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AND REVIEW AND ADOPTION BY CITY COUNCIL**

ORDINANCE NO. 740

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HILSHIRE VILLAGE, TEXAS, AMENDING EXHIBIT A, CHAPTER 12, ZONING ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY, BY AMENDING SECTION 2, DEFINITIONS, TO ADD NEW DEFINITIONS; REPLACING SECTION 13, DISTRICT C-1 COMMERCIAL, IN ITS ENTIRETY AND ADOPTING A NEW SECTION 13, C-1 COMMERCIAL DISTRICT TO GOVERN DEVELOPMENT IN THE COMMERCIAL DISTRICT; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY OF VIOLATION; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City of Hilshire Village undertook review of its zoning regulations in 2015; and

WHEREAS, there have been numerous council meetings, workshops, and town hall meetings on various aspects of the Zoning Ordinance, including the commercial district; and

WHEREAS, the Zoning Committee has developed recommendations for the commercial district properties located on Westview Drive; and

WHEREAS, the City Council has properly noticed and held a public hearing as required by Chapter 211, Texas Local Government Code for the revisions to Section 13, District C-1 Commercial; and

WHEREAS, following consideration of the comments made throughout the process and at the public hearing on February 21, 2017, the City Council is of the opinion that the commercial district regulations require updating and should be replaced in their entirety; and

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WHEREAS, the City Council has considered the draft prepared in the course of the Zoning Committee's work, and having amended as appropriate, finds that it should be adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HILSHIRE VILLAGE:

Section 1. That Exhibit A to Chapter 12, Zoning Ordinance, of the Code of Ordinances of the City of Hilshire Village, Texas is hereby amended by adding the following definitions to Section 2:

Brick shall mean kiln fired clay or shale brick manufactured to meet the standards of the American Society for Testing and Materials ("ASTM") C216 or C652, Type FBS or HBS, and Grade SW; or concrete brick if the coloration is integral and is manufactured to meet the standards of ASTM C1634. All brick shall have a minimum thickness of 2¼ inches when applied in a Traditional Masonry System.

Commercial Building shall mean a building located in District C-1.

Stone shall include naturally occurring granite, marble, limestone, slate 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 three and five-eighths inches (3 5/8") when applied.

Stucco shall mean traditional cementitious three-step hard coat stucco with a minimum thickness of seven-eighths of an inch (7/8"). It does not include Exterior Insulation Finishing System ("EIFS") or synthetic stucco.

Traditional Masonry System shall mean that form of construction composed of masonry products such as brick, natural or manufactured stone, decorative concrete block or other materials of equal characteristics

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laid upon a full bed of mortar with full head joints to bond units to one another.

Decorative Concrete Block shall mean a masonry product manufactured with integral colored cement and textured by splitting, burnishing or scoring the face. Face sizes shall be limited to 4” x 16”, 8” x 16”, 8” x 24” and 12” x 24.” Bed depth dimensions shall be a minimum thickness of 3 5/8 inches. These products shall meet the ASTM Standard C90 for lightweight block.

Thin Brick shall mean kiln fired clay or shale brick manufactured to meet the standards of the American Society for Testing and Materials (“ASTM”) C1088, Type TBS, Grade SW; or concrete brick if the coloration is integral and is manufactured to meet the standards of ASTM C1634. All thin brick shall have a minimum thickness of ½ inch when applied in a Thin Veneer System.

Thin Veneer System shall mean that form of construction composed of thin bed depth masonry products adhered to a backup system to achieve a lightweight veneer finish that replicates in all details a Traditional Masonry System appearance. This system shall meet the current standards provided by the Masonry Veneer Manufacturers Association (MVMA) Installation Guide and Detailing Options for Compliance with ASTM C1780 for Adhered Manufactured Stone Veneer.

