.
- (o) Appeal request (administrative determination): \$250 plus professional cost plus 15% (\$1,000 initial escrow deposit required).

\*\*\*\*\*

# CHAPTER 14

## ZONING

\*\*\*\*\*

### 13.20 Procedure for a Change of Zoning Classification of a Parcel of Land

\*\*\*\*\*

(d) ~~Parcel Change Does Not Required Conformance to Master Plan. A change of zoning proposed by the owner of the parcel affected may be recommended for enactment, even though such proposed change does not conform to the land use map in the City's Master Plan provided that:~~ The adopted Comprehensive Plan documents the current land use policy recommendations applicable within the municipality and serves as a guideline for future zoning decisions that will yield a balanced, diversified, and compatible pattern of development consistent with the vision of its citizens. While it does not establish zoning regulations or establish zoning district boundaries, no zoning application deemed to be inconsistent with the Comprehensive Plan shall be considered without first successfully seeking an amendment, in accordance with the provisions below, that eliminates that inconsistency.

(1) ~~The Commission finds significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the land use map was adopted.~~ An application for an amendment to the Comprehensive Plan shall be required prior to a zoning change application whenever the City Manager or their designee determines that the application is otherwise inconsistent with the adopted Comprehensive Plan. An appeal of that determination shall comply with the procedures outlined in Section 11.50 of this chapter.

(2) ~~It is unlikely that the parcel will be developed or used for any use permitted under the zoning classification indicated in the City's Master Plan.~~ An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.

(3) ~~The Commission finds that the requested zoning classification is the most appropriate classification for the area affected.~~ The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan.

(4) An application is required regardless of the alleged source of the proposed amendment, including those that originate from:

(A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an impactful facility, and disinvestment or deterioration of a development, neighborhood or area;

(B) a demonstrable error, oversight, or omission; or

- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.
- (5) Approval of an amendment to the Comprehensive Plan based on significant and unanticipated change shall include but not be limited to the following requirements:
  - (A) that the change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
  - (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
  - (C) that the proposed change is an appropriate designation for both the property and the surrounding area.
- (6) Approval of an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission shall include identification of specific and tangible items rather than generalities or unsupported conclusions.
- (7) Approval of an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes shall include but not be limited to the following requirements:
  - (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;
  - (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
  - (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
  - (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

\*\*\*\*\*

# **APPENDIX A**

## **FEE SCHEDULE**

\*\*\*\*\*

### **ARTICLE 7.000 ZONING AND ANNEXATION FEES**

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  - (2) Detail Plan only: \$500.00 plus \$50.00 per acre (\$2,000.00 minimum).
  - (3) Combined Concept and Detail Plan: \$500.00 plus \$50.00 per acre (\$2,500.00 minimum).
- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use ~~permit approval~~: \$250.00.
- (h) Short-term occupancy permit: \$50.00.
- (i) Zoning Ordinance Variance ~~and Special Exception Requests~~: \$250.00.
- (j) Protected tree replacement fee: \$250.00~~4~~ per inch, with a maximum of \$10,000 for ~~one or two-family~~ residential properties.
- (k) Home-based business~~+~~
  - (1) Permit: \$50.00.
  - (2) Permit renewal (every 2 years): \$50.00.
  - (3) Conditional use permit or appeal of denial of permit: \$250.00.
- (l) Zoning Verification Letter: \$75.00.
- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).

- (n) ~~Special Exception Request: \$250.00.~~ Comprehensive Plan amendment request
  - (1) Future Land Use Map, 1 acre or less and any other plan component: \$250.00.
  - (2) Future Land Use Map, for more than 1 acre: \$250 plus \$50 per acre.
- (o) Appeal request (administrative determination): \$250 ~~+ plus~~ professional cost ~~+ plus~~ 15% ~~-\$~~ (\$1,000 initial escrow deposit required).

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## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** 05 January, 2023

**From:** Roy Jambor, AICP / PA (Development Services Director)

**Subject:** The Lago Vista City Council will consider an Ordinance of the City Council of Lago Vista, Texas amending Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances related to construction refuse and debris, including concerns about nails and other similar metal objects being deposited in an adjacent public right-of-way; and providing for related matters.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

The Building and Standards Commission recommended a minor amendment to Section 3.120 of Chapter 3, which deals with construction debris at their meeting on May 4, 2022. In short, they were reconsidering their previous recommended amendment to require 40 cubic yard roll-off dumpster for all construction sites that would accommodate one. In addition to the consequences of crowding construction sites that were already relatively small, it was seemingly not having a positive impact on the actual problem (that construction debris was not being deposited in whatever type of container was provided). Moreover, the members felt that the roll-off dumpsters were being infrequently replaced when full (likely due to the cost) and were likely making the problem worse. The members thought it more important to emphasize stringent enforcement of the existing requirements already in the ordinance for alternative containers.

However, it was also expressed this minor amendment did not warrant it being forwarded to the City Council separate and apart from many other potential amendments that are being addressed by a subcommittee of the Building and Standards Commission. In addition to a similar list of minor procedural improvements, that work includes resolving redundancies, discrepancies, and conflicts between provisions in Chapter 3 and Chapter 14.

Those original plans were altered by a request from a Council Member to attempt to address a problem with nails or other similar metallic objects that originate from construction sites finding themselves in the adjacent public street improvements. That request required an amendment to this same section of Chapter 3, although a different subsection (paragraph). It was originally considered by the Building and Standards Commission at their meeting on November 2, 2022. They requested an amendment that focused on outcomes (rather than unobserved behavior) as more likely to result in effective enforcement. That revision was unanimously recommended at their following meeting on December 7, 2022. Six of the seven members were present at that meeting.

**Impact if Approved:**

Written approval for alternatives to 40 cubic yard roll-off dumpsters will no longer be required, and an explicit obligation for contractors to monitor the public streets adjacent to their construction sites for metallic debris will be included in the building regulations.

**Impact if Denied:**

The elimination of the requirement for a 40 cubic yard roll-off dumpster on any site that will accommodate one will likely be forwarded again with other future recommendations of the Building and Standards Commission. The inspectors and code enforcement staff will attempt to enforce the existing general provisions regarding the condition of public streets adjacent to construction sites (that do not specifically mention metallic objects).

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Enact Ordinance  N/A -  N/A -  N/A

**Motion to**  Deny Ordinance  N/A -  N/A -  N/A

**Motion to**  Table Ordinance  N/A -  N/A -  N/A

**Known as:**

Updates to the responsibilities and requirements incumbent on contractors for construction debris.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 17:19:31 -06'00'

## **ORDINANCE NO. 23-01-05-05**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS,  
AMENDING SECTION 3.120 OF CHAPTER 3 OF THE LAGO VISTA CODE  
OF ORDINANCES RELATED TO CONSTRUCTION REFUSE AND DEBRIS,  
INCLUDING CONCERNS ABOUT NAILS AND SIMILAR METAL OBJECTS  
BEING DEPOSITED IN AN ADJACENT PUBLIC RIGHT-OF-WAY; AND  
PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, the City Council of the City of Lago Vista has previously established regulations in Section 3.120 of Chapter 3 of the Code of Ordinances related to refuse and debris created by contractors and subcontractors during construction activity; and

**WHEREAS**, construction refuse and debris continues to present a problem to other property owners and residents as that debris often migrates onto nearby and adjacent property, including public streets; and

**WHEREAS**, that construction debris occasionally includes nails or other similar metal objects found on nearby and adjacent public streets that can create damage to vehicles or vehicle tires; and

**WHEREAS**, the Building and Standards Commission has undertaken an extensive review of those existing regulations at their meetings on May 4, 2022, November 2, 2022, and December 7, 2022; and

**WHEREAS**, the review at their meeting on May 4, 2022 concluded that one of the existing provisions related to the type of refuse container required was not effective and might also be contributing unintended negative consequences; and

**WHEREAS**, the Building and Standards Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend the requirements contained within Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances; and

**WHEREAS**, the City Council at its public meeting to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted.

**WHEREAS**, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances as shown in **Exhibit “A.”**

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Texas Local Government Code*.

**SECTION 6. OPEN MEETINGS.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January 2023.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

**EXHIBIT "A"**

**CHAPTER 3**

**BUILDING REGULATIONS**

\*\*\*\*\*

**Sec 3.120 Removal and Containment of all Construction Materials, Refuse and Debris**

This section contains the requirements for containment and removal of construction material and debris.

- (a) This section includes broken or discarded material, machinery, trash, litter, rubbish, brush, garbage, paper, debris and concrete.
- (b) For the purpose of this section, any construction material located within one hundred feet (100') of any construction site may be presumed to be from that construction site, unless the builder notifies the city in advance of construction that construction materials are present on adjacent lots, with the express written permission of the property owner in accordance with Section 3.115 above. Construction materials include any broken or discarded materials, machinery, trash, litter, rubbish, brush, garbage, paper, debris, and concrete.
- (c) Each construction site will require a minimum of one, nine cubic yard container for refuse and debris. While larger industry standard roll-off dumpsters are encouraged on construction sites with sufficient area and appropriate slopes, sufficiently sturdy alternative forms of waste management may be used with prior written approval from the Building Official. Alternate containers shall include framing and bracing to ensure that it remains intact through the end of construction. Alternate containers less than six feet in height shall employ some form of cover that remains in place whenever there is no construction activity.
- (d) In the event such cleanup is not accomplished to the satisfaction of the city, the city may issue a stop work order, perform no inspections, and deny the issuance of a certificate of occupancy. The city shall be authorized at its election, to take charge of the work and restore the area to its proper condition and shall be entitled to recover from the permit holder or landowner by civil and/or criminal action the actual expenses incurred by the city in restoring the area, including, but not limited to, the cost of labor, materials, overhead, use or rental of any equipment used in restoring the area and attorney's fees. For such purposes, the city shall have the right to recover directly upon any bond posted by or on behalf of the permit holder in favor of the city, securing compliance with all applicable regulations of the city in the performance of said work.
- (e) All sites must be clean of litter and debris during the construction and all such material and any mud, dirt, rock or other material on city streets shall be removed upon occurrence but no later than twenty-four (24) hours after notice by the city manager or his/her designee. Such notice and each such subsequent notice shall be considered an occurrence that requires a re-inspection fee. Additionally, the party responsible for each construction permit shall monitor public streets at the end of each workday and take action as required, including but not limited to magnetic sweeping, to help ensure that the right-of-way within one hundred feet (100') of the property in any direction remains free of metallic objects that might damage vehicles or their tires.

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# CHAPTER 3

## BUILDING REGULATIONS

\*\*\*\*\*

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- (c) Each construction site will require a minimum of one, ~~forty nine~~ cubic yard ~~roll-off dumpster~~, ~~except as follows:~~ container for refuse and debris. While larger industry standard roll-off dumpsters are encouraged on construction sites with sufficient area and appropriate slopes, sufficiently sturdy alternative forms of waste management may be used with prior written approval from the Building Official. Alternate containers shall include framing and bracing to ensure that it remains intact through the end of construction. Alternate containers less than six feet in height shall employ some form of cover that remains in place whenever there is no construction activity.
  - (1) ~~For projects in which a lesser capacity is sufficient, a smaller roll-off dumpster can be used with the advance written approval of the building official; or~~
  - (2) ~~When no accessible and sufficiently large portion of the site has a slope of ten percent or less, the building official may provide advance written approval of an alternate container. All such alternate containers shall be equipped with a removable or hinged cover that remains in place to contain all material, debris or refuse whenever it is not actively used.~~
- (d) In the event such cleanup is not accomplished to the satisfaction of the city, the city may issue a stop work order, perform no inspections, and deny the issuance of a certificate of occupancy. The city shall be authorized at its election, to take charge of the work and restore the area to its proper condition and shall be entitled to recover from the permit holder or landowner by civil and/or criminal action the actual expenses incurred by the city in restoring the area, including, but not limited to, the cost of labor, materials, overhead, use or rental of any equipment used in restoring the area and attorney's fees. For such purposes, the city shall have the right to recover directly upon any bond posted by or on behalf of the permit holder in favor of the city, securing compliance with all applicable regulations of the city in the performance of said work.

(e) All sites must be clean of litter and debris during the construction and all such material and any mud, dirt, rock or other material on city streets shall be removed upon occurrence but no later than twenty-four (24) hours after notice by the city manager or his/her designee. Such notice and each such subsequent notice shall be considered an occurrence that requires a re-inspection fee. Additionally, the party responsible for each construction permit shall monitor public streets at the end of each workday and take action as required, including but not limited to magnetic sweeping, to help ensure that the right-of-way within one hundred feet (100') of the property in any direction remains free of metallic objects that might damage vehicles or their tires.

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## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration and possible action regarding the concession services agreement for the Bunker and Grill at the Lago Vista Golf Course.

**Request:** Business Item

**Legal Document:** Contract

**Legal Review:**

### **EXECUTIVE SUMMARY:**

Last December, the City Council approved a second amendment to the Concession Services Agreement between the City of Lago Vista and the Dugout Group, LLC. This agreement was amended to update hours of operation, dress attire for personnel and net sales reporting.

It has recently come to the City's attention via social media that the licensee will soon merge operations from the Highland Lakes Grille restaurant with the operations at the Bunker. This merge includes some additional operations such as live music, karaoke, bingo and poker night. Since these activities could have some impact on permitting, licensing and Pro Shop operations, staff felt it appropriate to bring back to Council for discussion.

City Council discussed the aforementioned items at the December 1, 2022, City Council Meeting. The City Attorney has made revisions to the second amendment according to the Council's discussion.

A third amendment draft is included with this staff summary.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration and possible action regarding the concession services agreement for the Bunker and Grill at the Lago Vista Golf Course.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.27 17:33:20 -06'00'

**THIRD AMENDED CONCESSION SERVICES CONTRACT AND LICENSE TO USE**  
**CITY FACILITIES AT LAGO VISTA MUNICIPAL GOLF COURSE**

This Third Amended Concession Services Contract (the "Agreement") is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the City of Lago Vista, Texas (hereafter referred to as the "City") and Dustin and Chelsea Martin, owners of The Dugout Group LLC, doing business as The Bunker Bar and Grille (hereafter referred to as the "Company").

Whereas, the City of Lago Vista is the owner of the Lago Vista Municipal Golf Course ("Golf Course") located at 4616 Rimrock Drive, Lago Vista, Texas; and

Whereas, Company has provided kitchen concession, restaurant, bar lounge and associated catering/dining facility maintenance services at the Golf Course and Club House; and

Whereas, the City of Lago Vista and Company entered into a Concession Services Agreement in November 2020 for an initial one-year term set to expire on November 6, 2021 (the "Original Agreement"); and

Whereas, on November 4, 2021, the City Council agreed to amend the agreement to extend the term for thirty (30) days (the "First Amended Agreement") to allow for additional contract negotiations; and

Whereas, the City and the Company entered into a Second Amended Agreement on or around the 6<sup>th</sup> of December, 2021 making certain changes to the First Amended Agreement (the "Second Amended Agreement"); and

Whereas the parties desire to revise the terms of the Second Amended Agreement for continuation of Concession Services at the Golf Course, to address certain live events held at the Golf Course Premises by the concessionaire and to make the other changes contained herein; and

Whereas the parties intend that this Agreement shall supersede the prior agreements and shall constitute a services agreement with regard to the Company continuing to provide Concession Services, the Company's continued use of City property, equipment, and facilities and continuation of the license to enter and use certain city facilities located at the Golf Course, on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

- 1. SERVICES TO BE PROVIDED.** Company agrees to provide the Concession Services as further described in Sections 7 and 8 of this Agreement at the Golf Course and Club House (collectively "Golf Course Premises") which shall include access to and use of the kitchen, restaurant, and club house, bar lounge, and associated catering/dining facility areas for the Golf Course Premises.
- 2. TERM.** The term of this Agreement shall be for the three (3) year period commencing on 6 December 2021 and ending 6 December 2024. Provided that the Company is not in default under this Agreement ninety (90) days prior to the expiration date herein. Subject to approval by City Council, the parties may extend by mutual written agreement for two (2) additional

one (1) year terms. Either party shall notify the other in writing of its intent to not renew this Agreement at least sixty (60) days prior to the expiration of this Agreement. If the term is extended, the parties may consider increasing the amount of Compensation by the Consumer Price Index for urban areas, CPI-U, beginning on the anniversary date of this Agreement and if the cost of utilities under Section 14 increases more than twenty percent, (20%), then the Monthly Payment could be adjusted to cover such utility costs. The parties may consider additional terms for the extension of the Agreement by mutual agreement.

**3. CONSIDERATION.** Compensation during the term of this Agreement shall be in the form of monthly payments ("Monthly Payment").

a. The Monthly Payment due to the City under this Agreement shall be \$2,850 per month. Monthly Payments are due on the first (1<sup>st</sup>) day of each month. A \$50.00 late fee shall be assessed upon each Monthly Payment not received by the City by the tenth (10<sup>th</sup>) day of the month.

