

1. Agenda

Documents:

[2023-04-13-PZ-REG-AGN.PDF](#)

[2023-04-13-PZ-REG-AGN-PAK.PDF](#)



AGENDA
PLANNING & ZONING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS
5803 THUNDERBIRD STREET
APRIL 13, 2023 AT 6:30 PM

JOIN MEETING VIA VIDEO CONFERENCE

<https://meet.goto.com/485258021>

You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (872) 240-3212

- One-touch: <tel:+18722403212,485258021#>

Access Code: 485-258-021

CALL TO ORDER, CALL OF ROLL

Tom Monahan, Chairperson

Larry Hagler

Don Johndrow, Vice-Chairperson

Kathy Koza

Thomas Burlew

Norma Owen

Julie Davis

CITIZEN COMMENTS

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

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 Chair 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.

[Citizen Participation Registration Form](#)

STAFF AND COUNCIL LIAISON REPORTS

1. Routine Reports from City Council Liaison.
2. Routine Reports from City staff.

ACTION ITEMS

3. Discussion and possible action regarding whether a proposed amendment to the configuration of some of the lots within the preliminary plat approved by the Planning and Zoning Commission on June 9, 2022, pursuant to application 22-2126-PR-PLA for Phase 2 of the development known as “Firefly Cove” is similar enough to consider it consistent with the original approval or whether a new preliminary plat application is instead warranted.
 - A. Staff Update
 - B. Discussion
 - C. Decision

PUBLIC HEARING AND ACTION (ORDINANCE AMENDMENTS)

4. Reconsideration of a previous recommendation to amend Section 6.65 of Chapter 14 of the Lago Vista Code of Ordinances to limit the storage and parking of various types of vehicles outside of an enclosure and visible from a public right-of-way.

Note: this item was deferred during the March 9, 2023, meeting.

- A. Staff Update
- B. Continue Public Hearing
- C. Close Public Hearing
- D. Discussion
- E. Recommendation or Deferral

5. Consideration of a recommendation to amend Chapter 3 of the 2030 Comprehensive Plan adopted by Ordinance No. 16-05-05-02 to amend the definitions of various land use types also employed in the Future Land Use Map.

Note: this item was deferred during the March 9, 2023, meeting.

- A. Staff Update
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CONSENT AGENDA

All matters listed in the Consent Agenda are to be considered routine by the Commission and will be enacted by one motion without discussion. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

6. Consider approval of the March 9, 2023 Regular Meeting minutes.

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 8:30 a.m. on the 5th day of April 2023.

Lucy Aldrich, City Secretary

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.

IN ADDITION TO ANY EXECUTIVE SESSION ALREADY LISTED ABOVE, THE PLANNING AND ZONING COMMISSION RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE FOR THE FOLLOWING PURPOSES: §551.071: CONSULTATION WITH ATTORNEY; §551.072: DELIBERATIONS REGARDING REAL PROPERTY; §551.073: DELIBERATIONS REGARDING GIFTS AND DONATIONS; §551.074: PERSONNEL MATTERS; §551.076: DELIBERATIONS REGARDING SECURITY DEVICES; §551.087: DELIBERATIONS REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS.



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PO Box 4727, Lago Vista, TX 78645 • 512.267.1155 • www.lagovistatexas.org

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Item Cover Page

PLANNING & ZONING COMMISSION AGENDA ITEM REPORT

DATE: April 13, 2023

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: Routine Reports from City Council Liaison.



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SUBJECT: Discussion and possible action regarding whether a proposed amendment to the configuration of some of the lots within the preliminary plat approved by the Planning and Zoning Commission on June 9, 2022, pursuant to application 22-2126-PR-PLA for Phase 2 of the development known as "Firefly Cove" is similar enough to consider it consistent with the original approval or whether a new preliminary plat application is instead warranted.

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ATTACHMENTS:

[Updated Preliminary Plat.pdf](#)

Thursday, March 2, 2023

via email: Roy.Jambor@lagovistatexas.gov

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

Re: Firefly Cove Phase 2 Preliminary Plat Minor Layout Change
Langan Project No: 531019501

Dear Mr. Jambor and Honorable Planning and Zoning Commissioners,

Firefly Cove, LLC. is requesting an administrative minor layout change to the Firefly Cove Phase 2 Preliminary Plat approved on 06/09/2022.

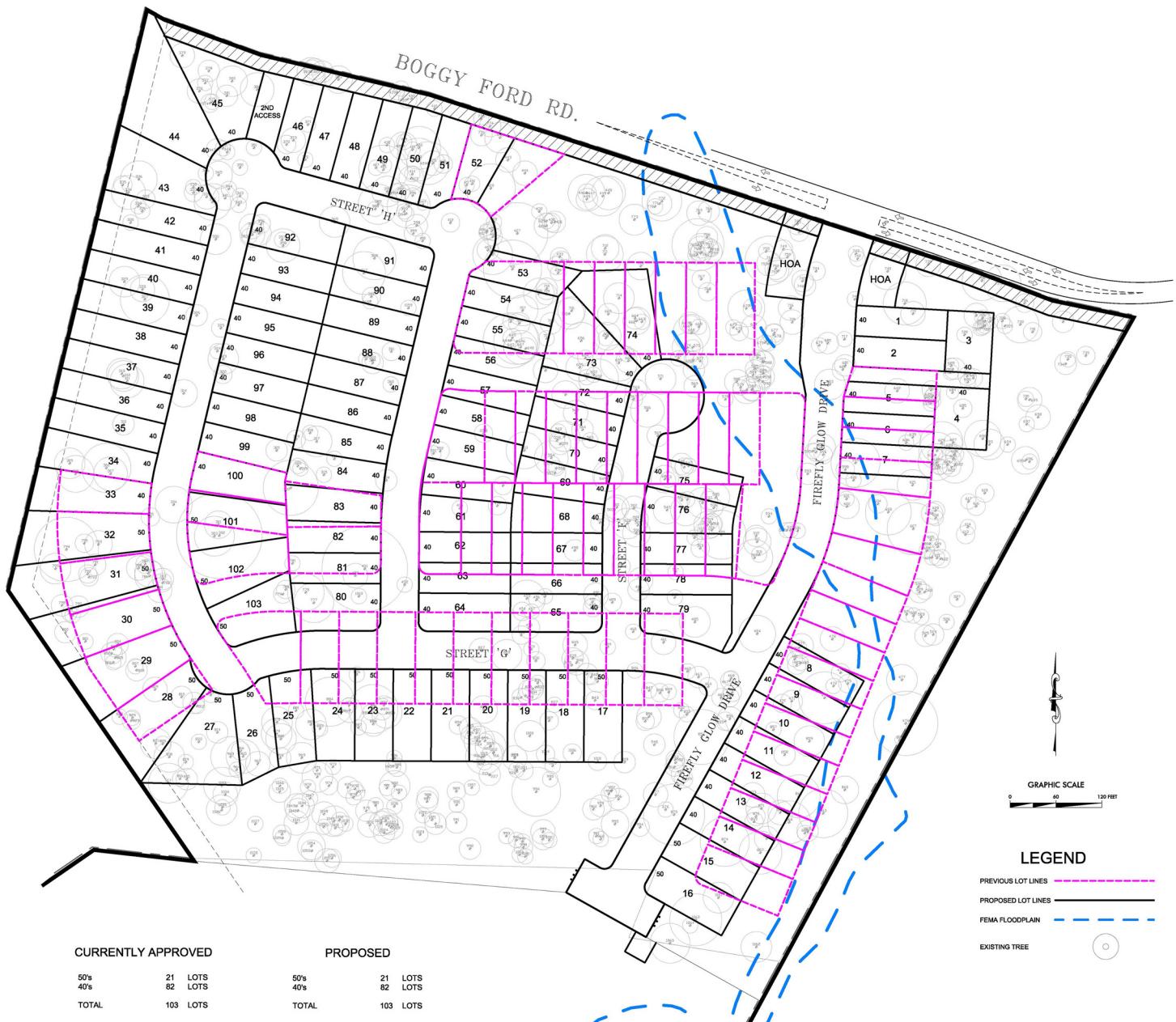
Please see the attached Langan Exhibit dated 03/02/2023 showing the proposed changes in black, the approved preliminary layout in magenta, and the FEMA Floodplain in blue.

The basis why the Commission should grant the administrative minor layout change are noted below:

1. The layout change lessens the lot encroachment within the existing FEMA Zone A Special Flood Hazard Area.
2. The layout change expands the open space near and around the FEMA Floodplain saving trees.
3. The layout change reorients the lots from North/South to East/West. The reorientation allows for the lots to drain naturally towards the Floodplain which lessens grading disturbances and saves trees.
4. No change to the approved preliminary lot count.

Your consideration is appreciated.

Sincerely,
Langan Engineering and Environmental Services, Inc.





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ATTACHMENTS:

[P&Z packet 04-13-2023 Vehicle storage.pdf](#)

Current Chapter 14 provisions: amendments requested by residents with enforcement challenges acknowledged by the Code Enforcement staff.