Section 2. That Exhibit A to Chapter 12, Zoning Ordinance, of the Code of Ordinances of the City of Hilshire Village, Texas is hereby amended by deleting the current language of Section 13, District C-1 Commercial, in its entirety, and replacing it with a new Section 13, District C-1 Commercial, to read as follows:

13. DISTRICT C-1 – COMMERCIAL

The purpose of the C-1 Commercial District is to establish uses and standards for commercially zoned properties to ensure that they are appropriate in scale and nature and complementary to the predominantly residential character of the city. No lot shall be used or subdivided and no structure shall be erected, used, constructed,

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occupied or altered unless it conforms to the limitations provided in this section.

13.1. PERMITTED USES

The following uses are permitted in District C-1, subject to site plan review and approval:

1. Professional offices or studios.
2. Recreational facilities.
3. Retail sales.
4. Food and beverage service establishments complying with city ordinances and county regulations.

If a use is not listed as permitted, it is not allowed.

13.2. BUSINESS OPERATING REQUIREMENTS

13.2.1. Prohibited Activities: Any business operating in District C-1 is prohibited from the following activities:

1. Drive-through services or sales.
2. Storage, handling, processing or manufacturing of ammunition and of any material that is dangerous by reason of explosive, inflammable, radioactive or other dangerous qualities.
3. Storage, processing or dealing in scrap iron, junk, scrap paper, rags or used automobile parts.
4. Producing objectionable odors, excessive light, glare, smoke, dust, noise, vibration, litter or other public nuisance.
5. Residential use or overnight sleeping establishments for humans or animals.

13.2.2. Operating Hours: Business operating hours are restricted to 6:00 AM through 10:00 PM, except a business may operate between 10:00 PM and 6:00 AM if it is open only by appointment during that time and if its operation does not create sound or light that can be seen or heard outside the business' building. A business' employees are permitted to be on-site when the business is closed to customers.

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- 13.2.3. Security of Premises: During all times when the business is not staffed and between the hours of 10:00 PM and 6:00 AM, all doors, windows, and other access points to the business shall be locked and secured from entry.
- 13.2.4. Condition of Property: All property owners, business owners, tenants and their agents, collectively and individually, shall be responsible for maintaining and keeping their property in good repair and in compliance with all applicable regulations and ordinances.
- 13.2.5. Noise: No outside speakers shall be allowed on any building. Noise that would disturb a reasonable person is prohibited.
- 13.2.6. Outdoor Storage and Display: There shall be no outdoor storage or display of any nature except garbage cans and dumpsters. Garbage cans may be placed on the side of a building, provided they are screened from view by wood fencing or masonry materials and are protected from scattering by wind or animals. The storage and disposal of trash, including the use of dumpsters, shall be governed by the city's code of ordinances.
- a. All approved screening walls must be erected prior to the issuance of a certificate of occupancy.
 - b. All screening walls shall be maintained in a neat and orderly manner as a condition of use. Failure to adequately maintain such screening wall is cause for revocation of the certificate of occupancy.
- 13.2.7. Building Address: The street number of each building shall be displayed on the front of the building so it is legible from the street.
- 13.2.8 Venting: All equipment that requires exhaust venting must vent through the roof, unless building or other safety codes require otherwise.

13.3. SITE PLAN REVIEW AND APPROVAL REQUIRED

The city will not issue a certificate of occupancy, and no business shall operate or conduct any business activities until it has applied for and been granted site plan approval by council.

