

ORDINANCE NO. 810-2021

AN ORDINANCE AMENDING CHAPTER 12, PLANNING AND ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF HILSHIRE VILLAGE, TEXAS, SECTION 02:00, DEFINITIONS, AND SECTION 11.02, STRUCTURE TO ALLOW HABITABLE AREAS IN AN ATTIC UNDER CERTAIN CONDITIONS; REGULATING LOCATION OF A BALCONY; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, City Council, acting as the City’s Zoning Commission, provided a preliminary report on an amendment to the Zoning Ordinance related to allowing habitable areas in attics as required by Section 211.007 of the Texas Local Government Code, on August 5, 2021; and

WHEREAS, a public hearing on this preliminary report at which parties in interest and citizens had an opportunity to be heard was held before the City Council, acting as the Zoning Commission, on August 17, 2021; and

WHEREAS, City Council, acting as the City’s Zoning Commission, provided a final report on this change in zoning regulations; and

WHEREAS, a public hearing on this final report was held by City Council on September 21, 2021; and

WHEREAS, before the 15th day before the date of the public hearing on the final report, notice of the time and place of the hearing was published in a newspaper of general circulation in Hilshire Village;

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

Section 1. Section 02:00, Definitions, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is amended by amending and adding the following definitions which shall read as follows:

02:A-03 Attic. ~~That portion of a building, not a story, included between the upper surface of the topmost floor and the ceiling or roof above. The area between the roof and the ceiling of the rooms below that is not habitable or that does not have an interior stairway. Improvement to habitable status shall make the attic space an attic story.~~

02:A-03.1 Attic story. Any attic space made habitable by improvement or any new construction of a habitable area located above the story below.

02:B-01 Balcony. An elevated platform projecting from the wall of a building and enclosed by a railing or parapet.

02:P-02.1 Pitched roof. A roof with a sloping surface with each plane pitched at a vertical to horizontal height no less than four to twelve (4:12) over eighty percent (80%) of the area of all roof surfaces as measured from plan view.

Section 2. Section 11:02, Structures, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is amended by adding a new subsection 11:02.01(d) to read as follows:

“11:02.01 The maximum height of any building without a pitched roof shall be thirty feet (30’).”

Section 3. Section 11:02, Structures, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is amended by amending subsection 11:02.04 to read as follows:

11.02.04 Attic: An attic, unless a legal attic story, shall not be a habitable room and shall not enclose such places as bath or toilet rooms, or laundries and if a wall and/or ceiling of such attic space is finished shall have no window or skylight. Provided, however, an attic story of the principal structure may be habitable space if all of the following conditions exist:

- 1) the principal structure has a pitched roof;
- 2) the habitable area of the attic story is at least seventy square feet (70 sq.ft.);
- 3) the minimum width and length of the habitable area in the attic story is at least seven feet (7’);
- 4) the minimum ceiling height for at least fifty percent (50%) of the habitable area in the attic story is seven feet;
- 5) the attic story is accessed by a staircase within the principal structure that is in compliance with current International Building Code standards;
- 6) the habitable area of the attic story is less than forty percent (40%) of the habitable area of any lower story and does not extend beyond the footprint of the top floor and roof;
- 7) any window not facing the street must be frosted or made of textured materials to prevent direct visibility into neighboring properties;
- 8) each required emergency egress for the attic is located at least twenty feet (20’) from any side property line and thirty feet (30’) from any rear property line; and
- 9) the habitable area of the attic story complies with all other applicable city regulations, including the ICC building, electrical, fire and plumbing codes

Section 4. Section 11:02, Structures, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is amended by amending and adding a new subsection 11:02.05, that shall read as follows:

“11:02.05 Balcony. Any balcony with a floor height over thirty-six inches (36”) above natural grade or above the first floor, whichever is less, shall be located at least **sixteen feet (16’)** from any side property line and **twenty-five feet (25’)** from any rear property line.”

Section 5. Any person, firm, partnership, association, corporation, company, or organization of any kind who or which intentionally, knowingly, recklessly, or with criminal negligence violates any of the provisions of this Comprehensive Zoning Ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in an amount not to exceed two thousand dollars (\$2,000). Each day during which such violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this Comprehensive Zoning Ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense, and, upon conviction thereof, shall be punished as above provided.

Section 6. This ordinance is intended to be cumulative and shall not repeal any previous ordinance except to the extent that any provision of such ordinance is inconsistent and cannot be reconciled with any provision contained herein.

Section 7. In case any section, paragraph, subdivision, 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 any court of competent jurisdiction, the same shall not affect, impair, or invalidate this ordinance as a whole or any part or provision thereof other than the part so declared to be invalid or unconstitutional, and the City Council of the City of Hilshire Village, Texas, hereby declares that it would have passed each and every part of the same notwithstanding the omission of any such part so declared to be Invalid or unconstitutional, or whether there be one or more such parts. Furthermore, if any portion or portions hereof be so held to be invalid or unconstitutional, then the corresponding portion of the Zoning Ordinance adopted by the City of Hilshire Village, Texas, shall continue to be effective.

Section 8. This ordinance shall be effective immediately upon adoption and publication of this ordinance or a caption that summarizes the purpose of this ordinance and the penalty for violating this ordinance in every issue of the official newspaper for two days, or one issue of the newspaper if the official newspaper is a weekly paper, in accordance with Section 52.011 of the Texas Local Government Code.

PASSED, APPROVED, AND ADOPTED this 21st day of September, 2021.

Russell Herron, Mayor

ATTEST:

Susan Blevins, City Secretary