

Height Elevations in Lakeway

(The following is an excerpt from Section 30.03.023 of the City of Lakeway Code of Ordinances)

Single-Family Residences and Duplexes may be no higher than 32 feet above the highest natural grade under the slab. In addition, lots within the *View Protection Conditional Overlay* (see attached exhibit) must comply with the regulations stipulated below. These regulations also apply to additions constructed after the primary residence has been occupied.

District VPCO (View Protection Conditional Overlay)

- (a) **Purpose.** The purpose of the view protection conditional overlay is to protect established views from existing residences from unreasonable obstruction by new construction.
- (b) **Applicability.** The regulations imposed in this district are in addition to the regulations of the base zoning district and do not negate any of the base zoning district regulations except for maximum height, which is restricted further by the provisions of this district.
- (c) **Boundaries.** The boundaries of this district are defined in the attached map.
- (d) **Maximum height.**
 - (1) Prior to the construction of houses or additions in this district, a maximum height shall first be established by the city building commission (CBC). In no case shall the height granted by the CBC exceed the maximum height of 32 feet established by the base zoning district.
 - (2) To have a maximum height established for a proposed house or addition in this district, applicants shall first set one or more ridge poles representing the maximum height to which the applicant desires to build. Ridge poles shall be placed at the approximate location of the center of the highest ridgeline. At least one ridge pole shall be in place for a minimum of two (2) weeks prior to a public hearing and site visit by the CBC. In order to better determine the potential for obstruction of views, the CBC may require that additional ridge poles be established and that a written report stamped by a licensed surveyor be provided certifying the height of the ridge poles and their location on the lot. Unless otherwise directed by the CBC, ridge poles shall be removed no later than two (2) weeks from the date of determination.
 - (3) After erecting the required ridge pole, an applicant seeking a height determination shall submit an application package to the building and development services department (BDS). Among other items required by BDS, the application package shall include:
 - (A) The requested height in terms of both height above highest natural grade under the proposed slab and height above a given benchmark on the site (such as a water meter, transformer pad, fire hydrant, etc.) which shall be denoted as 100 feet.
 - (B) A topographic survey of the property.
 - (C) An accurate front elevation silhouette of the new structure, drawn to scale, if requested by the CBC or BDS.
 - (D) Any additional restrictions imposed by applicable deed restrictions and/or neighborhood architectural control boards.

- (4) After receiving a complete application, BDS shall post notice of the requested height and the impending public hearing in accordance with public hearing procedures (see section 30.07.043 of Chapter 30 of City of Lakeway Code of Ordinances)
- (5) The CBC shall then hold a public hearing regarding the requested height at their next regular meeting, provided that meeting is no sooner than two (2) weeks after the placement of the ridge pole in question.
- (6) During the meeting, the CBC shall conduct a site visit to view the pole and assess the potential impact of the proposed structure on views from neighboring residences. In doing so, the CBC shall only consider views from major living spaces (living rooms, dining rooms, dens, studies, master bedrooms, home offices, kitchens, decks, porches, balconies). Views from secondary bedrooms, media rooms, play rooms, bathrooms, laundry rooms, stairway landings, halls, garages, yards, streets, lower decks and porches of multi-story houses (if upper decks, balconies and/or porches exist) shall not be considered.
 - (A) If the CBC determines by a formal vote that the proposed structure will not have an impact on views from neighboring residences then the requested height shall automatically be granted, provided that height is no greater than the maximum height of 32 feet established by the base zoning district.
 - (B) If the CBC determines by a formal vote that the proposed structure will have an impact on views from neighboring residences and there are existing houses on either side of the subject lot (i.e. houses to the right and left of the subject lot when looking at the lot from the street), and[:]
 - (i) The proposed structure is a new house, then the height shall automatically be the average of the maximum heights of the houses on either side of the subject lot; or
 - (ii) The proposed structure is an addition, then the height shall be set by a formal vote of the CBC at a level that does not unreasonably obstruct lake views from neighboring residences, recognizing that some previously unobstructed views may still be impacted even at the height established by the CBC.
 - (C) If the CBC determines by a formal vote that the proposed structure will have an impact on views from neighboring residences and houses do not exist on either side of the subject lot (i.e. to the right and left of the subject lot when looking at the lot from the street), then the height shall be set by a formal vote of the CBC at a level that does not unreasonably obstruct views from neighboring residences, recognizing that some previously unobstructed views may still be impacted even at the height established by the CBC.
- (7) BDS or its designated representative shall verify the approved finished floor height elevation during construction. If the proposed height of a structure is within twelve (12) inches of the maximum height allowed for that structure, the permit holder shall have a survey performed by a licensed surveyor prior to passing the framing inspection to verify that the height of the structure will not exceed the maximum height allowed. If any discrepancy is discovered in the finished floor height or framed ridge height that would result in the structure exceeding the approved height elevation, construction shall cease until the matter is resolved.
- (8) Maximum heights established by the CBC are void if construction has not commenced within three (3) years of approval date.

