

**ORDINANCE NO -----**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS, ADOPTING A NEW ORDINANCE, BY ADDING A NEW SECTION \_\_\_\_\_, DEVELOPMENT STANDARDS, EXTERIOR CONSTRUCTION REQUIREMENTS FOR RESIDENTIAL AND NON RESIDENTIAL CONSTRUCTION, SERVICE AREA DESIGN REQUIREMENTS, RESIDENTIAL SCREENING WALL REQUIREMENTS AND SPECIAL DISTRICTS REQUIREMENTS, PROVIDING A SEVEREABILITY CLAUSE, PROVIDING A PENALTY CLAUSE, PROVIDING A CONFLICTING ORDINANCES CLAUSE, AUTHORIZING PUBLICATION AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, upon recommendation of the City Staff and in deliberation of the City Council of the City of \_\_\_\_\_, Texas is deemed to be in the best interest of the health, safety and the general welfare of the citizens of the City of \_\_\_\_\_ that a new ordinance be adopted for Development Standards, Exterior Construction Requirements for residential and non residential construction, Service Area Design Requirements, Residential Screening Wall Requirements and Special Districts Requirements; and

WHEREAS, notice of public hearing before the Planning and Zoning Commission was published in a newspaper of general circulation in accordance with applicable regulations; and

WHEREAS, public hearing before the Planning and Zoning Commission was held on \_\_\_\_\_ to receive public input; and

WHEREAS, notice of public hearing before the City Council was published in a newspaper of general circulation in accordance with applicable regulations; and

WHEREAS, The City Council does find that there is a public necessity for said ordinance, that the public demands it, that the public interest is clearly requires the amendments and that this ordinance helps secure safety from fire and promotes general welfare of the citizens of \_\_\_\_\_,

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

Section 1: That the above findings are hereby found to be true and correct and incorporated herein in their entirety;

## Section 2: **Development Standards**

### **A. Definitions**

Residential buildings shall mean those buildings utilized for a single family, two-family, and multiple family dwelling, related to accessory use as a primary residential unit.

Nonresidential building shall mean those buildings utilized for use other than single family, two- family and multiple family dwelling related to accessory use as a primary non-residential building.

Masonry materials shall mean and include that form of construction defined below and composed of clay brick, stone, decorative concrete block, rock or other materials of equal characteristics laid up unit by unit set in mortar.

Brick – Includes kiln fired clay or shale brick manufactured to ASTM C216 or C652, Grade SW, can include concrete brick if the coloration is integral, shall not be painted, and it is manufactured to ASTM C1634; minimum thickness of two and one quarter inches when applied as a veneer, and shall not include underfired clay or shale brick.

Stone – Includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all weather stone that is customarily used in exterior building construction; may also include cast or manufactured stone product, provided that such product yields a highly textured stone-like appearance, its coloration is integral to the masonry material and shall not be painted on, and it is demonstrated to be highly durable and maintenance free; natural or manmade stone shall have a minimum thickness of two and five eighths inches when applied as a veneer

Decorative Concrete Block – Includes highly textured finish, such as split faced, indented, hammered, fluted, ribbed or similar architectural finish; coloration shall be integral to the masonry material and shall not be painted on; minimum thickness of three and five eighths inches when applied as a veneer; shall include light weight and featherweight concrete block or cinder block units.

Precast concrete panels – Includes products often associated with Tilt Up Wall Construction but only allowed if post-constructed wall areas are then covered by defined masonry materials that can be laid up unit by unit set in mortar and meet the required percentage of coverage as defined in this ordinance

The following materials shall not qualify nor be defined as “masonry construction” in meeting the minimum requirements for exterior construction of buildings, unless specifically approved by variance:

- Stucco, exterior plaster, adobe or mortar wash surface material
- Exterior insulation and finish systems (EIFS), acrylic matrix, synthetic plaster, or other similar synthetic material
- Cementitious fiber board siding (such as “Hardy Plank” or “Hardy Board”)

## **B. Exterior Construction Requirements**

### **1. Residential Masonry Construction Standards**

- a. Single Family- All single family residential buildings within the various zoning districts including townhomes and duplexes shall be constructed of exterior fire resistant construction having at least eighty five percent (85%) of the total exterior walls above grade level and below the first floor plate line, excluding doors and windows, constructed of severe weather rated brick or stone veneer. The second floor or higher elevations above the first floor shall have exterior fire resistant construction having at least sixty five percent (65%) of the total exterior walls constructed of severe weather rated brick or stone veneer. Stucco or material of equal characteristics as approved by the City in accordance with the City’s building code and fire prevention code may be considered on case by case basis to encourage architectural creativity. Exterior Insulated Finishing System (EIFS) shall not be permitted.
- b. Multi-family- All principal and accessory buildings located in the multi-family zoning district shall have at least eighty percent (80%) of the total exterior walls, excluding doors and windows, constructed of brick, stone, or a combination of both materials. Stucco and/or exceptions to the above requirements may be considered by the City Council on case-by-case basis.
- c. Manufactured homes shall meet all the above requirements for single-family residential construction standards.
- d. Mobile Homes shall be permitted only in a mobile home park and are exempt from the above construction requirements.
- e. Accessory buildings shall adhere to the following standards:
  - 1) Accessory buildings one hundred twenty (120) square feet or less are excluded from the construction standards for residential construction.