**4. FINANCES AND REPORTING.** All revenue derived from the sale of food, beverage, on-site catering and other Concession Services by the Company as further described in Sections 7 and 8 of this Agreement shall belong exclusively to the Company.

a. The City shall not be responsible whatsoever for any of the revenues of the Company derived from the services provided under this Agreement.

b. Company agrees to keep records of monthly Net Sales and remit Reports thereof to the City on or before the last day of the month, detailing the total Net Sales for the month prior. The first report is due on or before January 31, 2021, for the period beginning on the effective date of the Second Amended Agreement and ending on December 31, 2021. The City may, upon ten business days' notice to Company, inspect such records and perform an audit, using, if desired by the City, a third-party accounting company. To the extent that any such audit reveals an underreporting of Gross Sales by seven percent (7%) or more, then, in addition to the amounts due for such underpayment, Company shall pay all of the City's costs incurred in the performance of such audit.

c. **"Gross Sales"** means the actual sales or price of all food, liquor, dining services, private events, catering, carry-out food service, food delivery services, goods, wares, and merchandise sold, leased, rented, licensed, or delivered, and the actual charges for all food and liquor sold and services performed by Company in, at, from, or arising out of the use of the Premises, whether cash, credit, exchange, or otherwise. Gross Sales shall include, without limitation, sales, rentals, and services: (i) when the order for any of the foregoing originates in, at, from, or arising out of the use of the Premises, whether delivery or performance is made from the Premises or from some other place; (ii) made or performed by mail, telephone, telegraph, electronic mail, text, app, video, internet, electronic video, computer orders, and/or future technological means; (iii) made or performed by mechanical or other vending devices in the Premises; and/or (iv) that Company in the normal and customary course of its business would credit or attribute to its operations in any part of the Premises. Any deposit that is not refunded shall be included in Gross Sales. Gross Sales shall not be reduced by any franchise, occupancy, capital stock, income, or similar tax based on income or profits.

d. The definition of "Gross Sales" shall **exclude** the following:

1. tips or gratuities;
2. municipal, city, county, State, or federal sales, use, gross receipts, liquor, restaurant, or excise taxes on sales or services rendered from the Premises where such taxes are added to the price, are stated separately in the bill, and are paid by Company directly to the applicable governmental agency;
3. any exchange of food stocks, inventory, produce, ingredients, raw stocks, produce, fresh or frozen fruits and vegetables, dry groceries, meat, poultry, seafood, goods, and/or merchandise between the restaurants of Company where such exchange of the foregoing is made solely for the convenient operation of the business of Company and not for the purpose of consummating a sale which has theretofore been made in, on, or from the Premises, or for the purpose of depriving Landlord of the benefit of a sale which otherwise would be made in, at, from, or arising out of the use of the Premises;
4. the amount of returns to shippers, vendors, suppliers, and/or manufacturers;
5. receipts from vending machines installed for the use of Company's employees;
6. gift certificates or vouchers until the time that the foregoing have been redeemed;
7. insurance proceeds or credits received for the settlement of damage, accident, loss, or destruction to Company's Personal Property, food stocks, inventory, produce, ingredients, raw stocks, produce, fresh or frozen fruits and vegetables, dry groceries, meat, poultry, seafood, goods, and/or merchandise;
8. condemnation proceeds;
9. bulk sales not in the ordinary course of Tenant's business;
10. sales at a discount or non-cash donations to non-profit, charitable, or religious organizations, but any profit that Tenant receives from the foregoing shall be included in Gross Sales;
11. any promotional sales to third parties;
12. the amount of any cash or credit refund made upon any sale or service;
13. sales by Company of machinery, furniture, equipment, Personal Property, fixed assets, and/or trade fixtures;
14. discounts to employees for employee meals;

15. the amount of any cash or credit refund made upon any sale in, at, from, or arising out of the Premises previously included in Gross Sales hereunder, not to exceed the sum so previously included, where the meal or merchandise sold is thereafter returned by the customer or refunded to the customer and accepted by Company;
16. all sums received by Company for lost, spoiled, and damaged products, including but not limited to food stocks, inventory, produce, liquor, ingredients, raw stocks, fresh or frozen fruits and vegetables, dry groceries, meat, poultry, seafood, goods, and/or merchandise;
17. withholding taxes collected from employees;
18. appreciation of Company's property;
19. loans received by Company;
20. the sale, transfer, or exchange of the business of Company;
21. bad debts of Company;
22. off-site operations or catering revenues for food that is not prepared and provided to customers at the Premises;
23. complimentary meals or samples offered for promotional purposes;
24. rent or fees paid to Tenant by a subtenant, licensee, or concessionaire;
25. shipping and delivery charges;
26. fees and/or charges paid directly to credit card issuers;
27. fees paid by Company to banks in connection with the acceptance of customers' ATM or debit cards;
28. the net amount of any discounts or rewards allowed to any organization or to any customer pursuant to any customary and reasonable policy adopted by Tenant; and
29. discounts for children's meals.

"Net Sales" means Gross Sales minus customer discounts, minus customer refunds.

5. **FACILITIES/LICENSE TO ENTER.** Concession Services under this Agreement shall be provided at the Concession Facilities (as shown on Exhibit A) at the Golf Course and Club House located at 4616 Rimrock Drive, Lago Vista, Texas. The Company agrees that the Concession Facilities reflected in Exhibit A attached hereto and as further described herein are provided for the Company's use under this Agreement in 'as is' condition and no improvements shall be made to such facilities by either City or Company unless agreed to in writing by the Company and the City Manager. Any improvements to such facilities shall be performed at the sole cost of the Company. In addition to all other obligations in this Agreement, the Company agrees to build any soundproofing between the Concession Facilities and other parts of the Golf Course and Golf Course Premises that the City reasonably determines to be necessary or advisable, including but not limited to improvements to a wall between the Concession Facilities

and other golf course property.

The Concession Facilities shall be made available for Company's use for its exclusive occupation, management and operation under this Agreement and consists of the area reflected in Exhibit A and as further described below:

- a. Restaurant area, club house bar, lounge, kitchen, and storage areas, together with all equipment, fixtures, and furniture therein.
- b. Kitchen cooking, preparation and utensil area
- c. Kitchen food service, presentation, and beverage service counters
- d. Kitchen concession sales receipts and customer service area
- e. Kitchen dry goods, frozen goods, shelving and refrigerator storage area
- f. Related dining areas

In addition, the Company shall have non-exclusive access to the entire Golf Course Premises, including the back patio, for the purpose of selling food, snacks, sandwiches, soft drinks, alcoholic and non-alcoholic beverages, and to all common areas, including driveways, parking, delivery areas and restrooms under the management and control of the City in each case as allowed by State law. Except as specified in Section 9 below, the City hereby grants an exclusive license to Company to access, enter, use, occupy, manage, maintain and operate in the Golf Course Premises for the Concession Services as further defined in Sections 7 and 8 of this Agreement. The area consisting of and including the Pro Shop and Pro Shop Office are expressly excluded from the Golf Course Premises that Company may use and not covered under or be a part of this Agreement.

**6. FACILITIES 'AS-IS' ONLY, NO WARRANTIES. THE CITY OF LAGO VISTA EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE FACILITIES, INCLUDING BUT NOT LIMITED TO, THE FACILITIES' CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. THIS WAIVER INCLUDES, BUT IS NOT LIMITED TO, ANY CONDITION CAUSED BY THE NEGLIGENCE OF THE CITY.**

**7. SCOPE OF SERVICES TO BE PROVIDED UNDER THIS AGREEMENT.** The scope of Concession Services provided by the Company shall, at a minimum, include and provide for the following:

- a. Healthy culinary products, meals, and beverages for the restaurant, bar, lounge, and onsite catering service for the golfing community and the general public at a reasonable price and in sufficient quantity.

- b. A system of product and service delivery and associated sanitary disposal that meets or exceeds customer expectations.
- c. An atmosphere of product and service delivery, and related sanitary disposal that meets or exceeds customer expectations.
- d. A clean, sanitary, and healthy system of physical plant maintenance and operations which conforms to all City, County, State, and Federal building, food service, restaurant operations, malt beverage/liquor dispensing regulations and health codes.
- e. A food, beverage, and concession service level which services the patronage of the golfing community and general public including continued marketing efforts to increase patronage.
- f. Experienced and professional management staff who can perform all required Concession Services, including, but not limited to, order, purchase, dispense, inventory, track, control, and handle waste stream of all products, materials, and supplies in the Golf Course Premises and perform the related maintenance functions. The Company shall designate an on-site manager to be the point of contact for daily operations of the Concession Services provided under this Agreement.
- g. An operation which maximizes revenues to both the Company and the City of Lago Vista.

The Company may, in addition to those Concession Services required to be provided hereunder, conduct weekly events from the Concession Facilities (but not from the back patio area nor anywhere outside of the Concession Facilities) including (i) karaoke, and, (ii) if properly licensed by the Texas Lottery Commission and only in accordance with such license, bingo activities. Company shall conduct all such events strictly in accordance with state law and local ordinances, and Company shall take all necessary precautions to prevent any excessive noise or other nuisance caused by such events. If the City Manager determines, in her sole discretion, that unreasonable noise, smells, or other nuisances are caused by such events, the City Manager may prohibit any further events until the City Council reviews the nature of such nuisance, and after a hearing, decides whether to continue allowing all or any of such events. If the City Council determines, after such hearing, that one or more of the events causes a nuisance that is unlikely to be mitigated by future actions of the Company, the City Council may prohibit all or any of such future events.

**8. SALE OF ALCOHOLIC BEVERAGES.** The Company shall maintain its own Beer and Wine or Mixed Beverage License through the Texas Alcoholic Beverage Commission for the duration of the Agreement. All alcohol purchases, taxes, reports, and accountability shall be under the control of and the sole responsibility of the Company.

**9. EXCLUSIVE CONCESSION RIGHTS.** Except as otherwise provided for in this Agreement, Company shall have the exclusive right to use the Concession Facilities as specified in this Agreement for the purpose of providing food and beverage concession services at the Golf Course Premises. The Company agrees that Special Event Permit holders

shall use the back-patio area (as shown in Exhibit A) as allowed by the Special Event Permit and may use outside caterers for the event.

**10. CITY-OWNED PROPERTY AND FACILITIES.** Unless otherwise provided in this Agreement, the City maintains ownership of the Concession Facilities and equipment as described in Exhibit B attached hereto. The Company shall have no ownership, claim, or interest in the Concession Facilities at any time or any insurance proceeds received by the City from damage, destruction, theft or loss of any Facilities due to any cause.

- a. The Company shall provide all equipment, supplies, personnel and other goods and services necessary to provide the Concession Services and standard concession operations at its sole expense as required by this Agreement, except as otherwise explicitly provided in this Agreement. The signs and advertising used by the Company shall be approved by the City, at their reasonable discretion, prior to the installation or distribution.
- b. The City shall provide the Concession Facilities in an 'as is' condition unless otherwise specified, along with all existing equipment and fixtures, including, but not limited to, kitchen fixtures and furnishings, cooking utensils, cooking space, serving utensils, service space, office space, dry good storage space, frozen food storage space, dining tables, dining seats, and dining chairs. Existing food and beverage inventory, if any, may be purchased from the City at cost if the Company is able to use such inventory in its planned menu offering.
- c. The Company shall use City-owned property and concession equipment only for providing authorized services as set forth in this Agreement.
- d. The major repair or replacement of any City-owned concession equipment, fixtures, facilities or personal or real property at the Golf Course Premises, and the Concession Facilities, shall be done at the City's discretion and at City's cost. Notwithstanding the foregoing, the Company shall not suffer, allow, or permit the concession equipment or City-owned property to be damaged and shall promptly pay the City for repair or replacement costs of all damage to City-owned concession equipment and property resulting from the Company's use of such concession equipment and property, except for reasonable wear and tear, upon written notice by the City. Further notwithstanding the foregoing, Company agrees to build any soundproofing between the Concession Facilities and other parts of the Golf Course and Golf Course Premises that the City reasonably determines to be necessary or advisable.
- e. The Company shall maintain and perform minor repairs to all Concession Facilities and equipment, fixtures, facilities or other personal property located at the Concession Facilities at its sole cost in a clean, sanitary, and orderly condition, free of debris, litter, filth, and offensive material, and in strict compliance with applicable laws, ordinances, and rules and the regulations of any health authority.
- f. All City-owned property shall remain City-owned and any and all equipment or property purchased by the Company shall remain Company owned unless otherwise specified herein or by separate agreement executed by the parties.

**11. QUALITY OF SERVICE.** The Company agrees that the concession services rendered shall be in compliance with this Agreement. All food, drinks, confectionery and the like sold or kept for sale shall be wholesome and pure and shall conform in all respects to the federal, state, and municipal food and other laws and regulations, including all applicable food handling and service safety regulations and requirements. No imitation, adulterated or misbranded item shall be sold or kept for sale. All merchandise kept for sale shall be stored and handled with due regard for condition and sanitation.

**12. MAINTENANCE OF FACILITIES.** Company shall clean and maintain the Concession Facilities as reflected in Exhibit A attached hereto, including the back patio area at Company's sole expense. Company shall adopt and maintain a maintenance and cleaning schedule for such facilities.

**13. PERSONNEL.**

- a. The Company shall provide an adequate number of trained personnel to staff and operate the Concession Facilities and to provide the services as set forth under this Agreement at all times the Concession Facilities are open. Company's failure to provide adequate staffing as the parties have agreed, or in the absence of an agreement, in the City's reasonable discretion and trained personnel as required herein shall constitute a default of this Agreement.
- b. Company shall ensure that all employees, personnel, or contractors under Company's control are adequately trained in food safety and handling procedures. All personnel shall have a valid Texas Food Handler Card and TABC Certification, and shall otherwise comply with state and federal law. Company shall also ensure that its employees do not use or possesses any alcoholic beverages or other intoxicating beverages, illegal drugs, or controlled substances at the Concession Facilities.
- c. Personnel shall treat all patrons, City representatives and all other persons in a respectful and professional manner.
- d. All Company employees, personnel, or contractors under Company's control shall be professional in appearance, dressed in neat and clean clothing, free of holes, tears or other signs of wear. Attire should include displaying the Company logo or insignia on a shirt or name tag and slacks, khakis, jeans or hemmed shorts.
- e. Company shall comply with all federal, state, and local laws, including but not limited to, federal and state wage and hour laws requirements and obligations, such as working hours and conditions, leave time, overtime, payment of all applicable taxes, unemployment and workers compensation coverage, compliance with immigration documentation, and deductions from employee pay.

**14. UTILITIES.** The City shall provide the Concession Facilities with water, electricity, garbage pickup, and sewer service. These utilities shall only be used in the provision of Concession Services, or as otherwise explicitly allowed under this Agreement. The Company shall take all action necessary to ensure that these utilities are being used at the most cost-effective means possible, and that no waste occurs. In the event, the cost of these utility services increases more than twenty percent (20%), the parties shall agree to meet to consider an adjustment in the Monthly Payment for the utility increase. Company shall be responsible

City of Lago Vista

Third Amended Concession Services Contract - Golf Course

for and shall pay for any necessary natural or propane service or supplies, as well as all telephone and internet services and any other utilities for the Concession Facilities not expressly paid by the City in this Agreement.

**15. HOURS OF OPERATION.** At a minimum the Company shall ensure that the Concession Facilities are open for business and are available to customers seven (7) days a week as follows:

Monday- Wednesday: 9:00 a.m. to 4:00 p.m.

Thursday - Sunday: 7:30 a.m. to 4:00 p.m.

Holidays: 7:30 a.m. to 4:00 p.m.

Notwithstanding the foregoing, Concession Facilities are not required to be open on any Monday that the Golf Course is closed. Any change in hours shall be coordinated with the Golf Course Director and shall be clearly posted on the clubhouse doors for patrons to see. Company's failure to observe and maintain the minimum agreed upon operating hours and conditions shall constitute a default of this Agreement.

**16. COMPLIANCE WITH LOCAL, STATE, AND FEDERAL RULES AND REGULATIONS.** Company and its officers, agents and employees shall at all times comply with all local, state, and federal rules, regulations, and requirements, codes, and laws. Company must obtain and maintain all required operational permits, licenses, fees, and taxes. Payment of any required governmental fees, licenses, and taxes shall be the obligation and responsibility of the Company.

**17. NONDISCRIMINATION.** The Company and its officers, agents and employees shall not discriminate against any person because of race, sex, age, creed, color, religion, or national origin or any other person in a federally protected class.

**18. INSURANCE.** The Company shall maintain insurance in the following amounts:

General Liability Insurance	\$500,000 per claim or occurrence	\$1,000,000 for all claims arising out of a single transaction or per occurrence
Property Damage Insurance	\$250,000 per occurrence	
Workers Compensation Insurance	In the amounts that meet the requirements as set forth by State law	

Company also agrees to furnish comprehensive general liability coverage providing bodily injury, personal injury, property damages including products liability and complete

operation coverage against any and all claims and losses arising out of any operations of the Company, including occupancy of the premises, sale, gift, serving, handling, or dispensing of any product.

Company shall provide the City with certificates evidencing such insurance coverage and the City shall be listed as an additional insured. Such certificate shall provide the City with thirty (30) days advance notice of any cancellation, material change, reduction of coverage, or nonrenewal. The City shall be provided with a copy of the appropriate riders evidencing that the City is included as an additional insured to the above required policies.

## **19. TERMINATION.**

- a. *Termination for Cause.* This Agreement may be terminated if the Company fails to provide the compensation and other consideration to the City as provided in Section 3 of this Agreement.
- b. *Defaults with Opportunity for Cure.* Should Company default in the performance of this Agreement in a manner stated below, City shall deliver written notice of said default specifying such matter(s) in default.
  1. In the event of an act of default due to a failure to provide adequate personnel to operate the Concession Facilities as required under Section 13, or due to a failure to maintain agreed hours of operation as required under Section 15, Company shall have no more than five (5) business days to cure such default.
  2. For all other acts of default, Company shall have ten (10) business days after receipt of the written notice, in accordance with Section 23.
  3. If Company fails to cure the default within the specified cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Company to complete the work required in this Agreement.
- c. *Termination By Law.* If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.
- d. *Termination not sole remedy.* In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Company for any default hereunder or other action.

20. **INDEMNITY.** The Company agrees, to the fullest extent permitted by law, to indemnify and hold ~~harmless~~ the City and its past, present and future officers, directors, agents, employees, and representatives (the “City Parties”) from and against all liability for any and all claims, suits, demands, and/or actions arising from or based upon the acts or omissions on the part of the Company, its officers, directors, agents, representatives, employees, members, visitors, invitees, contractors and subcontractors which may arise out of or result from the Company's occupancy or use of the facilities, concession equipment, and City-owned

property and/or activities conducted in connection with or incidental to this Agreement. The Company shall also indemnify the City Parties against any and all mechanic's and materialmen's liens or any other types of liens imposed upon City-owned property arising as a result of the Company's conduct or activity. This indemnity provision shall apply regardless of the nature of the injury or harm alleged, whether for injury or death to persons or damage to property, or whether such claims are alleged as common law, statutory or constitutional claims, or otherwise. This indemnity provision shall apply whether the basis for claims, suit, demand, and/or action may be attributable in whole or in part to the Company, or to any of its agents, representatives, employees, members, visitors, contractors, and subcontractors, or to anyone directly or indirectly employed by any of them. THE INDEMNITY INCLUDED IN THIS AGREEMENT SHALL APPLY REGARDLESS OF WHETHER THE BASIS FOR CLAIM, SUIT, DEMAND, AND/OR ACTION MAY BE ATTRIBUTABLE IN WHOLE OR IN PART TO THE SIMPLE NEGLIGENCE OF THE CITY PARTIES.

- 21. GOVERNMENTAL IMMUNITY.** Nothing in this agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either the City or its employees, nor to create any legal rights or claims on behalf of any third party. Neither the City, nor its employees waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.
- 22. INDEPENDENT CONTRACTOR.** The Company expressly agrees that during the term of this Agreement, neither the Company nor any of its employees, personnel, or any of its contractors, is nor shall ever be considered an employee of the City; the Company is an independent contractor, and in this regard the Company, its employees, personnel, or any contractors will not be within the protection of the coverage of the City's Workers Compensation coverage or other Insurance.
- 23. NOTICES.** Any notice required or desired to be given under this Agreement shall be in writing with copies directed as indicated and shall be personally delivered or given by mail. Any notice given shall be deemed to have been given when hand delivered or, if mailed, as of seventy-two (72) hours from the time when notice was deposited in the United States mails (certified or registered, return receipt requested, postage prepaid), addressed to the party to be served with a copy as indicated herein. Either party may change its address for purposes of notice by giving notice of such change of address to the other part in accordance with the provisions of this section.

