

ORDINANCE NO. 18-06-21-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING SECTION 2.10 AND SECTION 11.60 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 define and regulate the maximum height of structures within various zoning districts; and

WHEREAS, the City Council of the City of Lago Vista has previously established procedures and criteria for approval of special exceptions within Chapter 14, Zoning of the Lago Vista Code of Ordinances to allow increases, under certain conditions, to the maximum height of structures within various zoning districts; 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 for approval of special exceptions to allow increases to the maximum height in various zoning districts; 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 2.10, Code of Ordinances as shown in Exhibit "A" and Chapter 14, Section 11.60 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orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.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 21 day of June, 2018.



Ed Tidwell
Ed Tidwell, Mayor

ATTEST:
Sandra Barton
Sandra Barton, City Secretary

On a motion by Councilmember Williams, 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 ordinarily accepted meaning. For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them herein:

ABUTTING: Adjacent, joining at a boundary.

ACCESSORY BUILDING: A building detached from the principal building and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building.

ADJACENT: Abutting and directly connected to or bordering.

AGGRIEVED PERSON: An interested party or person with an interest in a matter that is the subject of a public hearing or administrative decision and believes is being harmed by a decision made through a public hearing or administrative decision. A person has an interest if the person:

- (A) is the applicant or the record owner of property that is the subject of a public hearing or administrative decision; or
- (B) communicates an interest in a matter; and
 - (1) occupies a primary residence that is within 200 feet of the site of the proposed development or modification; or
 - (2) is the record owner of property within 200 feet of the site of the proposed development or modification; or
 - (3) is an officer of a neighborhood organization that has an interest in the site of the proposed development or modification whose declared boundaries are within 200 feet of the site of the proposed development; or
 - (4) has a utility account address located within 200 feet of the site of the proposed development or modification, as shown in the City utility records on the date of the filing of the application.

ALCOHOLIC BEVERAGE: Any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

AMUSEMENT CENTER OR PARLOR[.] Any establishment, whose primary purpose is for public entertainment, containing three or more pool or billiard tables, pinball, and electronic games offered for hire.

ANTENNA SUPPORT STRUCTURES:

(A) **GUYED LATTICE ANTENNA STRUCTURE:** A steel lattice, guy wire supported structure, so designed to support fixtures which hold one or more antennas and related equipment for wireless communication transmission.

(B) **LATTICE ANTENNA STRUCTURE:** A steel lattice, self-supporting structure with no guy wire support, so designed to support fixtures which hold one or more antennas and related equipment for wireless communication transmission.

(C) **MONOPOLE ANTENNA STRUCTURE:** A self-supporting pole type structure with no guy wire support, tapering from base to top and so designed to support fixtures which hold one or more antennas and related equipment for wireless telecommunication transmission.

APARTMENT: Means a room or group of rooms used as a dwelling for one (1) family unit which includes full kitchen facilities for the preparation of meals and cooking therein.

APARTMENT HOTEL with Commercial: Means a building used or intended to be used for one, two or multiple living units for transient or permanent residents, in which building may be located on the first floor living units, and/or retail sales, office, and/or service uses.

AUTOMOBILE SERVICE STATION (Service Station): An establishment selling fuel for motor vehicles and/or performing any of the following services on motor vehicles:

- (A) Lubrication and oil change;
- (B) Installing parts and accessories, including tires, batteries and mufflers;
- (C) Tune-ups; and
- (D) Any minor repair or adjustment work[.]

BED AND BREAKFAST ESTABLISHMENT: An owner occupied dwelling unit that is used to provide Short-Term lodging for guests or “tourists” with a morning meal being provided.

BOARD: Board of Adjustment of the City of Lago Vista, Texas.

BOAT DOCK PRIVATE: A boat dock with one or more slips, located on residential property, which is used for private purposes and does not have services, other than electricity and water to it.

BOAT SLIP/DAY SLIP: A structure used strictly for the mooring of watercraft and has no other auxiliary services (such as a restaurant, retail shop or fuel sales).

