

**ORDINANCE NO. 23-10-19-02**

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTION 11.60 OF CHAPTER 14 OF THE LAGO VISTA CODE OF ORDINANCES REGARDING THE REQUIREMENTS FOR A SPECIAL EXCEPTION APPROVED BY THE BOARD OF ADJUSTMENT; AND PROVIDING FOR RELATED MATTERS.**

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

**WHEREAS**, the City Council of the City of Lago Vista has previously established provisions within Section 11.60 of Chapter 14 of the Lago Vista Code of Ordinances regarding the procedures and requirements related to special exception approvals by the Board or Adjustment; and

**WHEREAS**, it was recently noticed following an amendment to those provisions to achieve consistency with the *Texas Local Government Code* that additional language was required to achieve that desired outcome; and

**WHEREAS**, after that omission was brought to their attention, the Planning and Zoning Commission of the City of Lago Vista has undertaken a review of those existing provisions within Section 11.60 of Chapter 14 of the Lago Vista Code of Ordinances following a public hearing conducted at their regular meeting on September 14, 2023; and

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

**WHEREAS**, the City Council at its public hearing to consider this ordinance amendment held on October 19, 2023, reviewed the recommendation, and found the changes to be warranted.

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

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

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

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Chapter 14 of the Lago Vista Code of Ordinances as shown in **Exhibit "A."**

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orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

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

**SECTION 5. CODIFICATION AND PUBLICATION.** The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City’s Code of Ordinances as authorized by Section 52.013 of the *Texas Local Government Code*.

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

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

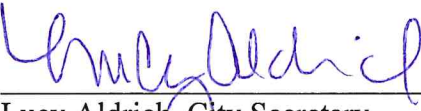
**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 19th day of October 2023.

  
Ed Tidwell, Mayor



**ATTEST:**

  
Lucy Aldrich, City Secretary

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

EXHIBIT "A"

**CHAPTER 14**

**ZONING**

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**11.60 Special Exceptions Approvals**

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

- (3) Approval Requirements. The concurring vote of 75 percent of the members of the Board of Adjustment is necessary for approval of a special exception.
- (4) Term. As opposed to a variance approval, a special exception approval shall expire in one calendar year if not incorporated in a building permit. However, the City Manager or their designee may approve a maximum of two extensions of six months each (a total maximum of one year) upon a showing of hardship received prior to the expiration. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. A new special exception application and approval is required for any approval that has expired or for extensions beyond a term of three years.
- (5) Appeal. Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court provided under state law.

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(d) Special Exception to Accessory Building Development Standards.

- (1) Approval Standards. Provided the applicant has fully complied with all requirements, the Board of Adjustment may approve relief from strict compliance with any of the development standards for accessory buildings required by Section 6.10. The approval of the Board may include whatever conditions might be required to ensure that the relief does not:
  - (A) materially diminish the aesthetic quality of the subject property when viewed from adjacent property, nearby property, or a public right-of-way; and
  - (B) result in any change in the level of privacy otherwise afforded to adjacent property.

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  - (3) Appeal Approval Requirements. ~~Any individual or group jointly or severally aggrieved by a decision of the Board of Adjustment related to a special exception application may present that matter to a court provided under state law.~~ The concurring vote of 75 percent of the members of the Board of Adjustment is necessary for approval of a special exception.

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