#### **POINT OF CONTACT FOR CITY**

City Manager  
5803 Thunderbird  
Lago Vista, TX 78645  
[tracie.hlavinka@Lago-Vista.org](mailto:tracie.hlavinka@Lago-Vista.org)  
512-267-1170

#### **POINT OF CONTACT FOR COMPANY**

The Dugout Group LLC  
Dustin Martin, Owner  
20602 Hoover Cove  
Lago Vista, TX 78645

Dustinm61@gmail.com  
512-673-9940

ON-SITE  
MANAGER/DAILY  
OPERATIONS POINT OF  
CONTACT

Dustin Martin  
Owner  
Dustinm61@gmail.com  
512-673-9940

**Any changes to the On-site Manager/Daily Operations Point of Contact must be sent to the City Manager in writing within 48 hours of the change.**

- 24. AMENDMENTS AND CHANGES.** No alteration, addition, or amendment to the terms of this Agreement shall be made except by a formal written amendment hereto, executed by both the Company and the City.
- 25. WAIVERS.** No waiver of any provision hereof shall be implied from the conduct of the parties. Failure of the City to enforce any and all violations of ordinances or this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach or the same or a different provision or ordinance. Any such waiver must be in writing and must be signed by the party against which such waiver is sought to be enforced. The consent by the City to any matter or event requiring such consent shall not constitute a waiver of the necessity for such consent to any subsequent matter or event.
- 26. ORAL AND WRITTEN AGREEMENTS.** Any and all agreements heretofore made, if any, between the parties regarding the subject matter of this Agreement have been reduced to writing and are contained herein. This Agreement states the sole and exclusive terms of agreement between the parties regarding the subject matter of this Agreement, and any and all prior agreements, regarding such subject matter, not set forth herein are null and void.
- 27. TEXAS LAW GOVERNS.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall lie exclusively in Travis County, Texas.
- 28. TRANSFERABILITY OF AGREEMENT.** No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or in part by the Company without express written consent of the City.
- 29. SEVERABILITY.** In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

**30. THIRD PARTY BENEFICIARIES.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to the City nor to create any legal rights or claims, contractual or otherwise, on behalf of any third party.

**31. JOINT VENTURE.** This Agreement shall not be construed to establish a partnership, joint venture, agency, or joint enterprise, express or implied, nor any employer-employee or b01rnwed servant relationship by and among the parties hereto. Nor shall this agreement be construed to create or grant rights, contractual or otherwise, to any other person or entity not a party to this Agreement. Each party shall remain solely responsible for the proper direction of its employees and an employee of one shall not be deemed an employee or bonowed servant of the other for any reason.

**32. EFFECTIVE DATE.** This Contract shall be effective upon execution of this Agreement.

**33. WAIVER OF CITY LIABILITY.** City shall not be liable to the Company for any loss, damage or injury of any kind or character to any person or property (a) arising from any use and/or condition and extent of the property, or any part thereof including, without limitation, environmental contamination, (b) caused by any defect in the equipment, Golf Course Premises, or Concession Facilities located therein, (c) caused by or arising from any act or omission of Company, or any of its agents, employees, licensees or invitees, (d) arising from or in connection with the conduct of any Concession Services or any other conduct by Company performed on the Golf Course Premises or Concession Facilities, (e) arising from any accident on the Golf Course Premises or any fire or casualty thereon, (f) occasioned by the failure of Company to maintain the Concession Facilities in a safe condition, or (g) arising from any other cause whatsoever, except as occasioned by the gross negligence, intentional misconduct or violation of this Lease by the City Parties occurring after the date of this Agreement. Company, as a material part of the consideration of this Agreement, hereby waives, on its behalf, all claims and damages against City for any such loss, damage or injury to Company, INCLUDING BUT NOT LIMITED TO THOSE CAUSED BY THE SIMPLE NEGLIGENCE OF ONE OR MORE CITY PARTIES.

34.

**IN WITNESS WHEREOF**, the parties have executed and attested this Agreement by their officers thereunto duly authorized as of the date herein first written.

*(Signature Pages to Follow)*

**CITY OF LAGO VISTA**

By: \_\_\_\_\_

Printed Name: Tracie Hlavinka

Title: City Manager

Date:

DRAFT

**COMPANY: The Bunker Bar & Grille**

By: \_\_\_\_\_

Printed Name: Dustin Martin

Title: Owner

Date

DRAFT

Exhibit A  
CONCESSION FACILITIES

DRAFT

Exhibit B

2021 INVENTORY OF CITY-OWNED EQUIPMENT AND GOODS

DRAFT

## LAGO VISTA GC GRILL INVENTORY 2021

TY	COLOR	DESCRIPTION	MFG.
	stainless	Beer keg cooler, 3 taps, 2 doors, true	BEVERAGE AIR
	red	Beverage cooler, 1 door	Coke Cola
	stainless	chaffing dish-stainless pan holders	various types
	stainless	Coffee/tea maker, missing decanter	BLOOMFIELD
	gray	Folding chairs	
	stainless	Fountain Drink Dispenser-Property of	Coke Cola
	stainless	Fryer single	VULCAN
	wood	High Chair for child	
	stainless	Ice tea maker/dispenser	BUNN
	Black	Microwave	Panisonic
	stainless	Pot, bean - heavy duty with lid	
	stainless	Prep table, 2 shelves	
	stainless	Prep table, 2 shelves	
TY	COLOR	DESCRIPTION	MFG.
	stainless	Prep tables, 2 shelves	
	white	Rack, wire, 3 shelves used for chips	
	green	Rack, storage, 3 shelves	
	stainless	Racks, storage, 4 shelves	
	stainless	Rack, storage, 4 shelves inside walk-in	
	stainless	Rack, storage, 4 shelves inside walk-in	
	stainless	Rack, storage, 3 shelves	
	stainless	Rack, storage, 5 shelves	
	stainless	Refrigerator, 2 door w lock	TRUE
	stainless	Refrigerated Prep table 2 doors	Maxx Cold
	stainless	refrigerator, for glasses/pitchers	TRUE
	stainless	Refrigerator/freezer, walk-in	KOOLCO
	stainless	Rotisserie, electric for hotdogs	SEAL-MAX
	stainless	shelf hanging on wall over dishwasher	
	wood	Shelves, hanging over counter	
	stainless	Stove-oven (6 eye, double oven	
	White / plastic	Tables, folding	
	stainless	Tray jacks	
	black	TV's, flat screen	Emerson

Trumann Tufted Club Chair	Brown Leather	Charlton Home
Bruno Coffee Table	Wood	Foundry Select
Table and Seating - Bar height	Mahogany	Lancaster
Table and Seating -	Mahogany Finish	Lancaster
Laminate Table Top	Mahogany/Black	Attco
Metal Table base	metal	Ace Mart
Metal Table base	metal	Ace Mart
30" Round Table Top	Mahogany/Black	Ace Mart
Coctail Table Base Column	metal	Ace Mart
Metal Table base	METAL	Ace Mart
Hydraulic table glides		Ace Mart
80 piece felt furnitute pads	felt	Wayfair
Flat Grill	Metal	Ace Mart
Grill Table	Metal	Ace Mart
Plates (Large)	Black	IKEA
Plates (Small)	Black	IKEA
Sandwich Prep Table	Stainless	
Ice maker commerical	Stainless	
Beer cooler behind bar	Black	



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration, and possible action on Resolution 23-1981, A Resolution receiving a list of publicly owned properties and directing the City Manager to contract with a real estate broker for the sale of certain real property located at 21106 National Drive.

**Request:** Business Item

**Legal Document:** Resolution

**Legal Review:**

### **EXECUTIVE SUMMARY:**

On April 11, 2022, a Memorandum of Understanding (MOU) between the City of Lago Vista and the Lago Vista Property Owner Association was executed. This MOU noted two items:

1. City agrees to evaluate and document the public use/public purpose of each property it currently owns, where applicable, and will provide this information to the LVPOA by April 30, 2022.
2. Following the evaluation of the properties in question a solution will be researched and implemented that will be beneficial to both the City and POA.

A resolution included in the packet lists publicly owned properties and directs the City Manager to contract with a real estate broker for the sale of 21106 National Drive. This resolution is to implement a solution that will be beneficial to both the City and LVPOA as described in the MOU.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action on Resolution 23-1981, A Resolution receiving a list of publicly owned properties and directing the City Manager to contract with a real estate broker for the sale of certain real property located at 21106 National Drive.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.29 15:35:02 -06'00'

RESOLUTION NO. 23-1981

A RESOLUTION RECEIVING A LIST OF PUBLICLY OWNED PROPERTIES AND DIRECTING THE CITY MANAGER TO CONTRACT WITH A REAL ESTATE BROKER FOR THE SALE OF CERTAIN REAL PROPERTY LOCATED AT 21106 NATIONAL DRIVE.

WHEREAS, on March 17, 2022, the Council of the City of Lago Vista, Texas (the "Council"), approved a Memorandum of Understanding (the "MOU") with the Lago Vista Property Owners' Association (the "LVPOA"), under which the City of Lago Vista (the "City") agreed to evaluate and document the public use/public purpose of each applicable property that the City currently owns and provide that information to the LVPOA, and

WHEREAS, City staff, under the direction of the City Manager, have compiled a list of publicly owned property and the public use or purpose of each such property, attached to this Resolution as Exhibit A, and

WHEREAS, City staff, under the direction of the City Manager, have identified the property located at 21106 National Drive to be a candidate for sale by the City under the procedures listed in Section 253.014 of the Texas Local Government Code, and

WHEREAS, under the MOU the City and the LVPOA have agreed to research and implement a solution that will be beneficial to both the City and the LVPOA, now

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

SECTION 1. The Council hereby receives the attached list of publicly owned real property and the public use or purpose of each. Council hereby directs the City Manager to provide such list to the LVPOA as required under the MOU.

SECTION 2. The City Manager or her designee is hereby directed to contract with a real estate broker to sell the tract of real property owned by the City and located at 21106 National Drive. Such sale shall comply with state law regarding competitive bidding by being performed under Section 253.014 of the Texas Local Government Code. The Council may determine, on or after the thirtieth (30<sup>th</sup>) day after the property is listed, to sell the tract to the ready, willing, and able buyer who submits the highest cash offer, in which event the Council may approve a fee to such broker.

*[Signatures are included on the following page]*

PASSED AND APPROVED this the 5th day of January, 2023.

---

Ed Tidwell , Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the  
above and foregoing instrument was passed and approved.

## Exhibit A

Property Address	Current or Anticipated Public Use
3703 Allegiance Ave	Water Infrastructure
9103 Bar K Ranch Rd	Future Airport Parking or FBO
9107 Bar K Ranch Rd	Pilots Lounge
1 Boggy Ford Rd	Bowden Point
3401 Boone Dr	Lift Station
3609 Boone Dr	Lift Station
8321 Bramble Bush Cir	Water Infrastructure
8405 Briarwood Cir	Water Infrastructure
8504 Bronco Ln	Brahma Trail Road- Public Right of Way
8310 Bronco Ln	Water Infrastructure
8121 Chantilly Trl	Potential Park Space for expansion of current park system
8101 Chestnut Cv	Pool Parking Lot
8103 Chestnut Cv	Pool Parking Lot
8129 Chestnut Cv	Green Center
8131 Chestnut Cv	Green Center
8201 Chestnut Cv	Green Center
4704 Country Club Dr	Golf Course Maintenance Barn
5200 Country Club Dr	Wastewater Treatment Plant
5202 Country Club Dr	Wastewater Treatment Plant
2 Dawn Dr	City Hall area
3 Dawn Dr	City Hall area
4 Dawn Dr	City Hall area
5 Dawn Dr	City Hall area
6 Dawn Dr	City Hall area
9 Dawn Dr	City Hall area
20507 Dawn Dr	Temporary City Hall
20509 Dawn Dr	Temporary City Hall
20601 Dawn Dr	Veterans Park
20603 Dawn Dr	Veterans Park
21003 Dawn Dr	Old WTP2 Property
20503 Earhart Ln	Potential open space/pocket park
8037 Foothill Cv	Wastewater Infrastructure
8102 Foothill Cv	anticipated parkland/trail/trailhead
8109 Foothill Cv	anticipated parkland/trail/trailhead
8115 Foothill Cv	anticipated parkland/trail/trailhead
8117 Foothill Cv	anticipated parkland/trail/trailhead
8119 Foothill Cv	anticipated parkland/trail/trailhead

8121 Foothill Cv	anticipated parkland/trail/trailhead
8122 Foothill Cv	Anticipated future water connection
8128 Foothill Cv	anticipated parkland/trail/trailhead
8130 Foothill Cv	anticipated parkland/trail/trailhead
8133 Foothill Cv	anticipated parkland/trail/trailhead
8135 Foothill Cv	anticipated parkland/trail/trailhead
8137 Foothill Cv	anticipated parkland/trail/trailhead
21200 Green Shore Cv	Wastewater Infrastructure
21201 Green Shore Cv	Wastewater Infrastructure
5007 Green Shore Cir	Wastewater Infrastructure
21647 High Dr	Lift Station parking
21651 High Dr	Lift Station
21409 Lakefront Dr	Lift Station
21106 National Dr	Council Approved Sale
21305 Park Cir	Golf Course Drainage Pond and access road
21307 Park Cir	Golf Course Drainage Pond
9303 Rolling Hill Trl	Airport Infrastructure (AWOS Station)
9405 Rolling Hill Cv	Potential utility infrastructure
21203 Santa Carlo Ave	Lift Station

**STATE OF TEXAS**

**COUNTY OF TRAVIS**

**MEMORANDUM OF UNDERSTANDING BETWEEN  
CITY OF LAGO VISTA, TEXAS AND  
LAGO VISTA PROPERTY OWNERS' ASSOCIATION**

THIS MEMORANDUM OF UNDERSTANDING (this "MOU") is entered into by and between the **CITY OF LAGO VISTA**, a Texas home rule municipal corporation with its principal offices being located at 5803 Thunderbird, Lago Vista, Texas 78645 (the "City" or "Lago Vista"), and **LAGO VISTA PROPERTY OWNERS' ASSOCIATION, INC.**, a Texas Non-Profit Corporation ("LVPOA" or the "Association") with its principal offices being located at 20503 Dawn Drive, Lago Vista, Texas 78645.

**RECITALS**

WHEREAS, the purpose of this MOU is to set forth certain commitments between the City and the Association with respect to use of LVPOA property pending resolution of claims regarding Assessments, Fees, and Charges, charged to the City; and

WHEREAS, the LVPOA and the City have a history of cooperation for the mutual benefit of City residents and Association members.

WHEREAS, parties have memorialized the cooperative efforts afforded to the other through agreements such as a Memorandum of Agreement providing the LVPOA secure storage of LVPOA equipment and the City with uncovered mooring space for the City pontoon boat during flooding or freezing weather respectively; and

WHEREAS, the City and LVPOA have also entered into a License Agreement for use of a LVPOA power pole for City utility meter reading equipment; and

WHEREAS, the City, LVPOA, and Chamber of Commerce have coordinated on production of Lago Fest, a community-wide event, with staff from each entity serving on the event committee; and

WHEREAS, the cooperative efforts of the Lago Fest committee members have been exercised, not as an exclusive benefit for any individual party or as the direct result of the City's membership in the LVPOA, but for the benefit of the community as a whole; and

WHEREAS, the City Council of the City desires to authorize the Mayor to execute an MOU between the Parties as well as authorize the City Manager to take all steps necessary to effectuate the terms of the MOU; and

WHEREAS, the Board of Directors of the LVPOA desires to authorize the President of the Board to execute an MOU between the Parties as well as authorize the LVPOA General Manager to take all steps necessary to effectuate the terms of the MOU.

NOW, THEREFORE, this Memorandum of Understanding, when accepted by both parties shall constitute the entire agreement as to the scope of responsibilities of each party and the terms of the MOU.

The Parties mutually agree as follows:

### **AGREEMENT, TERM AND TERMINATION**

1. Agreement:

- a. CITY agrees to evaluate and document the public use/public purpose of each property it currently owns, where applicable, and will provide this information to the LVPOA by April 30, 2022.
- b. Following the evaluation of the properties in question a solution will be researched and implemented that will be beneficial to both the City and the POA
- c. LVPOA agrees to rent Bar K Park to the City for Lago Fest 2022 for a fee of \$5,750.00.

2. Term This MOU shall become effective on the date hereof and shall remain in full force and effect until a date certain to be mutually determined by the Parties.

3. Termination. This MOU may be terminated by mutual agreement of the Parties. In the event of termination, each party waives any and all claims for reliance, consequential damages, and any other damages.

### **MISCELLANEOUS**

4. Recitals. The recitals set forth above are, by this reference, incorporated into and deemed a part of this MOU.

5. Venue. The obligations of the parties to this MOU are performable in Travis County, Texas, and exclusive venue for any legal action in connection with this MOU shall lie in Travis County, Texas.

6. Governing Law. This MOU shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Texas, without regard to conflicts of law or choice of law principals of Texas or any other state.

If to the City: City Manager  
City of Lago Vista  
P O Box 4727  
Lago Vista, Texas 78645

With a copy to: City Attorney  
City of Lago Vista  
P O Box 4727  
Lago Vista, Texas 78645

With a copy to: Clint Brown  
Roberts Market Weinberg Butler Hailey PC  
317 Grace Lane Suite 140  
Austin, TX 78746

16. Counterparts. This MOU may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

THIS MOU IS EXECUTED as of the 11 day of April, 2022, by the Association  
signing by and through its Board President and the City, signing by and through its Mayor, duly  
authorized to execute same

## FOR CITY

Ed Zelwell

Ed Tidwell, Mayor

ATTEST-

Sandra Barton

Sandra Barton, City Secretary

## FOR L VPOA

Anna Jackson

Anna Johndrow, President



## AGENDA ITEM

# City of Lago Vista

**To:** Mayor & City Council

**Council Meeting:** January 5, 2023

**From:** Tracie Hlavinka, City Manager

**Subject:** Discussion, consideration, and possible action regarding Ordinance No. 22-12-01-01; An Ordinance amending the City of Lago Vista Rules of Procedures.

**Request:** Business Item

**Legal Document:** Other

**Legal Review:**

### **EXECUTIVE SUMMARY:**

On November 3, 2022, and December 1, 2022, City Council discussed several sections of the current Rules of Procedure. During the November 3rd meeting, Council requested a full review of the Rules of Procedures after the upcoming election. The Council conducted that discussion of the full document at the December 1st meeting and gave staff and the City Attorney direction to revisions they would like to see brought back for collective consideration and approval.

The document in the packet includes discussions from both the November 3rd and December 1st meetings.

**Impact if Approved:**

N/A

**Impact if Denied:**

N/A

**Is Funding Required?**  Yes  No    **If Yes, Is it Budgeted?**  Yes  No  N/A

**Indicate Funding Source:****Suggested Motion/Recommendation/Action**

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Motion to**  Make Selection  N/A -  N/A -  N/A

**Known as:**

Discussion, consideration, and possible action regarding Ordinance No. 22-12-01-01; An Ordinance amending the City of Lago Vista Rules of Procedures.

**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka  
Date: 2022.12.28 16:55:15 -06'00'

**ORDINANCE NO. 2022-01-05-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LAGO VISTA, TEXAS, AMENDING ORDINANCE 21-07-15-01,  
RULES OF PROCEDURE, PROVIDING FOR PUBLICATION,  
PROVIDING FOR PENALTIES, AN EFFECTIVE DATE,  
REPEALER, SEVERABILITY, PROPER NOTICE AND OPEN  
MEETINGS CLAUSE.**

**WHEREAS**, the City of Lago Vista, Texas is a Home Rule City; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary of proper for carrying out a power granted by to the City; and

**WHEREAS**, Article III, Section 3.13 of the City Charter of Lago Vista, Texas requires the City Council to establish by ordinance its procedures for conducting Council meetings; and

**WHEREAS**, on September 20, 2018, the City Council of the City of Lago Vista adopted Ordinance No. 18-09-20-04 establishing Rules of Procedure applicable to the City Council and all City commissions, boards and advisory committees; and

**WHEREAS**, on July 15, 2021, the City Council of the City of Lago Vista adopted Ordinance No. 21-17-15-01 repealing and replacing the prior version of the Rules of Procedure; and

**WHEREAS**, the City Council finds that it is necessary and proper for the purpose of promoting effective and efficient government of the City to amend the Rules of Procedure by repealing and replacing the current version.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
THE CITY OF LAGO VISTA, TEXAS, THAT:**

**SECTION 1. FINDINGS OF FACT.** All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend the Rules of Procedure as shown in Exhibit "A." Underlined language shall be added and language to be deleted is signified by strike-through.