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- 13.3.1. Any business seeking a permit to operate must submit an application to the city describing the proposed business operation and a site plan showing:
 1. The boundaries of the site or lot.
 2. The location of all buildings or outside spaces proposed to be used for commercial purposes.
 3. A parking plan.
 4. A landscaping plan.
 5. A lighting plan.
 6. A vehicle access plan.
 7. A signage plan.
 8. A fencing plan.
 9. A screening plan; and
 10. Any additional relevant information to enable thorough review of the proposed use and its impacts on the city.
- 13.3.2. The application will be reviewed by the City Administrator, City Engineer, Fire Marshal and Police Department and other officials as appropriate or required.
- 13.3.3. City Council may approve, approve with conditions, or disapprove any application. Council may impose reasonable conditions or changes on its approval.
- 13.3.4. Upon approval of a site plan, the use will be issued a business operation certificate that will be valid for a twelve (12) month period. The certificate must be renewed every twelve (12) months with the City Administrator, who shall approve such renewal unless there has been a significant change in the nature or operation of the business, if there is noncompliance with city regulations, or if there is a record of repeated or significant complaints regarding the operation of the business.
- 13.3.5. A new site plan must be submitted and a business registration certificate must be applied for whenever there is a change in the type of business being conducted at the location.

13.4. LOT PERFORMANCE STANDARDS

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13.4.1 Lot size: Minimum lot size is 15,000 square feet.

13.4.2 Setbacks: Westview Drive is designated as the front of all lots.

Front Setback: ten (10) feet

Rear Setback: ten (10) feet

Side Setback: five (5) feet.

All rear and side setback areas shall be maintained as open, unobstructed space.

13.4.3. Height: No structure shall exceed thirty-five (35) feet in height from the first floor finished elevation or be more than two (2) stories, including any roof-mounted equipment or structures.

13.4.4. Minimum Building Area: The net ground floor building area of each main building shall be not less than one thousand (1000) square feet.

13.4.5. Parking Plan: Each business shall provide a number of onsite parking spaces that is estimated to be necessary and appropriate to the nature of the business. Businesses may enter into a shared parking agreement with adjacent businesses. The proposed parking will be reviewed in accordance with generally accepted engineering and city planning practices.

a. Each parking space shall be a hard-surfaced, dust-free area a minimum of nine (9) feet wide and eighteen (18) feet long and must have adequate driveway access to allow each vehicle to enter and leave the space without requiring the movement of any nearby vehicle.

b. Accessible spaces shall be provided and marked in accordance with federal and state laws and regulations pertaining to parking for persons with disabilities.

c. After normal business hours, a business owner or tenant may park no more than three (3) commercial vehicles of not more than one and one-half (1.5) ton capacity that are used by the business.

13.4.6. Pine Creek Lane Access: No driveway, curb cut or sign may be oriented toward or connected to Pine Creek Lane.

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13.4.7. Fencing Plan:

- a. A separate permit shall be required for any new fence.
- b. The owners of property in District C-1 shall be responsible for building and maintaining a fence between District R-3 and District C-1. Such fence shall be built on the commercial side of the property line of unpainted wood or masonry and shall be eight (8) feet high from ground level.
- c. A fence may be constructed on a side property line that abuts a public street, provided it is no more than eight (8) feet high, is constructed so that all supporting members, including posts and horizontal runners, face the interior of the commercial lot, and is of the same kind and character as other fencing on the lot. A side fence can extend no more than fifty (50) feet from the south property line towards Westview Drive.
- d. No gate or opening shall be permitted in any fence.
- e. The property owner shall maintain the fence in good repair so as not to endanger any person or property. If the fence is not so maintained, the City Administrator may notify the responsible person that certain maintenance or repair is deemed necessary to protect a person or property and demand that the fence be repaired, rebuilt or replaced within sixty (60) days after receipt of said notification.
- f. If more than eight (8) linear feet of an existing fence is removed, improved or structurally altered, a new fence must be constructed in compliance with this section. g. No fence may be constructed, improved or structurally altered if it would interfere with the installation or maintenance of utilities in any recorded easement.

13.4.8. Landscaping Plan:

- a. A minimum of ten percent (10%) of the total area of each lot shall be landscaped with trees, bushes, flowers or other vegetation.

