

## **ORDINANCE NO. 21-08-19-03**

### **AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTIONS 2.10 AND 11.20 OF CHAPTER 14 OF THE LAGO VISTA CODE OF ORDINANCES REGARDING THE FINDINGS REQUIRED FOR THE BOARD OF ADJUSTMENT TO APPROVE A ZONING VARIANCE; AND PROVIDING FOR RELATED MATTERS.**

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

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

**WHEREAS**, Section 211.009(a)(3) of the *Texas Local Government Code* also specifies the findings required for the Board of Adjustment to approve a zoning variance; and

**WHEREAS**, the staff and members of both the Planning and Zoning Commission and the Board of Adjustment have become aware of discrepancies between those requirements that result in additional local requirements that are significantly more stringent; and

**WHEREAS**, that discrepancy also makes it difficult for the Board of Adjustment to effectively rely on the guidance of Texas courts in making decisions involving zoning variance requests; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista has undertaken a review of those regulations and subsequently conducted a public hearing concerning those regulations at both a special call meeting on June 24, 2021 and their regular meeting of July 8, 2021; and

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista determined that the Board of Adjustment, residents and property owners would be better served by local ordinances that are more directly aligned with the requirements of the *Texas Local Government Code* with additional language limited to the guidance provided by Texas courts; and

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

**WHEREAS**, the Planning and Zoning Commission of the City of Lago Vista has forwarded a recommendation to the City Council to amend those requirements contained within Sections 2.10 and 11.20 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 August 5, 2021, reviewed the recommendation, and found the changes to be warranted.

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

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

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

**SECTION 2. AMENDMENT.** The City Council of the City of Lago Vista, Texas, does hereby amend Sections 2.10 and 11.20 of Chapter 14 of the Lago Vista Code of Ordinances as shown in Exhibit "A."

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

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

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

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

**AND, IT IS SO ORDERED.**

**PASSED AND APPROVED** this 19<sup>th</sup> day of August 2021.



  
Ed Tidwell, Mayor

ATTEST:



Sandra Barton, City Secretary

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

**EXHIBIT "A"**

**CHAPTER 14**

**ZONING**

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**2.10 Definitions**

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

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**PUBLIC INTEREST:** The interest common to and shared by the citizens, residents, and visitors to Lago Vista as a group, rather than the interest of an individual, entity, or a more limited segment of that broad population. It can relate to any topic or issue by which the rights or liabilities of that group are affected and includes, but is not limited to the health, safety, or general welfare resulting from the use or development of either public or private property.

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**11.20 Conditions Required for Variance**

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

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

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