CHAPTER 14

ZONING

6.65 Storage and Parking of All Vehicles, Including Boats, Trailers, and Recreational Vehicles.

- (a) Storage of junked or unlicensed vehicles, including recreational vehicles, boats, and trailers, outside a building that completely screens it from view from any direction except from above, on any lot or parcel is prohibited. Covering the vehicle with any material is not screening.
- (b) All vehicles, including but not limited to recreational vehicles, boats, trailers, commercial vehicles, and trailers, that are not involved in permitted or authorized construction or development activity parked in front of the building setback line or in front of the rear yard in the side setback shall be on a concrete or asphalt driveway or parking apron, or an improved surface capable of supporting the vehicle such as concrete, asphalt, pavers, or similar material.
 - (1) Such improved surface shall be located inside the property line of property with a principal (not accessory) use building.
 - (2) Such improved surface shall at all times be free of weeds, grass, refuse, debris, or standing water.
 - (3) Such improved surface shall be calculated as part of the lot's impervious cover, which shall not exceed 50%. The degree to which a parking surface is pervious shall be determined by the building official. The building official may require a registered professional engineer to certify that the improved surface is pervious or the degree to which the improved parking surface is pervious.

No vehicles shall be parked or stored in the front yard or corner side yard facing a street not an alley unless the vehicle is parked or stored on a driveway.

- (4) For purposes of this section, the front yard and corner side yard facing a street shall be the area between the building facing the street and the street, excluding the area outside lines drawn from the side of the building perpendicular to and extending to the street.
- (5) Access to the improved parking surface need not be improved.

- (c) Vehicles parked in front of the setback building line or in front of the rear yard in the side setback by occupants or their guest are prohibited unless such parking is of a temporary nature to accommodate vehicles, including recreational vehicles, boats, and trailers belonging to a guest attending a function or visiting the occupants on an overnight type basis for a brief period of time (not to exceed 72 hours). Extended parking of guest vehicles may be authorized by permit issued by the Chief of Police.
- (d) Commercial vehicles and trailers of all types shall not be parked or stored on any lot in any residential district except in accordance with the following provision(s): No more than one (1) commercial vehicle, which does not exceed one and one-half (1-1/2) tons rated capacity, per family

living on the premises shall be permitted, except when the vehicle or trailer is involved in construction, moving, or delivery of a product or service to the residence. In no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products or earth moving equipment or vehicles be permitted.

For purposes of this section a commercial vehicle is a motorized vehicle or trailer with a load capacity greater than 1-1/2 tons that is used in a commercial enterprise, or has a business or service or product sign on the vehicle, or whose principal use is to carry equipment or material.

Current Chapter 6 provisions: regulates nuisances and property standards that are undoubtedly intended for residential uses only (zoning ordinances).

CHAPTER 6

HEALTH AND SANITATION REGULATIONS

ARTICLE 6.100 GARBAGE AND RUBBISH

Sec 6.101 Definitions

Refuse. Means garbage, rubbish and other decayable and non-decayable waste, including vegetable matter and animal and fish carcass. The term does not include sewage from a public or private establishment or residence. This does include refuse resulting from lot clearing or other such activity such as boulders, rocks, trees, bushes, limbs, grass, etc.

Garbage. Means all decayable waste from public and private establishments including vegetable, animal and fish offal and animal and fish carcass. The term does not include sewage, body waste and industrial by products.

Rubbish. Means all non-decayable wastes, except ashes from a public or private establishment or private establishment or residence.

Junk. Means all worn out, worthless and discarded material including odds and ends, old iron or other metal, glass paper and cordage. Inoperative automobiles, trucks, debris or waste or junked, dismantled or wrecked automobiles or automobile parts, etc. to be classified as junk. “Junk” is also inclusive of old scrap copper, brass, rope, rags, batteries, paper trash, rubber, iron, steel and other old scrap ferrous or non-ferrous materials.

Junk Yard. Means an establishment or place or business maintained, used or operated for storing, keeping, buying or selling junk or processing scrap metal or for maintaining or operating an automobile grave yard. This term includes garbage dump and sanitary fills.

Automobile Grave Yard. Means an establishment or place of business that is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

Sec 6.102 General Regulations

- (a) Dumping refuse, garbage, rubbish, junk or any other material such as cement or any building material on or near city streets, private property, parks, parking lots, commercial or public buildings or on adjoining highways and rights-of-way as well as privately owned containers without prior permission of the owner is considered a misdemeanor and subjects the offender if convicted to a fine.
- (b) Operations of a “junk yard” or “automobile grave yard” within the city limits is prohibited and is considered an offense, punishable by a fine for each day operated.
- (c) It shall be an offense to repair, strip or assemble a passenger car, truck, motorcycle or any kind of motor vehicle on a residential yard, or public street within the city limits of Lago Vista, Texas.

Homeowners may do ordinary maintenance jobs such as oil changes, lubricant changes (Note: oil and lubricants must be disposed of in accordance with Federal EPA Regulations) spark plugs, points, etc. in driveways if the job takes twenty-four (24) hours or less. No type of work may be done in public streets, parking lots or vacant lots unless of emergency nature, such repairs taking no more than eight (8) hours to accomplish. Automotive repair work may be done in buildings or garages, where not seen from streets or residents.

- (d) It shall be considered a misdemeanor for any inoperable motor vehicle to be parked or left in private yards, driveways, vacant lots or on any city street for a period exceeding seven (7) days unless otherwise authorized by special city permit.
- (e) Dump trucks, graders, front end loaders, backhoes, trenchers, and like vehicle parking is prohibited except for moving vans or construction vehicles during construction. Vans, pick ups and automobiles used for commercial purposes are exempt from this restriction.
- (f) Each dwelling shall have solid waste containers which must be inaccessible to dogs and other animals and which should be concealed insofar as possible from viewing from a public street or adjoining properties. Arrangements should be made for waste pick up so that containers are visible on waste pick up days and are immediately returned to normal storage areas within twelve (12) hours after trash pick up.
- (g) Any "refuse" such as cited in Section 6.101, directly associated with "lot clearing" will be removed from such lots within sixty (60) days from the start of the clearing unless other disposition is authorized by this or other city ordinance. If construction is underway, clean up will be regulated by the city building regulations. Brush resulting from lot clearing may be chipped up and spread out on the interior of the lot in lieu of removal. Tree stumps must be cut to ground level or extracted and may either be removed from the lot or ground up and spread out over the lot. In any case where the owner/contractor/legal representative has been notified by the city to "clean up" such refuse, the responsible party has a maximum of sixty (60) days to accomplish such task.

Sec 6.103 Penalties

Any person convicted of violating any of the provisions of this article may be subject to punishment by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code.

ARTICLE 6.200 PROPERTY MAINTENANCE

Sec 6.201 Adoption Of Findings Of Fact

The findings and recitations set out in the preamble of Ordinance 12-01-19-01 are found to be true and correct and they are hereby adopted by the city council and made a part hereof for all purposes.

Sec 6.202 Policy

The terms and provisions hereof shall apply to stagnant water and to the accumulation and storage of any solid waste, including garbage and trash, and to the growth, accumulation, cutting and storage of grass, weeds and any other vegetative material upon property in the city, to the end that property shall be maintained in a sanitary and healthful condition for the benefit of all residents and citizens of the community.

Sec 6.203 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

Brush. All uncultivated shrubs, bushes and small trees.

Earth and Construction Materials. Earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.

Garbage. Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayable wastes, including animal and vegetable matter, but not including sewage, hazardous, toxic or corrosive materials, earth and construction materials as herein, or any other material which may be found to be harmful to garbage collection and handling personnel or equipment.

Injure. Any and all character of physical damage, whether caused by fire or force, and which shall be done or caused willfully by any person.

Junk. All worn out, worthless and discarded material, in general, including, but not limited to, odds and ends, old iron or other metal, glass, paper, cordage, tires or other waste or discarded materials.

Lot. In addition to land within the boundaries of the property lines, all land adjacent to and extending beyond the property lines of any lot or parcel of land to the curblines or adjacent streets where curblines have been established or, where no curblines have been established, to eight (8) feet beyond the property lines.

Refuse. See “garbage.”

Rubbish. All refuse, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, discarded clothing and textiles of all sorts, and in general all litter. The words “any and all objectionable or unsanitary matters,” not included within the meaning of the other terms as herein used, mean those which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the general locality where the same are situated.

Solid Waste. Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.

Trash. See “garbage.”

Unwholesome Matter. All stagnant water, filth, carrion, impure matters and any condition liable to produce disease.

Weeds. All rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass, or breeding place for flies, mosquitoes, or a wildfire hazard.

Wildfire Fuel. Brush; piles and accumulations of dead or cut vegetation, brush or trees; grass and weeds over 24 inches in height; and limbs of cedar trees (ashe juniper) closer to the ground than six feet.

Sec 6.204 Prohibited Conduct

It shall be unlawful for an owner, occupant, lessee or renter of any lot or parcel of ground within the city limits (herein cumulatively referred to as “owner” or “occupant”) to fail to keep the owner’s or occupant’s

property free from brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever nature, or to fail to keep the sidewalks adjacent to the property free and clear from weeds and tall grass from the line of such property to the established curbline or pavement line or shoulder line next adjacent thereto, or to fail to fill up and drain holes and depressions in which water collects, or to regrade any lots, grounds or yards or any other property owned or controlled by the owner, occupant, lessee, or renter which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease, or to produce a wildfire hazard on vacant or unoccupied land, or to fail to keep any house, building, establishment, lot yard or ground owned or occupied or under his or her control at all times free from filth, carrion or other impure or unwholesome matter of any kind.

Sec 6.205 Nuisance Declared; Duty To Abate

Whenever brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the city, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or wildfire fuels, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property, or by the city, or by others permitted by the city to abate the nuisance.

