

ORDINANCE NO. 23-03-02-03

AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING SECTIONS 6.10, 11.60, AND 17.05 OF CHAPTER 14 OF THE LAGO VISTA CODE OF ORDINANCES TO CREATE A SPECIAL EXCEPTION APPROVAL FOR RELIEF FROM THE SETBACK AND SIZE LIMIT REQUIREMENTS RELATED TO ACCESSORY BUILDINGS, ELIMINATING THE CURRENT CONDITIONAL USE APPROVAL REQUIRED FOR THAT SAME RELIEF; 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, regarding limits on the size and the minimum setbacks for accessory buildings within the municipality; and

WHEREAS, the City Council of the City of Lago Vista has also previously established that the relief from those requirements regarding limits on the size and the minimum setbacks for accessory buildings would take the form of a conditional use approval in accordance with Section 17.05 of Chapter 14; and

WHEREAS, the staff, the Planning and Zoning Commission and the Lago Vista City Council have recently determined that having all special exception requests considered by the Board of Adjustment rather than the Planning and Zoning Commission would be more efficient and consistent with the intent of the *Texas Local Government Code*; and

WHEREAS, the Planning and Zoning Commission has undertaken an extensive review of those existing regulations and determined that relief from the requirements regarding limits on the size and the minimum setbacks for accessory building should be considered by the Board of Adjustment as a special exception instead of a conditional use approval; and

WHEREAS, following a public hearing held during a special call meeting on January 26, 2023, the Planning and Zoning Commission has forwarded a recommendation to the City Council to amend the provisions of Section 6.10, Section 11.60, and Section 17.05 of Chapter 14 of the Lago Vista Code of Ordinances to establish procedures and approval standards for special exception applications and to eliminate the current conditional use approval available regarding limits on the size and the minimum setbacks for accessory buildings; and

WHEREAS, the City Council at its public hearing to consider this ordinance amendment held on March 2, 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. 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 6.10, Section 11.60, and Section 17.05 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. 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. Penalty. Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances, Section 1.109 General Penalty for Violations of Code; Continuing Violations of the City of Lago Vista, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

Section 6. 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 7. 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 8. 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 2nd day of March 2023.



Ed Tidwell, Mayor

ATTEST:



Lucy Aldrich, City Secretary



On a motion by Mayor Pro-Tem Prince, seconded by Councilor Marion, the above and foregoing ordinance was passed and approved.

EXHIBIT "A"

CHAPTER 14

ZONING

6.10 Accessory Buildings and Uses

(d) All Districts.

(1) Boat docks and boathouses.

- (A) Boat docks and boathouses anchored in the lake below the 681 elevation are exempt from number, location, setback, material, and screening standards.
- (B) Boat docks and boathouses are not eligible for conditional use approval except as specified in Section 17.05 below.

(2) Aircraft parking. Improved parking pads or lots for aircraft on property that has direct aircraft ground access to an airport may be constructed without a principal building on the property.

(3) Special Exceptions. A property owner may apply for a special exception in accordance with the procedures specified in Section 11.60 of this chapter for relief from requirements of this section, specifically limited to the number, height, setbacks, screening, architecture, and material colors. However, approval for a carport in any single-family or two-family residential zoning district in which they are not otherwise permitted shall require a conditional use approval as specified above and in accordance with Section 17.

(4) Accessory buildings for which a city permit was issued before September 1, 2011, that does not conform to the above standards shall be considered legally non-conforming.

11.60 Special Exception Approvals

(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 that 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.

(2) Process.

- (A) Narrative. Applicants shall provide a complete and thorough written description of the basis for the requested relief in accordance with the approval standards above. The application form may be used to meet the requirement, but an attachment is mandatory if adequate space is not available.
- (B) Site Plan. Accurately scaled drawings that indicate the size and location of the proposed accessory building and all required setbacks shall be submitted. The site plan shall also identify all existing utility and drainage easements. The edge of adjacent residences within twenty-five (25) feet of the proposed accessory building shall be included on the site plan. Limited topographic information regarding the highest existing grade elevation on the lot and the elevation of the highest peak or ridge of the principal structure is required to verify that a special exception for additional height is not also required. Landscaping required by Section 6.10 above or any relief from those requirements shall be included on the site plan or a separate landscaping plan.
- (C) Floor Plans. Accurately scaled drawings are required that describe the size and use of all space within or below the roof of the proposed accessory building. The plans shall include all door and window openings as well as any equipment associated with the accessory use.
- (D) Building Elevations. Accurately scaled drawings that indicate the size, maximum height, roof pitch, exterior finish materials are required. The proposed colors of the roof and exterior finish materials of the accessory building can be included on the building elevations or submitted separately.
- (E) Existing Principal Structure Information. Accurate drawings or photographs of the existing principal structure shall be included with the application for the purpose of evaluating requirements. The Development Services Department may be able to provide documents related to permits issued in December of 2011 or later.

17.05 Uses Eligible For a Conditional Use Approval

The following uses may be considered for a Conditional Use approval.

- (a) A carport in any single-family or two-family residential zoning district in which they are not otherwise permitted, if the approval does not materially diminish the aesthetic quality of the subject property when viewed from adjacent property, nearby property, or a public right-of-way.
- (b) A boat dock or docks, including associated driveways on a lot separate from the principal use that is directly across a public right-of-way that prevents the lots from being joined by an amended plat approval, provided that the two lots remain under common ownership. A conditional use that has been approved becomes null and void and the boat docks and driveways removed if both lots do not remain under common ownership.

CHAPTER 14

ZONING

6.10 Accessory Buildings and Uses

(d) All Districts.

