

**ORDINANCE NO. 796-2020**

**AN ORDINANCE AMENDING CHAPTER 12, PLANNING AND ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF HILSHIRE VILLAGE, TEXAS, BY DELETING AND REPLACING DEFINITIONS 02:A-01 ACCESSORY USE, 02:A02 ACCESSORY BUILDING, 02:C-03 CARPORT, 02:P-04 PORTE-COCHERE, 02:S-01 SETBACK; BY DELETING AND REPLACING SECTION 11:00, 11:01.01, 11:01.02, 11:01.03, 11:01.04, 11:01.05, 11:02.01, 11,02.03, 11:07.02, 11.11.01, 11.14, 11.15 IN THEIR ENTIRETY AND REPLACING WITH A NEW SECTION; AND AMENDING SECTION 12.25 BY ADDING 12.25.01 AND 12.25.02; AND AMENDING SECTION 12.5 BY ADDING 12.5.01 AND 12.5.02 OF CHAPTER 12 EXHIBIT "A", ZONING ORDINANCE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH OCCURRENCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, City Council, acting as the City's Zoning Commission, provided a preliminary report as required by Section 211.007 of the Texas Local Government Code, on January 21, 2020; 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 February 18, 2020; 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 June 16, 2020; 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. Definition 02: A-01 Accessory Use, A-02 Accessory building, 02:C-03 Carport, 02:P-04 Porte-cochere, 02:S-01 Setback of Section 02:00, Zoning Ordinance Definitions, of Exhibit "A", Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is replaced with the following:

02: A-01 Accessory use: "Accessory use" shall mean any use which serves and is subordinate and incidental to the principal use of any building or lot.

02: A-02 Accessory building: "Accessory building" shall mean a subordinate building, not including a carport or garage, the use of which building is clearly an accessory use.

02:C-03 Carport: "Carport" shall mean a roofed structure that is open on at least two (2) sides and designed for the primary purpose of storing the residents' vehicles.

02:P-04 Porte-cochere: "Porte-cochere" shall mean a projection of the main building which is a component part of and a continuation of the main building, of the same construction as the main building, open on two or more sides, and designed to drive vehicles through for the purpose of allowing persons and property protection from the elements.

02:S-01 Setback (or set back): "Setback" shall mean the required distance between the outermost portion of any structure and the property line, exclusive of allowed overhang.

Section 2. Section 11:00, 11:01.01, 11:01.02, 11:01.03, 11:01.04, 11:01.05 AND 11:02.01, 11:02.03 of Exhibit "A", Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is replaced with the following:

#### 11:00 DISTRICT R-1

No lot shall be used or subdivided and no structure shall be erected, used, constructed, occupied or altered except as provided in this section 11.

#### 11:01 RESIDENTIAL LOT

11:01.01 Minimum lot area: The minimum area of any lot shall be twelve thousand (12,000) square feet exclusive of any portion that lies within the dedicated portion of a street or drainage easement.

11:01.02 Minimum lot width: No lot shall be less than fifty-five (55) feet wide at the front street property line or less than seventy-five (75) feet wide at the front building line.

11:01.03 Front building line: No part of a building shall be closer than thirty (30) feet to a front property line that adjoins a street other than Wirt Road or Westview Drive or closer than forty (40) feet to a front property line that adjoins either Wirt Road or Westview Drive.

11:01.04 Side yard building setbacks: Except as provided in 11:07, no building shall be closer than:

Eight (8) feet to any side property line;

Fifteen (15) feet to any side property line adjacent to a street other than Wirt Road or Westview Drive;

Twenty-five (25) feet to any side property line that is adjacent to Wirt Road or Westview Drive.

A second story or half story shall be set back a minimum of two (2) additional feet from the applicable side yard setback line unless the side yard setback line on the same side of the building is fifteen (15) feet or greater.

11:01.05 Rear building line: Except as provided in 11:07, no main building, including an attached carport or attached garage, shall be closer than twenty-five (25) feet to the rear property line, and no accessory building detached carport or detached garage shall be closer than ten (10) feet to any rear property line.

### 11:02 STRUCTURES

11:02.01 Maximum height:

**a.** No structure shall exceed thirty-five (35) feet in height including chimney(s) and any and all attachments to the structure.

**b.** At ten (10) feet from the rear property line, neither an accessory building nor a detached carport or detached garage shall exceed ten (10) feet high. The height of such building may increase by three (3) feet for each additional five (5) feet of distance from the rear property line (e.g., at fifteen (15) feet from the rear property line, such building may be thirteen (13) feet high. At twenty (20) feet from the rear property line, such building may be sixteen (16) feet high). At twenty-five (25) feet from the rear property line, such building may be thirty-five (35) feet high.