Sec 6.206 Right To Abate Dangerous Weeds And Wildfire Fuel

Whenever an immediate danger to the health, life or safety of any person exists as a result of weeds which have grown to a height; at any point on the property, of greater than 24 inches, or wildfire fuel on vacant or unoccupied property the city may abate or cause the abatement of the weeds or wildfire fuel without notice to the owner. In the event the city abates the nuisance under this section, the city shall forward notice to the owner within ten (10) days in the manner set forth in Section 6.208.

Sec 6.207 Right To Inspect

The code enforcement officer and city manager designees are authorized to inspect any property within the city limits, at any reasonable time, subject, however, to the restrictions against such inspection and entry of private residence for health inspection as are provided for in the laws of the state.

Sec 6.208 Violations; Notice; Failure To Abate

- (a) In the event the officer charged with enforcement of this article shall determine that a situation exists which immediately affects the health, safety and well-being of the general public, to include a high risk caused by the presence of wildfire fuels, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (b) In the event the officer charged with enforcement of this article determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the

property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.

- (c) In the event any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by Section 6.204 of this article within ten (10) days after notice to do so, the city council may direct that the city do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made, to the owners of the property, whereupon such charge shall be a personal liability of such owner to the city.
- (d) Such notice may be in writing, served upon such owner and/or occupant in person by an officer or employee of the city, or may be by letter addressed to such owner or occupant at their post office address, or if personal service may not be had, or the owner and occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city, by posting a notice on or near the front door of each building on the property upon which the violation relates, or by posting notice on a placard attached to a temporary stake or wire sign driven into the ground on the property to which the violation relates if no buildings exist and addressed "Sanitary Improvements" or "Wildfire Fuel Abatement" "To Whom It May Concern," and such publication shall be deemed sufficient notice.
- (e) In the event any owner is mailed a notice in accordance with subsection (d) and the United States Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected, and the notice is considered as delivered.
- (f) Notices provided by mail or by posting as set forth in subsection (d) may provide for year-round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and assess the costs against the property.

Sec 6.209 Assessment Of City's Abatement Cost; Collections Of Cost; Appeals

In addition to the remedy provided in Section 6.208 and cumulative thereto, the city manager or his designee, may cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expenses occurred; provided, that the owner of any such real estate may appeal to the city council from the order to abate and the assessed costs by filing a written statement with the city secretary within ten (10) days after receipt of the notice provided for above, stating that such real estate complied with the provision of Section 6.204 before the expiration of a ten-day period. The city council shall set a date within thirty (30) days from the date of the appeal, for hearing upon such appeal to determine whether the real estate complied with the provisions of Section 6.204 before the expiration of such ten-day period. The authority of the city manager or his designee to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending, but if it shall be determined by the city council that the premises complied with the provisions of Section 6.204 before the expiration of such ten-day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

Sec 6.210 Cost Of City Abatement Constitutes Lien

Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the city's expense and may charge the same to the account of the owners of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

- (a) Expenditures plus ten (10) percent interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for water, sewer and sanitation (herein "utility bill") for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein is paid in full.
- (b) Upon filing with the county clerk, of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent interest on the amount from the date of such payment so made by the city.
- (c) The city may additionally institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be *prima facie* proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

Sec 6.211 Limitation On Height Of Grass And Weeds And Wildfire Fuel Limitations

- (a) Improved Lots. It shall be unlawful for any person who shall own or occupy any improved lot or lots in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than twelve (12) inches. Weeds and/or grass of a height exceeding twelve (12) inches are declared a nuisance. Provided, however, this section shall not apply to property used for the growing of agricultural crops or grass if such property has not been platted into lots.
- (b) Unimproved or Vacant Property. It shall be unlawful for any person who shall own or occupy any unimproved or vacant property in the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than 24 inches and/or cedar tree (ashe juniper) limbs to be within six feet of the ground on unimproved or vacant land. Provided, however, this section shall not apply to property used for the growing of agricultural crops or effluent irrigation.

Sec 6.212 Discharge Of Sewage

Any person or persons who shall allow or permit sewage to discharge into the ground or subsurface soil, which shall have the effect of causing odors, obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this article.

Sec 6.213 Connection To Water And Sewer Required

- (a) It is a health and safety offense to occupy a building without water and sewer service whether provided by the city or through an individual or communal well and an individual septic system or a communal septic system.

- (b) A certificate of occupancy is required before any building built with water and sanitary sewer connections can be occupied or used for its intended purpose. (Ordinance 12-01-19-01 adopted 1/19/12)
- (c) Effective March 1, 2013, all structures utilized for human habitation or occupancy shall connect to the city water supply if such supply is within 300 feet as measured within street ROW or a utility easement from the water supply to the nearest property line on which the structure is to be located. (Ordinance 13-03-07-01, Sec 3, adopted 3/7/13)

Sec 6.214 Penalties

Any person convicted of violating any term or provision of this article shall be guilty of a misdemeanor and fined in accordance with the general penalty provision set forth in Section 1.109 of this code for such offense and each day that such offense is maintained shall be a separate offense.

Current Chapter 8 provisions: regulates many of the same or similar nuisances as Chapter 6, but also includes other offenses that might should be separated.

CHAPTER 8

OFFENSES AND NUISANCES

ARTICLE 8.100 HUNTING AND SHOOTING

Sec 8.101 Prohibited Acts

It shall be unlawful for any person to hunt with, or shoot a firearm, bow, crossbow, slingshot, air gun or air rifle or any other weapon designed to kill or wound persons and/or animals or damage property in the city limits of Lago Vista, Texas.

Sec 8.102 Fine For Violation

If any person be found guilty in the municipal court of the City of Lago Vista, Texas for the violation of any provision of this article, each violation shall be punishable by the levy of a fine in accordance with the general penalty provision set forth in Section 1.109 of this code.

ARTICLE 8.200 FIREARMS ON CITY PREMISES

Sec 8.201 Definitions

The following definitions shall apply in the interpretation and the enforcement of this article:

Airgun. An airgun, air pistol, air rifle, or any other device using air pressure to propel a projectile through a barrel.

Airport. Any facility owned, leased or otherwise under the control of the city and used in large part for the loading unloading, landing and taking off of aircraft.

Building. Any enclosed structure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament, or use.

City. The City of Lago Vista, Texas.

City Premises. A building or any portion thereof, and real property, or any portion thereof, owned, leased, occupied or controlled by the city. "City premises" does not include streets, sidewalks, or public parks owned or operated by the city.

Enter or Entry. The intrusion of the entire body.

Firearm.

(a) Any other device designed, made, or adapted to expel a projectile through a barrel by using energy generated by an explosion or burning substance or any device readily convertible to that use;

(b) Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:

- (1) An antique or curio firearm manufactured before 1899; or
- (2) A replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

Handgun. Any firearm that is designed, made, or adapted to be fired with one hand.

Notice. Has the same meaning as it has in Sections 30.06 and 30.07, Texas Penal Code.

Premises. A building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Sec 8.202 Carrying Firearms

(a) Carrying Handgun on City Premises. It shall be unlawful for a person who has a license to carry a handgun from the state to enter or remain on the premises where the municipal court or the court's offices are located or in session or at any meeting of a governmental entity that is subject to the Open Meetings Act if the license holder is given written notice pursuant to Texas Penal Code Section 30.06 and/or 30.07 that carrying is prohibited.

(b) Carrying Firearm on City Premises. A person commits a third degree felony if the person intentionally, knowingly, or recklessly possesses or goes with any firearm on the premises of a polling place on the day of an election or while early voting is in progress.

(c) Carrying of a Firearm or Airgun by a Person Other Than a Person Licensed to Carry a Handgun. It shall be unlawful for a person other than a person licensed to carry a handgun to carry a firearm in a city park or at a political rally, parade, or official political meeting.

(d) Notice. The city manager shall direct city staff to:

- (1) Provide notice at all city premises when entry is forbidden to anyone carrying a firearm or handgun not permitted by this article; and
- (2) Provide notice to depart to anyone found carrying a firearm or handgun not permitted by this Section on city premises.

(e) Signs.

(1) A sign posted as notice under subsection (d)(1) shall include a statement, in English and Spanish, to read substantially as follows:

- (A) Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under subchapter H, chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.
- (B) Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under subchapter H, chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

- (2) The signs must include the exact language above in both English and Spanish, be printed in contrasting colors with block letters at least one inch in height, and be displayed in a conspicuous manner clearly visible to the public.
- (f) Exemption. This Section does not apply to a peace officer or a commissioned Security officer hired by or under contract with the city and acting within the scope of that employment, or to a peace officer of another unit of government lawfully acting within the scope of the peace officer's duties.
- (g) Special Event. A person may transport, demonstrate and display a firearm for purposes of show or sale on city premises in connection with an event approved by the city manager or the city manager's designee, and subject to such restrictions as the city manager or his designee may require.
- (h) Shipping. A person may carry a firearm on the premises of the airport for purposes of shipping the firearm by air or receiving a shipment of the firearm, subject to such restrictions as the city manager or his designee may require, and in compliance with applicable federal regulations.

Sec 8.203 Discharge Of Firearms

- (a) It shall be unlawful for any person to discharge any firearm within the city.
- (b) It shall be unlawful for any person to discharge any firearm across, over, through or into any part of the city.
- (c) The provisions of subsections (a) and (b) of this Section shall not apply to:
 - (1) The discharge of a firearm at a gunsmith's establishment or a shooting facility lawfully operating pursuant to a permit issued by the city in accordance with the ordinances of the city when the firearm is discharged at an approved firing line in the direction of the targets, and such discharge is otherwise in accordance with all terms and conditions imposed as a condition of the issuance of the permit;
 - (2) The discharge of a firearm by any person exercising any right expressly or impliedly granted by the laws of this state or the laws of the United States, the exercise of which expressly or impliedly includes the discharging of firearms; or
 - (3) The discharge of an airgun within an enclosed building or shooting gallery, or within any building or shooting gallery specifically designed for such discharges, so long as no projectile discharged from the airgun leaves the building or shooting gallery.
- (d) Nothing contained herein shall be deemed to prohibit the use of pneumatic nail guns or similar construction tools.