2) All accessory buildings, larger than one hundred twenty (120) square feet, in residential districts shall meet all requirements of this Ordinance.

f. Barns shall adhere to the following standards:

- 1) Metal barns/structures are not allowed on lots and tracts of less than three (3) acres.
- 2) The use of exposed metal exterior walls and finishes shall be allowed only for barns and agricultural structures in the agricultural zoning district for lots and tracts three (3) acres and larger.
- 3) Any temporary storage buildings/containers located on residential property for greater than 30 days, shall be brought up to construction material standards in accordance with this ordinance.

## 2. Non-Residential Construction Standards

The following standards apply to all new non-residential building construction and any building expansion of 50% or more in floor area or a significant change in use of the building from one occupancy to another occupancy in accordance with the established building codes:

- a. All non-residential buildings shall be constructed of exterior fire-resistant construction having at least eighty percent (80%) of the total exterior walls excluding doors and windows, constructed of severe weather rated brick, stone, split faced concrete textured surface block or glass wall construction, in accordance with the City's building code and fire prevention code.
- a. Building front and side facades or any portion that has exposure to a public or private street, residential zoning districts, or any public exposure, including parking lot exposure for pad sites and free standing buildings, shall be constructed entirely (100%) of severe weather rated stone, brick, or glass wall construction. Strict adherence to this rule shall not be such as to prevent architectural creativity. Other materials or a combination of severe weather rated brick, stone and other materials may be considered based on architectural creativity by the City Council.
- c. Each building elevation shall provide architectural features such as columns, reveals and articulations to break up long facades exceeding 50 feet.

- d. Exposed concrete, smooth surface concrete block, or metal finishes shall not be permitted in non residential zoning districts unless approved as part of the design by variance approval.
- e. EIFS shall generally be used as accent material for window head, sill or cornices around the building. EIFS shall not be permitted as a primary building material.
- f. Carports constructed entirely out of metal are not permitted. Carports shall be compatible in design and material with the main structure.
- g. Requirements for Large Industrial Buildings:
 

0-50,000 sq.ft.	75% brick or stone veneer
50,001-100,000 sq.ft.	50% brick or stone veneer
100,001 and larger	25% brick or stone veneer on front façade and side façade if siding on a public street

4. Service Area Design Requirements

- a. To reinforce the professional image of each development site, all service areas and mechanical equipment, noise and odors shall be located at the rear of the property and screened from views using walls, berms, shrubs, trees and/or a combination of materials.
- b. The dumpster shall be screened with a masonry wall compatible in material and color with the primary building.
- c. Unless otherwise noted, the screening requirement shall be masonry screening compatible with the primary building material. The following uses shall be screened:
  - 1) Trash compactors and bins
  - 2) Stored equipment or manufactured items
  - 3) Storage tanks and pumps
  - 4) Loading and truck service areas
  - 5) Shipping and receiving dock doors must blend with the architecture of the building they serve and shall not front public streets.

5. Residential Screening Wall Requirement

- a. Masonry screening walls shall be required in all residential subdivisions platted after the adoption of this ordinance with rear or side yards adjacent to arterial or collector streets identified on the Thoroughfare Plan.
- b. The screening walls shall be located within a ten-foot (10') wide landscape/screening wall easement adjacent to the street right-of-way.
- c. The screening walls shall be constructed of double wall brick or thin wall brick. Thin wall columns are to be spaced no greater than twelve feet (12') on center. The brick shall be clay-fired brick of natural colors.
- d. A combination of brick or stone masonry and decorative metal/iron wall with brick or stone detailing may be used to create a change in plane or texture at locations adjacent to the side yards in front of the building line. Columns shall be constructed of brick or stone and centered no more than twenty-five feet (25') on center. Metal tubing may be painted with epoxy paint, the color of which to be approved by the City.
- e. Required wall heights, measured at the spans between columns, shall be a minimum of six feet (6') in height and a maximum of eight feet (8') in height from natural grade.
- f. All screening wall plans and details shall be approved and sealed by a licensed civil or structural engineer
- g. The screening wall shall be constructed and completed prior to the release of any building permits within the subdivision. If screening wall construction is under way at the time of final acceptance of the infrastructure, then ten percent (10%) of the building permits may be released by the City Manager or his designee.