**SECTION 3. REPEALER.** All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. CODIFICATION AND PUBLICATION.** The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.013 of the Texas Local Government Code.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the Texas Local Government Code.

**SECTION 7. OPEN MEETINGS.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 5th day of January, 2023 by a vote of the City Council of the City of Lago Vista, Texas.

---

Ed Tidwell, Mayor

ATTEST:

---

Lucy Aldrich, City Secretary

On a motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_, the above and foregoing ordinance was passed and approved.

# Exhibit A

## **RULES OF PROCEDURE**

### **FOR THE CITY COUNCIL, COMMISSIONS, BOARDS, AND ADVISORY COMMITTEES OF THE CITY OF LAGO VISTA, TEXAS**



Adopted: 2021

Sources Include: Robert's Rules of Order, Rosenberg's Rules of Order, National Association of Parliamentarians, and the Texas Cities of Bellaire, Huntsville, Kerrville, Killeen, Murphy, West University Place, and Weatherford.

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## ARTICLE 1. AUTHORITY, APPLICABILITY, AMENDMENT, AND ANNUAL REVIEW

### **1.1 Authority.**

Article III, Section 13 of the City Charter of the City of Lago Vista, Texas grants the City Council the right to determine its own rules of procedure; the following rules are enumerated under and by authority of said provision.

### **1.2 Applicability.**

The rules of procedure adopted by the City Council are applicable not only to the City Council, but also to the commissions, boards, and committees of the City of Lago Vista, in accordance with the Charter. Open meeting requirements of the City Council do not apply to city boards, committees, and commissions without rulemaking, nor quasi-judicial except as required under state law. Processes for disciplinary action will be similar for the City Council and the regulatory boards and commissions but will vary for the non-regulatory commissions, boards, and committees. Any reference to Mayor also applies to the presiding officer of a commission, board, or committee of the City of Lago Vista. Any reference to City Council also applies to any commission, board, or committee. Decisions made by state-mandated boards and commissions, like those of City Council, may require a super-majority vote. Detailed, unique information about commissions, boards, and committees can be found in Article 7 of this document.

### **1.3 Amendment.**

These rules may be amended, or new rules adopted, by a majority vote of the members of the City Council present.

### **1.4 Annual Review.**

Following the municipal elections each year, Council may review these Rules of Procedure, make changes as appropriate, and adopt their own rules of procedure in accordance with the Charter. In the event no annual review occurs, the standing Rules of Procedure continue in effect. This does not limit the Council's right and ability to amend the rules at any other time during the year, in accordance with the Charter.

## ARTICLE 2. GENERAL RULES OF PROCEDURE AND POLICIES

### **2.1 Construction of Authority.**

The construction of authority in all matters associated with the meetings and activities of the City Council, including the agenda, shall be: (1) the U.S. Constitution and laws of the United States of America; (2) the Texas Constitution and statutes of the State of Texas; (3) the City Charter; (4) the Code of Ordinances of the City of Lago Vista, Texas; (5) these Rules; and, (6) Rosenberg's Rules of Order as amended and set forth herein.

### **2.2 Meetings Shall Be Public.**

All meetings of the City Council shall be public, and notices thereof shall be posted as provided under the Texas Government Code, Chapter 551, Open Meetings Act. Except in the case of an emergency meeting, notice of all meetings shall be given 72 hours before the time set for any meeting.

The Lago Vista City Hall is wheelchair accessible and special parking is available on the east side of the building. If special accommodations are required, please contact the city secretary a minimum of 24 hours in advance at (512) 267-1155.

All meetings of the City Council, commissions, boards, and committees with regulatory authority will be video recorded and posted to the city website. Meetings should be conducted in such a way that recordings are possible. Currently, that translates to conducting the meeting in Council chambers. Boards, committees, and commissions without regulatory authority may be video recorded and posted to the city website when possible.

## **2.3 Conduct of Meetings.**

Meetings of the City Council shall be conducted according to the rules adopted by the City Council, as well as the terms and provisions of Rosenberg's Rules of Order as amended herein and when not inconsistent with these rules.

## **2.4 Regular Meetings.**

Regular meetings of the City Council shall be on the first and third Thursday of each month at 5:30 p.m. in Council chambers. The regular session of the City Council shall begin at 6:30, but work sessions and executive sessions will be held before the regular session and may continue after the regular session. The City Council may, by majority vote at a regular meeting, change the days or times of meetings as circumstances may necessitate. Please refer to Section 1.331 of the Code of Ordinances for more information on meeting specifications.

## **2.5 Special/Town Hall Meetings.**

Special meetings of the City Council may be called upon request of the mayor, or two members of the City Council then seated. A request for a special meeting shall be filed with the city secretary or the city manager in written/electronic format unless made at a regular meeting at which a quorum of council members is present. The city manager and all Council members shall be notified of all special meetings.

## **2.6 Emergency Meetings.**

In case of an emergency or urgent public necessity, which shall be expressed in the meeting notice, it shall be sufficient if members receive, and notice is posted one (1) hour before the meeting is convened. Notice shall be provided also to the media in accordance with the Texas Government Code, Section 551.047.

## **2.7 Work Sessions.**

Work sessions are special meetings called for the purpose of conducting a detailed and thorough exploration of matters that may properly come before the City Council.

## **2.8 Executive Sessions.**

Executive sessions are sessions closed to the public. They are only permitted for the purpose of discussing matters enumerated in Chapter 551, Open Meetings Act of the Texas Government Code. Disclosure of topics to be discussed shall be made to the public in accordance with the requirements of the Open Meetings Act.

The City Council can convene into an executive session as stated on a posted agenda during a regular or special meeting. However, before said session begins, the presiding officer shall announce that the executive session is commencing and identify the section or sections of the Open Meetings Act under which the closed meeting is held. The order in which an executive session may appear on the agenda is subject to the discretion of the City Council. A certified agenda of the meeting will be created by the presiding officer or his or her designee, sealed and permanently kept in accordance with state law, subject to opening by court order. No voting or action shall be taken by the City Council during an executive session. No other subject other than that posted on the agenda is to be considered. Adjournment of the executive session and any vote needed shall be made during the open public meeting.

Items discussed in executive session are to remain private. Except for action taken in open session, no Council Member, staff member or legal counsel may discuss or reveal the proceedings of an executive session. Section 551.146 of the Texas Government Code makes such an act a **class B misdemeanor** and opens the person who reveals such information personally liable for any damages resulting from such action.

## **2.9 Recessed Meetings.**

No meeting shall be recessed for a longer period of time than allowed by state law.

## **2.10 Quorum.**

The number of members of the City Council that shall constitute a quorum for the conduct of business shall be in accordance with the City Charter.

## **2.11 Conflict of Interest.**

Rules governing a City Council member's ability to vote when a conflict of interest exists shall be governed by the City Charter.

## **2.12 Presiding Officer.**

Rules governing the presiding officer are defined in the City Charter.

The Presiding Officer shall serve as the chair of all meetings and shall make final rulings on all questions pertaining to these rules. All decisions of the presiding officer are final unless overruled by the City Council through a motion to appeal as described in Article 3.9 – Courtesy, Decorum and Order of these rules.

The presiding officer is entitled to participate in the discussion and debate and is entitled to vote on all business before the City Council. Because the presiding officer conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the City Council in debates and discussions. This practice in no way precludes the presiding officer from participating in the meeting fully and freely; however the presiding officer should not make a motion unless the remainder of the commission, board or council members fail to make a motion.

The presiding officer of commissions, boards, and committees shall be the person selected according to the rules defined in the appropriate enabling ordinance and powers vested in that presiding officer will also be defined in that same ordinance.

## **2.13 Minutes of Meetings.**

The city secretary shall keep an account of all proceedings of the City Council, and they shall be open to public inspection in accordance with the laws of the State of Texas.

## **2.14 Suspension and Amendment of Rules.**

Any provisions of these rules not governed by federal, state law or the City Charter may be temporarily suspended and/or amended by a super majority vote (see Article 3.7 of these rules) of the City Council and may be amended in a similar fashion if such amendment was introduced at the previous regular meeting of the City Council and shall have received preliminary approval of the City Council at such meeting. For the purpose of this section, preliminary approval shall mean a motion and a second with a majority vote to preliminarily approve the amendment.

## ARTICLE 3. PARLIAMENTARY PROCEDURE

### 3.1 Purpose.

The purpose of these rules of parliamentary procedure is to establish orderly conduct of the meetings. The ultimate purpose of these rules of parliamentary procedure is to encourage and facilitate decision-making by the City Council. These rules enable the majority to express their opinion and fashion a result.

### 3.2 Model Format for an Agenda Item Discussion.

The following nine (9) steps may be used as a model or guidebook by the presiding officer. The meeting is governed by the agenda and the agenda constitutes the only items to be discussed. Each agenda item can be handled by the presiding officer (Mayor) in the following basic format:

- 1. Announce the Item.** The mayor should announce the agenda item number and should clearly state the subject matter of the agenda item by reading the caption for the item being considered.
- 2. Receive a Report.** The mayor should invite the appropriate people to report on the item, including any recommendation they might have.
- 3. Council Discussion.** The mayor should ask the council members if they have any technical questions for clarification. At this point, members of the City Council may ask clarifying questions to the people who reported on the item, and they should be given time to respond. Council discussion on an item may continue after citizen comments are given.
- 4. Seek Citizen Input.** The mayor should invite citizen comments – or if a public hearing, open the public hearing. Upon conclusion, the mayor should announce that public input is closed, or if a public hearing, close the public hearing.
- 5. Motion First.** The mayor should invite a motion from the City Council before debate is given on the merits of the item. The mayor should announce the name of the member who makes the motion.
- 6. Motion Second.** The mayor should determine if any member of the City Council wishes to second the motion. The mayor should announce the name of the member who seconds the motion. If no member of the City Council wishes to second the motion, then the motion fails, and should be so stated by the mayor.
- 7. Discuss the Motion.** The mayor will announce that there is a motion and a second, and will restate the motion, and will invite the members of the City Council to discuss the motion. If there is no desired discussion, the mayor may call for a vote. If there has been no discussion or a brief discussion, then there is no need to repeat the motion before taking a vote. If the discussion has been lengthy, it is a good idea to repeat the motion before calling for the vote.
- 8. Vote.** The mayor calls for the vote. A simple majority vote determines whether the motion passes or fails unless a super-majority is required for passage. All Council members, including the mayor, shall vote upon every question, ordinance, or resolution, unless recused because of a conflict of interest as defined in the City Charter. Unless so excused, any Council Member refusing to vote shall be recorded in the minutes as voting with the majority. Action items require a vote.
- 9. Announce the Outcome.** The mayor announces the results of the vote and should also state what action (if any) the Council has taken.

### **3.3 The Basic Motions.**

The basic motion is the one that puts forward a decision for consideration. A basic motion might be: “I move approval of the ordinance as submitted,” or “I make a motion that we deny the resolution.”

### **3.4 The Motion to Amend.**

If a member wants to change a basic motion, the member will have to move to amend the original or previously amended motion. A motion to amend might be: “I move that we amend the motion to include the changes we discussed to the ordinance.” A motion to amend seeks to retain the basic motion on the floor (a motion made and seconded), but to modify it in some way. A motion to amend requires the agreement of the person making the original motion. If the basic motion has already been seconded, the motion to amend must be acknowledged and accepted by the member who seconded the basic motion.

### **3.5 Discussion and Debate.**

The basic rule of motions is that they are subject to discussion and debate. Accordingly, the basic motion and the motion to amend are all eligible, each in their turn for full discussion by and before the City Council. Discussion and debate can continue as long as the members wish to discuss it, or until a motion is made to limit debate (call the question or move the question) which requires a super majority. At that time, the mayor shall call for a vote on the motion.

### **3.6 Other Motions.**

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the Council to move on. The following motions are NOT debatable, and the mayor must immediately call a vote on the motion, if seconded by another Council Member.

- ***Motion to Adjourn.*** This motion, if passed, requires the Council to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.
- ***Motion to Recess.*** This motion, if passed, requires the Council to immediately take a recess. Normally the Mayor will determine the length of the recess which could last for a few minutes to several hours. It requires a simple majority vote.
- ***Motion to Fix the Time to Adjourn.*** This motion, if passed, requires the Council to adjourn the meeting at the specific time set in the motion. For example, “I move we adjourn this meeting at Midnight.” It requires a simple majority vote.
- ***Motion to Table.*** This motion, if passed, requires discussion of the agenda item to be halted immediately, and the agenda item to be placed on hold. The motion may contain a specific time to bring the item up again, or it may not specify a time. If no time is specified, the item shall be placed on the agenda at the very next regular Council meeting.
- ***Motion to Remove from Table.*** This motion, if passed, allows the Council to remove an item previously placed on hold. A vote in favor of removing an item from the table must be made before the Council can take action on an item that was tabled.

### **3.7 Motions Requiring a Three-Fourths or Supermajority Vote to Pass.**

Normally a super majority vote consists of six votes (four to pass as a simple majority, plus two more). For the purposes of these rules and as defined in the Charter, a three-fourths vote shall be referenced as a Supermajority vote. In exceptional circumstances where the number of council members is diminished due to vacancy, the following shall constitute a three-fourths or super majority vote:

NUMBER OF COUNCIL MEMBERS	NUMBER OF VOTES FOR SUPER MAJORITY
6	5 or more
5	4
4	3
3	3

- **Motion to Limit Debate.** This motion is sometimes referred to as, “moving the question” or, “calling the question.” When a member of the Council makes such a motion, the member is saying, “I have had enough discussion, let’s vote on the issue.” When such a motion is made, the mayor should ask for a second, stop the discussion and vote on the motion to limit debate. The motion requires a super majority vote to pass.
- **Motion to Object to the Consideration of an Item.** This motion, if passed, precludes the City Council from even considering the item on the agenda. It does not preclude the item from appearing on a future agenda. The motion requires a super majority vote to pass. (Normally, this motion is unnecessary because the objectionable item can be defeated outright or tabled.)
- **Motion to Suspend the Rules.** This motion is debatable but requires a super majority vote to pass. This motion allows the Council to suspend its own rules for a particular purpose. For example, the Council may desire to give a particular speaker more time than normally allowed. A “motion to suspend the rules and give the speaker ten additional minutes,” accomplishes this desire.
- **Motion to Hire/Fire the City Manager.** The city manager shall be appointed or removed by a vote of at least 5 members, provided that his or her salary may be set by a simple majority vote. (Charter Art. IV Section 4.01 – City Manager.)

### 3.8 Motion to Reconsider.

There is a special motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure on the issue. As such, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a simple majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

The first rule involves timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next regular meeting (if properly noticed and on the posted agenda). A motion to reconsider made at a later time is considered untimely and it may not be considered unless the Council suspends the rules to consider it.

Second, the motion to reconsider can only be made by a member of the Council who voted in the majority on the original motion. The motion to reconsider may be seconded by any member of the City Council regardless of how they voted on the original motion. If a member of the Council who voted in the minority on the original motion seeks to make a motion to reconsider, it must be ruled out of order by the mayor. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back again and again, which would defeat the purpose of finality.

If a motion to reconsider passes, then the original matter is back before the Council, and a new original motion is in order. The matter may be discussed as if it were on the floor for the first time.

### **3.9 Courtesy, Decorum and Order.**

These rules of order are meant to promote an atmosphere of courtesy and decorum appropriate for the efficient discussion of business. It is the responsibility of the mayor (and the members of the City Council) to maintain that atmosphere of courtesy and decorum. The mayor should always ensure that debate and discussion focus on the item and the policy in question, not on the personalities of the participants in the discussion. Debate on policy is healthy; debate on personalities is not. In order to assist in the creation and maintenance of that atmosphere, the following rules shall govern all meetings:

- 1. Request to Speak.** Before a council member, staff member or an audience member may speak, they must first be recognized by the mayor. Upon recognition the person requesting to speak shall hold the floor and shall make their point clearly and succinctly. Public comments must be kept relevant to the subject before the Council. The mayor shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, overly redundant, or slanderous remarks may be barred by the mayor from further comment before the Council during the meeting. Audience members who wish to speak during an agenda must first complete a 'request to speak card' and submit it to the city secretary. The mayor has the right to cut a speaker off if the discussion becomes too personal, too loud, too crude, irrelevant, impertinent, redundant, or slanderous.
- 2. Order.** If a person fails to request to speak before speaking, the mayor shall rule them 'out of order' and remind them that they do not have the floor. While the City Council is in session, all council members must preserve order and decorum. A person shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the meeting, nor disturb any other person while speaking or refuse to obey the orders of the mayor.
- 3. Improper References Prohibited.** Every person desiring to speak shall address the entire Council and shall not single out a member of the Council, the audience, or a staff member. Speakers shall confine themselves to the question under debate, avoiding all personal attacks and indecorous language.
- 4. Interruptions.** A council member, once recognized, shall not be interrupted when speaking unless it is to call him or her to order, or other such interruption expressed below. If the council member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined, and if the council member is found to be in order, he or she shall be permitted to proceed speaking. Allowable interruptions or points of order available to council, city manager, city secretary, or city attorney are as follows:
  - a. Point of Privilege.** The proper interruption would be: "Point of Privilege." The mayor would then ask the interrupter to, "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room might be too hot or too cold or a fan motor might interfere with a council members ability to hear.
  - b. Point of Order.** The proper interruption would be: "Point of Order." The mayor would then ask the interrupter to, "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the mayor called for a vote on a motion that permits debate without allowing any discussion.
  - c. Motion to Appeal.** If the Mayor makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the mayor by stating, "motion to appeal." If the motion is seconded and after debate if it passes by a simple majority vote, the ruling of the mayor is reversed.
  - d. Call for orders of the day.** This is simply another way of saying, "let's return to the agenda." If a council member believes the discussion has strayed from the agenda. The motion does not require

a vote. If the Mayor discovers that the discussion has strayed from the agenda, he or she simply returns to the business of the day.

e. **Withdraw a Motion.** During the debate and discussion of a motion, the original maker of the motion on the floor, at any time, may interrupt the speaker to withdraw his or her motion. The motion is immediately deemed withdrawn and discussion on the motion shall cease. Council members are free to make the same motion or another motion.

### **3.10 Enforcement of Rules and Procedures.**

The following provisions may be used to enforce the good order and decorum of the meeting. The action may be taken by the mayor under his or her own action, or upon a motion to enforce by any council member. Reference to sergeant at arms only refers to city council meetings and at board, committee, or commission meetings as requested by the council liaison and approved by the city manager.