Sec 8.204 Penalties

Any person who violates any of the provision of Section 8.203 of this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code. Each day of violation and each incident of violation of this article shall constitute a separate offense.

ARTICLE 8.300 NOISE

Sec 8.301 Definition

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates another meaning:

Daytime Hours. The hours from 7:00 a.m. on one day and 10:00 p.m. the same day for residential properties or areas and 6:00 a.m. on one day and 12:00 midnight on the same day for nonresidential properties or areas.

dB(A). The intensity of a sound expressed in decibels.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

Emergency Work. Any work performed for the purpose of:

- (a) Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- (b) Restoring property to a safe condition following a fire, accident, or natural disaster;
- (c) Protecting persons or property from exposure to danger; or
- (d) Restoring public utilities.

Nighttime Hours. The hours between 10:01 p.m. on one day and 6:59 a.m. the following day for residential properties or areas and 12:01 a.m. and 5:59 a.m. the same day for nonresidential properties or areas.

Nonresidential Property/Areas. Any real property that is not included in the definition of residential property as defined in this Section. Without limitation, the term includes properties that have been zoned other than as residential property, and properties that are devoted to public purposes, such as public parks.

Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the name of the song, specific words or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

Property Line. With respect to single-occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

Residential Property/Areas. Any real property zoned R-1, R-2, or R-4.

Streets. In the same category as the surrounding zoning. In the case of residential properties/areas which are across the street from nonresidential properties/areas, the street shall be considered to be in a residential area.

Sec 8.302 General Regulations

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. In determining whether a noise is too loud, unnecessary, or unusual, the following factors shall be considered: time of day; proximity to residential properties/areas as defined above; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (b) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound that either exceeds the maximum permitted sound levels specified in Section 8.306 of this code or, for purposes of Sections 8.303, 8.304, and 8.305 of this code, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.
- (c) It shall be unlawful for any person to pour a slab, demolish a building, or utilize any power tools for commercial or industrial purposes before 7:00 a.m. or after 7 p.m. on any day, or at anytime on Sunday, Christmas Day, New Year's Day or Thanksgiving Day without having been issued a permit for such activity to be conducted on the property upon which the pouring, demolition or use of tools is to take place. Such permit will specify the dates and times during which the work is authorized to occur. This prohibition shall not apply to emergency work which may be verbally authorized by the city manager or the mayor.
- (d) The acts enumerated in the following Sections of this article, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.
- (e) This article shall not apply to any law enforcement personnel, equipment or activity nor to any public utility or public works personnel, equipment or activity while in the performance of their official duties.

Sec 8.303 Noisy Vehicles Generally

- (a) The use of any motor vehicle so out of repair or so extra loaded, that it creates any loud and unreasonable or unusual, (that is, not standard equipment for the type vehicle, or which violates state regulations for equipment or emissions), grating, grinding, rattling, or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.
- (b) No person shall operate an engine of any motor vehicle as defined by the Texas Transportation Code so as to brake or slow the same through the use of gears (commonly known as jake braking) or by any other method which produces any noise in addition to the normal operating engine noise.
- (c) No person shall operate or allow an engine of any sort of motor vehicle, except emergency equipment or vehicles then located at a permitted public event or parade, to idle for more than one (1) hour.

Sec 8.304 Amplified Sound

- (a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated: (1) in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants; or (2) at any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto. The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet or more from a vehicle shall be presumed to be violation of this Section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of 50 feet or more from the property line of a property or premises in which the amplification is located shall be presumed to be violation of this Section.
- (b) Amplified sound emanating from any horn, instrument, player, radio, phonograph, or other amplification device or attachment on the public street or other public or private place during nighttime hours is prohibited.
- (c) It is an affirmative defense to prosecution under this Section that the sound source is a motor vehicle and that:
- (d) The motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function; and
- (e) The use is in compliance with all other provisions of this article.

Sec 8.305 Noisy Animals And Birds

- (a) The keeping of any animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in Section 8.306 of this code.
- (b) In any prosecution for a violation of this Section, the fact that any loud animal noise which disturbed any person and which occurs in residential areas either:
 - (1) During nighttime hours; or
 - (2) When none of the residents who reside at the place where the animal or bird is being kept are at home; shall create a rebuttable presumption that such noise was in violation of this article.
 - (3) In any prosecution for a violation of this Section, the fact that any animal or bird has been allowed or permitted to persistently and chronically violate this Section, as demonstrated by the issuance of two or more citations and/or the receipt of two or more complaints from more than one household within a two month period shall create a rebuttable presumption that such noise was in violation of this article.

Sec 8.306 Maximum Permissible Sound Levels

- (a) In addition to the violations established by the preceding Sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible beyond the property on which the sound is being generated that when measured as provided in Section 8.307 of this code exceeds 80 dB(A) during daytime hours and 70 dB(A) during nighttime hours for the respective areas described above. Any sound that exceeds the dB(A) levels set forth in this Section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this Section shall be *prima facie* evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.
- (b) Regardless of the measurable dB(A) level established above, the generator of any sound of such a nature as to cause persons occupying or using any property other than the property upon which the sound is being generated to experience physically detectable sound, vibrations or resonance at a distance of fifty (50') feet from the source of the sound caused by the sound shall also be *prima facie* evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.
- (c) This Section is designed to regulate noise by various alternate means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this article because it is disturbing to a reasonable person of ordinary sensibilities pursuant to Section 8.302 or because it is prohibited. If a noise violates one or more of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the city.

Sec 8.307 Method Of Sound Measurement

Whenever portions of this article prohibit sound over a certain decibel limit, measurement shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreens for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise. Measurements of sound generated shall be taken from the curb line of the nearest public street to the property where the sound is generated and taken toward the source of the sound. In the event that there is not at least fifty feet (50') of distance from the building in which sound is being generated and from which sound is being measured, then measurements shall be taken from the street curb line opposite the said building of the nearest public street to the property where the sound is generated.

Sec 8.308 Permit Required For Use Of Outdoor Sound Amplification Equipment

- (a)
 - (1) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner that exceeds the levels specified in Section 8.306, without first obtaining a permit to do so.

- (2) No permit is required for any use not exceeding the said permissible levels.
- (3) The permit shall be granted only for the amplification of music or human speech, or both.
- (4) The permit:
 - (A) May be obtained by making application to the director of the city department so designated by the city manager.
 - (B) Requires payment of a \$10.00 fee for the administrative costs of issuing the permit or a sworn statement of inability to pay the fee.
 - (C) Is valid for a specifically requested and approved period between the hours of 8:00 a.m. and 10:00 p.m. in residential areas or between 7:00 a.m. and 12:00 midnight in nonresidential areas.
 - (D) Shall not be issued to the same or any other person for the same location more than twice during any 30 day period. In the case of a sound truck, location shall relate to the area traversed by the truck in one day. For special events which will take place over a two or three day time period in a city or POA park, the city manager may approve a special permit to accommodate the entire event period in one permit.
 - (E) Shall specify the maximum sound level permitted.
- (b) The permit application required to be filed pursuant to this Section shall contain the following information:
 - (1) The date of the application and the date and hours for which the permit is requested.
 - (2) The name and address of the applicant.
 - (3) The name and address of the person who will have charge of the sound amplifying equipment.
 - (4) The address and a description of the location where the sound equipment will be used.
 - (5) A description of the type of sound amplifying equipment to be used.
 - (6) The permit hereby required is not required for the purpose of regulating speech which is protected speech or to conflict with any law of any superior governmental authority.
 - (7) Any regulation hereof that is in conflict with any such right or authority is hereby declared to be inoperative and severable from the other regulations herein.

Sec 8.309 Defenses

The following defenses shall apply to any offense established in this article, and the same must be specifically plead by anyone charged with a violation:

- (a) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, or was produced pursuant to any safety rule or regulation of any governmental entity or agency.

- (b) The sound was produced by an authorized emergency vehicle.
- (c) The sound was produced by emergency work or an emergency situation.
- (d) The sound was generated:
 - (1) At a lawfully scheduled stadium event;
 - (2) By a parade and/or spectators and participants on the parade route during a lawful parade;
 - (3) By spectators and participants at lawfully scheduled amphitheater, ball field or stadium event;
 - (4) By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;
 - (5) By a pyrotechnic display that was inspected and approved by the fire marshal; or
 - (6) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or cosponsored by the city and in full compliance with a permit issued by the city.
- (e) The sound was produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, which activity did not produce a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound is being received.
- (f) The sound was produced by aircraft, in flight or in operation at an airport, This defense shall not apply to aircraft maintenance operations which require the operation of the aircraft engine for testing and which exceed allowable sound levels before 7:00 a.m. or after 10:00 p.m. Jet engines being tested are restricted to pulses of less than two minutes duration.
- (g) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 9:00 p.m. when the sound is being produced for the maintenance or upkeep of the property on which it was operated. Golf course mowing and dry stack boat storage operations are permitted to begin at 6:00 a.m.
- (h) The sound was generated as authorized under the terms of a permit issued under Section 8.308 of this code.
- (i) The sound was produced by church bells or church chimes when used during daytime hours for the zone in which the church is located.
- (j) The sound was produced during daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic, band and school entertainment practice or events.