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- b. The owner, tenant or anyone exercising control of the premises and their agents and employees shall be responsible for the placement and maintenance of all landscaping required herein, including irrigation systems if installed, and to keep same in a good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris.
- c. Prior to a change in the location or size of landscaped area as shown in an approved landscape plan, an amended plan shall be submitted to and approved by the City Administrator. Major changes may be submitted to the City Council at the City Administrator's discretion.
- d. Within ten (10) feet of the front property line, landscape plantings shall be maintained to no greater than three (3) feet in height. Any hardscaping shall be no more than two (2) feet high within ten (10) feet of the front property line and not over four (4) feet elsewhere on a lot.
- e. All landscaping and hardscaping shall be maintained so as not to interfere with parking and not to create a traffic hazard by obscuring driver or pedestrian vision of the intersections of walkways, driveways or streets.

13.4.9. Lighting Plan:

- a. Lighting shall not be more than twenty (20) feet high, except decorative holiday lights that are used not more than forty-five (45) days out of any 365-day period, and all lighting shall be directed away from any residentially zoned area.
- b. Lighting operated by motion detector or other timed mechanism shall be adjusted so that movement on residential property does not trigger the light.
- c. The use of laser source light, searchlights, flashing and/or rotating lights or any similar high intensity light for outdoor advertising or entertainment is prohibited.
- d. All lighting shall be shielded and shall not spill over across property lines to residential property.

13.4.10. Security cameras shall be oriented so that they do not record activities on residential property.

13.4.11. Signage for all businesses shall be governed by the city's regulations.

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13.5 BUILDING CONSTRUCTION

All new construction or significant remodeling projects shall comply with the following additional requirements:

- 13.5.1. Each lot shall be finish graded so as to maintain the drainage of such property without adversely affecting the existing drainage pattern of adjacent property and to prevent damage by overflow of water onto adjacent property caused either by direct diversion of water onto the adjoining land or by failure to adequately accommodate new or changed drainage patterns. A drainage plan must be filed with and approved by the City Engineer.
- 13.5.2. A minimum of twenty percent (20%) of the gross lot area must be permeable, including the ten percent (10%) area required for landscaping.
- 13.5.3. No openings for ventilation or windows shall be allowed above ten (10) feet from the ground on south building elevations for buildings that are less than fifty (50) feet from residentially zoned property. Parapet walls or roof design shall conceal mechanical equipment, communication devices and solar panels so that they are not visible from ground level.

13.6 BUILDING MATERIALS AND ARCHITECTURAL STANDARDS.

The following exterior construction requirements shall apply to all new buildings and any building expansion or renovation of fifty percent (50%) or more of the total floor area of an existing building.

13.6.1. **Materials.** At least seventy-five percent (75%) of the total exterior walls, excluding doors and windows, of the first floor above grade level of all buildings and at least fifty percent (50%) of the total exterior walls, excluding doors and windows, of the second floor shall be constructed of masonry, such as brick, thin brick, stone, stucco, decorative concrete block or any combination thereof. Masonry does not include:

- a. Exterior Insulation and Finish Systems (“EIFS”), acrylic matrix, synthetic plaster, or other similar synthetic material
- b. Cementitious fiber board siding or fiber cement siding, such as “Hardie Plank” or “Hardie Board”
- c. Precast concrete panels
- d. Plain concrete block
- e. Painted brick, thin brick, stone, or decorative concrete block.

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13.6.2. **Consistency of materials.** Material uses should be consistent on all elevations when there is a change in volume and/or plane. Materials shall wrap around all sides to promote three-dimensional design.

13.6.3. Vinyl siding, Exterior Insulation and Finish Systems (EIFS), or mineral board siding are not permitted on the exterior of commercial buildings.

Section 3. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed. All other ordinances of the City of Hilshire Village remain in full force and effect.

Section 4. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Hilshire Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

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PASSED, APPROVED, AND ADOPTED this ____ day of March, 2017.

CITY OF HILSHIRE VILLAGE

Russell Herron, Mayor

ATTEST:

Susan Blevins,
City Secretary/Administrator