

CITY OF LAVON, TEXAS

ORDINANCE NO. 2023-03-04

Amend Planned Development District Regulations

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 9 “PLANNING AND DEVELOPMENT REGULATIONS”, ARTICLE 9.03 “ZONING ORDINANCE”, DIVISION 2 “DISTRICTS AND ZONING DISTRICT MAP”, SECTION 9.03.034 “AMENDMENTS TO THE OFFICIAL ZONING ORDINANCE AND ZONING DISTRICT MAP” AND DIVISION 6 “REGULATIONS APPLICABLE TO MIXED USE AND NONRESIDENTIAL DISTRICTS”, SECTION 9.03.134 “PLANNED DEVELOPMENT DISTRICT (PD)” OF THE CODE OF ORDINANCES OF THE CITY OF LAVON, BY AMENDING THE CITY’S REGULATIONS REGARDING PLANNED DEVELOPMENT DISTRICTS IN THE CITY; PROVIDING A PENALTY CLAUSE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Lavon (the “City”) is a Home Rule municipality governed by its duly adopted Charter; and

WHEREAS, Chapter 211 “Municipal Zoning Authority” of the Texas Local Government Code authorizes a city to adopt ordinances regulating the zoning of property within the City; and

WHEREAS, the City Council of the City (the “City Council”) adopted Article 9.03 of its Code of Ordinances, the same being the comprehensive Zoning Ordinance of the City (the “Zoning Ordinance”), which sets forth various regulations for changes in zoning, amendments to the zoning ordinance text, and Planned Development Districts; and

WHEREAS, the City Council desires to amend the Zoning Ordinance to provide revised regulations regarding changes in zoning and text amendments, and planned development district criteria; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendment to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the recommendation of the Planning and Zoning Commission, and among other things, the necessity for orderly and appropriate regulations of the use of land and the erection of structures thereon, and having considered the proposed amendment to the Zoning Ordinance and the appropriateness of the amendment, the City Council does hereby find that the amendment to the Zoning Ordinance approved hereby accomplishes such objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. FINDINGS. After due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety and welfare of its citizens.

SECTION 3. AMENDMENTS. The Zoning Ordinance is hereby amended as follows:

Division 2 “Districts and Zoning District Map”, Section 9.03.034 “Amendments to the official zoning ordinance and zoning district map” and Division 6 “Regulations Applicable to Mixed Use and Nonresidential Districts” Section 9.03.134 “Planned development district (PD)” are hereby amended to read entirely as provided in **Exhibit A**.

SECTION 4: SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect. This Ordinance shall not repeal, alter, or amend, or be interpreted as conflicting with any ordinance having created a planned development district prior to this Ordinance.

SECTION 5: SEVERABILITY. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

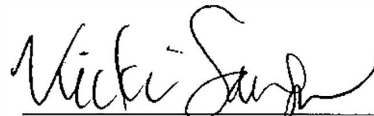
SECTION 6: PENALTY. Any person, firm, corporation, or entity violating this Ordinance or any provision of the City’s Zoning Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Two Thousand Dollars (\$2000.00). Each continuing days’ violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not

preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 7: PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 8. OPEN MEETING. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

DULY PASSED AND APPROVED by the City Council of the City of Lavon, Collin County, Texas, on this the 7th day of March 2023.


Vicki Sanson, Mayor

ATTEST:



Rae Norton, City Secretary



EXHIBIT A

Amendments

Sec. 9.03.034 Amendments to the official zoning ordinance and zoning district map.

(a) Applicability.

1. This Section is applicable only for properties within the city limits or properties in the process of annexing into the city limits.
2. No amendment to the official zoning district map shall be authorized without the filing of a zoning map amendment application. The city council may from time to time amend, supplement, or change by ordinance the boundaries of the zoning district map (zoning change), or the land use regulations and restrictions of a district (text amendment), or any other regulation or provision of this ordinance.
3. Any amendment to the zoning ordinance text or to zoning district boundaries may be ordered for consideration by the city council, may be initiated by the planning and zoning commission, or may be requested by the owner of real property within the City (or his/her authorized representative). No change to the official zoning district map shall be authorized or become effective without final action of the city council.
4. No zoning shall be approved until the property has been annexed into the city.

