

ORDINANCE NO. 2146

**AN ORDINANCE AMENDING CITY OF ALAMO HEIGHTS ORDINANCE 2075 BY AMENDING VARIOUS SECTIONS OF THE CITY'S ADOPTED ZONING CODE TO ADDRESS ADMINISTRATIVE PROCESSES, CLARIFICATION, UPDATES, AND STATE LEGISLATIVE CHANGES; PROVIDING FOR SEVERABILITY; REPEALING ANY OTHER CODE PROVISIONS, ORDINANCES, PARTS OF ORDINANCES, AND OTHER PROVISIONS IN CONFLICT HEREWITH; PROVIDING A PENALTY; AND ADOPTING AN EFFECTIVE DATE.**

**WHEREAS**, after proper notice, the Planning and Zoning Commission and the City Council held public hearings on proposed amendments to the Municipal Code of Ordinances as required by the Code of Ordinances and State Law; and

**WHEREAS**, the City Council contends that the Code amendments included within this Ordinance promote the health, safety, and welfare of its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS, TEXAS THAT:**

**SECTION ONE. AMENDMENT.** Portions of Section 2-47(c) *Board of Adjustment* of the Municipal Code of Ordinances is hereby amended to read as follows:

“Sec. 2-47. – Board of Adjustment.

- (c) All meetings of the board shall be open to the public, and shall be held in the Council Chamber of the City of Alamo Heights. The board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Appeals to the board of adjustment can be taken by any person aggrieved or by an officer, department or board of the municipality affected by any decisions of the administrative officer. Such appeal shall be taken within the time specified by the rules of the board after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the

board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

At a public hearing relative to any appeal for a variance, any interested party may appear in person or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to justify the action of the board of adjustment on any appeal. Any special exception or variance granted or authorized by the board of adjustment under the provisions of this ordinance shall authorize the issuance of a building permit for a period of one hundred and eighty (180) days from the date of the favorable action of the board unless said board shall in its action approve a longer period of time or prior to the expiration of the permit shall grant a longer period and so show such specific longer period in the minutes of its action. If the building permit shall not have been issued within said one hundred and eighty (180) -day period or such extended period as the board may specifically grant, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. Such terminating and waiver shall be without prejudice to one (1) subsequent appeal to said board in accordance with regulations herein contained.

In exercising its powers, the board may, in conformity with the provisions of the Statutes of the State of Texas as existing or hereafter amended, revise or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken including the power to impose reasonable conditions to be complied with by the applicant.

The concurring vote of four (4) members of the board shall be necessary to revise any order, requirement, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this ordinance or to affect any variance in said ordinance.

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department or board of the municipality may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board and not thereafter.”

**SECTION TWO. AMENDMENT.** Portions of Chapter 3 *Zoning* of the Municipal Code of Ordinances are hereby amended to read as follows:

“Sec. 3-2 (a) *Definitions*

*Retail general.* Sale or rental of commonly used goods and merchandise for personal or household use. Typical uses may include, but not limited to, department stores, apparel stores, furniture stores and establishments providing the following products or services: household cleaning and maintenance products, cards, stationery, notions, books, cosmetic and specialty items; flowers, plants, hobby materials, toys and hand-crafted items; apparel, jewelry, fabrics and like items; cameras, photography services, household electronic equipment, sporting equipment, kitchen utensils, home furnishings and appliances, art supplies and framing, arts, antiques, paint and wallpaper, carpeting and floor covering,

interior decorating services, office supplies, bicycles and auto parts (inside a building with no repair services). "Retail general" shall not include any retail stores whose primary product is intended for individuals twenty-one (21) years of age or older including, but not limited to, humidors, general tobacco shops or vaping stores, head shops, hookah lounges, flea markets, secondhand or thrift stores, the display and sale of heavy machinery, building materials, used appliances, used furniture or salvage materials; adult dress, toy, or novelty shops, and excluding the sale or offering for sale of commodities displayed outside of a building, except for limited promotional events.

*Stores other than listed.* Retail establishments whose products are not listed or permitted in the B1, B2, and B3 zoning districts or whose primary product is intended for individuals twenty-one (21) years of age or older including, but not limited to, humidors, general tobacco shops or vaping stores, head shops, hookah lounges, flea markets, secondhand or thrift stores, the display and sale of new or used automobiles, heavy machinery, building materials, used appliances, used furniture or salvage materials; adult dress, toy, or novelty shops, and excluding the sale or offering for sale of commodities displayed outside of a building."