1. **Warning.** The mayor may order any person (council member, staff member or audience member) in violation of these rules to be silent.
2. **Removal.** If, after receiving a warning from the mayor, the person continues to disturb the meeting or breach the peace and good order of the meeting, the mayor may order the person to leave the meeting. If the person does not leave the room, the mayor may order the sergeant-at-arms to remove the person.
3. **Sergeant-at-Arms.** The sergeant-at-arms shall be the highest-ranking police officer in attendance at the council meeting, or such other officer designated by the chief of police for that purpose.

Upon instruction of the mayor, it shall be the duty of the sergeant-at-arms to remove from the meeting any person who intentionally disturbs the proceedings of the City Council. A violation of these rules may be deemed an attempt to disrupt, obstruct, and/or interfere with a lawful meeting and subject the violator to prosecution under state law for disrupting a lawful meeting. (Section 42.05, Texas Penal Code).

4. **Resisting Removal.** Any person who resists removal by the sergeant-at-arms may be charged with violating Section 42.05 of the Texas Penal Code.
5. **Motion to Enforce.** Any council member may move to require the mayor to enforce these rules and the affirmative vote of a simple majority of the Council shall require the mayor to do so. A motion to enforce is an allowable interruption and is not debatable.

### **3.11 Council May Discipline its Own Members.**

In the event a council member violates the Charter, these Rules or any other ordinance of the City or acts in a manner that causes embarrassment or disgrace to the City of Lago Vista, the City Council on supermajority vote may discipline the offending member. This process will be in force for the City council and the three commissions with regulatory authority. Discipline of advisory boards is addressed in Section 7.8 of this document. The issue shall be raised within 30 days of the offense, or it is no longer actionable.

Such action may only take place after an executive session is held to discuss the offense. The offending member shall be present at the executive session to answer any questions asked by members of the City Council or make other statements as he or she may desire to make in his or her defense. If the offending member refuses to attend the executive session, the remaining members of the City Council may proceed in his or her absence.

The outcome of the executive session may be as follows and shall be made publicly in open session in accordance with the Texas Open Meetings Act:

1. **No Action.** The City Council chooses to take no action.
2. **Private Censure.** The City Council may choose to privately censure the offending member, leaving their comments to the offending member in the confines of the executive session.
3. **Public Censure.** The City Council may choose to publicly censure the offending member through a resolution passed by supermajority vote and entered into the public record. For purposes of calculating a supermajority vote under this section, the City Council shall include the total number of those members of the City Council present and voting in favor of such censure, divided by the total number of members of the City Council less any vacancies, and less the member who is the subject of the vote.

If one of the regulatory boards or commissions holds a disciplinary session and cannot come to a resolution about one of the above options, the council liaison will bring the matter to the council for resolution.

## ARTICLE 4. MEETING AGENDAS

The mayor and the city manager or an appropriate designee, shall prepare an agenda and cause the same to be posted a minimum of 72 hours prior to the meeting. Agendas shall be delivered to the City Council, in the format requested by each council member, on or before 6:00 PM of the day of the posting, or within such other times as established by the City Council from time to time. In the event of an emergency meeting of the City Council, this provision shall be suspended when not inconsistent with the provisions of federal or state law or the City Charter.

To facilitate the agenda process, the mayor, two council members, or the city manager may place an item on the City Council agenda. Staff assistance, if required, should be requested through the city manager. Agenda items must be provided to the city manager's office at city hall by 12:00 noon on the seventh (7) calendar day preceding the date of the regular meeting. If the agenda topic does not allow for staff to adequately prepare information for City Council's consideration, the item may be postponed until the next regular meeting.

### 4.1 Call to Order & Announcement of a Quorum

The mayor shall call the meeting to order. The mayor shall announce that a quorum of the City Council is present and shall state for the record the names of all members of the City Council who are absent.

### 4.2 Executive Session Items.

This section is only used when it is necessary for the Council to convene in executive session. Executive sessions are sessions closed to the public. They are only permitted for the purpose of discussing matters enumerated in Chapter 551, Open Meetings Act of the Texas Government Code. Disclosure of topics to be discussed shall be made to the public in accordance with the requirements of the Open Meetings Act.

If the subject of the executive session warrants, the executive session may be held prior to the regular session and after the regular session, as necessary.

#### **4.3 Action on Executive Session Items.**

This section is only used if Council conducts an executive session. Action on executive session items must be taken during public/open session of the Council. Action may include the taking of no action at all.

#### **4.4 Pledge of Allegiance to the United States Flag and Texas Flag and Invocation**

The Council shall recite the Pledge of Allegiance to the United States Flag and pledge to the Texas Flag. In addition, an Invocation may be made at this time. committees, boards, and commissions can independently determine if they would like to recite the pledges and conduct an invocation.

#### **4.5 Citizen Comments on Non-Agenda Items.**

All persons desiring to speak to the City Council on a non-agenda item must submit a 'request to speak card' to the city secretary at least five (5) minutes before meeting starts.

#### **4.6 Items of Community Interest.**

The mayor, council members, and citizens will have an opportunity to speak about items of community interest.

#### **4.7 Presentations & Proclamations.**

The mayor shall make any presentation or deliver any proclamation as may be required from time to time. Outside entities and organizations granted permission to make a presentation shall be placed in this section.

#### **4.8 Public Hearings.**

This section is only used when a statutorily required public hearing is part of the order of business. The mayor shall first request staff comments. The mayor shall open the public hearing and receive citizen input. While the public hearing is open, City Council may ask questions of the speakers, but may not deliberate or argue with the public on the matter at hand. Those speaking at a public hearing are required to follow the rules established herein for citizen comments. Upon conclusion of citizen comments, the mayor shall close the public hearing. Council may deliberate or take action on the matter at hand upon the closing of the public hearing.

#### **4.9 Regular Agenda Items.**

Items for individual consideration shall be considered by the City Council individually and approved by either a simple majority vote or a super majority vote as may be required.

#### **4.10 Citizen Comments on Agenda Items.**

All persons desiring to speak to the City Council on an agenda item must submit a "request to speak card" (or its digital/remote equivalent) to the City Secretary at least five (5) minutes before meeting starts.

#### **4.11 Approval of the Minutes.**

The Council shall consider the minutes of any meeting presented for their review since the last regular meeting. This heading will only be used when there are no other items listed on a consent agenda.

#### **4.12 Consent Agenda Items.**

There is hereby established, as a part of every agenda for regular and/or special called meetings of the City Council, a portion of said agenda that shall be labeled "consent agenda." Said consent agenda may consist of any and all business regularly coming before the City Council (except required public hearings and items requiring a supermajority vote) including approval of the minutes of previous meetings.

All items set out in the consent agenda shall be deemed passed upon passage of an affirmative motion, by a vote of the majority of the members of the City Council then seated, that the consent agenda be adopted. No further action shall be deemed necessary, and all such items appearing on the consent agenda, upon passage of such motion, shall be deemed adopted as if voted upon separately and as if the caption and/or body of any ordinance therein set out shall have been read in full.

Any member of the City Council may request that any item be removed from the consent agenda and considered separately. Such a request shall be honored as if it had been passed by majority vote.

If any item was removed from the consent agenda, it will be considered immediately following approval of the remainder of the consent agenda.

#### **4.13 Discussion Items.**

Discussion items for individual consideration shall be considered and discussed by the City Council individually.

#### **4.14 Staff and Council Liaison Reports.**

This section is used for routine reports provided by staff regarding their respective departments to the Council and discussion of staff reports previously distributed to council. Council Liaisons may report on activity taking place within their assigned boards, committees, and commissions. Council Liaisons may also bring forward items from their assigned board, committees, and commissions for City Council consideration for future discussion and action if needed. No discussion or action may be taken on an item without the specific item first being listed on the agenda and noticed to the public. See Rules and Procedures Section 7.8 (4) d.

#### **4.15 Executive Session**

If the City Council did not finish deliberations on the executive session items at the early session, Council may reconvene into executive session after the regular session as necessary.

#### **4.16 Adjournment.**

The mayor shall adjourn the meeting upon passage of the appropriate motion.

### **ARTICLE 5. WORK SESSION POLICIES AND PROCEDURES**

#### **5.1 Purpose.**

City Council may call and hold work sessions for the purpose of conducting a detailed and thorough exploration of matters that may properly come before the City Council. The following rules shall prevail for the call and conduct of work session meetings.

#### **5.2 Agenda.**

Only a limited number of matters shall be considered by the City Council during a work session, and sufficient time for consideration of such matters shall be provided. An abbreviated agenda order shall be used for all work session agendas.

### **5.3 Documents and Exhibits to be Presented.**

Staff shall make available to the City Council all documents, exhibits, maps, plats, architectural drawings, specifications, or other similar documents at least 72 hours before the beginning of the session. When necessary, the mayor and city manager can introduce new material after the 72-hour deadline when new information is vital to an agenda item.

### **5.4 Technical Questions.**

All questions of a technical nature, which require a detailed explanation for understanding, may be considered in a work session. Council may, through the city manager, request the attendance of such staff members or outside experts as may be required to answer such questions.

### **5.5 Prohibitions Against Formal Actions.**

No formal actions may be taken at a work session. Council may provide staff direction on the matter being considered and ask that the item be placed on a regular or special called meeting agenda for formal action.

### **5.6 Audience Comments or Questions.**

Audience comments or questions will be considered at a work session subject to legal time constraints.

## **ARTICLE 6. RULES GOVERNING CITIZEN COMMENTS**

### **6.1 Purpose.**

It is the desire of the City Council to hear from the citizens of Lago Vista and to stimulate discussion and offer a forum for a cordial and meaningful public debate on matters that are properly a concern of the City Council. The following rules shall control and govern audience comments and may be included in the agenda as a reminder.

### **6.2 Rules Governing Citizen Comments.**

1. A maximum of 30 minutes will be devoted to receiving comments from the public on non-agenda items.
2. Each speaker is limited to one presentation per agenda item and a maximum timed limit of three minutes on any item unless the council, by supermajority, votes to suspend the rules.
3. No individual may address City Council without submitting a speaker card at least five (5) minutes prior to the beginning of the meeting. The card must clearly state the subject or issue on which the citizen wishes to speak. If the subject matter does not pertain to city business, the mayor shall advise the individual and/or make recommendations as to how they may get the issue addressed. The mayor can consider comments from citizens that did not submit a request as time permits.
4. Citizens speaking on agenda items shall restrict their comments to the subject matter listed.
5. Citizens speaking on non-agenda items shall only speak on matters pertaining to city business or issues which the Council would have the authority to act upon if brought forth as an agenda item.
6. Council may not act upon or discuss any issue brought forth as a non-agenda item; except to:
  - a. Make a statement of specific factual information given in response to the inquiry, or
  - b. A recitation of existing policy in response to the inquiry.
  - c. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.
7. Proper respect, decorum, and conduct shall prevail at all times. Impertinent, slanderous, or personal attacks are strictly prohibited, and violators may be removed from the council chambers.

8. No placards, banners or signs may be displayed in the council chambers or city hall. Exhibits relating to a presentation are acceptable.
9. Arguing, intimidation or other disruptive behavior is prohibited. Discussion and/or debate are acceptable only on items specifically listed on the agenda.
10. Unauthorized remarks from the audience, stomping of feet, applauding, whistles, yells, or any type of disruptive behavior is prohibited. Applause of appreciation may be acceptable when recognizing a significant event or achievement.

### **6.3 Preservation of Order.**

Immediately preceding the opening of a public hearing, the mayor may read or may direct the city secretary to read the rules governing citizen comments. Council meetings are the workplace to carry out the business of the City of Lago Vista; therefore, any conduct that could constitute harassment in the workplace is prohibited. The mayor shall preserve order and decorum and, if necessary, shall cause to be silenced or removed from the council chambers any person speaking out of order or disrupting the order of the meeting. In all cases, the mayor shall preside over the Council meeting and ensure that proper conduct and decorum is adhered to.

## **ARTICLE 7. BOARDS AND COMMISSIONS**

### **7.1 General.**

All standing boards and commissions are described under Article VII, Commissions and Boards, of the City of Lago Vista City Charter. Ad hoc boards may be temporarily appointed and terminate upon completion of a specific task or special purpose for which it was created, or when abolished by a majority vote of the City Council. No ad hoc board shall have powers other than advisory to the City Council and all Rules of Procedure apply to them, provided that such boards shall not be required to follow any open meetings rules that are not applicable to such board under state law.

### **7.2 Meeting Times and Agenda Order.**

All boards, commissions, and committees shall be subject to these rules. Each board, commission, and committee shall set their own agenda. Boards with rulemaking or quasi-judicial authority must be in accordance with the Texas Open Meetings Act.

### **7.3 Boards with Regulatory Authority.**

In no specific order: Planning and Zoning Commission, Building and Standards Commission, and Board of Adjustment.

### **7.4 Committees without Regulatory Authority.**

In no specific order: Lago Vista Parks and Recreation Advisory Committee, Lago Vista Airport Advisory Board, Lago Vista Economic Development Advisory Committee, Lago Vista Library Advisory Board, Lago Vista Golf Course Advisory Committee, Lago Vista Youth Advisory Committee, and any additional non-regulatory city committees or boards that are created.

### **7.5 Appointments.**

City Council Members shall review applications of all eligible applicants for vacant positions on the City's boards, commissions, and committees. Each Council Member assigned as Liaison to a board, commission, or committee shall nominate appointees to the specific board. City Council shall vote to approve or deny

nominations, by majority vote, until such time as all vacancies have been filled on the specific board, commission, or committee.

## **7.6 Board Members' Service.**

Members appointed to boards or commissions that have regulatory authority shall serve 2-year terms in accordance with the City Charter. Members appointed to boards or commissions that *do not have* regulatory authority shall also serve 2-year terms, serve at the will of the Council, and may be removed, replaced, or not reappointed at the discretion of City Council by majority vote, with or without cause. When conducting the business of the City, appointed members of all boards, commissions or committees shall follow the Rules of Procedure set forth for the City Council. Members of boards, committees, and commissions are selected in order of best qualified in accordance with the criteria adopted by ordinance for the specific body, but secondarily by lack of membership on any other board, committee, or commission so as to encourage a broad base of citizen participation.

## **7.7 Open Government Training.**

Upon initial appointment, within 90 days of taking the oath of office or assuming duties, all board, commission, and or committee members shall be required to watch the Texas Public Information Act and the Texas Open Meetings Act training videos as provided by the Office of the Attorney General. At the conclusion of the training video, the appointee will be given an opportunity to print from the Attorney General's website a Certificate of Completion. The certificate should be filed with the city secretary, as proof of Open Government training.

## **7.8 Council Liaisons and Committees, Boards, and Commissions.**

### **1. Definition of Liaison**

Liaison: a person who establishes and maintains communication for mutual understanding and cooperation (Merriam-Webster Dictionary).

### **2. Council Liaison**

With City Council approval, a Council member may serve for a calendar year as the City Council's Liaison (i.e., representative) to an organization, and may be reappointed for subsequent years. A Liaison is responsible for facilitating communication, collaboration, and coordination with the designated organization, and with regular reporting and accountability to the City Council. There are typically Council Liaisons to four types of organizations:

- a. a county-wide or regional policy or governing body or inter-governmental organization, such as Travis County Tax Appraisal District, Emergency Service Districts, Property Owners Associations, etc.; and
- b. A community organization, such as arts, business, or social service organizations; and
- c. A governing or inter-agency board or commission, such as the Planning and Zoning Commission, Building and Standards Commission, or Board of Adjustment; and
- d. A citizen advisory board or committee of the city, whether or not the City Charter calls for an ex-officio Council member, such as the Airport Advisory Board, the Library Advisory Board, Economic Development Advisory Committee, Parks and Recreation Advisory Committee, and the Golf Course Advisory Committee.

### **3. Council Liaison Procedures**

Individual members of the City Council may be assigned as liaisons whose duties involve staying current with a group or activity by attending meetings or conferring with members and keeping the City Council informed. Liaisons may advocate City Council actions on behalf of their assigned group or activity.

Liaisons' functions and duties may be further defined and/or directed by the mayor or mayor pro tem, in the absence of the mayor, with concurrence of the City Council.

**4. Duties and Expectations of a Council Liaison**

- a. A Council member acting as a Liaison to a Council advisory committee or other body (board or commission) is not a member of the committee. Rather, the Councilmember is a positive resource to support the committee in the completion of its work, subject to the rules stated below.
- b. A Council member liaison is acting as a representative of the full City Council and, as such, has no authority to provide direction or guidance to the committee other than direction or guidance provided by the full City Council.
- c. The Council member liaison shall work to ensure that the committee is only taking actions or doing work that is within the scope of the committee as determined or approved by City Council. The liaison can do this, for example, by reminding the committee of the scope of work that the City Council set for the committee.
- d. The Councilmember liaison shall report on items and issues from their board, committee or commission meetings, and shall bring to the Council, via an agenda item, any requests from the committee, such as the following:
  - o Questions raised by a committee about the committee's scope of work; and
  - o Requests from the committee to change the committee's scope of work; and
  - o Requests for expenditures of the city resources to further the committee's work (money, staff time, or other resources); and
  - o Requests from the committee to place an item on a Council meeting agenda; and
  - o Items that are liaison or staff-initiated topics that need City Council input or need feedback to the committee.

**5. Selecting, replacing, and training of committee members**

- a. The council liaison takes the lead in filling vacancies, reviewing applications with the chair, and interviewing candidates for the board, committee, or commission. No candidate can be nominated to a committee without an application on file. The city council shall call for applications to be submitted by applicants in the October/November time frame and then makes appointments in the December timeframe. Vacancies that occur at other times will be filled by applicants that submitted applications during the typical October/November timeframe or subsequently. Should the list of candidates be exhausted, the City Council can make the decision to publicize the acceptance of additional applications outside the normal October-December timeframe.
- b. The council liaison is responsible for resolving any issues with a committee member in consultation with the committee chair and city attorney as appropriate. If the issue is with the committee chair, the council liaison will resolve the issue in consultation with the mayor and city attorney as appropriate. If the issue is judged to be of a nature that requires the full council to review and adjudicate, then the issue will be brought to the council for action within a timely manner. If a council member becomes aware of a situation with a committee, board, or commission member that is not being handled by the associated council liaison, the council member will discuss the issue with the council liaison. If the council liaison continues to not address the situation, the other council member shall bring the issue to the mayor and city attorney for evaluation.

Possible actions of the Council include:

- i. **No Action.** The City Council chooses to take no action.
- ii. **Private Censure.** The City Council may choose to privately censure the offending member.
- iii. **Public Censure.** The City Council may choose to publicly censure the offending member through a resolution passed by supermajority vote and entered into the public record.
- iv. **Removal.** If the violation is severe enough in nature, the council; may make the decision to remove the member from the board or commission.

- c. Removal of a chairperson is brought to council for resolution by the liaison, working with the mayor. Any actions to remove a committee member must conform with rules covered in the city charter, ordinances, and state law.
- d. The council liaison and staff liaison are responsible for securing any training requirements for new or replaced committee members. This includes appropriate legal and/or specific subject-matter content training. This may require expenditure of funds for registration and/or travel that would need to be included in the City's budget.