~~(1) Temporary buildings erected during the term of construction, including tents, shacks, shanties or other structures, or trailers or mobile homes, shall not be placed on any lot except for uses incidental to construction work on commercial projects. All temporary buildings shall be removed upon the completion or abandonment of construction work. Trailers or mobile homes shall not be permitted on lots during construction of residential buildings, unless authorized in writing by the city manager or his designee and may be permitted if a residential building that was significantly damaged or destroyed and is being rebuilt, replaced by another residential building or repaired.~~

(1) Boat docks and boathouses.

(A) Boat docks and boathouses anchored in the lake below the 681 elevation are exempt from number, location, setback, material, and screening standards.

(B) Boat docks and boathouses are not eligible for conditional use ~~application without a principal building on the same or nearby lot that is owned by the boat dock owner~~ approval except as specified in Section 17.05 below.

(2) Aircraft parking. Improved parking pads or lots for aircraft on property that has direct aircraft ground access to an airport may be constructed without a principal building on the property.

(3) Exceptions, Conditional Use Permit Special Exceptions. A property owner may apply for a ~~conditional use permit special exception~~ in accordance with the procedures specified in Section ~~17~~ 11.60 of this chapter for relief from ~~any~~ requirements of this section, ~~such as specifically limited to the number, height (when special exception approval is not otherwise specified by this section), setbacks, screening, architecture, and material colors.~~ However, approval for a carport in any single-family or two-family residential zoning district in which they are not otherwise permitted shall require a conditional use approval as specified above and in accordance with Section 17. ~~The basis for a recommendation from the Planning and Zoning Commission and approval by the City Council for a conditional use approval is that the requested deviations from strict compliance with any requirement above will 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.~~

- (4) Accessory buildings for which a city permit was issued before September 1, 2011, that does not conform to the above standards shall be considered legally non-conforming.

11.60 Special Exception Approvals

(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 that 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.
- (2) Process.
- (A) Narrative. Applicants shall provide a complete and thorough written description of the basis for the requested relief in accordance with the approval standards above. The application form may be used to meet the requirement, but an attachment is mandatory if adequate space is not available.
 - (B) Site Plan. Accurately scaled drawings that indicate the size and location of the proposed accessory building and all required setbacks shall be submitted. The site plan shall also identify all existing utility and drainage easements. The edge of adjacent residences within twenty-five (25) feet of the proposed accessory building shall be included on the site plan. Limited topographic information regarding the highest existing grade elevation on the lot and the elevation of the highest peak or ridge of the principal structure is required to verify that a special exception for additional height is not also required. Landscaping required by Section 6.10 above or any relief from those requirements shall be included on the site plan or a separate landscaping plan.
 - (C) Floor Plans. Accurately scaled drawings are required that describe the size and use of all space within or below the roof of the proposed accessory building. The plans shall include all door and window openings as well as any equipment associated with the accessory use.
 - (D) Building Elevations. Accurately scaled drawings that indicate the size, maximum height, roof pitch, exterior finish materials are required. The proposed colors of the roof and exterior finish materials of the accessory building can be included on the building elevations or submitted separately.
 - (E) Existing Principal Structure Information. Accurate drawings or photographs of the existing principal structure shall be included with the application for the purpose of evaluating requirements. The Development Services Department may be able to provide documents related to permits issued in December of 2011 or later.

17.05 Uses Eligible For ~~A~~ a Conditional Use ~~Permit~~ Approval

The following uses may be considered for a Conditional Use ~~Permit~~: approval.

- (a) ~~Fences surrounding a garden on a lot where no principal use has been established on the lot, but the subject lot is adjacent to the principal use lot. A carport in any single-family or two-family residential zoning district in which they are not otherwise permitted, if the approval does not materially diminish the aesthetic quality of the subject property when viewed from adjacent property, nearby property, or a public right-of-way.~~
- (b) ~~A Boat boat dock or docks, with including associated driveways to dock. In cases where replatting is impossible to join two adjacent lots on a lot separate from the principal use that is directly across a public right-of-way that prevents the lots from being joined by an amended plat approval, from the principal use that when an amended plat cannot join, for example where a road exists between the two lots, and both lots are under the same ownership of the same person a conditional use permit may be issued to allow for a boat dock in Lake Travis and a driveway to the boat dock, on one lot provided that a principal use is established on the other lot and the two lots remain under common ownership. A conditional use permit that has been issued approved becomes null and void and any accessory use on the nonprincipal use lot must be the boat docks and driveways removed if the accessory lot is sold or both lots do not remain under common ownership.~~
- (c) ~~The owner of a residentially zoned lot, after establishing a primary use residence on said lot may be eligible for a conditional use permit to allow for the storage of aircraft within the residence or within an approved accessory structure on the same lot as the residence. Each conditional use permit issued for storage of aircraft on residential property shall not be considered as cumulative, or as setting a precedent, but shall be issued only on a case by case basis.~~
- (d) ~~In cases in which there is a primary use and the property line extends to the flood pool elevation of Lake Travis at or below the 681 msl elevation an accessory use for a residential boat dock shall be permitted provided that sufficient property below the 681 msl elevation has been leased or rented as evidenced by a formal agreement signed by the property owners and notarized in accordance with State law which allows the placement of the boat dock and/or its moorings and anchors on or over the property adjacent to the property in which the primary lease is located.~~
- (e) ~~Property owners may apply for exceptions to the accessory building standards such as number, screening, height, setback, and architecture and material through a conditional use process rather than the variance process.~~
- (f) ~~Carports.~~