BUILDING: Any structure having a roof supported by columns or walls and intended for shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING HEIGHT:

- (A) The vertical distance measured from the highest undisturbed natural grade of the applicable lot to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the height of the highest gable of a pitched or hipped roof. Chimney height and the height of air-conditioning units, evaporative coolers, and other similar objects are excluded from total height considerations. (See Section 6.15 herein).
- (B) Special consideration may be given to the condition encountered when the highest point in elevation of the building lot is at or below the federally designated 100-year flood level.
- (C) In an area below the elevation of the 100-year flood level, the first floor elevation will be one (1) foot above the federally designated flood level. In these cases, the maximum roof height of the building may be measured from one (1) foot above the federally designated flood level.

BUILDING OFFICIAL: The City Manager of City of Lago Vista, Texas or his designee.

BUILDING, MAIN OR PRINCIPAL: A building in which is conducted the principal use of the lot on which it is situated.

CHILD CARE INSTITUTION: A child care facility that provides care for any number of children of any age group, for all or part of the 24-hour day, including facilities known as children's homes, half-way houses, residential treatment camps, emergency shelters, and training or correction schools for children. This facility shall comply with all applicable Federal and State requirements. Schedule of allowed uses are C-1, C-2 and U-1.

CITY: The City of Lago Vista, Travis County, Texas.

CLUB: A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees or dues, regular meetings, and a constitution and bylaws.

COMMISSION: The Planning and Zoning Commission of the City of Lago Vista, Texas.

COMMON AREA: Means privately owned land and improvements within a townhouse, condominium, planned development, or community unit development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and

screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

COMMON OPEN SPACE: Means that portion of the common area which is designated for outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

COMMUNITY CENTER: A facility used for recreational, social, educational, and cultural activities.

COMMUNITY HOME: A home for disabled persons in accordance with the Community Home for Disabled Persons Act, licensed or certified or operated by the State of Texas for the residence of not more than six persons, regardless of relationship, with disabilities and two supervisors.

COMPREHENSIVE PLAN: The Master Plan for the City of Lago Vista, Texas.

CONDITIONAL USE PERMIT: Permit authorized by the City Manager for an accessory structure after the primary use has been established on the same lot. Denial by the City Manager of a conditional use permit may be appealed to the Planning and Zoning Commission and the city council. A conditional use permit for a home occupation must meet the requirements of Section 16.

CONDOMINIUM: Means a building or group of buildings in which dwelling units are owned individually, while the structure and common areas and facilities are owned by all the owners on a proportional, individual basis.

CONTIGUOUS: Property whose property lines are separated by only a street, alley, easement, right-of-way or buffer.

CONTOUR MAP: A map or plat prepared by a registered engineer, architect, or land surveyor which accurately reflects the surface of the area surveyed with contour intervals of two (2) feet within the building site area and with contour intervals of five (5) feet in all other areas where the slope exceeds two percent (2%).

COUNCIL: The City Council of the City of Lago Vista, Texas.

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

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.

DWELLING, MULTIFAMILY: A building containing three or more dwelling units and a lot or tract of land with at least three dwelling units of which one or more detached one- or two-family dwellings are constructed as well as multifamily dwelling buildings.

DWELLING, SINGLE-FAMILY: A detached building designed and having facilities for year-round human habitation by one family only.

DWELLING, TWO-FAMILY: A detached building designed and having facilities for year-round human habitation by two families each in a separate dwelling unit.

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY: One or more persons related by blood, marriage or adoption occupying a living unit as an individual housekeeping organization. A family may include no more than three persons not related by blood, marriage or adoption.

FAMILY HOME FACILITY: A single-family residence in which a person who resides within the residence provides compensated care for children, provided that not more than six (6) children under fourteen (14) years of age, including children who live in the residence or whose care is provided without compensation, shall be cared for at any such facility, and provided further that compensated care shall not be provided in such facility for any child for an overnight stay or for a period in excess of sixteen (16) hours in any 24-hour period. A Family Home Facility shall comply with all applicable federal and state requirements.

FENCE: A fence or screen eighteen (18) inches or more in height made or constructed of any materials, including but not limited to living vegetation, e.g. trees, bushes, shrubs, the purpose of which is to provide protection from intrusion (physical and/or visual), to prevent escape, mark a boundary, or provide decoration. A wall shall be considered a fence unless it is a restraining wall for the purpose of diverting water and/or retaining soil. Traffic guardrails and railings along steps, ramps, decks or sidewalks are not considered fences or screening devices.