**CITY OF LAKEWAY
ORDINANCE NO. 2016-02-16-05**

ZONING CODE AMENDMENT

AN ORDINANCE AMENDING CHAPTER 30 (“ZONING”) SECTION 30.03.023 DISTRICT VPCO (VIEW PROTECTION CONDITIONAL OVERLAY) TO ESTABLISH PROCESSES FOR ADMINISTRATIVE APPROVAL OF CERTAIN APPLICATIONS; AND PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Lakeway, Travis County, Texas seeks to provide for the public health, safety and welfare of its citizens; and

WHEREAS, the Zoning and Planning Commission held discussion and invited public comment on the proposed amendment in a public hearing held February 3, 2016; and

WHEREAS, the Zoning and Planning Commission found that it is in the best interests of the citizens of Lakeway, Texas, to recommend adoption of the proposed amendment;

WHEREAS, the City Council held discussion and invited public comment on the proposed amendment in a public hearing held February 16, 2016; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Lakeway, Texas, to adopt the proposed amendment;

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

Article 1. Findings of Fact

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Article 2. General

Section 2.01 Authority

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, particularly including Chapter 211 of the Texas Local Government Code.

Section 2.02 Purpose

The purpose of this ordinance is to amend Section 30.03.023, District VPCO (View Protection Conditional Overlay) in the Zoning chapter of the City of Lakeway Code of Ordinances.

Article 3. Revisions

Section 30.03.023 is hereby amended in its entirety to read as follows:

Sec. 30.03.023 District VPCO (View Protection Conditional Overlay)

(a) Purpose. The purpose of the view protection conditional overlay is to protect established views from existing residences from unreasonable obstruction by new construction.

(b) Applicability. The regulations imposed in this district are in addition to the regulations of the base zoning district and do not negate any of the base zoning district regulations except for maximum height, which is restricted further by the provisions of this district.

(c) Boundaries. The boundaries of this district are defined in the map attached to Ordinance 2011-04-18-06.

(d) Maximum height.

(1) Prior to the construction of houses or additions in this district, a maximum height shall first be established by the city building commission (CBC). In no case shall the height granted by the CBC exceed the maximum height of 32 feet established by the base zoning district.

(2) For additions, staff shall inspect the property and make a determination as to whether a proposed addition impacts adjacent protected views.

(A) Following a staff determination that a proposed addition has no impact on adjacent protected views, the code official may approve the permit, subject to other applicable regulations.

(B) Following a staff determination that a proposed addition may impact adjacent protected views, the applicant shall erect a ridge line pole as described in subsection (3), and submit an application as described in subsection (4). Notice shall be provided as described in subsection (5).

~~(3)~~ To have a maximum height established for a proposed house or addition in this district, applicants shall first set one or more ridge poles representing the maximum height to which the applicant desires to build. Ridge poles shall be placed at the approximate location of the center of the highest ridgeline. At least one ridge pole shall be in place for a minimum of two (2) weeks prior to a public hearing and site visit by the

CBC. In order to better determine the potential for obstruction of views, the CBC may require that additional ridge poles be established and that a written report stamped by a licensed surveyor be provided certifying the height of the ridge poles and their location on the lot. Unless otherwise directed by the CBC, ridge poles shall be removed no later than two (2) weeks from the date of determination.