#### **6. Selecting and replacing council liaisons**

- a. After elections each November, the city council members will discuss each committee, current liaison assignments, proposed changes, and make liaison assignments for the upcoming year.
- b. When a problem exists with a council liaison, the committee chair will approach the mayor to discuss issues and resolutions related to the council liaison. The mayor will bring suggested resolutions to the full council for possible action.

#### **7. Selecting committee officers**

Each January, each committee is required to elect a chair, vice-chair, and secretary from among its members.

#### **8. Planning and reporting of the annual work plan of the committee**

- a. At the beginning of each calendar year, each committee will conduct a workshop to lay out objectives for the year that tie to the Comprehensive Master Plan and create an annual work plan. The Planning and Zoning and Building and Standards Commissions generally have their work brought to them but shall develop work plans to update ordinances when necessary. In the case of non-state mandated boards and committees, they will be responsible for developing the work plan associated with the board or committee.
- b. The committee and related department head will review the committee's annual work plan once a year.
- c. Every June or July, the committee chair will report to the city council the progress on the committee's annual work plan. Objectives and priorities will be adjusted as required.

#### **9. Preparing and publishing the agendas**

- a. The committee chair will have the ultimate responsibility for creating the agenda for each meeting.
  - i. The committee chair is responsible for accumulating desired agenda items from the other committee members, and city staff.
  - ii. If council liaison would like an item included on a board committee, or commission's agenda, he/she will bring that item before city council for discussion, consideration and

possible action followed by the council liaison reporting back to city council the actions of the board, committee, or commission on said item.

- iii. If an item is presented by the council liaison, the committee chair cannot withhold the item from the agenda.
- iv. The committee chair has the authority to interact with the council liaison and the department head related to the committee for the purpose of gathering appropriate information that should accompany agenda items. Should the committee chair feel he/she needs access to other city staff, he/she will do so through city manager.
- v. The agenda should be emailed to the department head related to the committee a minimum of seven (7) days prior to the scheduled meeting, copying the city secretary and the council liaison. The department head will provide any feedback about necessary alterations, which the chairperson will be responsible for making and then forwarding to the appropriate city staff for legal posting.

b. When deemed appropriate by the council liaison (i.e., agenda items that involve acquisition or divestiture of city assets, the expenditure of city funds, etc.), the committee chair and council liaison will be jointly responsible for:

- i. determining what supporting material should be provided in a packet to the committee prior to the meeting.
- ii. accumulating the appropriate material with support of city staff; and
- iii. determining which city staff will be required to support the successful conduct of each item on the agenda and making the appropriate arrangements with city staff to attend the meeting.

c. The committee secretary (whether committee member or city staff depending on whether it is a state mandated committee), chairperson, or related department head is responsible for the distribution of final agenda and packet items to committee members and council liaison.

## **10. Roles in committee meetings**

- a. Appropriate city staff and council liaison are permitted in committee executive sessions as appropriate for the items to be discussed.
- b. The secretary is required to take notes or audio recordings and prepare the minutes of the meeting (except for state mandated committees/boards where city designated staff will record and prepare the minutes).
- c. A council liaison plays a limited role in the operation of a committee meeting. The following points provide a guideline for the council liaison in this context:
  - i. The council liaison has no voting rights in committee meetings.
  - ii. The council liaison shall not influence the committee's recommendations with his/her opinions.
  - iii. A council liaison does not lead a committee meeting or participate other than:
    - A. to provide factual information to help support the committee's discussions and deliberations,
    - B. to answer committee member questions, and
    - C. to listen attentively so as to be able to be the primary two-way communication channel between the committee and council.
  - iv. All the above apply equally to open and executive session segments of a committee meeting.
  - v. A council liaison attends all committee meetings and should arrange a replacement council member if he/she cannot attend.

## **11. Sub-committees**

- a.** Committees, boards, and commissions may make use of sub-committees (a non-quorum sub-set of the committee, board, or commission) to analyze issues and bring back recommendations to the full entity.
- b.** To appropriately create a sub-committee, an item must be placed on the committee, board, or commission official agenda to discuss and possibly take action on the issue at hand and the use of a sub-committee to help study and derive recommendations on the issue. The full body can discuss the issue and vote to create a sub-committee to review the issue and report back information and recommendations to the full body. When creating a sub-committee, the full body in its approved motion should specify:
  - i. The issue the sub-committee will review;
  - ii. The members of the sub-committee (no more than 1 less than a quorum of the full body); and
  - iii. The time frame within which the sub-committee will operate.

## TABLE OF MOTIONS AND POINTS OF ORDER

MOTION/ORDER	REQUIRES SECOND	DEBATABLE	AMENDABLE	VOTE TYPE
Basic Motion	Yes	Yes	Yes	Simple
Motion to Amend	*	No	Yes	N/A
Motion to Adjourn	Yes	No	No	Simple
Motion to Recess	Yes	No	Yes	Simple
Motion to Fix the Time to Adjourn	Yes	No	No	Simple
Motion to Table	Yes	No	No	Simple
<b>Motion to Limit Debate</b>	Yes	No	No	<b>Super</b>
<b>Motion to Object to the Consideration of an Item</b>	Yes	No	No	<b>Super</b>
<b>Motion to Suspend Rules</b>	Yes	No	No	<b>Super</b>
Motion to Reconsider	Yes	Yes	Yes	Simple
Point of Privilege	No	No	No	N/A
Point of Order	No	No	No	N/A
Motion to Appeal	Yes	Yes	No	Simple
Call for Orders of the Day	No	No	No	N/A
Withdraw a Motion	No	No	No	N/A
Motion to Enforce	Yes	No	No	Simple
<b>Motion to Hire/Fire the City Manager</b>	Yes	Yes	Yes	<b>At least 5 votes</b>

- For the purposes of these rules, amendments are not debatable and only require the approval of the member who made the original motion and any member who seconded the motion. An amendment to an amendment, requires first the approval of the member who made the original amendment and secondly the approval of the members who made the original motion and seconded the motion.

**RED-LINED DRAFT VERSION**

**RULES OF PROCEDURE**

**FOR THE CITY COUNCIL, COMMISSIONS,  
BOARDS, AND ADVISORY COMMITTEES OF  
THE CITY OF LAGO VISTA, TEXAS**



Adopted: 2021

Sources Include: Robert's Rules of Order, Rosenberg's Rules of Order, National Association of Parliamentarians, and the Texas Cities of Bellaire, Huntsville, Kerrville, Killeen, Murphy, West University Place, and Weatherford.

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## ARTICLE 1. AUTHORITY, APPLICABILITY, AMENDMENT, AND ANNUAL REVIEW

### 1.1 Authority.

Article III, Section 13 of the City Charter of the City of Lago Vista, Texas grants the City Council the right to determine its own rules of procedure; the following rules are enumerated under and by authority of said provision.

### 1.2 Applicability.

The rules of procedure adopted by the City Council are applicable not only to the City Council, but also to the commissions, boards, and committees of the City of Lago Vista, in accordance with the Charter. ~~In addition, all ethics and open meeting~~ Open meeting requirements of the City Council ~~also do not~~ apply to city boards, committees, and commissions without rulemaking, nor quasi-judicial except as required under state law. Open meeting requirements of the City Council also apply to city boards, committees, and commissions with regulatory authority. Processes for disciplinary action will be similar for the City Council and the regulatory boards and commissions but will vary for the non-regulatory commissions, boards, and committees. Any reference to Mayor also applies to the presiding officer of a commission, board, or committee of the City of Lago Vista. Any reference to City Council also applies to any commission, board, or committee. Decisions made by state-mandated boards and commissions, like those of City Council, may require a super-majority vote. Detailed, unique information about commissions, boards, and committees can be found in Article 7 of this document.

### 1.3 Amendment.

These rules may be amended, or new rules adopted, by a majority vote of the members of the City Council present.

### 1.4 Annual Review.

Following the municipal elections each year, Council may review these Rules of Procedure, make changes as appropriate, and adopt their own rules of procedure in accordance with the Charter. In the event no annual review occurs, the standing Rules of Procedure continue in effect. This does not limit the Council's right and ability to amend the rules at any other time during the year, in accordance with the Charter.

## ARTICLE 2. GENERAL RULES OF PROCEDURE AND POLICIES

### 2.1 Construction of Authority.

The construction of authority in all matters associated with the meetings and activities of the City Council, including the agenda, shall be: (1) the U.S. Constitution and laws of the United States of America; (2) the Texas Constitution and statutes of the State of Texas; (3) the City Charter; (4) the Code of Ordinances of the City of Lago Vista, Texas; (5) these Rules; and, (6) Rosenberg's Rules of Order as amended and set forth herein.

### 2.2 Meetings Shall Be Public.

All meetings of the City Council shall be public, and notices thereof shall be posted as provided under the Texas Government Code, Chapter 551, Open Meetings Act. Except in the case of an emergency meeting, notice of all meetings shall be given 72 hours before the time set for any meeting.

The Lago Vista City Hall is wheelchair accessible and special parking is available on the east side of the building. If special accommodations are required, please contact the city secretary a minimum of 24 hours in advance at (512) 267-1155.

All meetings of the City Council, commissions, boards, and committees with regulatory authority will be video recorded and posted to the city website. Meetings should be conducted in such a way that recordings are possible. Currently, that translates to conducting the meeting in Council chambers. Boards, committees, and commissions without regulatory authority may should be video recorded and posted to the city website when possible.

## **2.3 Conduct of Meetings.**

Meetings of the City Council shall be conducted according to the rules adopted by the City Council, as well as the terms and provisions of Rosenberg's Rules of Order as amended herein and when not inconsistent with these rules.

## **2.4 Regular Meetings.**

Regular meetings of the City Council shall be on the first and third Thursday of each month at 5:30 p.m. in Council chambers. The regular session of the City Council shall begin at 6:30 p.m., but work work sessions and executive sessions will be held before the regular session and may continue after the regular session. The City Council may, by majority vote at a regular meeting, change the days or times of meetings as circumstances may necessitate. Please refer to Section 1.331 of the Code of Ordinances for more information on meeting specifications.

## **2.5 Special/Town Hall Meetings.**

Special meetings of the City Council may be called upon request of the mayor, or two members of the City Council then seated. A request for a special meeting shall be filed with the city secretary or the city manager in written/electronic format unless made at a regular meeting at which a quorum of council members is present. The city manager and all Council members shall be notified of all special meetings.

## **2.6 Emergency Meetings.**

In case of an emergency or urgent public necessity, which shall be expressed in the meeting notice, it shall be sufficient if members receive, and notice is posted one (1) hour before the meeting is convened. Notice shall be provided also to the media in accordance with the Texas Government Code, Section 551.047.

## **2.7 Work Sessions.**

Work sessions are special meetings called for the purpose of conducting a detailed and thorough exploration of matters that may properly come before the City Council.

## **2.8 Executive Sessions.**

Executive sessions are sessions closed to the public. They are only permitted for the purpose of discussing matters enumerated in Chapter 551, Open Meetings Act of the Texas Government Code. Disclosure of topics to be discussed shall be made to the public in accordance with the requirements of the Open Meetings Act.

The City Council can convene into an executive session as stated on a posted agenda during a regular or special meeting. However, before said session begins, the presiding officer shall announce that the executive session is commencing and identify the section or sections of the Open Meetings Act under which the closed meeting is held. The order in which an executive session may appear on the agenda is

subject to the discretion of the City Council. A certified agenda of the meeting will be created by the presiding officer or his or her designee, sealed and permanently kept in accordance with state law, subject to opening by court order. No voting or action shall be taken by the City Council during an executive session. No other subject other than that posted on the agenda is to be considered. Adjournment of the executive session and any vote needed shall be made during the open public meeting.

Items discussed in executive session are to remain private. Except for action taken in open session, no Council Member, staff member or legal counsel may discuss or reveal the proceedings of an executive session. Section 551.146 of the Texas Government Code makes such an act a **class B misdemeanor** and opens the person who reveals such information personally liable for any damages resulting from such action.

## **2.9 Recessed Meetings.**

No meeting shall be recessed for a longer period of time than allowed by state law.

## **2.10 Quorum.**

The number of members of the City Council that shall constitute a quorum for the conduct of business shall be in accordance with the City Charter.

## **2.11 Conflict of Interest.**

Rules governing a City Council member's ability to vote when a conflict of interest exists shall be governed by the City Charter.

## **2.12 Presiding Officer.**

Rules governing the presiding officer are defined in the City Charter.

The Presiding Officer shall serve as the chair of all meetings and shall make final rulings on all questions pertaining to these rules. All decisions of the presiding officer are final unless overruled by the City Council through a motion to appeal as described in Article 3.9 – Courtesy, Decorum and Order of these rules.

The presiding officer is entitled to participate in the discussion and debate and is entitled to vote on all business before the City Council. Because the presiding officer conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the City Council in debates and discussions. This practice in no way precludes the presiding officer from participating in the meeting fully and freely; however the presiding officer should not make a motion unless the remainder of the commission, board or council members fail to make a motion.

The presiding officer of commissions, boards, and committees shall be the person selected according to the rules defined in the appropriate enabling ordinance and powers vested in that presiding officer will also be defined in that same ordinance.

## **2.13 Minutes of Meetings.**

The city secretary shall keep an account of all proceedings of the City Council, and they shall be open to public inspection in accordance with the laws of the State of Texas.

## **2.14 Suspension and Amendment of Rules.**

Any provisions of these rules not governed by federal, state law or the City Charter may be temporarily suspended and/or amended by a super majority vote (see Article 3.7 of these rules) of the City Council and may be amended in a similar fashion if such amendment was introduced at the previous regular meeting of the City Council and shall have received preliminary approval of the City Council at such meeting. For the purpose of this section, preliminary approval shall mean a motion and a second with a majority vote to preliminarily approve the amendment.

# **ARTICLE 3. PARLIAMENTARY PROCEDURE**

## **3.1 Purpose.**

The purpose of these rules of parliamentary procedure is to establish orderly conduct of the meetings. The ultimate purpose of these rules of parliamentary procedure is to encourage and facilitate decision-making by the City Council. These rules enable the majority to express their opinion and fashion a result.

## **3.2 Model Format for an Agenda Item Discussion.**

The following nine (9) steps may be used as a model or guidebook by the presiding officer. The meeting is governed by the agenda and the agenda constitutes the only items to be discussed. Each agenda item can be handled by the presiding officer (Mayor) in the following basic format:

- 1. Announce the Item.** The mayor should announce the agenda item number and should clearly state the subject matter of the agenda item by reading the caption for the item being considered.
- 2. Receive a Report.** The mayor should invite the appropriate people to report on the item, including any recommendation they might have.
- 3. *Council Discussion Ask Clarifying Questions.*** The mayor should ask the council members if they have any technical questions for clarification. At this point, members of the City Council may ask clarifying questions to the people who reported on the item, and they should be given time to respond. Council discussion on an item may continue after citizen comments are given.
- 4. Seek Citizen Input.** The mayor should invite citizen comments – or if a public hearing, open the public hearing. Upon conclusion, the mayor should announce that public input is closed, or if a public hearing, close the public hearing.
- 5. Motion First.** The mayor should invite a motion from the City Council before debate is given on the merits of the item. The mayor should announce the name of the member who makes the motion.
- 6. Motion Second.** The mayor should determine if any member of the City Council wishes to second the motion. The mayor should announce the name of the member who seconds the motion. If no member of the City Council wishes to second the motion, then the motion fails, and should be so stated by the mayor.
- 7. Discuss the Motion.** The mayor will announce that there is a motion and a second, and will restate the motion, and will invite the members of the City Council to discuss the motion. If there is no desired discussion, the mayor may call for a vote. If there has been no discussion or a brief discussion, then there is no need to repeat the motion before taking a vote. If the discussion has been lengthy, it is a good idea to repeat the motion before calling for the vote.

**8. Vote.** The mayor calls for the vote. A simple majority vote determines whether the motion passes or fails unless a super-majority is required for passage. All Council members, including the mayor, shall vote upon every question, ordinance, or resolution, unless recused because of a conflict of interest as defined in the City Charter. Unless so excused, any Council Member refusing to vote shall be recorded in the minutes as voting with the majority. Action items require a vote.

**9. Announce the Outcome.** The mayor announces the results of the vote and should also state what action (if any) the Council has taken.

### **3.3 The Basic Motions.**

The basic motion is the one that puts forward a decision for consideration. A basic motion might be: “I move approval of the ordinance as submitted,” or “I make a motion that we deny the resolution.”

### **3.4 The Motion to Amend.**

If a member wants to change a basic motion, the member will have to move to amend the original or previously amended motion. A motion to amend might be: “I move that we amend the motion to include the changes we discussed to the ordinance.” A motion to amend seeks to retain the basic motion on the floor (a motion made and seconded), but to modify it in some way. A motion to amend requires the agreement of the person making the original motion. If the basic motion has already been seconded, the motion to amend must be acknowledged and accepted by the member who seconded the basic motion.

### **3.5 Discussion and Debate.**

The basic rule of motions is that they are subject to discussion and debate. Accordingly, the basic motion and the motion to amend are all eligible, each in their turn for full discussion by and before the City Council. Discussion and debate can continue as long as the members wish to discuss it, or until a motion is made to limit debate (call the question or move the question) which requires a super majority. At that time, the mayor shall call for a vote on the motion.

### **3.6 Other Motions.**

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the Council to move on. The following motions are NOT debatable, and the mayor must immediately call a vote on the motion, if seconded by another Council Member.

- ***Motion to Adjourn.*** This motion, if passed, requires the Council to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.
- ***Motion to Recess.*** This motion, if passed, requires the Council to immediately take a recess. Normally the Mayor will determine the length of the recess which could last for a few minutes to several hours. It requires a simple majority vote.
- ***Motion to Fix the Time to Adjourn.*** This motion, if passed, requires the Council to adjourn the meeting at the specific time set in the motion. For example, “I move we adjourn this meeting at Midnight.” It requires a simple majority vote.
- ***Motion to Table.*** This motion, if passed, requires discussion of the agenda item to be halted immediately, and the agenda item to be placed on hold. The motion may contain a specific time to bring the item up again, or it may not specify a time. If no time is specified, the item shall be placed on the agenda at the very next regular Council meeting.

- **Motion to Remove from Table.** This motion, if passed, allows the Council to remove an item previously placed on hold. A vote in favor of removing an item from the table must be made before the Council can take action on an item that was tabled.

### 3.7 Motions Requiring a Three-Fourths or Supermajority Vote to Pass.

Normally a super majority vote consists of six votes (four to pass as a simple majority, plus two more). For the purposes of these rules and as defined in the Charter, a three-fourths vote shall be referenced as a Supermajority vote. In exceptional circumstances where the number of council members is diminished due to vacancy, the following shall constitute a three-fourths or super majority vote:

NUMBER OF COUNCIL MEMBERS	NUMBER OF VOTES FOR SUPER MAJORITY
6	5 or more
5	4
4	3
3	3

- **Motion to Limit Debate.** This motion is sometimes referred to as, “moving the question” or, “calling the question.” When a member of the Council makes such a motion, the member is saying, “I have had enough discussion, let’s vote on the issue.” When such a motion is made, the mayor should ask for a second, stop the discussion and vote on the motion to limit debate. The motion requires a super majority vote to pass.
- **Motion to Object to the Consideration of an Item.** This motion, if passed, precludes the City Council from even considering the item on the agenda. It does not preclude the item from appearing on a future agenda. The motion requires a super majority vote to pass. (Normally, this motion is unnecessary because the objectionable item can be defeated outright or tabled.)
- **Motion to Suspend the Rules.** This motion is debatable but requires a super majority vote to pass. This motion allows the Council to suspend its own rules for a particular purpose. For example, the Council may desire to give a particular speaker more time than normally allowed. A “motion to suspend the rules and give the speaker ten additional minutes,” accomplishes this desire.
- **Motion to Hire/Fire the City Manager.** The city manager shall be appointed or removed by a vote of at least 5 members, provided that his or her salary may be set by a simple majority vote. (Charter Art. IV Section 4.01 – City Manager.)