FRONT BUILDING LINE: Shall mean either the required front-yard setback line or the line which runs from the front wall of the structure and extends to the side property lines, whichever is further from the front property line.

GUEST QUARTERS: An accessory dwelling located on the same lot as the principal building and used occasionally for habitation for guests but not for remuneration.

HANGAR: Means a building or structure, suitable for the primary use of housing, storing and sheltering an aircraft, which is designed and constructed on C-4 district property accessible to aircraft from the municipal airport via a paved ramp.

HANGAR-RESIDENCE: Means a building or structure, suitable for the primary use of housing, storing and sheltering aircraft, which is designed and constructed on single-family residential property accessible to aircraft from the municipal airport via a paved ramp.

HELIPORT: An area of land or water or a structural surface which is used, or intended for use, for the landing and taking-off of helicopters, and any appropriate areas which are used for the storage, fueling, repair or maintenance of helicopters.

HELISTOP: An improved site (usually a concrete pad) or water where helicopters may land regularly but no hangars, fueling, repairs or maintenance activities are performed.

HOME OCCUPATION: An accessory use of a dwelling unit for gainful employment involving the manufacture, assembly, provision or sale of goods and/or services. The accessory use is conducted entirely within the dwelling unit. The use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.

HOME OCCUPATION PERMIT: A written permit issued by the City of Lago Vista authorizing a resident to establish a home occupation at his/her residence.

HOTEL: Means a building which is open to the public in which lodging is provided and offered for consideration with 24-hour rates to individual transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes, pressing shop, barber shop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, or inn. The term does not include a hospital, sanitarium, nursing home, or a dormitory as defined in Section 156.001, Tex. Tax. Code.

IMPERVIOUS COVER: Any structure including roof outline or surface not permitting the absorption of water.

INDUSTRIAL: A commercial enterprise designed for the production, manufacture, storage or assembly of goods or materials, or for the production of services oriented or ancillary to such purposes.

INDUSTRIALIZED BUILDING: A commercial structure that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent commercial site, and that is designed to be used as a commercial building when the modules or modular components are transported to the permanent commercial site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems.

INDUSTRIALIZED HOUSING: A residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residence and is erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems. The term shall not mean nor apply to:

- (A) Housing constructed of sectional or panelized systems not utilizing modular components; or

- (B) Any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location.

LIQUOR STORES: A store selling alcoholic beverages for off-premises consumption only.

LIVING AREA: The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior structural walls for the purpose of computing the minimum allowable living area in a building unit. The living area measurement is exclusive of unfinished attics, breezeways, garages, carports, open and covered porches, decks, or accessory buildings not designed and used directly and specifically for dwelling purposes.

LOT: A designated parcel, tract or area of land, established by plat or otherwise as permitted by law, to be used, developed or built upon as a unit.

MARINA FACILITY: Any commercial or public structure or combination of structures for mooring or servicing of watercraft, with more than three mooring slips, and including all structures (docks, breakwaters, etc.) and associated anchoring facilities (e.g., fuel facilities, restaurants, etc.) which abut the water-based entity.

MOBILE HOME: A structure designed for, or used as semipermanent habitation and which is transportable on its own chassis in one or more sections and which is capable of being used without a permanent foundation.

MOBILE HOME PARK: Any area or tract of land where one or more mobile home lots or spaces are rented or held for rent.

MOTEL: An establishment providing sleeping accommodations for transients and in which access to rooms may be through a lobby and/or the rooms may have direct access without the necessity of going through a lobby.

NONCONFORMING FENCE, STRUCTURE, OR USE: A fence, structure, or use that does not conform to the standards or requirements of this chapter.

NONCONFORMING FENCE, STRUCTURE and USE, LEGAL (“grandfathered”): An activity, fence, use, or structure that was lawful and existing at a specific location on a date prior to the adoption of an ordinance that made it fail to conform to the present requirements of this chapter.