(b) Pre-application Conference Review and Discussion. An applicant for a PD – Planned Development District shall schedule a pre-application conference prior to the formal submission of the application materials. Prior to the Pre-application Conference, the applicant shall provide descriptions, statements, preliminary drawings, and/or concept plans that address, but are not limited to, the following:

1. A statement of completion of the pre-application checklist requirements;
2. Site boundaries;
3. General concept plan layout indicating relationship of the proposed land uses, parking, and street layouts(s);
4. Residential development densities, if any;
5. Approximate gross square footage of non-residential uses, if any;
6. Building heights;
7. Significant environmental features, including floodplains and water course; and delineation of approximate acreage for each land use specified.
8. Information regarding any proposed zoning and associated alignment with requirements and consideration criteria; and

(c) Submittal. The following items shall be submitted for each zoning and rezoning request:

1. **Application and Fee.** The application shall be processed in accordance with the requirements of this division. Each application for amendment, supplement or change to the provisions of this division shall be made in writing on the city's required form and shall be filed with the City Secretary along with the appropriate fee in accordance with the Fee Schedule for administration of the zoning application. An applicant does not have any right or entitlement to withdraw or table an application placed on the Planning and Zoning Commission or City Council agenda, but may request that the application be withdrawn no later than 18 days before the agenda is posted.
2. **Neighborhood Meeting Verification.** If a Neighborhood Meeting (per Sec. 9.03.034) is deemed necessary by the City Manager or their designee, a written verification of the neighborhood meeting shall be submitted.

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- i. Staff shall be given a minimum two weeks' notice of the proposed neighborhood meeting.
3. Request Narrative to include the following information:
 - i. Contact information and signature(s) of the owner or applicant;
 - ii. Acreage of subject property;
 - iii. Existing zoning district(s);
 - iv. Proposed zoning district(s);
 - v. Description of request;
 - vi. Comprehensive Plan consistency – use, character, & design;
 - vii. Special consideration or unique characteristics of the property/proposed development (if any);
 - viii. Detailed justification and/or supporting documentation as to why the applicant is requesting to rezone the subject property to a specific zoning district;
 - ix. Description of development and/or zoning change impacts on drainage, water utilities, sanitation, sanitary sewer utilities, roadways, and traffic;
 - x. Description of development and/or zoning change impacts on city services, such as building inspection, development, police, and fire;
 - xi. Architecturally or historically significant features that are proposed or existing to remain (if any).
4. Exhibit A: Subject Property Map/Survey (high resolution), including the following information:
 - i. Detailed description of the location of subject property;
 - ii. Current and proposed zoning of the subject property;
 - iii. Clear boundary of the subject property;
 - iv. The bearings and distances of the boundary lines of the subject property (and any tract lines if applicable in a Planned Development District);
 - v. Acreage of the subject property;
 - vi. Neighboring parcels labeled with corresponding zoning and current land uses; and
 - vii. Adjacent right-of-way names and widths.
5. Exhibit B: Legal Description, including the following information:
 - i. In Microsoft Word or another editable format, a written metes and bounds description of the property that will readily determine the location, bearing and length of all perimeter boundary lines, with total acreage of the property, and be capable of reproducing such lines upon the ground with a closure error of less than 1:25,000; and
 - ii. The legal description shall include reference to an original survey or subdivision corner, and the Texas NAD83 state plane coordinate system.
6. If requesting a PD – Planned Development District, the description shall also include:

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- i. Exhibit C: Concept Plan, including the following information:
 1. Delineation of site boundaries with adjacent relevant features, including streets necessary for access;
 2. General site layout indicating relationship of the proposed land uses, access, circulation, parking areas (striped spaces not required), street layout with associated types for each (arterial, collector, etc.), significant amenity locations, and major trails;
 3. Proposed residential development housing types and associated dimensions and densities (utilize key/legend format for legibility if applicable), if any;
 4. Approximate gross square footage of non-residential uses where applicable;
 5. Open space, significant environmental features, including floodplains and water course; and
 6. Tract designation boundaries, labels, and sizes, if any, that directly correspond with associated sections within the Development Standards for each.
- ii. Exhibit D: Development Standards, in Microsoft Word format, including the following information:
 1. Use and description of exhibits;
 2. Requested base zoning district and any proposed special ordinance provisions versus its standards;
 3. Any proposed special ordinance provisions versus standards from Lavon's Zoning Ordinance; and
 4. Any enhanced features proposed for requirements.
- iii. Other exhibits may be appropriate (ex. amenities, fencing, screening, Traffic Impact Analysis, etc.) upon review of the zoning application. If proposing residential uses, associated housing type descriptions, illustrations, dimensions, and densities (utilizing a key/legend format or an exhibit) shall be provided upon submittal.
- iv. If the subject property is over 10 acres in size and/or contains more than four proposed/existing dwelling units the following exhibits may be required as requested by the City Manager or their designee:
 1. Amenities Plan to include the following:
 - a. Park and open space with details per type, if applicable
 - b. Trails and off-spots with shade and other details, if applicable
 - c. Amenity Centers (including business centers, meeting spaces, grouped mailboxes, etc.)
 - d. Fitness Courts/Facilities
 - e. Pedestrian-oriented features (ex. benches, trash receptacles, etc.)
 - f. Swimming/aquatic areas