Sec 8.310 Penalty

- (a) A person commits an offense if the person makes noise in violation of a provision of this article.

- (b) An offense under this article is a class C misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$2,000.00, or, if the person has previously been convicted of a violation under this article, by a fine of not less than \$200.00 nor more than \$2,000.00, as is consistent with the portion of this code governing penalties for health and safety violations.
- (c) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
- (d) A violation of this article is a nuisance. The prosecution of an offense under this article does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.
- (e) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person, for injury or damage arising from any violation of this article or from other law.

(Ordinance 08-01-03-01 adopted 1/3/08)

ARTICLE 8.400 DAMAGING OR REMOVAL OF CITY OWNED SIGNS

- (a) Any person or persons who knowingly and willingly damage or remove any city owned street sign, traffic sign, official public notice, or other city owned sign without the expressed written consent of the city manager of the City of Lago Vista shall be deemed guilty of committing a misdemeanor offense.
- (b) Upon conviction in the city's municipal court for committing the herein described misdemeanor offense a fine in accordance with the general penalty provision set forth in Section 1.109 of this code shall be assessed.

ARTICLE 8.500 REWARD OFFER

Sec 8.501 One Time Offer Of A Reward Of \$500

The city council hereby provides for a "one time" offer of a reward in the amount of five hundred dollars (\$500) leading to the arrest and conviction of the person or persons found guilty in the appropriate court of jurisdiction; whereby said person or persons are found guilty of the act or acts resulting in damages to government property.

(Ordinance adopting Code)

Sec 8.502 Identity Of Informants To Remain Anonymous

The person or persons providing information leading to the arrest and conviction of the suspect or suspects convicted in the appropriate court of jurisdiction shall have the identification of said informant or informants protected by remaining anonymous.

ARTICLE 8.600 HOSTILE ACTS AGAINST ELECTED OR PAID CITY OFFICIALS

- (a) Elected or paid city officials who have suffered physical harm and/or damages to their property because of hostile actions taken by members of the public may request that the city reimburse them for their expenses under the following conditions:

- (1) There are reasonable facts or evidence that the action was taken against the city official due to the city official carrying out their official duties;
- (2) The action was not the result of the city official violating any laws, codes, ordinances, or professional ethics either on-duty or off-duty;
- (3) The action did not occur as a result of off-duty behavior or activities;
- (4) The evidence is presented to the city manager within 30 days of the incident, and in a form requested by the city manager; and
- (5) The elected or paid city official presents' evidence to the city manager, or his/her designee, that the action occurred as a result of their official duties.

(b) The city manager, based on the facts presented and using his/her judgment, may approve, deny or take no action on the request. Any expenses paid to the city official shall be no more than the actual damages incurred or the deductible under the city official's insurance policy, whichever is less. In the event the elected or paid city official recovers damages, including payment of a deductible, in a court of law or other manner then the city official must repay the city any money received under this policy.

ARTICLE 8.700 JUVENILE CURFEW

Sec 8.701 Short Title

This article shall be referred to as the juvenile curfew ordinance for minors.

Sec 8.702 Definitions

- (a) For the purpose of this article, when not inconsistent with the context, words, used in the present tense include the future tense, words in plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined in this Section shall be given their common and ordinary meaning.
- (b) For the purposes of this article, the following words, terms, phrases and their derivations shall have the meaning given in this Section.

Curfew Hours.

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Emergency.

. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment. Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian.

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

Minor. Any person under seventeen (17) years of age.

Operator. Any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent. A person who is:

- (1) A natural parent, adoptive parent, or stepparent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public Place. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain.

- (1) To linger or stay; or
- (2) Failure to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious Bodily Injury. Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec 8.703 Offenses

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (b) A parent or guardian of a minor commits an offense if such parent or guardian knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits an offense if such owner, operator or employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Sec 8.704 Defenses

(a) It is a defense to prosecution under Section 8.703 that the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (9) Married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under Section 8.703(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Sec 8.705 Enforcement

Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 8.704 is present.

Sec 8.706 Penalties

(a) A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

(b) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 8.703(a) of this article and shall refer the minor to juvenile court.

Sec 8.707 Evaluation

Within six (6) months after the initial enforcement of this article, the city manager shall review this article and report and make recommendations to the city council concerning the effectiveness of and the continuing need of this article. The city manager's report shall specifically include the following information:

- (a) The practicality of enforcing this article and any problems with enforcement identified by the police department;
- (b) The impact of this article on crime statistics;
- (c) The number of persons successfully prosecuted for a violation of this article; and
- (d) The city's net cost of enforcing this article.

(Ordinance 17-07-06-01 adopted 7/6/17)

ARTICLE 8.800 JUNKED VEHICLES

Sec 8.801 Definitions

As used in this article:

Antique Vehicle. Means a passenger car or truck that is at least thirty-five years old.

Junked Vehicle. Means any vehicle that is self-propelled and:

- (a) Does not have lawfully attached to it:
 - (1) An unexpired license plate; or
 - (2) A valid motor vehicle inspection certificate;
- (b) Is wrecked, dismantled or partially dismantled or discarded; or
- (c) Is inoperable and has remained inoperable for more than:
 - (1) Seventy-two hours if the vehicle is on public property; or
 - (2) Thirty consecutive days if the vehicle is on private property.

Motor Vehicle Collector. Means a person who:

- (a) Owns one or more antique or special interest vehicles; and
- (b) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special Interest Vehicle. Means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Sec 8.802 Junked Vehicles Declared Public Nuisance

A junked vehicle, including a part of a junked vehicle, that is visible from a public place or public right-of-way.

- (a) Is detrimental to the safety and welfare of the general public;
- (b) Tends to reduce the value of private property;
- (c) Invites vandalism;
- (d) Creates fire hazards;
- (e) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;
- (f) Produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (g) Is a public nuisance.

Sec 8.803 Notice

- (a) Prior to any official action being taken to abate and remove a junked vehicle constituting a public nuisance, from private property, public property or public right-of-way, not less than fifteen days notice shall be given, except as hereinafter provided, to the following parties:
 - (1) The last known registered owner of the junked vehicle as shown on the certificate of title;
 - (2) Any lienholder of record; and
 - (3) The owner or occupant of the property upon which the junked vehicle is located or the owner or occupant of the premises adjacent to the public right-of-way on which the junked vehicle is located.
- (b) The notice shall be mailed, by certified mail with a five day return requested, and a copy of such notice shall also be affixed to the front windshield of the vehicle, and shall state the following:
 - (1) The nature of the public nuisance;
 - (2) That it must be removed and abated not later than the fifteenth day after the date on which the notice was mailed;
 - (3) That any, request for a hearing must be made before the fifteen day period expires, and that the hearing will be held by the city council on a date specified in the notice, which date will be at least eleven days following the date of the service of notice;
 - (4) That the persons entitled to notice shall be entitled to speak at the public hearing, either by making a request prior to the time of the hearing or by making a request at the time of the hearing; and
 - (5) That failure to abate the nuisance or failure to attend the hearing after notice constitutes a waiver by the owner and lienholders of all right, title and interest in the vehicle and their

consent to disposal for the junked vehicle under the terms of the Texas Transportation Code concerning the disposal of junked vehicles.

- (c) If the post office address of the last known registered owner of the junked vehicle is unknown, notice may be placed on the junked vehicle, or, if the owner is located, hand delivered.
- (d) If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return of the notice.

Sec 8.804 Hearing

- (a) At the public hearing, the city council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.
- (b) At the hearing the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (c) Following the public hearing, the city council shall consider all evidence and determine whether the vehicle, or any part thereof, constitutes a public nuisance as alleged. If the city council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this division have been met, the city council shall make a written order setting forth his findings and ordering that the nuisance be abated.
- (d) If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the vehicle's:
 - (1) Description;
 - (2) Vehicle identification number;
 - (3) License plate number; and
 - (4) A statement that the vehicle will be disposed of in accordance with the Texas Transportation Code.
- (e) The relocation of a junked vehicle that is a public nuisance to another location within the corporate city limits after a proceeding for the abatement or removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

Sec 8.805 Abatement Of Nuisance

In the event the city council orders abatement of the nuisance, the city or any duly authorized person may abate such public nuisance by removal and disposal of the junked vehicle.

Sec 8.806 Junked Vehicles Not To Be Made Operable After Removal

After any junked vehicle has been removed under the authority of this article, it shall not be reconstructed or made operable again.

Sec 8.807 Notice To Department Of Transportation

No later than the fifth day after the date of removal of a junked vehicle pursuant to this article, notice must be given to the state Department of Transportation. Such notice must identify the vehicle.

Sec 8.808 Disposal Of Junked Vehicles

Any junked vehicles taken into custody by the city or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of Chapter 683, subchapter E of the Texas Transportation Code.

Sec 8.809 Application Of Article

The provisions of this article shall not apply to a vehicle or vehicle part that is:

- (a) Completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (b) Stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (1) Maintained in an orderly manner;
 - (2) Not a health hazard; and
 - (3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Sec 8.810 Offense; Penalty

A person commits an offense if the person maintains a public nuisance described by Section 8.802. An offense under this article is a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.109 of this code. Each day an offense occurs shall be a separate offense.

