

ORDINANCE NO. 18-06-07-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING SECTION 11.40 AND SECTION 11.50 OF CHAPTER 14 OF THE LAGO VISTA CODE OF ORDINANCES; PROVIDING A SAVINGS CLAUSE; SEVERABILITY CLAUSE; EFFECTIVE DATE, OPEN MEETINGS CLAUSE; 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 Chapter 14, Zoning of the Lago Vista Code of Ordinances that establish the minimum number of concurring votes of members of the Board of Adjustment to approve an appeal or variance request; and

WHEREAS, the City Council of the City of Lago Vista has previously established those provisions so that they are consistent with the similar requirements contained within the Texas Local Government Code; and

WHEREAS, the City Council of the City of Lago Vista has recently increased the number of regular members serving on the Board of Adjustment, which requires an amendment to those same provisions within Chapter 14 in order to remain consistent with the requirements contained within the Texas Local Government Code; and

WHEREAS, the Planning and Zoning Commission of the City of Lago Vista has undertaken an extensive review of those regulations; and

WHEREAS, the Planning and Zoning Commission of the City of Lago Vista has determined that there is a need to modify the procedures and criteria within Chapter 14 that establish the minimum number of concurring votes of members of the Board of Adjustment to approve an appeal or variance request; and

WHEREAS, the Planning and Zoning Commission of the City of Lago Vista has forwarded a recommendation to the City Council to incorporate those regulations and thereafter, the City Council has considered the request and hereby desires to modify those regulations 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. MODIFICATION. The City Council of the City of Lago Vista, Texas, does hereby amend Chapter 14, Section 11.40, Code of Ordinances as shown in Exhibit "A" and Chapter 14, Section 11.50 as shown in Exhibit "B."

SECTION 3. SAVINGS CLAUSE. 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*.

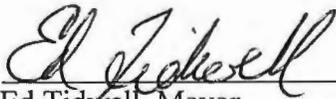
SECTION 6. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas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

AND, IT IS SO ORDERED.

PASSED AND APPROVED this 7th day of June, 2018.



ATTEST:


Ed Tidwell, Mayor


Sandra Barton, City Secretary

On a motion by Councilman Davila, seconded by Councilman Williams, the above and foregoing ordinance was passed and approved.

EXHIBIT "A"

CHAPTER 14

ZONING

11.40 Variance Procedure.

- (A) Application. An application for a variance to the provisions of this chapter shall be made in writing to the City in a form prescribed by the City Manager and shall be accompanied by a site plan and additional information as may be requested in order to properly review the application. Such information may include, but is not limited to: plat plans, site and building plans and contour maps.
- (B) Signs Required for Proposed Variance. At the time a proposed zoning change or variance application is filed, the City shall place easily visible signs on the property in accordance with Section 13.40 below.
- (C) Review by the Board.
 - (1) Review. The Board shall review each application for a variance. Members of the Board or duly appointed City officials shall visit the site where the proposed variance will apply and the surrounding area, and shall report their finding to the Board.
 - (2) Notice and Hearing. The Board shall notify property owners in accordance with Section 13.40 below of a public hearing at which the variance will be considered. The Board shall hold a public hearing within forty-five (45) days from the date of application acceptance.
- (D) Action by Board. The Board shall not grant a variance unless it finds that each of the conditions in Section 11.20 has been established. The burden of proving that such conditions exist is on the applicant. The findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such variance is granted. The concurring vote of seventy-five percent of the members of the board shall be necessary for any decision in favor of the applicant for any matter upon which it is required to pass or to effect any variation of any ordinance, rule or regulation.
- (E) Conditions Imposed by Board. The Board may impose such conditions, limitations, and safeguards as it deems appropriate upon the grant of any variance.

(F) Variance Shall Lapse After Six (6) Months. Any rights authorized by a variance which are not exercised within six (6) months from the date of granting such variance shall lapse. The applicant may apply for one (1) extension without fee. The right to a variance beyond this date may be re-established only after application and a new hearing pursuant to this section.

EXHIBIT "B"

CHAPTER 14

ZONING

11.50 Appeals.

- (A) Appeals to the board may be made by any person aggrieved, or by an officer, department or an agency of the city affected by a decision or action of a municipal authority concerning the zoning ordinance. Such appeal shall be made within 10 working days of the decision, by filing with the city manager or his designee and with the board a notice of appeal, which shall specify the grounds thereof. The city manager or his designee shall transmit to the board all of the papers constituting the record upon which the action appealed was taken. A filing fee, in an amount provided by ordinance to defray part of the expense of legal publication, accumulating engineering data and other administrative costs shall accompany each such notice.
- (B) An appeal from the decision or action of a municipal authority shall stay all proceedings in furtherance of such action unless the city manager or his designee certifies to the board, after the notice of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In the event the city manager or his designee shall make and file such certificate, his action shall not be stayed otherwise than by a restraining order which may be granted by the board, or by a court of record, upon application of the party aggrieved by the action of the city manager or his designee and after notice to him and upon due cause shown.
- (C) The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and shall decide such appeal within a reasonable time. Upon the hearing of such appeal, any interested party may appear in person or by an agent or attorney.
- (D) In exercising the powers set out in this section, the board may, in conformity with the provisions of state law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the city municipal authorities from whose action the appeal is taken.
- (E) The concurring vote of seventy-five percent of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the

permitting official or a municipal authority, or for any decision in favor of the applicant for any matter upon which it is required to pass or to effect any variation of any ordinance, rule or regulation.

- (F) Any person jointly or severally aggrieved by a decision of the board, may present any such matter to a court of record for review.
- (G) The reversal by the board of any order, requirement, decision or determination of the municipal authorities or any decision in favor of the applicant, on any matter, shall lapse after the expiration of ninety days where action by the applicant is not taken pursuant thereto within such period. This provision shall not apply when the applicant has presented to the board a development plan which requires a length of time greater than ninety days, in which event, the board may grant a greater length of time. In no event, however, shall such time granted exceed two years.