

ORDINANCE NO. 23-01-19-03

**AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS,
AMENDING SECTION 2.10 AND 13.20(d) OF CHAPTER 14 AND ARTICLE
7.000 OF APPENDIX A OF THE LAGO VISTA CODE OF ORDINANCES
ADDING PROCEDURAL AND SUBSTANTIVE REQUIREMENTS TO
AMEND THE FUTURE LAND USE MAP OR OTHER COMPONENTS OF
THE ADOPTED COMPREHENSIVE PLAN FOR ANY REASON,
INCLUDING ACCOMODATION OF A SUBSEQUENT ZONING CHANGE
REQUEST; AND PROVIDING FOR RELATED MATTERS.**

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

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

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

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

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

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

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

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

WHEREAS, the City Council at its public hearing to consider this ordinance amendment held on January 5, 2023, reviewed the recommendation, and found the changes to be warranted with the addition of an amendment to Section 2.10 of Chapter 14 of the Lago Vista Code of Ordinances.

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

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

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

Section 2. Amendment. The City Council of the City of Lago Vista, Texas, does hereby amend Section 2.10 and Section 13.20(d) of Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit “A” and Article 7.000 of Appendix A of the Lago Vista Code of Ordinances as shown in Exhibit “B.”

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

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

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

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

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

AND, IT IS SO ORDERED.

PASSED AND APPROVED this 19th day of January 2023.



Ed Tidwell
Ed Tidwell, Mayor

ATTEST:



Lucy Aldrich
Lucy Aldrich, City Secretary



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

EXHIBIT "A"

CHAPTER 14

ZONING

2.10 Definitions

The words used in this chapter and not defined in this section shall have their ordinary accepted meaning. For the purpose of this chapter the following words and phrases shall have the meaning respectively ascribed to them herein:

DEVELOPMENT: Any buildings, roads, and other structures; or any construction, excavation, dredging, grading, filling, and clearing or removing of vegetation.

DISINVESTMENT: The lack of financial support or investment in an area, neighborhood, or property that might result or has resulted in decay, decline, or blight. Disinvestment typically occurs when an asset is no longer seen as profitable or viable resulting in neglect, followed by declining property values, tax receipts, employment, or population for the surrounding area.

DRIVE-IN SERVICE: The serving of a patron while in a motor vehicle or the permitting of consumption of food or drink while in a motor vehicle parked on the premises.

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

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

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

- (2) An amendment to either the text of the Comprehensive Plan or any of its various components, including but not limited to the Future Land Use Plan or Map, shall be requested using the required form available from the Development Services Department and include the fee specified in Appendix A.
- (3) The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan. That amendment shall require the affirmative vote of at least three-fourths (3/4) of all members of the governing body for adoption.
- (4) Notwithstanding anything in this subsection 13.20(d) to the contrary, the City Council maintains full discretion to adopt a Comprehensive Plan and define the content and design of such Comprehensive Plan. A complete application for the amendment of the Comprehensive Plan shall in no way bind the City Council to amend the Comprehensive Plan. An application for an amendment shall not be considered unless one of the following is shown:
 - (A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an impactful facility, and disinvestment or deterioration of a development, neighborhood, or area;
 - (B) a demonstrable error, oversight, or omission; or
 - (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.
- (5) An application for an amendment to the Comprehensive Plan based on significant and unanticipated change under subsection 4(A), above must show the following:
 - (A) that the significant and unanticipated change to the area that includes the impacted property occurred after the adoption of the Comprehensive Plan;
 - (B) the property is unlikely to be developed in accordance with the land use designation, policies, or recommendations in the current Comprehensive Plan; and
 - (C) that the proposed change is the most appropriate designation for both the property and the surrounding area.
- (6) An application for an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission under subsection 4(B), above must identify specific and tangible items such as inaccurate, contradictory, or inconsistent information or recommendations, rather than generalities or unsupported conclusions.
- (7) An application for an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes under subsection 4(C), above must show the following:

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

EXHIBIT "B"

APPENDIX A
FEE SCHEDULE

ARTICLE 7.000 ZONING AND ANNEXATION FEES

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

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

CHAPTER 14

ZONING

2.10 Definitions

The words used in this chapter and not defined in this section shall have their ordinary accepted meaning. For the purpose of this chapter the following words and phrases shall have the meaning respectively ascribed to them herein:

DEVELOPMENT: Any buildings, roads, and other structures; or any construction, excavation, dredging, grading, filling, and clearing or removing of vegetation.

DISINVESTMENT: The lack of financial support or investment in an area, neighborhood, or property that might result or has resulted in decay, decline, or blight. Disinvestment typically occurs when an asset is no longer seen as profitable or viable resulting in neglect, followed by declining property values, tax receipts, employment, or population for the surrounding area.

DRIVE-IN SERVICE: The serving of a patron while in a motor vehicle or the permitting of consumption of food or drink while in a motor vehicle parked on the premises.

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

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

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

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

(3) ~~The Commission finds that the requested zoning classification is the most appropriate classification for the area affected.~~ The procedure for an amendment to the Comprehensive Plan shall be the same as specified in this section for a zoning change, including the ability of the City to initiate a proposed amendment and the notice required by Section 13.40 when specific property is the subject of the request. However, the provisions of 13.20(e)(3) are not applicable. A successful application shall be accompanied by an amendment to the ordinance that adopted the current Comprehensive Plan. That amendment shall require the affirmative vote of at least three-fourths (3/4) of all members of the governing body for adoption.

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

- (A) a significant and unanticipated change, such as an unexpected substantial investment or capital improvement within an area or neighborhood, deterioration or closing of an impactful facility, and disinvestment or deterioration of a development, neighborhood, or area;
- (B) a demonstrable error, oversight, or omission; or
- (C) a change that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes expressed within the Comprehensive Plan.

(5) An application for an amendment to the Comprehensive Plan based on significant and unanticipated change under subsection 4(A), above must show the following:

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

(6) An application for an amendment to the Comprehensive Plan based on demonstrable error, oversight, or omission under subsection 4(B), above must identify specific and tangible items such as inaccurate, contradictory, or inconsistent information or recommendations, rather than generalities or unsupported conclusions.

(7) An application for an amendment to the Comprehensive Plan that asserts to better achieve the vision, goals, objectives, policies, and desired outcomes under subsection 4(C), above must show the following:

- (A) that the proposed change does not require an evaluation that is broader or more comprehensive in scope;

- (B) that the proposed change maintains or increases compatibility with existing land use patterns or designated future land uses;
- (C) that the proposed change would result in benefits, advantages or other similar favorable impacts to the adjacent property or area; and
- (D) that the property is physically capable of accommodating the proposed change (size, shape, topography, etc.).

APPENDIX A

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- (d) Annexation and zoning request (including PDD): No charge.
- (e) Disannexation request: \$150.00.
- (f) Special use permit application fee: same as rezoning request.
- (g) Conditional use ~~permit approval~~: \$250.00.
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- (k) Home-based business:
 - (1) Permit: \$50.00.
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- (l) Zoning Verification Letter: \$75.00.
- (m) Predevelopment Meeting: \$500.00 for first two hours, \$100.00 for each additional hour (a credit of 50 percent of fee will apply to application fee when submitted).

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