ARTICLE 8.900 JUNKED AND ABANDONED AIRCRAFT

Sec 8.901 Definitions

As used in this article:

Abandoned Aircraft. An aircraft for which the city is unable to determine the ownership of that has been located for more than 90 days at an airport owned by the city.

Aircraft. A device that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment.

Antique Aircraft. An aircraft constructed by the original manufacturer (or licensee) on or prior to August 31, 1945.

Classic Aircraft. An aircraft constructed from September 1, 1945 through 1955.

Junked Aircraft. Any aircraft that:

- (a) Is not properly licensed or registered in the manner provided by the Federal Aviation Administration registration regulations;
- (b) The aircraft does not have identifications numbers clearly displayed on the aircraft in compliance with federal aviation regulations;
- (c) Is wrecked, dismantled or partially dismantled or discarded; or
- (d) Is inoperable and has remained inoperable for more than 180 days.

Sec 8.902 Abandoned Aircraft

- (a) If the city is unable to determine the ownership of an aircraft that has been located at an airport owned by the city for more than 90 days, the city may petition a district court in the county to determine the ownership of the aircraft if:
 - (1) The city has provided notice in the same manner as provided by Transportation Code, Section 683.012 for notice of an abandoned motor vehicle; and
 - (2) The city has contacted the Federal Aviation Administration in an attempt to identify the owner of the aircraft.
- (b) If an owner of an aircraft fails to claim the aircraft within 60 days after the date notice is given and the court declares the aircraft as abandoned property, and grants title to the aircraft to the city, the city shall dispose of the aircraft in the same manner the city disposes of salvage or surplus property.
- (c) A determination of ownership made by the court under this Section does not affect the right of the local government to recover fees against the owner of the aircraft for storage or maintenance of the aircraft.

Sec 8.903 Declared Public Nuisance

A junked aircraft, including a part of a junked aircraft, which is visible from a public place or public right-of-way:

- (a) Is detrimental to the safety and welfare of the general public;
- (b) Tends to reduce the value of private property;
- (c) Invites vandalism;
- (d) Creates fire hazards;
- (e) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;
- (f) Produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (g) Is a public nuisance.

Sec 8.904 Notice

- (a) Prior to any official action being taken to abate and remove a junked aircraft constituting a public nuisance, from private property, public property or public right-of-way, not less than fifteen days notice shall be given, except as hereinafter provided, to the following parties:
 - (1) The last known registered owner of the junked aircraft as shown by the records of the Federal Aviation Administration or the Secretary of state for the aircraft;
 - (2) Any lien holder of record with the Federal Aviation Administration or the Secretary of state for the aircraft; and
 - (3) The owner or occupant of the property upon which the junked aircraft is located or the owner or occupant of the premises adjacent to the public right-of-way or city-owned property on which the junked aircraft is located.
- (b) The notice shall be mailed, by certified mail with a five day return requested, and a copy of such notice shall also be affixed to the front windshield of the aircraft, and shall state the following:
 - (1) The nature of the public nuisance;
 - (2) It must be removed and abated not later than the fifteenth day after the date on which the notice was mailed;
 - (3) Any, request for a hearing must be made before the fifteen day period expires, and that the hearing will be held by the city council on a date specified in the notice, which date will be at least eleven days following the date of the service of notice;
 - (4) The persons entitled to notice shall be entitled to speak at the public hearing, either by making a request prior to the time of the hearing or by making a request at the time of the hearing; and
 - (5) Failure to abate the nuisance or failure to attend the hearing after notice aircraft and their consent to disposal for the junked aircraft under the terms of the Texas Transportation Code concerning the disposal of abandoned aircraft.
- (c) If the post office address of the last known registered owner of the junked aircraft is unknown, notice may be placed on the junked aircraft or, if the owner is located, hand delivered.
- (d) If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return of the notice.

Sec 8.905 Hearing

- (a) At the public hearing, the city council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.
- (b) At the hearing the junked aircraft is presumed, unless demonstrated otherwise by the owner, to be inoperable.

- (c) Following the public hearing, the city council shall consider all evidence and determine whether the aircraft, or any part thereof, constitutes a public nuisance as alleged. If the city council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that notice requirements provided in this Section have been met, the city council shall make a written order setting forth his findings and ordering that the nuisance be abated.
- (d) If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the aircraft's:
 - (1) Description;
 - (2) Identification number;
 - (3) Registration number; and
 - (4) A statement that the aircraft will be disposed of in accordance with the Texas Transportation Code.
- (e) The relocation of a junked aircraft that is a public nuisance to another location within the corporate city limits after a proceeding for the abatement or removal of the public nuisance has commenced, has no effect on the proceeding if the junked aircraft constitutes a public nuisance at the new location.

Sec 8.906 Abatement Of Nuisance

In the event the city council orders abatement of the nuisance, the city or any duly authorized person may abate such public nuisance by removal and disposal of the junked aircraft.

Sec 8.907 Not To Be Made Operable After Removal

After any junked aircraft has been removed under the authority of this article, it shall not be reconstructed or made operable again.

Sec 8.908 Notice To Department Of Transportation

No later than the fifth day after the date of removal of a junked aircraft pursuant to this article, notice must be given to the state department of transportation. Such notice must identify the aircraft.

Sec 8.909 Disposal Of Junked Aircraft

Any junked aircraft taken into custody by the city or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of chapter 683, subchapter E of the Texas Transportation Code.

Sec 8.910 Application Of Article

The provisions of this article shall not apply to an aircraft or an aircraft part that is:

- (a) Completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(b) Stored or parked in a lawful manner on private property in connection with the business of a licensed aircraft dealer, or that is an antique or classic aircraft stored by an aircraft collector on the collector's property, if the aircraft or part and the outdoor storage area, if any, are:

- (1) Maintained in an orderly manner;
- (2) Not a health hazard; and
- (3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Sec 8.911 Offense; Penalty

A person commits an offense if the person maintains a public nuisance described by Section 8.903. An offense under this article is a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.109 of this code. Each day an offense occurs shall be a separate offense.

ARTICLE 8.1000 SEX OFFENDERS RESIDENCY

Sec 8.1001 Finding And Intent

- (a) The city council finds that sex offenders who are required to register as a sexual predator under V.T.C.A., Texas Code of Criminal Procedure, chapter 62, present an extreme threat to the health, safety and welfare of children. Sex offenders are likely to repeat an offense, have many more victims than are ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.
- (b) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.

Sec 8.1002 Definitions

The following words, terms, and phrases; when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Any Premises Where Children Commonly Gather. This term includes, but is not limited to, a playground, playscape, school, day-care facility, crisis center or shelter, skate park, youth soccer or baseball field, video arcade facility, public or private youth center, or public swimming pool, as those terms are commonly understood and/or defined in V.T.C.A., Health and Safety Code, Section 481.134.

Minor. A minor is a person younger than seventeen (17) years of age.

Residence. The place within the city:

- (a) Where a person registers or verifies under article 62.152, Texas Code of Criminal Procedure, as the person's residence;
- (b) Where a person abides, lodges or resides for more than seven consecutive days;

- (c) Where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence; or
- (d) Where a person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec 8.1003 Sex Offender Residency Prohibition

- (a) It is unlawful for a person who is required to register on the Texas Department of Public Safety's Sex Offender Database pursuant to V.T.C.A., Texas Code of Criminal Procedure, chapter 62 because of a violation involving a victim who was less than seventeen (17) years of age, to establish a permanent or temporary residence within one thousand (1,000) feet of any premise where children commonly gather. It shall be *prima facie* evidence that this chapter applies to such a person if the person's record appears on the database and the database indicates that the victim was less than seventeen (17) years of age.
- (b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on one (1) property, measuring from the nearest wall of the building or structure occupied or the parking lot/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein. A map generally depicting the prohibited areas is available at the city's police department.

Sec 8.1004 Penalties

The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.

- (a) Criminal Prosecution. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this Section shall continue shall constitute a separate offense.
- (b) Civil Remedies. Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law including, but not limited to, the following:
 - (1) Injunctive relief to prevent specific conduct that violates the Section or to require specific conduct that is necessary for compliance with the Section;
 - (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with the Section; and
 - (3) Other available relief.

(4) Culpable Mental State Not Required. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.

Sec 8.1005 Exceptions

This Section does not apply to the following situations:

- (a) The person is not required to comply with chapter 62 of the Texas Code of Criminal Procedure.
- (b) The person was a minor when he/she committed the offense and was not convicted as an adult.
- (c) The person is a minor.
- (d) The premises where children commonly gather, as specified herein, within one thousand (1,000) feet of the person's permanent residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.'
- (e) The person proves to the Texas Department of Public Safety that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person erroneously listed on the database.
- (f) The person has established permanent residency prior to the effective date of this article by owning the property in fee simple and said person is in compliance with all sex offender registration laws of the state.

Sec 8.1006 Property Owners Prohibited From Renting Real Property To Sexual Offenders; Penalty

- (a) It is unlawful to knowingly rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this code, if such place, structure or part thereof, manufactured home, trailer, or other conveyance is located within one thousand (1,000) feet, as determined pursuant to Section 8.1003(b), of any premises where children commonly gather.
- (b) Penalty-Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this Section as may be required by governing law. Any person violating any provision of this Section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Section is hereby declared to be a nuisance.
- (c) Criminal Prosecution. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this article shall continue shall constitute a separate offense.
- (d) Civil Remedies. Nothing in this Section shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this Section and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this Section or to require specific conduct that is necessary for compliance with this Section;

- (2) A civil penalty up to one hundred dollars (\$100.00) per day when it is shown that the defendant was actually notified of the provisions of the Section and after receiving notice committed acts in violation of the Section or failed to take action necessary for compliance with this Section; and
- (3) Other available relief.