6. Special Districts Design Requirements

Special Districts are created in conjunction with the base zoning districts such as a historic downtown or a new town center. These districts are created to promote special design standards to transform the area into a historic focal point of the City with the character of a small Texas town of the early 1900's; or to create a new mixed use town center. The additional standards set forth in these districts will ensure design consistency in both the redevelopment of existing structures and in new developments. A greater development intensity is usually permitted as a result of the coordinated review requirements and special development standards. The following additional standards are required in the Special Design Districts:

Sidewalks- All sidewalks on the main thoroughfares shall be a minimum of 6 feet in width and shall be constructed of brick pavers in the same design, pattern and color designated by the City. Properties with existing concrete sidewalks shall upgrade the sidewalk with brick pavers in the manner

described above when any building additions are proposed or when remodeling existing buildings at a cost of twenty-five percent (25%) or more of the appraised value as determined by the Appraisal District. Sidewalks in the Neighborhood streets within the district shall be six feet (6') in width and constructed of concrete with a two-foot (2') wide band of pavers spaced every ten feet (10'). Paver's band shall resemble the brick paver sidewalks along the main thoroughfares.

Driveways- A ten-foot (10') band of pavers, consistent in color and design with the approved specifications, shall be provided in crosswalks and entry drives.

Signs- Sign material shall consist of a brick sign wall and cast stone cap and sign panel. Individual letters shall be pin mounted or carved into the stone. Color and material shall be specified in a detail provided by the City.

Fences- Wood fences are prohibited in Special Districts. All fencing and walls shall be of brick, stone, or ornamental metal with evergreen landscaping or a combination thereof. The screening wall requirements shall be in accordance with the provisions of this Ordinance

Columns- A solid three-foot (3') evergreen hedge and brick columns with stone caps shall screen all parking adjacent to streets, thirty feet (30') on center, in accordance with specifications approved by the City.

## 7. VARIANCES

Exceptions to this ordinance requirements may be considered by the Zoning Board of Adjustment or the City Council, as applicable, based only on the following:

- Architectural design and creativity.
- Compatibility with surrounding developed properties.
- Architectural variances may be considered for, but not limited to, Queen Anne, Victorian, English Tudor, Italian Villa, or Log designs.

The City Council, upon application duly filed by the applicant and after the public hearing, may grant a variance from the terms of this ordinance and the requirements set forth herein up on affirmative vote of the majority of the city council members present and voting on such variances. The application for a variance shall set forth in specific language the grounds or reasons upon which such a variance request is being made.

In granting any variance, the City Council shall determine that a literal enforcement of the regulations will create an unnecessary hardship or practical

difficulty on the applicant, that the situation causing the unnecessary hardship or practical difficulty is unique to the affected property and is not self imposed, that the variance will not injure and will be wholly compatible with the use and permitted development of adjacent properties, and that the granting of the variance will be in harmony with the spirit and purpose of the ordinance.

The terms and conditions of the variance, if granted, shall be noted in the minutes of the meeting or be adopted by a resolution of the City Council. In the event that a variance application is denied by the City Council, no other variance of like kind shall be considered or acted upon by the City Council upon the same building or proposed building for a period of six (6) months subsequent to said denial.

#### NOTICE REQUIREMENT

The notice requirement for variances to this ordinance shall be the same as the notice of a zoning change within the jurisdiction in accordance with the Local Government Code, Section 212.

#### APPLICATION FEE

At the time the variance application is filed with the City Secretary, the applicant shall pay a fee of \$500 to defray costs of handling and processing the application and this fee shall not be refundable regardless of the disposition of the application.

#### NONCONFORMING BUILDINGS

Where a lawful building exist at the effective date of the adoption or amendment of this ordinance and said building could not be built under the terms of this ordinance, it may continue so long as it remains lawful, subject to the following provisions:

- a. Such a building may not be enlarged by more than 25 percent (25%) of its existing foundation footprint unless the entire building is brought into conformity of this ordinance
- b. The exterior walls of such a building may not be modified, altered, or enlarged in a way which increases its nonconformity unless the modification, alteration, or enlargement is in conformity with the provisions of this ordinance.
- c. Should a building be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance

Section 3: Any person, firm or corporation, who violates, disobeys, omits, neglects, or refuses to comply with, or who resist in the enforcement of any of the provisions of this ordinance shall be fined not more \$1,000.00 for each offense. Each day that a violation exists shall constitute a separate offense. The penalty should not be construed as exclusive, and the City hereby provides that any other remedy available to it, in law or in equity, is not intended to be, and is not, foreclosed by the provision of such penalty.

Section 4: That, all other ordinances in conflict herewith are hereby repealed.

Section 5: That, if any section, paragraph, clause, phrase, or provision of this ordinance shall for any reason be held invalid or non-enforceable, the validity of such section, paragraph, clause, phrase, or provision shall not affect any of the remaining provisions of this ordinance.

Section 6: That, this ordinance supersedes all ordinances or parts of ordinances in conflict with the provisions stated herein.

Section 7: That, the City secretary is hereby authorized and directed to cause publication of the descriptive caption of this ordinance.

Section 8: That, this ordinance shall become defective upon its adoption and publication provided by law.

AS IT IS SO ORDAINED.

Passed and approved by a vote of \_\_\_\_\_ on this \_\_\_\_\_, 2010.

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Secretary

Approved as to Form and Legality

\_\_\_\_\_  
City Attorney