2. Fences and Screening Plan to include the following:

- a. Location, dimensions (height/width), type, and construction materials of all screening devices (existing and proposed), including but not limited to:
 - i. Landscape buffers;
 - ii. Dumpster, loading, parking lot, mechanical equipment screen(s); and
 - iii. Screening walls/fences.

(d) Neighborhood Meeting. Applicants shall conduct a neighborhood meeting for zoning and rezoning requests when deemed necessary by the City Manager or their designee as follows:

1. Purpose. The purpose of the neighborhood meeting shall be to review the proposed project. The neighborhood meeting shall be held in person; however, upon request to the City Manager, or their designee, the neighborhood meeting may be held virtually if determined that there is good cause for holding the meeting virtually. A virtual option is encouraged in addition to the in-person meeting.
 2. Notice. The applicant shall provide written notice to all property owners within a two-hundred-foot (200') radius of the exterior boundary of the subject property and to all neighborhood associations as directed by the City Manager or their designee. Notice of a neighborhood meeting shall be in addition to, and not in lieu of, mailed notices that are already required.
 3. Timing. If deemed necessary by the City Manager, the neighborhood meeting shall be conducted prior to submission of the application or after the submission of the application.
 - i. The neighborhood meeting shall be conducted not more than six (6) months prior to formal submission of the application.
 - ii. The meeting shall be on a weekend between ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M. or on a weekday between six o'clock (6:00) P.M. and eight o'clock (8:00) P.M.
 - iii. The meeting shall not be on a holiday, a holiday weekend, or the day before a holiday or holiday weekend.
1. In-person meetings requirements. The meeting shall be held at one of the following locations:
 - a. On the subject property;
 - b. At the nearest available public meeting place including, but not limited to, a fire station, library, or community center; or
 - c. At an office space with suitable meeting facilities if such facilities are within a one-mile radius of the nearest public meeting place.
 2. Virtual Meeting Requirements. If a neighborhood meeting is to be conducted virtually (ex. Zoom, WebEx, etc.), any required notices shall contain sufficient information so the public may access the virtual meeting.

(e) Notices and Notifications. Zoning and rezoning requests shall be scheduled for public hearings

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before the Planning and Zoning Commission and the City Council and noticed in accordance with this section as follows:

1. Mailed Notice. Mailed notice shall be provided in accordance with Texas Local Government Code Chapter 211.
 2. Subject Property Notification Signs. Notification signs shall meet the following requirements:
 - i. The City Manager or their designee shall have the authority to determine if the notice posting on the subject property met the intent of the requirements contained herein.
 - ii. The applicant shall post the required number of notification signs, on the subject property, at least seven days prior to the date of the public hearing before the Planning and Zoning Commission as follows:
 1. Sign Requirements. A minimum of one (1) sign shall be posted on the subject property, along each of its public road frontages, at a minimum spacing of one (1) sign per five hundred (500) linear feet of frontage or portion thereof.
 2. The sign shall contain legible information and specifications as detailed in the City's Notification Sign Requirements.
 3. The applicant shall provide time-stamped photos of the required notification signs, as posted on the subject property, between 8 A.M. on Monday and 12 p.m. (noon) on Wednesday, the week before the scheduled Planning and Zoning Commission meeting. The applicant shall provide the following photos:
 - a. One legible photo of a sign showing the required information meeting the standards as provided on the signs;
 - b. One photo of each public road frontage showing that the signs are facing the right-of-way; and
 - c. An informal exhibit showing the location of the signs along the rights-of-way.
 3. Published Notice. Published notice shall be provided in accordance with Texas Local Government Code Chapter 211.
- (f) Consideration and Evaluation Criteria for Zoning and Rezoning Request. The following items shall be considered when evaluating a zoning or rezoning request:
1. As required by State law, whether and how the proposed zoning district's design and uses are consistent with the Comprehensive Plan and other adopted plans;
 2. Whether the zoning or rezoning request would have an adverse impact on the surrounding properties and/or their residents or employees;
 3. Whether the uses permitted in the proposed zoning district would result in an overconcentration of certain uses;
 4. Development, zoning, and/or rezoning impacts on drainage, water utilities, sanitation, sanitary sewer utilities, roadways, and traffic;
 5. Development, zoning, and/or rezoning impacts on City services, such as building inspections, development, police, and fire;