(43) After erecting the required ridge pole, an applicant seeking a height determination shall submit an application package to the building and development services department (BDS). Among other items required by BDS, the application package shall include:

- (A) The requested height in terms of both height above highest natural grade under the proposed slab and height above a given benchmark on the site (such as a water meter, transformer pad, fire hydrant, etc.) which shall be denoted as 100 feet.
- (B) A topographic survey of the property.
- (C) An accurate front elevation silhouette of the new structure, drawn to scale, if requested by the CBC or BDS.
- (D) Any additional restrictions imposed by applicable deed restrictions and/or neighborhood architectural control boards.

(54) After receiving a complete application, BDS shall post notice of the requested height and the impending public hearing in accordance with [section 30.07.043](#) of this chapter. For additions, such notice shall establish a timeline for registering opposition to proposed construction with city staff.

(65) The CBC shall then hold a public hearing regarding the requested height at their next regular meeting, provided that meeting is no sooner than two (2) weeks after the placement of the ridge pole in question.

(7) For additions which are unopposed following the required notification process, the code official may approve the permit after the two (2) weeks of ridge pole placement have concluded. The code official may refer any application to the CBC for determination.

(86) For new construction and additions which are not unopposed, the CBC shall hold a public hearing as scheduled. During the meeting, the CBC shall conduct a site visit to view the pole and assess the potential impact of the proposed structure on views from neighboring residences. In doing so, the CBC shall only consider views from major living spaces (living rooms, dining rooms, dens, studies, master bedrooms, home offices, kitchens, decks, porches, balconies). Views from secondary bedrooms, media rooms, play rooms, bathrooms, laundry rooms, stairway landings, halls, garages, yards, streets, lower decks and porches of multi-story houses (if upper decks, balconies and/or porches exist) shall not be considered.

(A) If the CBC determines by a formal vote that the proposed structure will not have an impact on views from neighboring residences then the requested height shall automatically be granted, provided that height is no greater than the maximum height of 32 feet established by the base zoning district.

(B) If the CBC determines by a formal vote that the proposed structure will have an impact on views from neighboring residences and there are existing houses on either side of the subject lot (i.e. houses to the right and left of the subject lot when looking at the lot from the street), and[:]

(i) The proposed structure is a new house, then the height shall automatically be the average of the maximum heights of the houses on either side of the subject lot; or

(ii) The proposed structure is an addition, then the height shall be set by a formal vote of the CBC at a level that does not unreasonably obstruct lake views from neighboring residences, recognizing that some previously unobstructed views may still be impacted even at the height established by the CBC.

(C) If the CBC determines by a formal vote that the proposed structure will have an impact on views from neighboring residences and houses do not exist on either side of the subject lot (i.e. to the right and left of the subject lot when looking at the lot from the street), then the height shall be set by a formal vote of the CBC at a level that does not unreasonably obstruct views from neighboring residences, recognizing that some previously unobstructed views may still be impacted even at the height established by the CBC.

(97) BDS or its designated representative shall verify the approved finished floor height elevation during construction. If the proposed height of a structure is within twelve (12) inches of the maximum height allowed for that structure, the permit holder shall have a survey performed by a licensed surveyor prior to passing the framing inspection to verify that the height of the structure will not exceed the maximum height allowed. If any discrepancy is discovered in the finished floor height or framed ridge height that would result in the structure exceeding the approved height elevation, construction shall cease until the matter is resolved.

(108) Maximum heights established by the CBC are void if construction has not commenced within three (3) years of approval date.

(Ordinance 2011-04-18-06, rev. 3 (ex. B (21)), adopted 4/18/11)

Article 4. Severability

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of

this ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Article 5. Repealer

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

Article 6. Effective Date

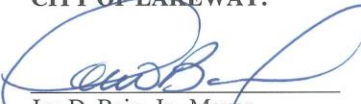
This ordinance shall take effect immediately from and after its passage and publication as may be required by law.

Article 7. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this ordinance was 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.

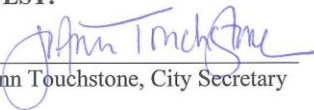
ADOPTED, PASSED AND APPROVED this 16th day of February, 2016.

CITY OF LAKEWAY:



Joe D. Bain, Jr., Mayor

ATTEST:



Jo Ann Touchstone, City Secretary