(e) Affirmative Defense. It is an affirmative defense to prosecution for an offense under this Section that on or prior to the date of the alleged offense, the property owner conducted a criminal history check with the Texas Department of Public Safety and reviewed the department of public safety's sexual predator registration database, and that at the time the property owner conducted the criminal history check and reviewed the sexual predator database the sexual offender's criminal history did not include a record of a sexual offense and the offender's name did not appear in the database.



Item Cover Page

PLANNING & ZONING COMMISSION AGENDA ITEM REPORT

DATE: April 13, 2023

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: Consideration of a recommendation to amend Chapter 3 of the 2030 Comprehensive Plan adopted by Ordinance No. 16-05-05-02 to amend the definitions of various land use types also employed in the Future Land Use Map.

Note: this item was deferred during the March 9, 2023, meeting.

- A. Staff Update
- B. Continue Public Hearing
- C. Close Public Hearing
- D. Discussion
- E. Recommendation or Deferral

ATTACHMENTS:

[P&Z packet 04-13-2023 Comprehensive Plan amendment.pdf](#)

Note: the text in red below are amendments adopted on April 20, 2017, approximately one year after the original plan was adopted on May 5, 2016.

Land Use Types and Projections

This section of the Future Land Use Plan reviews each type of recommended land use as shown on the Future Land Use Map. Land use types are grouped into two primary categories – residential land uses and nonresidential land uses. ~~Note that residential densities are calculated prior to removing acreage to account for floodway. Residential and Mixed Land Uses shall be calculated as follows: A = Acreage; D = Minimum or Maximum Density; R = Result; (A x D = R). Fractional answers within letter (R) are dropped from the density count.~~

Residential Land Use Types Defined

Lower Density Residential

This category is ~~generally~~ representative of single family homes and some duplex units. The majority of Lago Vista's current development is of a similar density (e.g., 3 dwelling units per acre would produce lots approximately 10,000 square feet in area). The following dwelling units per acre are appropriate within the land use:

- ~~*Rural Residential: <0.2 dwelling units per acre~~
- ~~*Estate Residential: 0.3-1 dwelling units per acre~~
- ~~*Low Density Residential: 2-3 dwelling units per acre~~



~~*Medium Density Residential~~

Medium Density Residential is ~~generally~~ representative of two- family, attached dwelling units. The types of developments within this category include townhomes, duplexes, condominiums and apartments. This category is intended to accommodate the City's need for diversity of housing choices. ~~4 to 8 dwelling units per acre are appropriate within the land use.~~



~~*High Density Residential~~

Traditional apartment- and condominium-type units in attached living complexes ~~generally~~ characterize this land use. These developments may take a variety of forms. This land use has evolved from traditional garden style apartments to courtyard apartments due to the focus upon situating dwelling units around a courtyard, pool, or other common space. About ~~9 to 19~~ dwelling units per acres are ~~appropriate within the land use.~~



~~*Lots that were platted and recorded with the County on or before May 5, 2016 and cannot meet the density standards due to lot size shall be entitled to the following density standards:~~

- 1) ~~Lots with Rural, Estate, and Low Density Residential or zoned R-1 M are entitled to one (1) dwelling unit.~~
- 2) ~~Lots with Medium Density Residential are entitled to two (2) dwelling units.~~
- 3) ~~Lots with High Density Residential are entitled to three (3) dwelling units.~~

~~Any replat after this date nullifies this standard.~~

Note: the text in green below indicates current proposed amendments while preserving in red the unmodified amendments adopted on April 20, 2017.

Land Use Types and Projections

This section of the Future Land Use Plan reviews each type of recommended land use as shown on the Future Land Use Map. Land use types are grouped into two primary categories – residential land uses and nonresidential land uses.

Residential Land Use Types Defined

The residential land use designations below define an average density that includes typical (not extraordinary) infrastructure provisions and a proportionate minimum lot size for compatibility. Land proposed as an accessory use or that will not support development because of severe topography shall be excluded, even if it is incidentally used for components such as drainage. Nonetheless, the proportionate minimum lot size should not be interpreted as prohibiting a “planned development” that proposes “cluster housing” specifically to preserve natural and environmentally sensitive features of the property such as topography and vegetation, so long as appropriate buffers, transitions, and other methods to ensure compatibility with adjacent land uses are included.



Lower Density Residential

This category is **generally** representative of single-family homes and some duplex units. The majority of Lago Vista's current development is of a similar density (e.g., 3 dwelling units per acre would produce lots approximately 10,000 square feet in area). The following dwelling units per acre are appropriate within the indicated land use:

- Rural Residential: <0.2 dwelling units per acre
- Estate Residential: 0.3-1 dwelling units per acre
- Low Density Residential: 2-3 dwelling units per acre



Medium Density Residential

Medium Density Residential is **generally** representative of two-family, attached dwelling units. The types of developments within this category include townhomes, duplexes, condominiums and apartments. This category is intended to accommodate the City's need for diversity of housing choices. **4 to 8** dwelling units per acre are appropriate within the land use.



High Density Residential

Traditional apartment and condominium-type units in attached living complexes **generally** characterize this land use. These developments may take a variety of forms. This land use has evolved from traditional garden style apartments to courtyard apartments due to the focus upon situating dwelling units around a courtyard, pool, or other common space. About **9 to 19** dwelling units per acres are appropriate within the land use.



Item Cover Page

PLANNING & ZONING COMMISSION AGENDA ITEM REPORT

DATE: April 13, 2023

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: Consider approval of the March 9, 2023 Regular Meeting minutes.

ATTACHMENTS:

[Draft 2023-3-9-pz-reg-min.pdf](#)

MINUTES
City of Lago Vista
Planning and Zoning Commission
Thursday, March 9, 2023
Regular Meeting

Chair Tom Monahan called the meeting to order at 6:30 P.M. in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas. Other members present were Larry Hagler, Vice-Chair Don Johndrow, Julie Davis and Norma Owen. City Attorney Joseph Crawford, Development Services Director Roy Jambor and Council Liaison Paul Prince were also present. Kathy Koza and Thomas Burlew were absent.

CITIZEN COMMENTS UNRELATED TO ITEMS ON THE AGENDA

There were no public comments.

STAFF AND COUNCIL LIAISON REPORTS

1. Comments from the Council Liaison.

Paul spoke about the revised Rules of Procedure for meetings and discussed them with the Commission.

PUBLIC HEARING AND ACTION (APPLICATIONS)

2. 23-2304-SP-E: Consideration of a special exception application pursuant to Section 11.60 of Chapter 14 to allow an increase in the maximum height allowed by Table A of Chapter 14 from 15 feet to 20.5 feet for a single-family residence at 20801 McKinley Cove (Highland Lake Estates, Section 15, Lot 15164).

Note: This item was deferred at the February 9, 2023, meeting due an inaccurate ridgepole. The staff was advised that the error was corrected.

A. Staff Presentation

Roy discussed the ridge pole revisions and reported it was reinspected.

B. Applicant Presentation

The applicant stated they corrected the ridgepole and didn't have any comments.

Don commented the homeowner said they have already spent a lot on planning their project and said they do not want to change their plans. He noted the property goes up in height and asked if the applicant can make any adjustments to the height of the proposed building. The applicant said they could possibly do that and discussed what would have to be done to accomplish it with Don.

Norma discussed the height of the tree on the property and the design of the house. Don commented the tree will have to be removed for the project.

Norma discussed the placement of the windows on the proposed home and the neighbors' views. She spoke with the applicant about why they are requesting the additional height.

Tom discussed building alternatives to reduce the height of the proposed home with the applicant. Tom noted that the architectural context of the proposed home does not fit the neighborhood and discussed the project details with them.

C. Open Public Hearing

The public hearing was opened at 6:49 P.M.

Ryan Stasny, 20803 McCormick Cove, spoke about why he is opposed to the height variance.

Lucy Price, 20802 McCormick Cove, discussed how her views would be impacted by the height of the proposed home and said she was opposed to the unreasonable request.

Charles Richey, the neighbor next door, spoke about the trees on the lot and said the proposed home would block his views and was opposed to the variance.

Jessica Longoria, 20801 McCormick Cove, discussed the proposed home and said her views would be impacted by it and was against the item.

Nathan Burklow, lot 11 and 13, said the proposed home would impact his views and was against the request.

Kevin Roux, 20805 McCormick Cove, discussed why he is opposed to the additional height request.

Tom read the comments from Crystal Sinclair, 21506 High Dr., which described why she is opposed to the request.

D. Close Public Hearing

The public hearing was closed at 7:00 P.M.

E. Discussion

Don commented there were many people who are opposed to the request and said the additional height is blocking views and noted the house could be built according to the zoning rules.

Norma commented that while the home is nice, it seems that there isn't a valid reason for the additional height other than for design reasons.

Julie commented the design does not match the architectural elements of the neighborhood and said the empty lots that surround the property have the potential to develop the same issue. She said she understands that the owner does not want to do the additional site work to lower the home because it would be expensive, but they should do it to build the house lower and have the home they want.

Larry said he agrees with Julie and said the additional site work would resolve the height issue.

Tom said he was strongly against the request.

F. Recommendation

On a motion by Don Johndrow, seconded by Julie Davis, the Commission voted all in favor to deny the request for additional building height.