6. Whether the proposed zoning district's design and uses support and further the City Council's Strategic Plan; and/or
7. Any other special circumstances that may be unique to the subject property.
8. In addition to the criteria above, requirements in Section 9.03.134 and the following items shall be considered when evaluating a request to zone or rezone to a PD – Planned Development District:
 - i. Architecturally or historically significant features that are proposed or existing to remain (if any);
 - ii. Whether the proposed PD has site-specific or development-specific constraints that cannot produce an achievable combination of use and design with straight zoning;
 - iii. The extent to which the proposed PD's site design, amenities, uses, and other submitted details achieve the Vision of the Comprehensive Plan and Lavon's desired brand with utilization of associated best practices;
 - iv. The extent to which the proposed PD preserves and enhances Lavon's natural areas, trees, habitats, and/or drainage;
 - v. The extent to which the PD provides greater public benefits than what can be achieved with straight zoning;
 - vi. The extent to which the proposed PD benefits the City of Lavon in exchange for PD flexibility/standards; and/or
 - vii. The extent to which the proposed PD provides enhanced open space, natural asset preservation, level of amenities, etc.
- (g) Public Hearing. The planning and zoning commission shall hold a public hearing on a proposed adoption of or amendment to a zoning regulation or zoning district boundary before submitting a report to the city council. Additionally, upon compliance with all applicable notice requirements, the planning and zoning commission and the city council may hold a joint public hearing. For zoning and rezoning requests for PD – Planned Development Districts, the planning and zoning commission may recommend, and the city council may approve the request for a PD district as submitted or may make any modifications thereto as may be appropriate.
- (h) A written recommendation of the planning and zoning commission shall be forwarded to the city council. If the planning and zoning commission recommends that a proposed change to a regulation or boundary be denied, a vote of at least three-fourths (3/4) of all the members of the city council shall be required to overrule such recommendation.
- (i) After public notice and after receipt of the planning and zoning commission recommendation, the city council shall hold a public hearing regarding the proposed application, consider such application, and may take such action as determined appropriate regarding the application.
- (j) An application that has been denied without prejudice, by the city council may be resubmitted at any time for reconsideration by the city council. A new filing fee must accompany the request. The city council may deny any application with prejudice. If an application has been denied with prejudice, the application may not be resubmitted to the city for one (1) year from the original date of denial. However, a changed application may be submitted at any time.

Sec. 9.03.134 Planned Development District (PD).