### 3.8 Motion to Reconsider.

There is a special motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure on the issue. As such, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a simple majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

The first rule involves timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next regular meeting (if properly noticed and on the posted agenda). A

motion to reconsider made at a later time is considered untimely and it may not be considered unless the Council suspends the rules to consider it.

Second, the motion to reconsider can only be made by a member of the Council who voted in the majority on the original motion. The motion to reconsider may be seconded by any member of the City Council regardless of how they voted on the original motion. If a member of the Council who voted in the minority on the original motion seeks to make a motion to reconsider, it must be ruled out of order by the mayor. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back again and again, which would defeat the purpose of finality.

If a motion to reconsider passes, then the original matter is back before the Council, and a new original motion is in order. The matter may be discussed as if it were on the floor for the first time.

### **3.9 Courtesy, Decorum and Order.**

These rules of order are meant to promote an atmosphere of courtesy and decorum appropriate for the efficient discussion of business. It is the responsibility of the mayor (and the members of the City Council) to maintain that atmosphere of courtesy and decorum. The mayor should always ensure that debate and discussion focus on the item and the policy in question, not on the personalities of the participants in the discussion. Debate on policy is healthy; debate on personalities is not. In order to assist in the creation and maintenance of that atmosphere, the following rules shall govern all meetings:

- 1. Request to Speak.** Before a council member, staff member or an audience member may speak, they must first be recognized by the mayor. Upon recognition the person requesting to speak shall hold the floor and shall make their point clearly and succinctly. Public comments must be kept relevant to the subject before the Council. The mayor shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, overly redundant, or slanderous remarks may be barred by the mayor from further comment before the Council during the meeting. Audience members who wish to speak during an agenda must first complete a 'request to speak card' and submit it to the city secretary. The mayor has the right to cut a speaker off if the discussion becomes too personal, too loud, too crude, irrelevant, impertinent, redundant, or slanderous.
- 2. Order.** If a person fails to request to speak before speaking, the mayor shall rule them 'out of order' and remind them that they do not have the floor. While the City Council is in session, all council members must preserve order and decorum. A person shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the meeting, nor disturb any other person while speaking or refuse to obey the orders of the mayor.
- 3. Improper References Prohibited.** Every person desiring to speak shall address the entire Council and shall not single out a member of the Council, the audience, or a staff member. Speakers shall confine themselves to the question under debate, avoiding all personal attacks and indecorous language.
- 4. Interruptions.** A council member, once recognized, shall not be interrupted when speaking unless it is to call him or her to order, or other such interruption expressed below. If the council member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined, and if the council member is found to be in order, he or she shall be permitted to proceed speaking. Allowable interruptions or points of order available to council, city manager, city secretary, or city attorney are as follows:

- a. **Point of Privilege.** The proper interruption would be: "Point of Privilege." The mayor would then ask the interrupter to, "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room might be too hot or too cold or a fan motor might interfere with a council members ability to hear.
- b. **Point of Order.** The proper interruption would be: "Point of Order." The mayor would then ask the interrupter to, "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the mayor called for a vote on a motion that permits debate without allowing any discussion.
- c. **Motion to Appeal.** If the Mayor makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the mayor by stating, "motion to appeal." If the motion is seconded and after debate if it passes by a simple majority vote, the ruling of the mayor is reversed.
- d. **Call for orders of the day.** This is simply another way of saying, "let's return to the agenda." If a council member believes the discussion has strayed from the agenda. The motion does not require a vote. If the Mayor discovers that the discussion has strayed from the agenda, he or she simply returns to the business of the day.
- e. **Withdraw a Motion.** During the debate and discussion of a motion, the original maker of the motion on the floor, at any time, may interrupt the speaker to withdraw his or her motion. The motion is immediately deemed withdrawn and discussion on the motion shall cease. Council members are free to make the same motion or another motion.

### **3.10 Enforcement of Rules and Procedures.**

The following provisions may be used to enforce the good order and decorum of the meeting. The action may be taken by the mayor under his or her own action, or upon a motion to enforce by any council member. Reference to sergeant at arms only refers to city council meetings and at board, committee, or commission meetings as requested by the council liaison and approved by the city manager.

- 1. **Warning.** The mayor may order any person (council member, staff member or audience member) in violation of these rules to be silent.
- 2. **Removal.** If, after receiving a warning from the mayor, the person continues to disturb the meeting or breech the peace and good order of the meeting, the mayor may order the person to leave the meeting. If the person does not leave the room, the mayor may order the sergeant-at-arms to remove the person.
- 3. **Sergeant-at-Arms.** The sergeant-at-arms shall be the highest-ranking police officer in attendance at the council meeting, or such other officer designated by the chief of police for that purpose.

Upon instruction of the mayor, it shall be the duty of the sergeant-at-arms to remove from the meeting any person who intentionally disturbs the proceedings of the City Council. A violation of these rules may be deemed an attempt to disrupt, obstruct, and/or interfere with a lawful meeting and subject the violator to prosecution under state law for disrupting a lawful meeting. (Section 42.05, Texas Penal Code).

- 4. **Resisting Removal.** Any person who resists removal by the sergeant-at-arms may be charged with violating Section 42.05 of the Texas Penal Code.

5. **Motion to Enforce.** Any council member may move to require the mayor to enforce these rules and the affirmative vote of a simple majority of the Council shall require the mayor to do so. A motion to enforce is an allowable interruption and is not debatable.

### **3.11 Council May Discipline its Own Members.**

In the event a council member violates the Charter, these Rules or any other ordinance of the City or acts in a manner that causes embarrassment or disgrace to the City of Lago Vista, the City Council on supermajority vote may discipline the offending member. This process will be in force for the City council and the three commissions with regulatory authority. Discipline of advisory boards is addressed in Section 7.8 of this document. The issue shall be raised within 30 days of the offense, or it is no longer actionable.

Such action may only take place after an executive session is held to discuss the offense. The offending member shall be present at the executive session to answer any questions asked by members of the City Council or make other statements as he or she may desire to make in his or her defense. If the offending member refuses to attend the executive session, the remaining members of the City Council may proceed in his or her absence.

The outcome of the executive session may be as follows and shall be made publicly in open session in accordance with the Texas Open Meetings Act:

1. **No Action.** The City Council chooses to take no action.
2. **Private Censure.** The City Council may choose to privately censure the offending member, leaving their comments to the offending member in the confines of the executive session.
3. **Public Censure.** The City Council may choose to publicly censure the offending member through a resolution passed by supermajority vote and entered into the public record. For purposes of calculating a supermajority vote under this section, the City Council shall include the total number of those members of the City Council present and voting in favor of such censure, divided by the total number of members of the City Council less any vacancies, and less the member who is the subject of the vote.

If one of the regulatory boards or commissions holds a disciplinary session and cannot come to a resolution about one of the above options, the council liaison will bring the matter to the council for resolution.

## **ARTICLE 4. MEETING AGENDAS**

The mayor and the city manager or an appropriate designee, shall prepare an agenda and cause the same to be posted a minimum of 72 hours prior to the meeting. Agendas shall be delivered to the City Council, in the format requested by each council member, on or before 6:00 PM of the day of the posting, or within such other times as established by the City Council from time to time. In the event of an emergency meeting of the City Council, this provision shall be suspended when not inconsistent with the provisions of federal or state law or the City Charter.

To facilitate the agenda process, the mayor, two council members, or the city manager may place an item on the City Council agenda. Staff assistance, if required, should be requested through the city manager. Agenda items must be provided to the city manager's office at city hall by 12:00 noon on the seventh (7) calendar day preceding the date of the regular meeting. If the agenda topic does not allow

for staff to adequately prepare information for City Council's consideration, the item may be postponed until the next regular meeting.

#### **4.1 Call to Order & Announcement of a Quorum**

The mayor shall call the meeting to order. The mayor shall announce that a quorum of the City Council is present and shall state for the record the names of all members of the City Council who are absent.

#### **4.2 Executive Session Items.**

This section is only used when it is necessary for the Council to convene in executive session. Executive sessions are sessions closed to the public. They are only permitted for the purpose of discussing matters enumerated in Chapter 551, Open Meetings Act of the Texas Government Code. Disclosure of topics to be discussed shall be made to the public in accordance with the requirements of the Open Meetings Act.

If the subject of the executive session warrants, the executive session may be held prior to the regular session and after the regular session, as necessary.

#### **4.3 Action on Executive Session Items.**

This section is only used if Council conducts an executive session. Action on executive session items must be taken during public/open session of the Council. Action may include the taking of no action at all.

#### **4.4 Pledge of Allegiance to the United States Flag and Texas Flag and Invocation**

The Council shall recite the Pledge of Allegiance to the United States Flag and pledge to the Texas Flag. In addition, an Invocation may be made at this time. committees, boards, and commissions can independently determine if they would like to recite the pledges and conduct an invocation.

#### **4.5 Citizen Comments on Non-Agenda Items.**

All persons desiring to speak to the City Council on a non-agenda item must submit a 'request to speak card' to the city secretary at least five (5) minutes before meeting starts.

#### **4.6 Items of Community Interest.**

The mayor, council members, and citizens will have an opportunity to speak about items of community interest.

#### **4.7 Presentations & Proclamations.**

The mayor shall make any presentation or deliver any proclamation as may be required from time to time. Outside entities and organizations granted permission to make a presentation shall be placed in this section.

#### **4.8 Public Hearings.**

This section is only used when a statutorily required public hearing is part of the order of business. The mayor shall first request staff comments. The mayor shall open the public hearing and receive citizen input. While the public hearing is open, City Council may ask questions of the speakers, but may not deliberate or argue with the public on the matter at hand. Those speaking at a public hearing are required to follow the rules established herein for citizen comments. Upon conclusion of citizen comments, the mayor shall close the public hearing. Council may deliberate or take action on the matter at hand upon the closing of the public hearing.

#### **4.9 Regular Agenda Items.**

Items for individual consideration shall be considered by the City Council individually and approved by either a simple majority vote or a super majority vote as may be required.

#### **4.10 Citizen Comments on Agenda Items.**

All persons desiring to speak to the City Council on an agenda item must submit a “request to speak card” (or its digital/remote equivalent) to the City Secretary at least five (5) minutes before meeting starts.

#### **4.11 Approval of the Minutes.**

The Council shall consider the minutes of any meeting presented for their review since the last regular meeting. This heading will only be used when there are no other items listed on a consent agenda.

#### **4.12 Consent Agenda Items.**

There is hereby established, as a part of every agenda for regular and/or special called meetings of the City Council, a portion of said agenda that shall be labeled “consent agenda.” Said consent agenda may consist of any and all business regularly coming before the City Council (except required public hearings and items requiring a supermajority vote) including approval of the minutes of previous meetings.

All items set out in the consent agenda shall be deemed passed upon passage of an affirmative motion, by a vote of the majority of the members of the City Council then seated, that the consent agenda be adopted. No further action shall be deemed necessary, and all such items appearing on the consent agenda, upon passage of such motion, shall be deemed adopted as if voted upon separately and as if the caption and/or body of any ordinance therein set out shall have been read in full.

Any member of the City Council may request that any item be removed from the consent agenda and considered separately. Such a request shall be honored as if it had been passed by majority vote.

If any item was removed from the consent agenda, it will be considered immediately following approval of the remainder of the consent agenda.

#### **4.13 Discussion Items.**

Discussion items for individual consideration shall be considered and discussed by the City Council individually.

#### **4.14 Staff and Council Liaison Reports.**

This section is used for routine reports provided by staff regarding their respective departments to the Council and discussion of staff reports previously distributed to council. Council Liaisons may also bring forward items from their assigned boards, committees and commissions for Council discussion and action if needed. Council Liaisons may report on activity taking place within their assigned boards, committees, and commissions. Council Liaisons may also bring forward items from their assigned board, committees, and commissions for City Council consideration for future discussion and action if needed. No discussion or action may be taken on an item without the specific item first being listed on the agenda and noticed to the public. See Rules and Procedures Section 7.8 (4) d.

#### **4.15 Future Agenda Items.**

~~Council members may request items to be placed on a future agenda at this time. No discussion or deliberation of the items may take place at this time, other than a determination of City Council consensus to direct staff to place the item on a future agenda.~~

#### **4.16 Executive Session**

If the City Council did not finish deliberations on the executive session items at the early session, Council may reconvene into executive session after the regular session as necessary.

#### **4.17 Adjournment.**

The mayor shall adjourn the meeting upon passage of the appropriate motion.

### **ARTICLE 5. WORK SESSION POLICIES AND PROCEDURES**

#### **5.1 Purpose.**

City Council may call and hold work sessions for the purpose of conducting a detailed and thorough exploration of matters that may properly come before the City Council. The following rules shall prevail for the call and conduct of work session meetings.

#### **5.2 Agenda.**

Only a limited number of matters shall be considered by the City Council during a work session, and sufficient time for consideration of such matters shall be provided. An abbreviated agenda order shall be used for all work session agendas.

#### **5.3 Documents and Exhibits to be Presented.**

Staff shall make available to the City Council all documents, exhibits, maps, plats, architectural drawings, specifications, or other similar documents at least 72 hours before the beginning of the session. When necessary, the mayor and city manager can introduce new material after the 72-hour deadline when new information is vital to an agenda item.

#### **5.4 Technical Questions.**

All questions of a technical nature, which require a detailed explanation for understanding, may be considered in a work session. Council may, through the city manager, request the attendance of such staff members or outside experts as may be required to answer such questions.

#### **5.5 Prohibitions Against Formal Actions.**

No formal actions may be taken at a work session. Council may provide staff direction on the matter being considered and ask that the item be placed on a regular or special called meeting agenda for formal action.

#### **5.6 Audience Comments or Questions.**

Audience comments or questions will be considered at a work session subject to legal time constraints.

## ARTICLE 6. RULES GOVERNING CITIZEN COMMENTS

### 6.1 Purpose.

It is the desire of the City Council to hear from the citizens of Lago Vista and to stimulate discussion and offer a forum for a cordial and meaningful public debate on matters that are properly a concern of the City Council. The following rules shall control and govern audience comments and may be included in the agenda as a reminder.

### 6.2 Rules Governing Citizen Comments.

1. A maximum of 30 minutes will be devoted to receiving comments from the public on non-agenda items.
2. Each speaker is limited to one presentation per agenda item and a maximum timed limit of three minutes on any item unless the council, by supermajority, votes to suspend the rules.
3. No individual may address City Council without submitting a speaker card at least five (5) minutes prior to the beginning of the meeting. The card must clearly state the subject or issue on which the citizen wishes to speak. If the subject matter does not pertain to city business, the mayor shall advise the individual and/or make recommendations as to how they may get the issue addressed. The mayor can consider comments from citizens that did not submit a request as time permits.
4. Citizens speaking on agenda items shall restrict their comments to the subject matter listed.
5. Citizens speaking on non-agenda items shall only speak on matters pertaining to city business or issues which the Council would have the authority to act upon if brought forth as an agenda item.
6. Council may not act upon or discuss any issue brought forth as a non-agenda item; except to:
  - a. Make a statement of specific factual information given in response to the inquiry, or
  - b. A recitation of existing policy in response to the inquiry.
  - c. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.
7. Proper respect, decorum, and conduct shall prevail at all times. Impertinent, slanderous, or personal attacks are strictly prohibited, and violators may be removed from the council chambers.
8. No placards, banners or signs may be displayed in the council chambers or city hall. Exhibits relating to a presentation are acceptable.
9. Arguing, intimidation or other disruptive behavior is prohibited. Discussion and/or debate are acceptable only on items specifically listed on the agenda.
10. Unauthorized remarks from the audience, stomping of feet, applauding, whistles, yells, or any type of disruptive behavior is prohibited. Applause of appreciation may be acceptable when recognizing a significant event or achievement.

### 6.3 Preservation of Order.

Immediately preceding the opening of a public hearing, the mayor may read or may direct the city secretary to read the rules governing citizen comments. Council meetings are the workplace to carry out the business of the City of Lago Vista; therefore, any conduct that could constitute harassment in the workplace is prohibited. The mayor shall preserve order and decorum and, if necessary, shall cause to be silenced or removed from the council chambers any person speaking out of order or disrupting the order of the meeting. In all cases, the mayor shall preside over the Council meeting and ensure that proper conduct and decorum is adhered to.

## ARTICLE 7. BOARDS AND COMMISSIONS

### 7.1 General.

All standing boards and commissions are described under Article VII, Commissions and Boards, of the City of Lago Vista City Charter. Ad hoc boards may be temporarily appointed and terminate upon completion of a specific task or special purpose for which it was created, or when abolished by a majority vote of the City Council. No ad hoc board shall have powers other than advisory to the City Council and all Rules of Procedure apply to them; provided that such boards shall not be required to follow any open meetings rules that are not applicable to such board under state law.

### 7.2 Meeting Times and Agenda Order.

All boards, commissions, and committees shall be subject to these rules. Each board, commission, and committee shall set their own agenda, ~~so long as it is~~ Boards with regulatory rulemaking or quasi-judicial authority must be in accordance with the Texas Open Meetings Act.

### 7.3 Boards with Regulatory Authority.

In no specific order: Planning and Zoning Commission, Building and Standards Commission, and Board of Adjustment.

### 7.4 Committees without Regulatory Authority.

In no specific order: Lago Vista Parks and Recreation Advisory Committee, Lago Vista Airport Advisory Board, Lago Vista Economic Development Advisory Committee, Lago Vista Library Advisory Board, Lago Vista Golf Course Advisory Committee, Lago Vista Youth Advisory Committee, and any additional non-regulatory city committees or boards that are created.

### 7.5 Appointments.

City Council Members shall review applications of all eligible applicants for vacant positions on the City's boards, commissions, and committees. Each Council Member assigned as Liaison to a board, commission, or committee shall nominate appointees to the specific board. City Council shall vote to approve or deny nominations, by majority vote, until such time as all vacancies have been filled on the specific board, commission, or committee.

### 7.6 Board Members' Service.

Members appointed to boards or commissions that have regulatory authority shall serve 2-year terms in accordance with the City Charter. Members appointed to boards or commissions that *do not have* regulatory authority shall also serve 2-year terms, serve at the will of the Council, and may be removed, replaced, or not reappointed at the discretion of City Council by majority vote, with or without cause. When conducting the business of the City, appointed members of all boards, commissions or committees shall follow the Rules of Procedure set forth for the City Council. Members of boards, committees, and commissions are selected in order of best qualified in accordance with the criteria adopted by ordinance for the specific body, but secondarily by lack of membership on any other board, committee, or commission so as to encourage a broad base of citizen participation.