#### "Sec. 3-21 Required Off-Street Parking

In the SF-A and SF-B Districts, off-street parking shall hereafter be provided on each lot or tract upon which a building is erected or upon a contiguous lot or tract, and no building or structure or part thereof, shall be hereafter erected, altered, converted or enlarged for any permitted use in the district in which it is located unless off-street parking facilities are provided in accordance with the following:

##### **Number of spaces and dimensions**

Two (2) covered parking spaces shall be required for each residential unit in the SF-A and SF-B Districts. Parking spaces shall be covered and located in a garage, carport (located no closer than four (4) feet from the rear of the main residential structure if detached) or a porte-cochere. Each parking space shall be a minimum of eighteen (18) feet by nine (9) feet clear dimension. No circular driveways or parking pads are allowed in the front yard setback for lots sixty-five (65) feet or less in width. No parking pads shall be allowed on city rights-of-way.

##### **Driveway specifications**

For all lots the minimum driveway width required is ten (10) feet. For lots less than or equal to sixty-five (65) feet in width, the maximum driveway width within the front setback is ten (10) feet, and the maximum curb cut and apron width is twelve (12) feet. For lots greater than sixty-five (65) feet in width, the maximum driveway width within the front setback is fourteen (14) feet, and the maximum curb cut and apron width is fourteen (14) feet (see exception (5) below).

##### *Exceptions:*

- (1) For lots greater than sixty-five (65) feet in width, garages may be attached to the main structure, provided that they are located towards the rear, beyond the midpoint of the main structure, and no closer than fifty (50) feet from the front yard property line, and accessed from the side to prevent garage doors facing the street.
- (2) For all lots in the SF-A and SF-B Districts, garages may be attached to the rear of the main structure, provided that they utilize alley access (and are subject to the rear setback standards for main structures).
- (3) All attached garages must meet the setback requirements for main structures.

(4) Porte-cocheres are governed as accessory structures and can meet the two (2) covered parking spaces requirement if all of the following requirements are met:

- a. Must meet parking dimension requirements between structural supports;
- b. Must be permanently attached to the main structure;
- c. Must be open on three (3) sides;
- d. Three (3) foot side setback (two (2) foot eave/overhang setback);
- e. Maximum twenty (20) foot ridge height;
- f. 2:1 height looming applies (max. ten (10) foot exempt from height looming);
- g. Must be setback eighteen (18) feet from the front facade;
- h. Roof materials must match the existing materials on the main structure;
- i. Structural supports must be clad to match the existing exterior wall/column finish materials of the main structure.

(5) The maximum curb cut on the side street of corner lots may be increased to twenty-four (24) feet in width to provide access to the required covered parking spaces only.”

#### “Sec. 3-39. – Required off-Street Parking

In the 2F-C District, off-street parking shall hereafter be provided on each lot or tract upon which a building is erected or upon a contiguous lot or tract, and no building or structure or part thereof, shall be hereafter erected, altered, converted or enlarged for any permitted use in the district in which it is located unless off-street parking facilities are provided in accordance with the following:

- (1) Two (2) spaces for each dwelling unit, one (1) of which may be uncovered.
- (2) Parking must be located in the rear or side of the property, behind the front face of the building.
- (3) Parking spaces located adjacent to public rights-of-way shall be screened via a minimum three (3) foot fence or screening wall.
- (4) Garages may be attached to the main structure, provided that they are set back behind the front wall plane and accessed from the side to prevent garage doors from facing the street.
- (5) Porte-cocheres are governed as accessory structures and can meet the two (2) covered parking spaces requirement if all of the following requirements are met:
  - a. Must meet parking dimension requirements between structural supports;
  - b. Must be permanently attached to the main structure;
  - c. Must be open on three (3) sides;
  - d. Three (3) foot side setback (two (2) foot eave/overhang setback);
  - e. Maximum twenty (20) foot ridge height;
  - f. 2:1 height looming applies (max. ten (10) foot exempt from height looming);
  - g. Must be set back eighteen (18) feet from the front facade;
  - h. Roof materials shall match the existing materials on the main structure;
  - i. Structural supports must be clad to match the existing exterior wall/column finish materials of the main structure.”

#### “Sec. 3-88 (c). – Landscape Regulations.

C) *Landscaping requirements.*

(1) Landscaping shall not obstruct the view between the street and the access drives and parking aisles near the front yard entries and exits, nor shall any landscaping which creates an obstruction of view be located within the radius of any curb return.