PUBLIC HEARING AND ACTION (ORDINANCE AMENDMENTS)

3. Reconsideration of a previous recommendation to amend Section 6.65 of Chapter 14 of the Lago Vista Code of Ordinances to limit the storage and parking of various types of vehicles outside of an enclosure and visible from a right-of-way.

Note: This item was deferred at the February 9, 2023, meeting due to delays related to the recent winter storm.

A. Staff Presentation

Roy discussed the background of the ordinance amendment and spoke about the issues that have occurred with storage and parking. He explained why the previous recommendation would help resolve the issues.

Don discussed his concerns with the language in the amendment with Roy and spoke about his suggested corrections with the Commission.

Norma discussed the details of the proposed language for vehicles and said she discussed the changes with the City Attorney. She also spoke about her concerns with the restrictions outlined in the ordinance and discussed them with Roy.

Larry discussed his observations with parked trailers and campers in the city.

Julie said she was in favor of revising the ordinance and discussed the importance of enforcing it.

Tom spoke about putting limits on the number of parked vehicles and equipment in a driveway. He said he agreed with the importance of enforcement and said they should review the comments and proposed changes.

Roy explained that Code Enforcement is complaint driven and they don't receive many complaints about vehicles that are parked on an unimproved surface and said the Code Enforcement Officer usually finds such violations.

Norma spoke about violations she found for vehicles that were reported by the Code Enforcement Officer.

B. Open Public Hearing

The public hearing was opened at 7:27 P.M.

Cara Crowder, 4604 Lakefront Circle, spoke about her concerns and the parking rules in the city.

Michele Naitlan, 20502 Oakridge, discussed her issues with certain parked and junk vehicles and trash in her neighborhood. She gave handouts to the Commissioners with photos of properties in her neighborhood. She said she hopes that people will abide by the rules outlined in the ordinances and discussed her issues with some minor rules regarding trash cans.

Dimitri Alvaldez, 3201 American Dr., thanked the Commissioners and staff for their time and discussed his issues with some of the parking rules in the ordinance.

Bill McCartney, 3201 Constitution, spoke about his RV, boat, and his past parking violations. He said he would like to see some regulations and commented they are too restrictive.

Joseph Jenson, 5200 Thunderbird, spoke about parking issues in his neighborhood. He said a restriction on the number of parked vehicles may be too much and said it would suffice if the vehicles were parked sensibly and are well maintained.

Tom read the notice comments from Crystall Sinclair at 21506 High Dr. and said she is opposed to the amendment.

C. Close Public Hearing

The public hearing was closed at 7:42 P.M.

D. Discussion

Don commented people moved to the area to enjoy it and they should be able to sensibly store their vehicles. He said he wasn't sure that a restriction on the number of vehicles on the property would work, but if everyone parked their vehicles properly and sensibly, this should be the basis of it.

Norma spoke about the nuisance regulations and said the challenge is to define nuisance instead of broadly changing the ordinance.

Julie suggested cleaning up the ordinance so that it provides more clarity.

Larry spoke about his experience with issues with neighbors and said it can be a difficult task to resolve such issues. He suggested that the Code Enforcement Officer should be more proactive instead of responding to complaints to better control such issues.

Tom said he doesn't strongly feel one way or the other and just wants to clear up the ordinance instead of setting limits on the number of vehicles.

Roy commented there hasn't been a limit on the number of vehicles allowed. He spoke about the issues with the ordinance. He discussed what needs to be done to correct them with the Commission.

E. Decision

On a motion by Julie Davis, the Commission voted to give the amendment back to Roy for editing to include the verbiage for the definitions of operable and inoperable with a possible limitation on the number of vehicles allowed and include more guidance for Code Enforcement. The motion did not pass due to a lack of a vote.

On a motion by Larry Hagler, the Commission voted to continue the item next month's meeting and ask Roy to look at some of the wording around drivable or usable vehicles versus non-licensed vehicles or trailers and also for construction-type equipment parking on property and limit the number of vehicles according to the impervious surface requirement. The motion did not pass due to a lack of a vote.

On a motion by Don Johndrow, seconded by Tom Monahan, the Commission voted to continue the item to revise it to include if the vehicles are operable or not and limiting the eye soars and the number of vehicles that would be allowed according to the impervious surface limit. The motion did not pass due to a lack of a vote.

Roy and the Commission discussed the impervious surface requirements, which are already outlined in the ordinance. They also discussed enforcement issues.

On a motion by Norma Owen, the Commission voted to direct staff to reclarify the junk status or workability in terms of direction and also resolve the conflict in regard to commercial vehicles. The motion did not pass due to a lack of a vote.

Larry discussed the definition of a commercial vehicle and said they should differentiate between commercial and construction vehicles and parking them overnight with Roy. Roy mentioned that he needs to define personal vehicles in the ordinance.

On a motion by Norma Owen, seconded by Larry Hagler, the Commission voted all in favor to define derelict and nuisance in the ordinance. The motion passed.

Norma commented they need further evidence for any further changes.

4. Consideration of a recommendation to amend Section 1.12 and 2.15 of Chapter 10 to reduce the number of lots that result in a requirement for a concept plan and to clarify that the property on subdivision plats that are considered lots for the purpose of determining that requirement does not include divisions such as private drives that are specifically designated as commonly owned and prohibited as building sites by restrictions or other encumbrances on that plat or by a reference recorded instrument.

Note: This item was deferred at the February 9, 2023, meeting due to delays related to the recent winter storm.

A. Staff Presentation

Tom discussed the details of the recommendation with Roy and why it is needed.

The Commission discussed issues with flag lots, typos, and plat definitions in the draft recommendation.

C. Open Public Hearing

The public hearing was opened at 8:11 P.M.

There were no public comments.

D. Close Public Hearing

The public hearing was closed at 8:12 P.M.

E. Discussion

There was no further discussion.

F. Recommendation

On a motion by Don Johndrow, seconded by Larry Hagler, the Commission voted all in favor to recommend approval of the amendment as proposed to the City Council.

5. Consideration of a recommendation to amend Chapter 3 of the 2030 Comprehensive Plan adopted

by Ordinance No. 16-05-05-02 to amend the definitions of various land use types also employed in the Future Land Use Map.

Note: This item was deferred at the January 26, 2023, meeting for additional work by the staff.

A. Staff Presentation

Tom discussed the recommended changes to the Comprehensive Plan with Roy and how they affect the Future Land Use Map.

Norma discussed the density issues with the Future Land Use Map with Roy. Roy discussed the revisions that are needed to the map to distinguish different density categories on it.

Tom and the Commission discussed the density language, definitions and categories in the proposed amendment and spoke about their concerns with it and suggested clarifications with Roy.

Paul discussed the requests for clarification from the City Council regarding the language in the ordinance.

B. Continue Public Hearing

The public hearing was continued at 8:31P.M.

Elise Naikan who lives on Surrey Lane spoke about her concerns with the density definitions in the recommendation.

Roy spoke about the issues with the density definitions in the Future Land Use Map.

Bernd Schmalz at 5803 Circulo Drive discussed his concerns with the density definitions in the proposed amendment and said the city is discriminating against affordable housing and would be reporting it to state officials if the issue isn't resolved.

C. Close Public Hearing

The public hearing was closed at 8:34 P.M.

D. Discussion

Norma spoke about the comments and said they do not understand the consequences of their recommendations regarding density. She said they may need additional guidance and suggested density clarification.

E. Recommendation

On a motion by Norma Owen, the Commission voted to move the low density residential as it is written back to where it was in the medium category with a clarification. The motion did not pass due to a lack of a vote.

Julie asked Joseph if they are violating anything in response to the comment that was made in the public hearing. Joseph replied he isn't aware of any potential violations towards discriminating against affordable housing and said he will talk to Mr. Schmalz and his attorney to clarify the situation.

Paul spoke about the minimum lot sizes and density recommendations from the City Council

and discussed them with Norma.

Tom discussed the details of the language in the amendment with Paul. Roy commented clarification is needed in the language for cluster housing, minimum lot sizes and density and spoke about the issues with it.

On a motion by Julie Davis, seconded by Larry Hagler, the Commission voted all in favor to defer the item to give the City Attorney the opportunity to review the citizen comment about the potential violation by the city regarding affordable housing discrimination and bring back changes needed for the Future Land Use Map. The motion passed.

DISCUSSION AND POSSIBLE ACTION

6. Discussion about potential proposed ordinance amendments and other aspects of the Commission's future work plan, including coordination with the Building and Standards Commission to resolve inconsistencies and duplications between Chapter 3 and Chapter 14 of the Lago Vista Code of Ordinances.

Tom discussed work that will be done by the subcommittee for revisions needed for Chapters 3 and 14 to change conflicting information in the ordinances that was discussed at the meeting in January. He commented that Julie, Kathy, and Larry have volunteered to serve on the subcommittee.

Tom discussed when the subcommittee will be meeting with the Building and Standards Commission with Roy. He also spoke with Roy and Paul about the progress for finding a contractor for the Comprehensive Plan revisions and the Commission's involvement in the process.

Roy also spoke about issues with the notification process and what he needs to do to resolve the problems. He discussed the progress on other ordinance amendment recommendations with Tom.

CONSENT AGENDA

7. Consider Approval of the Following Minutes:
January 26, 2023, Special Call Meeting
February 9, 2023, Regular Meeting

On a motion by Norma Owen, seconded by Larry Hagler, the Commission voted all in favor to approve the minutes for January 26, 2023, and February 9, 2023.

ADJOURNMENT

On a motion by Tom Monahan, the Commission voted unanimously to adjourn at 8:54 P.M.