### 7.7 Open Government Training.

Upon initial appointment, within 90 days of taking the oath of office or assuming duties, all board, commission, and or committee members shall be required to watch the Texas Public Information Act and the Texas Open Meetings Act training videos as provided by the Office of the Attorney General. At the conclusion of the training video, the appointee will be given an opportunity to print from the

Attorney General's website a Certificate of Completion. The certificate should be filed with the city secretary, as proof of Open Government training.

## **7.8 Council Liaisons and Committees, Boards, and Commissions.**

### **1. Definition of Liaison**

Liaison: a person who establishes and maintains communication for mutual understanding and cooperation (Merriam-Webster Dictionary).

### **2. Council Liaison**

With City Council approval, a Council member may serve for a calendar year as the City Council's Liaison (i.e., representative) to an organization, and may be reappointed for subsequent years. A Liaison is responsible for facilitating communication, collaboration, and coordination with the designated organization, and with regular reporting and accountability to the City Council. There are typically Council Liaisons to four types of organizations:

- a. a county-wide or regional policy or governing body or inter-governmental organization, such as Travis County Tax Appraisal District, Emergency Service Districts, Property Owners Associations, etc.; and
- b. A community organization, such as arts, business, or social service organizations; and
- c. A governing or inter-agency board or commission, such as the Planning and Zoning Commission, Building and Standards Commission, or Board of Adjustment; and
- d. A citizen advisory board or committee of the city, whether or not the City Charter calls for an ex-officio Council member, such as the Airport Advisory Board, the Library Advisory Board, Economic Development Advisory Committee, Parks and Recreation Advisory Committee, and the Golf Course Advisory Committee.

### **3. Council Liaison Procedures**

Individual members of the City Council may be assigned as liaisons whose duties involve staying current with a group or activity by attending meetings or conferring with members and keeping the City Council informed. Liaisons may advocate City Council actions on behalf of their assigned group or activity.

Liaisons' functions and duties may be further defined and/or directed by the mayor or mayor pro tem, in the absence of the mayor, with concurrence of the City Council.

### **4. Duties and Expectations of a Council Liaison**

- a. A Council member acting as a Liaison to a Council advisory committee or other body (board or commission) is not a member of the committee. Rather, the Councilmember is a positive resource to support the committee in the completion of its work, subject to the rules stated below.
- b. A Council member liaison is acting as a representative of the full City Council and, as such, has no authority to provide direction or guidance to the committee other than direction or guidance provided by the full City Council.
- c. The Council member liaison shall work to ensure that the committee is only taking actions or doing work that is within the scope of the committee as determined or approved by City Council. The liaison can do this, for example, by reminding the committee of the scope of work that the City Council set for the committee.

d. The Councilmember liaison shall report on items and issues from their board, committee or commission meetings, and shall bring to the Council, via an agenda item, any requests from the committee, such as the following:

- o Questions raised by a committee about the committee's scope of work; and
- o Requests from the committee to change the committee's scope of work; and
- o Requests for expenditures of the city resources to further the committee's work (money, staff time, or other resources); and
- o Requests from the committee to place an item on a Council meeting agenda; and
- o Items that are liaison or staff-initiated topics that need City Council input or need feedback to the committee.

## 5. Selecting, replacing, and training of committee members

a. The council liaison takes the lead in filling vacancies, reviewing applications with the chair, and interviewing candidates for the board, committee, or commission except for those bodies with regulatory authority, in which case, a subcommittee of city council will take the lead. No candidate can be nominated to a committee without an application on file. The city council shall call for applications to be submitted by applicants in the October/November time frame and then makes appointments in the December timeframe. Vacancies that occur at other times will be filled by applicants that submitted applications during the typical October/November timeframe or subsequently. Should the list of candidates be exhausted, the City Council can make the decision to publicize the acceptance of additional applications outside the normal October-December timeframe.

b. The council liaison is responsible for resolving any issues with a committee member in consultation with the committee chair and city attorney as appropriate. If the issue is with the committee chair, the council liaison will resolve the issue in consultation with the mayor and city attorney as appropriate. If the issue is judged to be of a nature that requires the full council to review and adjudicate, then the issue will be brought to the council for action within a timely manner. If a council member becomes aware of a situation with a committee, board, or commission member that is not being handled by the associated council liaison, the council member will discuss the issue with the council liaison. If the council liaison continues to not address the situation, the other council member shall bring the issue to the mayor and city attorney for evaluation.

Possible actions of the Council include:

- i. **No Action.** The City Council chooses to take no action.
- ii. **Private Censure.** The City Council may choose to privately censure the offending member.
- iii. **Public Censure.** The City Council may choose to publicly censure the offending member through a resolution passed by supermajority vote and entered into the public record.
- iv. **Removal.** If the violation is severe enough in nature, the council; may make the decision to remove the member from the board or commission.

c. Removal of a chairperson is brought to council for resolution by the liaison, working with the mayor. Any actions to remove a committee member must conform with rules covered in the city charter, ordinances, and state law.

d. The council liaison and staff liaison are responsible for securing any training requirements for new or replaced committee members. This includes appropriate legal and/or specific subject-

matter content training. This may require expenditure of funds for registration and/or travel that would need to be included in the City's budget.

**6. Selecting and replacing council liaisons**

- a. After elections each November, the city council members will discuss each committee, current liaison assignments, proposed changes, and make liaison assignments for the upcoming year.
- b. When a problem exists with a council liaison, the committee chair will approach the mayor to discuss issues and resolutions related to the council liaison. The mayor will bring suggested resolutions to the full council for possible action.

**7. Selecting committee officers**

Each January, each committee is required to elect a chair, vice-chair, and secretary from among its members.

**8. Planning and reporting of the annual work plan of the committee**

- a. At the beginning of each calendar year, each committee will conduct a workshop to lay out objectives for the year that tie to the Comprehensive Master Plan and create an annual work plan. The Planning and Zoning and Building and Standards Commissions generally have their work brought to them but shall develop work plans to update ordinances when necessary. In the case of non-state mandated boards and committees, they will be responsible for developing the work plan associated with the board or committee.
- b. The committee and related department head will review the committee's annual work plan once a year.
- c. Every June or July, the committee chair will report to the city council the progress on the committee's annual work plan. Objectives and priorities will be adjusted as required.

**9. Preparing and publishing the agendas**

- a. The committee chair will have the ultimate responsibility for creating the agenda for each meeting.
  - i. The committee chair is responsible for accumulating desired agenda items from the other committee members, and city staff.
  - ii. ~~If council members or the city manager would like an item included on a board, committee, or commission's agenda, he/she will bring that item to the council liaison who will present it to the committee chair for inclusion on the upcoming agenda. If the item is being brought by a council member, it needs the agreement of the council liaison or another council member.~~ If council liaison would like an item included on a board committee, or commission's agenda, he/she will bring that item before city council for discussion, consideration and possible action followed by the council liaison reporting back to city council the actions of the board, committee, or commission on said item.
  - iii. If an item is presented by the council liaison, the committee chair cannot withhold the item from the agenda.
  - iv. The committee chair has the authority to interact with the council liaison and the department head related to the committee for the purpose of gathering appropriate information that should accompany agenda items. Should the committee chair feel he/she needs access to other city staff, he/she will do so through city manager.
  - v. The agenda should be emailed to the department head related to the committee a minimum of seven (7) days prior to the scheduled meeting, copying the city secretary and the council liaison. The department head will provide any feedback about necessary alterations, which the chairperson will be responsible for making and then forwarding to the appropriate city staff for legal posting.

- b.** When deemed appropriate by the council liaison (i.e., agenda items that involve acquisition or divestiture of city assets, the expenditure of city funds, etc.), the committee chair and council liaison will be jointly responsible for:
  - i. determining what supporting material should be provided in a packet to the committee prior to the meeting.
  - ii. accumulating the appropriate material with support of city staff; and
  - iii. determining which city staff will be required to support the successful conduct of each item on the agenda and making the appropriate arrangements with city staff to attend the meeting.
- c.** The committee secretary (whether committee member or city staff depending on whether it is a state mandated committee), chairperson, or related department head is responsible for the distribution of final agenda and packet items to committee members and council liaison.

## **10. Roles in committee meetings**

- a.** Appropriate city staff and council liaison are permitted in committee executive sessions as appropriate for the items to be discussed.
- b.** The secretary is required to take notes or audio recordings and prepare the minutes of the meeting (except for state mandated committees/boards where city designated staff will record and prepare the minutes).
- c.** A council liaison plays a limited role in the operation of a committee meeting. The following points provide a guideline for the council liaison in this context:
  - i. The council liaison has no voting rights in committee meetings.
  - ii. The council liaison shall not influence the committee's recommendations with his/her opinions.
  - iii. A council liaison does not lead a committee meeting or participate other than:
    - A. to provide factual information to help support the committee's discussions and deliberations,
    - B. to answer committee member questions, and
    - C. ~~to provide input on future agenda item discussions, and~~
    - D. to listen attentively so as to be able to be the primary two-way communication channel between the committee and council.
  - iv. All the above apply equally to open and executive session segments of a committee meeting.
  - v. A council liaison attends all committee meetings and should arrange a replacement council member if he/she cannot attend.

## **11. Sub-committees**

- a.** Committees, boards, and commissions may make use of sub-committees (a non-quorum sub-set of the committee, board, or commission) to analyze issues and bring back recommendations to the full entity.
- b.** To appropriately create a sub-committee, an item must be placed on the committee, board, or commission official agenda to discuss and possibly take action on the issue at hand and the use of a sub-committee to help study and derive recommendations on the issue. The full body can discuss the issue and vote to create a sub-committee to review the issue and report back information and recommendations to the full body. When creating a sub-committee, the full body in its approved motion should specify:
  - i. The issue the sub-committee will review;
  - ii. The members of the sub-committee (no more than 1 less than a quorum of the full body); and
  - iii. The time frame within which the sub-committee will operate.

- c. In the case of the Planning and Zoning Commission, any sub-committee work must comply with the Open Meetings Act.

## TABLE OF MOTIONS AND POINTS OF ORDER

MOTION/ORDER	REQUIRES SECOND	DEBATABLE	AMENDABLE	VOTE TYPE
Basic Motion	Yes	Yes	Yes	Simple
Motion to Amend	*	No	Yes	N/A
Motion to Adjourn	Yes	No	No	Simple
Motion to Recess	Yes	No	Yes	Simple
Motion to Fix the Time to Adjourn	Yes	No	No	Simple
Motion to Table	Yes	No	No	Simple
<b>Motion to Limit Debate</b>	Yes	No	No	<b>Super</b>
<b>Motion to Object to the Consideration of an Item</b>	Yes	No	No	<b>Super</b>
<b>Motion to Suspend Rules</b>	Yes	No	No	<b>Super</b>
Motion to Reconsider	Yes	Yes	Yes	Simple
Point of Privilege	No	No	No	N/A
Point of Order	No	No	No	N/A
Motion to Appeal	Yes	Yes	No	Simple
Call for Orders of the Day	No	No	No	N/A
Withdraw a Motion	No	No	No	N/A
Motion to Enforce	Yes	No	No	Simple
<b>Motion to Hire/Fire the City Manager</b>	Yes	Yes	Yes	<b>At least 5 votes</b>

- For the purposes of these rules, amendments are not debatable and only require the approval of the member who made the original motion and any member who seconded the motion. An amendment to an amendment, requires first the approval of the member who made the original amendment and secondly the approval of the members who made the original motion and seconded the motion.

Mayor  
Ed Tidwell

Mayor Pro-Tem  
Paul Prince



Council Members  
Gage Hunt  
Kevin Sullivan  
Rob Durbin  
Chelaine Marion  
Paul Roberts

## AGENDA CITY COUNCIL REGULAR MEETING

**NOTICE IS HEREBY GIVEN** that the Lago Vista City Council will hold a regular meeting on Thursday, January 5, 2022, beginning at 5:30 p.m. with Executive Session, in City Council Chambers at 5803 Thunderbird, Lago Vista Texas, as prescribed by Texas Government Code Section §551.041 to consider the following agenda items.

**THIS MEETING WILL BE HELD IN CITY COUNCIL CHAMBERS AT 5803 THUNDERBIRD, LAGO VISTA TEXAS AND UTILIZING THE GOTOMEETING VIDEOCONFERENCING TOOL.**

Please join my meeting from your computer, tablet or smartphone.  
<https://meet.goto.com/808088677>

You can also dial in using your phone.  
(For supported devices, tap a one-touch number below to join instantly.)  
United States: +1 (571) 317-3122  
- One-touch: tel:+15713173122,,808088677#  
**Access Code: 808-088-677**

### CALL TO ORDER, CALL OF ROLL

### EXECUTIVE SESSION

1. Convene into a closed Executive Session for:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
  - C. Consultation with Legal Counsel regarding Legislative guidelines concerning CapMetro and the Texas Transportation Code. (Government Code Section 551.071 Advice of Counsel).
  - D. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as "The

Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).

E. Discussion regarding City Attorney position. (Government Code Section 551.074 Personnel Matters).

**ACTION ITEMS** (action and/or a vote may be taken on the following agenda items):

2. Reconvene from Executive Session into open session to act as deemed appropriate in City Council’s discretion regarding:
  - A. Consultation with Legal Counsel concerning all regular meeting agenda items requiring confidential, attorney/client advice (as needed). (Government Code Section 551.071).
  - B. Consultation with Legal Counsel regarding the status of Water Treatment Plant 3 property. (Government Code Section 551.071 Advice of Counsel and Government Code Section 551.072 Real Property).
  - C. Consultation with Legal Counsel regarding Legislative guidelines concerning CapMetro and the Texas Transportation Code. (Government Code Section 551.071 Advice of Counsel).
  - D. Consultation with Legal Counsel regarding an amendment to the existing Planned Development District for the property located at 1900 American Drive and known as “The Peninsula” and the notifications sent to the surrounding property owners. (Government Code Section 551.071 Advice of Counsel).
  - E. Discussion regarding City Attorney position. (Government Code Section 551.074 Personnel Matters).

**PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG**

**To participate in the citizen comments portion of the meeting, you must submit a completed form. If you are attending the meeting in the City Council Chambers you must complete the form available at that location and provide it to the Mayor prior to the start of the meeting. If you will be participating using the online videoconferencing tool, you must complete the form and submit it by email in accordance with the instructions included within the form. It is found on the City’s website at the link below. The regular City Council meeting will begin at 6:30 p.m.**

[Citizen Participation Registration Form](#)

**CITIZEN COMMENTS:** In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

**ITEMS OF COMMUNITY INTEREST:** Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations.
- d. Reminders regarding City Council events.
- e. Reminders regarding community events.
- f. Health and safety announcements.

## **DISCUSSION ITEMS**

3. Discuss current procedures for the submission and consideration of subdivision plats.

## **CONSENT AGENDA**

4. Approval of the November 17, 2022, meeting minutes.
5. Approval of the December 1, 2022, meeting minutes.
6. Approval of the December 12, 2022, special called meeting minutes.
7. Approval of the December 15, 2022, meeting minutes.
8. Discussion, consideration, and possible action on Resolution No. 23-1982, a Resolution by the City Council of the City of Lago Vista, Texas accepting by Special Warranty Deed 1.0300 acres of property conveyed by Montechino Ventures Group LLC, dedicating the property as parkland, and authorizing execution of the Special Warranty Deed.

## **PUBLIC HEARINGS**

9. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the existing “Lago Vista Retail Center Planned Development District” (PDD) established by Ordinance No. 05-07-07-01 to include relief from strict compliance with the sign regulations otherwise applicable to Lots 1 through 4 of Block A and Lots 1 and 2 of Block B of the Lago Vista Retail Center Subdivision.
  - Mayor’s presentation
  - Applicant’s presentation
  - Open public hearing
  - Close public hearing
  - Council discussion and possible decision (continue public hearing if no decision results)
10. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.20 and 11.30 of Chapter 14 of the Lago Vista Code of Ordinances to specifically recognize the ability of the Board of

Adjustment to consider any of the grounds included in Section 211.009(b-1) of the Texas Local Government Code in making the determination whether the strict application of a zoning ordinance provision would result in an unnecessary hardship; and providing for related matters.

- Mayor's presentation
- Open public hearing
- Close public hearing
- Council discussion and possible decision (continue public hearing if no decision results)

11. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 11.60 and 13.40 of Chapter 14 of the Lago Vista Code of Ordinances regarding the procedures for special exception approvals for additional height, including property within the 100-year floodplain; and providing for related matters.

- Open public hearing
- Mayor's presentation
- Close public hearing
- Council discussion and possible decision (continue public hearing if no decision results)

12. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances adding procedural and substantive requirements to amend the Future Land Use Map or other components of the adopted Comprehensive Plan for any reason, including accommodation of a subsequent zoning change request; and providing for related matters.

- Open public hearing
- Mayor's presentation
- Close public hearing
- Council discussion and possible decision (continue public hearing if no decision results)

## **ACTION ITEMS**

13. Discussion, consideration and possible action on an Ordinance of the City Council of Lago Vista, Texas amending Section 3.120 of Chapter 3 of the Lago Vista Code of Ordinances related to construction refuse and debris, including concerns about nails and other similar metal objects being deposited in an adjacent public right-of-way; and providing for related matters.

14. Discussion, consideration, and possible action amending the Bunker Bar & Grill concession agreement.

15. Discussion, consideration, and possible action on Resolution 23-1981, A Resolution receiving a list of publicly owned properties and directing the City Manager to contract with a real estate broker for the sale of certain real property located at 21106 National Drive.

16. Discussion, consideration, and possible action regarding an Ordinance amending the City of Lago Vista Rules of Procedures.

## **ADJOURNMENT**

**IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 4:49 p.m. on the 29th day of December 2022.**

*Lucy Aldrich*  
Lucy Aldrich, City Secretary

**THIS MEETING SHALL BE CONDUCTED PURSUANT TO THE TEXAS GOVERNMENT CODE SECTION 551.001 ET SEQ. AT ANY TIME DURING THE MEETING THE COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION ON ANY OF THE ABOVE POSTED AGENDA ITEMS IN ACCORDANCE WITH THE SECTIONS 551.071, 551.072, 551.073, 551.074, 551.075 OR 551.076.**

**THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.**

**AT THIS MEETING AT THE STATED LOCATION, A QUORUM OF THE CITY COUNCIL WILL BE PHYSICALLY PRESENT, AND THIS NOTICE SPECIFIES THE INTENT TO HAVE A QUORUM PRESENT THERE, AND THE MEMBER OF THE CITY COUNCIL PRESIDING OVER THE MEETING WILL BE PHYSICALLY PRESENT AT THAT LOCATION. ONE OR MORE MEMBERS OF THE CITY COUNCIL MAY PARTICIPATE IN THIS MEETING REMOTELY, AND IF SO, VIDEOCONFERENCE EQUIPMENT PROVIDING TWO-WAY AUDIO AND VIDEO DISPLAY AND COMMUNICATION WITH EACH MEMBER WHO IS PARTICIPATING BY VIDEOCONFERENCE CALL WILL BE MADE AVAILABLE.**