NUISANCE FACTOR: Any offensive or unpleasant thing which annoys or disturbs one in free use, possession, or enjoyment to of his property of which endangers one's health or life or property, including but not limited to the following:

- (A) Noise
- (B) Electronic or atomic radiation
- (C) Dust

- (D) Effluent
- (E) Smoke
- (F) Vibration
- (G) Fumes
- (H) Shock waves
- (I) Odor
- (J) Gases
- (K) Glare
- (L) Vicious, mischievous, and barking dogs
- (M) Flashes
- (N) Unlawful diversion of drainage

OPEN AIR COMMERCIAL AMUSEMENTS: Any land, buildings, structures, devices or activities for amusement and profit visible from a public right-of-way, such as drive-in theaters, miniature golf courses, water slides, motor vehicle courses or tracts, and similar enterprises.

PARKING LOT: An area which contains five (5) or more off-street parking spaces.

PARKING SPACE: An area on a parking lot, enclosed or unenclosed, not on a public street, with an all-weather surface, used or intended, to be used for parking motor vehicles. The parking space must be connected to a street by an all-weather surface driveway, which may be an easement and which permits free ingress and egress.

PLANNED DEVELOPMENT DISTRICT (PDD): An area of land which is approved for development in accordance with a detailed plan which has been subjected to a specified approval process. All use regulations and physical restrictions for structures within a PDD are contained in the plan for that PDD.

RECREATION FACILITY, COMMERCIAL: A place designed and equipped for the conduct of indoor or outdoor sports and leisure-time activities and operated as a business and open to the public for a fee.

RECREATION VEHICLE: A vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, and camping trailer, but shall not include a mobile home.

RECREATIONAL VEHICLE PARK: Any area or tract of land where one or more recreational vehicle lots or spaces are rented or held for rent.

RESORT ACCESSORY USE: Means a use other than an enclosed building that is customarily incidental to a resort such as a swimming pool, shuffleboard court, miniature golf course, tennis court, frisbee golf course, golf driving range, golf putting course, jogging trail, volleyball or basketball court, pavilion, gazebo, and playground. Boat slips and fuel facilities are not considered accessory uses.

RESTAURANT: A commercial establishment at which food is prepared for consumption on or off the premises.

SCREENING DEVICE: Any wall or fence which does not contain openings and is constructed so as to create a visual barrier.

SETBACK: The minimum required horizontal distance between the property line and the corresponding wall or any projection of a building, excluding uncovered steps, uncovered balconies, uncovered porches, and roof overhangs that are in accordance with the building code.

SHORT-TERM OCCUPANCY: Occupancy of a dwelling unit for less than 30 days. For purposes of this chapter, this term does not include occupancy by house guests for which no compensation of any kind is involved in the occupancy.

SPECIAL USE PERMIT: A permit issued for a specific use or structure in accordance with the special use permit procedures in this chapter.

STRUCTURE: Anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground.

TOWNHOUSE: Means a structure on a separately platted lot, which is one of a series of three (3) or more attached dwelling units designed and used for single-family occupancy, which dwelling units are structurally connected, immediately adjacent to and abutting each other, and which have their own front and rear access to the outside. No dwelling unit is located over another unit. A condominium apartment (as defined in Section 81, Tex. Prop. Code) in a condominium structure may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below it.

TRAILER-COMMERCIAL USE: Every vehicle designed for carrying heavy machinery, vehicles, and equipment used for commercial purposes, and is drawn on the highway by a motor vehicle.

TRAILER-UTILITY USE: Every vehicle designed for carrying personal property, or recreational equipment such as golf carts, boats, and motorcycles, and is drawn on the highway by a motor vehicle.

VEHICLE: Every device by which any person or property may be propelled, moved or drawn upon a highway.

VIEW: a scenic vista of what can be seen from a property at ground level or from a first or second story beyond and above any existing tree line or the allowed maximum building height on an

intervening property where a view is being evaluated. Examples of a view include but are not limited to parks, hillsides, open green spaces, golf courses, and a lake.

WIRELESS COMMUNICATION SYSTEM: means antennae and antenna support structures for mobile and land based telecommunications facilities including, but not limited to: Whip antennas, panel antennas, microwave dishes and receive-only satellite dishes, cell enhancers and related equipment for wireless transmission from a sender to one or more receivers, such as for mobile cellular telephones, mobile radio systems facilities, commercial mobile radio service and radio or television (commercial only) broadcasting towers and transmitting stations. This definition is inclusive of the placement of the above referenced equipment on a monopole tower, guyed steel lattice tower and any communication tower which does or does not utilize guy wire support in addition to existing buildings or other independent support structures. This system shall also allow as one of its components an unmanned equipment shelter.