(2) All landscaping materials shall be appropriately contained within the property so as to prevent run-off of materials into the right-of-way or adjoining properties.”

**SECTION THREE. AMENDMENT.** Portions of Chapter 5 *Buildings and Building Regulations* of the Municipal Code of Ordinances are hereby amended to read as follows:

“Sec. 5-40 Amendments to the International Building Code, International Residential Code for One- and Two-Family Dwellings.

(a) *International Building Code.*

(1) Section 103.1 Creation of enforcement agency shall be amended to read as follows:

The Department of Community Development is hereby created and the official in charge of code administration, interpretation and enforcement shall be known as the building official.

(2) Section 105.2 Work exempt from permit is hereby deleted but deletion does not include sections 105.2.1 Emergency Repairs, 105.2.2 Repairs, or 105.2.3 Public service agencies.

...

(b) *International Residential Code for One- and Two-Family Dwellings.*

...

“Sec. 5-154. - Permit required.

(e) If the tree removal permit is being requested in conjunction with a building permit, the request may also be required to include existing and proposed topographical information, easements, rights-of-way, setbacks, and property lines, the location of all existing and proposed structures, utilities, paved areas, and sidewalks, to the extent such information is available.

(f) Permits for the removal of trees that fall or the removal of limbs which have fallen due to acts of nature such as windstorm, flood, freeze or other disasters, may be waived by the City Manager or other designated official if requested within 30 days of the weather event and removed within 60 days.”

**SECTION FOUR. AMENDMENT.** Portions of Chapter 15 *Sign Regulations* of the Municipal Code of Ordinances are hereby amended to read as follows:

“Sec. 15-1. – Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Banner* means flexible material, usually made of cloth or plastic, often bearing a symbol or slogan, and which is attached at each end on a pole, or which hangs vertically on a pole. May only be used for temporary signs.

*Multi-Family Complex.* A multi-family complex consists of one or more buildings with ten (10) or more dwellings on a single property.”

“Sec. 15-31. - General provisions.

...

Excepting only the signs described in paragraphs (1), (3), (4), (5), and (6) of section 15-64, no sign of any kind or character shall be erected, maintained or permitted on any property situated in SF-A, SF-B, or 2F-C zoning districts.”

“Sec. 15-32. - Limitation of signs for business or office premises.

...

(c) Shopping center or multi-tenant building.

...

(d) Multi-Family Complex.

(1) A multi-family complex may have one monument sign

(e) Sign types and limitations. All signs must be located on the property for which the business or service corresponds, unless specifically authorized in this chapter, and may not encroach into public rights-of-way...

(f) Exceptions. The general intent of this chapter is to limit the proliferation of signs in the city. Under special or unique circumstances, the authorized components of an identification sign may be displayed on separate signs provided such separate signs have been approved as to location, design, scale, size, material, color, lighting and aesthetic appeal as provided in section 15-60(c) of this chapter.”

**SECTION FIVE. AMENDMENT.** Portions of Section 16-71 *Definitions* of the Municipal Code of Ordinances is hereby amended to read as follows:

“Sec. 16-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Vision clearance area at intersections means that space or parcel of land at or near all street corners beginning at a point on the curblines at the side of each corner lot thirty-five (35) feet from the point where such curblines intersect the curblines in front of such property extending forward along such side curblines to the nearest corner; thence from such corner along the intersecting curblines thirty-five (35) feet to a point; thence by a straight line to the point of beginning.

Vision clearance area at driveways means that space or parcel of land at or near all driveways beginning at a point on the curblines five (5) feet from the point where the curblines intersect the driveway; thence returning to the driveway from a forty-five (45) degree angle of the parcel of land five (5) feet from where the curb intersects the street over three (3) feet from street grade.”

**SECTION SIX. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION SEVEN. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council 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, or phrases be declared void; and that in lieu of each clause or provision of this Ordinance that is invalid, illegal, or unenforceable there be added as a part of the Ordinance a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

**SECTION EIGHT. EFFECTIVE DATE.** The Ordinance shall be effective immediately upon the vote and approval of the City Council.

**PRESENTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS, TEXAS THIS 14<sup>th</sup> DAY OF OCTOBER, 2019.**

  
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BOBBY ROSENTHAL, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
JENNIFER REYNA, CITY SECRETARY

**APPROVED AS TO FORM:**

  
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FRANK J. GARZA, CITY ATTORNEY