- (a) Purpose. The purpose of the PD district is to accommodate special places, neighborhoods, communities, and centers planned and designed as envisioned by the Comprehensive Plan that require unique standards, not permitted by the straight zoning districts in this Article. PD districts offer flexibility in design and uses in exchange for substantial added benefit to the city. PD districts may also be requested to address challenges presented by specific site or development conditions. Development can be a combination of commercial, residential, institutional, parks, and/or recreation uses that are planned, developed, and/or operated as a cohesive area, whether by a single owner or a combination of owners.
- (b) Classification. All new PD districts or amendments to existing PD districts shall be considered a rezoning request as outlined in Sec. 9.03.034. Each PD district approved under the provisions of this Section shall be considered an amendment to the zoning ordinance and zoning map and shall be applicable only to the property described in the PD district's legal description.
- (c) Base zoning. PD districts shall have base zoning, of one or more straight zoning district(s) of this Article, that correspond with the Concept Plan, Development Standards, and other potential exhibits and studies.
- (d) Permitted uses. The uses to be permitted in any PD district shall be consistent with the uses permitted in the base zoning district(s) as specified, unless otherwise enumerated in the PD district's Development Standards. Any proposed change(s) to the permitted uses within a PD district shall be considered a rezoning request as outlined in Sec. 9.03.034 and processed as a PD district amendment.
- (e) Design. PD districts shall provide design and standards consistent with the following:
 - 1. Where development is adjacent to or has floodplains and/or large easements included, they shall be activated with a minimum eight-foot wide trail, a minimum of one trailhead, and off-spots spaced at a minimum of every quarter mile.
 - i. The trailhead(s) shall include, at minimum, associated signage, three parking spots, a water fountain, a bench, shade, and a trash receptacle;
 - ii. The off-spot(s) shall include, at minimum, a bench, a water fountain, shade, and a trash receptacle.
 - iii. Trails shall be lighted to provide continuous visibility with relevant shielded and downward-facing illumination.
 - 2. Activated Amenities. PD districts shall include activated open spaces or parks that provide a park or activated open space within a quarter mile of each proposed dwelling unit. Golf courses, parks, and public open space areas near the PD district can assist in meeting the quarter mile walk shed requirement. Low-impact passive uses shall be permitted to meet the quarter mile walk shed requirement and include conservation of open land in its natural state (for example, woodland, fallow field, or meadow), neighborhood squares, common areas, picnic areas, community gardens, walking trails, bikeways, other kinds of pathways, and similar low-impact passive recreational uses. Active recreation uses shall also be permitted (and are encouraged) to meet the requirement and include recreational playing fields, playgrounds, pickleball courts, neighborhood pools, and clubhouse structures. Each activated open space or park shall include, at minimum the following:
 - i. One shaded bench, water fountain, trash receptacle, and a path that connects to a public sidewalk;

- ii. For developments 10 acres or larger, a minimum of one playground to include play or recreation equipment shall be provided each half mile.
- iii. Areas consistent with or similar to the following shall not be utilized to meet the quarter mile walk shed requirement:
 - 1. Land areas reserved for the exclusive use and benefit of an individual owner or tenant;
 - 2. Public or private street right-of-way, parkways, alleys, driveways, parking or loading areas;
 - 3. Religious institutions or private school sites; or
 - 4. Street medians or islands.
- iv. The maximum amount of Activated Amenity used to meet the quarter mile walk shed requirement for stormwater detention or retention purposes shall not exceed twenty-five (25%) of the Activated Amenity area. If the Activated Amenity area contains a retention pond, the pond shall include at least one (1) aeration device, such as a fountain, waterfall or underwater device.
- v. Activated Amenity areas adjacent to street rights-of-way shall be a minimum depth of twenty five (25) feet and shall be landscaped to include the retention or planting of one (1) three (3") inch caliper tree per each fifty (50) feet of street frontage, which may be clustered or distributed within the Activated Amenity area.

(f) Potential Impacts.

- 1. The combination of proposed uses and design within each PD district shall not result in:
 - i. A combination of use and design that could otherwise be achieved with straight zoning (instead of a PD district);
 - ii. Overconcentration of any one use type;
 - iii. Adverse impacts on drainage, natural systems, water capacity or quality, sanitation, sanitary sewer treatment or capacity, traffic, safety, or connectivity;
 - iv. Adverse impacts on public services, such as building inspections, police, fire, EMS, etc.;
 - v. Adverse impacts on neighboring development and residents (if applicable); or
 - vi. Negative fiscal impacts to the City.
- 2. The combination of proposed uses and design within each PD district shall result in:
 - i. Design and development that is consistent with the Vision of the Comprehensive Plan and Lavon's desired brand; and
 - ii. Preserve and enhance Lavon's natural areas, trees, habitats, and/or drainage.

(g) Special ordinance provisions. Compliance with standards and exhibits within each PD district is required. Special ordinance provisions as outlined in each PD district shall not be construed as conditions precedent to the approval of the associated zoning amendment, but shall be construed as zoning standards required upon and during development and operation/occupancy within the PD district. No special ordinance provisions shall amend or modify any requirements of the Subdivision Ordinance or its associated design standards.

- (h) Minor modifications. The City Manager or their designee may authorize minor modifications that:
1. Do not alter the compatibility or buffers of the proposed development to adjacent properties or public frontages;
 2. Do not alter the permitted uses;
 3. Do not increase the maximum density or lot coverage;
 4. Do not substantially alter access or circulation;
 5. Do not decrease the amount of required off-street parking; and
 6. Do not reduce the required minimum yards or setbacks.