

CITY OF LAVON, TEXAS
ORDINANCE NO. 2021-12-02

Amend Zoning Ordinance – Placement of Air Conditioning Units

AN ORDINANCE OF THE CITY OF LAVON, TEXAS AMENDING ARTICLE 9.03 ZONING ORDINANCE, DIVISION 5. REGULATIONS APPLICABLE TO RESIDENTIAL DISTRICTS BY ADDING TO EACH DISTRICT SECTION: “AIR CONDITIONING UNITS AND MECHANICAL EQUIPMENT. AIR CONDITIONING UNITS AND SIMILAR MECHANICAL EQUIPMENT, SUCH AS HEAT PUMPS, SOLAR COLLECTING EQUIPMENT, OR POOL EQUIPMENT MAY BE INSTALLED WITHIN THE RESIDENTIAL SIDE YARD SETBACK BUT SHALL NOT BE INSTALLED WITHIN THREE (3) FEET OF ANY SIDE YARD FENCING, AIR CONDITIONING UNIT/PAD, OR MECHANICAL EQUIPMENT OF AN ADJACENT HOME OR STRUCTURE” AS SEC.9.03.111(E)(4), SEC. 9.03.112(E)(4), SEC.9.03.113(E)(2) AND SEC. 9.03.114(E)(2); AND RETITLING AND RENUMBERING SEC. 9.03.113(E) TO SEC. 9.03.113(E)(1); AND SEC. 9.03.114(E) TO SEC. 9.03.114(E)(1).; PROVIDING A SAVINGS CLAUSE; A CUMULATIVE REPEALER CLAUSE; A SEVERABILITY CLAUSE; A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article 9.03 ZONING ORDINANCE, Division 5. Regulations Applicable to Residential Districts provides for area requirements and specifies Minimum Side Yard Setbacks specific to each district; and

WHEREAS, the regulations as written may not provide for sufficient spacing and the placement of air conditioning units and similar mechanical equipment in the side yard to ensure adequate space for public safety access and appropriate property maintenance; and

WHEREAS, the Planning and Zoning Commission of the City of Lavon and the City Council of the City of Lavon, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of Lavon is of the opinion and finds that said changes should be granted and that the Comprehensive Zoning Ordinance should be amended.

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

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. AMENDMENT

Article 9.03 ZONING ORDINANCE, Division 5. Regulations Applicable to Residential Districts shall be amended by adding to each district section: “**Air Conditioning Units and Mechanical Equipment. Air conditioning units and similar mechanical equipment, such as heat pumps, solar collecting equipment, or pool equipment may be installed within the residential side yard setback but shall not be installed within three (3) feet of any side yard fencing, air conditioning unit/pad, or mechanical equipment of an adjacent home or structure**” as Sec.9.03.111(e)(4), Sec. 9.03.112(e)(4), Sec.9.03.113(e)(2) and Sec. 9.03.114(e)(2); and retitling and renumbering Sec. 9.03.113(e) to Sec. 9.03.113(e)(1); and Sec. 9.03.114(e) to Sec. 9.03.114(e)(1).

SECTION 3. SAVINGS

That all rights and remedies of the City of Lavon are expressly saved as to any and all violations of the provisions of any Ordinances regulating, affecting, or relating to zoning, land use and/or development which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 4. CUMULATIVE REPEALER

That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5. SEVERABILITY

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held 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 6. PENALTY

It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day or part of a day during or on which a violation occurs or continues. Further, if the governing body of the City of Lavon determines that a violation of this Ordinance creates a threat to the public safety, the City may bring suit in the District Court to enjoin such violation and may exercise all available remedies as allowed by law.

SECTION 7. PUBLICATION

The City Secretary of the City of Lavon is hereby directed to publish the Caption, Penalty and Effective Date of this Ordinance as required by Section 52.011 of the Texas Local Government Code.

SECTION 8. EFFECTIVE DATE

That this Ordinance shall be in full force and effect from and after its date of passage, in accordance with law, and it is so ordained.

DULY PASSED and APPROVED by the City Council of the City of Lavon, Texas, on the 7th day of December 2021.



Vicki Sanson, Mayor

ATTEST:



Rae Norton, City Secretary