YARD: An open space that lies between the principal building or buildings and the nearest lot line. This is the required minimum building setback.

EXHIBIT "B"

CHAPTER 14

ZONING

11.60 Special Exceptions to Height Standards.

- 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 or uses 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 Planning and Zoning Commission, or the Board of Adjustment upon appeal, may approve an increase in the maximum "building height" as defined in Section 2.10 and established in the development standards for each zoning district. Such approval, with or without conditions, shall be based on the standards described below.
- B. Approval Standards. Provided the applicant has fully complied with all requirements, the Planning and Zoning Commission, or the Board of Adjustment upon appeal, may approve an increase to the maximum height of a principal building or an addition to a principal building, if it finds there is no significant adverse impact on the view, as defined in Section 2.10, of another property owner or the architectural context of the surrounding neighborhood created by the proposed additional height. The approval may include whatever conditions might be required to ensure compliance with the standard, but in no case shall it allow an absolute height in excess of 35 feet above the ground measured from the geometric center of the proposed foundation or for more than two stories.
- C. Process.
- (1) Ridgepole: Prior to submitting the required application documents specified below, the applicant shall erect one or more ridgepoles, that clearly and visibly indicate both the proposed maximum "building height" and the maximum "building height" allowed by right in the development standards for the zoning district in which the property is located. Required height indication markings shall use a minimum 2 inch wide blue or red masking tape or paint mark around the circumference of the ridgepole and both the pole and markings shall be visible from the street that fronts the property. The primary ridgepole shall be placed at the approximate location of the highest peak or the center of the highest

ridgeline and be constructed of such sturdiness as to remain in a true vertical position throughout the application and hearing process. The Planning and Zoning Commission or the Board of Adjustments on appeal, may require additional ridgepoles and that a licensed surveyor certify the location and heights of all ridgepoles and markings in a stamped report. All required ridgepoles shall remain in place and their condition maintained through the end of the public hearing process. Unless otherwise directed, the ridgepoles shall be removed no later than two weeks after the final decision by the Planning and Zoning Commission or the Board of Adjustments, upon appeal.

(2) Application. Applications shall be made on a form provided by the city and are accepted provisionally, pending an inspection of all required ridgepoles. In addition to the form, the application package shall include the following:

(a) Site Plan. Drawings preferably scaled, that indicate the location of the proposed building footprint and all ridgepoles shall be accurately represented. Topographic information is required for the purpose of accurately determining the proposed “building height” and the maximum “building height” permitted by the applicable development standards and as defined in Section 2.10. Both of these heights shall be specifically included and described on the application form and clearly distinguished from any other referenced heights.

(b) Depiction of proposed height. Some form of accurate depiction is required, typically building elevations, indicating the proposed maximum “building height” as defined in Section 2.10 and the proposed absolute building height as measured from the top of the geometric center of the proposed foundation.

(c) Fee. Fees shall be the same as for a variance to the zoning ordinance.

(3) Public Hearing. The Planning and Zoning Commission shall hold a public hearing prior to consideration of any special exception application.

(a) Notice requirements for a public hearing by the Planning and Zoning Commission 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 Planning and Zoning Commission meeting. The Commission 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) Commissioners should visit the site. If the Commission’s decision is appealed in accordance with the requirements included herein, the Board of Adjustments members

should visit the site. Commissioners or Board members who have not visited the site may not vote on the consideration of a special exception application.

- (4) Appeal. An applicant or any aggrieved person, as defined in section 2.10, may appeal the final decision of the Planning and Zoning Commissions to the Board of Adjustments in accordance with the requirements of section 11.50.
- (5) Term. Absent a formal written request alleging hardship to the City Manager or his designee for an extension, a special exception approval shall expire in one calendar year if not incorporated in a building permit. Special exception approvals also expire upon abandonment, either voluntary or involuntary, of one calendar year or longer. Extensions beyond a term of three years would require a new special exception application and approval.