**c.** At the side setback line, a building may be up to thirty-five (35) feet high.

11:02.03 Overhang: No part of a structure may extend over the building line or setback line except that an eave, roof, or roof extension may extend up to twenty-four (24) inches over the building line.

Section 3. Section 11:07.02, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is replaced with the following:

### 11:07 ACCESSORY BUILDING.

11:07.02 Location:

**a.** An accessory building shall be constructed on the same lot as the dwelling to which it is

accessory and shall not be constructed in front of the main building.

**b.** No wall of an accessory building or projection thereof shall be less than three (3) feet from an outside wall of the main building. An accessory building, including any projection thereof, that is less than three (3) feet from the outside wall of the main building shall be deemed to be a part of the main building. An accessory building may be connected to the main building by an open-sided walkway covering not exceeding six (6) feet in width.

**c.** Where a rear property line adjoins the rear property line of another lot:

1. An accessory building that is not more than one hundred twenty (120) square feet in size and not more than ten (10) feet high (such as but not limited to a storage shed) may be placed no closer than three (3) feet to the rear property line, as long as drainage is not adversely affected. No part of the building may be closer to the rear property line than three (3) feet.
2. An accessory building that is not more than two hundred (200) square feet in size and not more than twelve (12) feet high (such as but not limited to a storage shed) may be placed no closer than ten (10) feet to the rear property line.
3. An accessory building that is open on all sides (such as but not limited to a landscape structure or gazebo) and not more than twelve (12) feet high may be placed no closer than ten (10) feet to the rear property line.

**d.** Where a side property line adjoins the rear property line of another lot:

1. An accessory building that is not more than one hundred twenty (120) square feet in size and not more than ten (10) feet high may be placed no closer than three (3) feet to the side property line, as long as drainage is not adversely affected. No part of the building shall be closer to the side property line than three (3) feet.
2. Except as permitted in (d)(1) above, no building shall be closer to the side property line than ten (10) feet.

Section 4. Section 11:11.01, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is replaced with the following:

11:11 FENCE

11:11.01 Location:

**a.** A newly constructed lot front fence shall terminate into the sides of the main building. A lot front fence shall not be constructed in front of the outermost front corner of either side of the main building and shall not be constructed across the front of the main building. If the

main building includes a porte-cochere on the front of the building, a side yard fence may not extend beyond the front corners of the main building excluding the porte-cochere. If a lot has no main building, then a lot front fence may be constructed on or behind, but not forward of, the front building line or front setback line. The foregoing limitations shall not apply:

1. to hardscape features such as stone walls that do not enclose the front yard and are not taller than eighteen (18) inches high,

2. to a fence of visually open material, such as wrought iron, galvanized welded wire, or wood lattice, that is not more than thirty-six (36) inches high and is part of an unenclosed and uncovered area, such as but not limited to a front porch or courtyard,

3. if the lot front is on Wirt Road or Westview Drive.

b. A fence constructed on the side of a property that abuts a street shall be placed no closer to the street than the side setback line of the lot. This limitation shall not apply if the side street is Wirt Road or Westview Drive.

c. The foregoing limitations shall not apply to a fence erected in connection with a construction permit or as part of a construction jobsite. Such fences shall be governed by [article 3.608](#) of the City's Code of Ordinances.

d. No fence shall be constructed on a lot which is in conflict with Section 40.03 INTERSECTION LINE OF SIGHT.

Section 5. Section 11:14, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is replaced with the following:

11:14 CARPORT:

a. A carport shall not be constructed in front of the main building.

b. If attached to the main building, a carport shall be a component part of, a continuation of, and of the same construction as the main building. If not attached to the main building, a carport shall meet the placement requirements of a detached garage.

c. Items stored in a carport (other than vehicles) may not be habitually visible to public view from the street.

Section 6. Section 11:15, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is replaced with the following:

11:15 Porte-Cochere: If a porte-cochere is constructed in front of the main building, no entrance to or exit from the porte-cochere may face the street of address.

Section 7. Section 12.25, Residential District R-3, of Exhibit “A”, Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is

amended by adding the following:

12:25.01 No lot shall be used or subdivided and no structure shall be erected, used, constructed, occupied or altered, except for one or more of the following permitted uses with limitations as provided herein:

12:25.02 PERMITTED DISTRICT "R-1" USE: Any use permitted in District R-1 is permitted in District R-3 and is subject to all Regulations and Limitations which would be applicable if the use were situated in such District R-1 except that 11:07.02(d)(2) does not apply.

Section 8. Section 12.5, Residential District R-4, of Exhibit "A", Zoning Ordinance, to Chapter 12, Planning and Zoning, of the City of Hilshire Village Code of Ordinances, is amended by adding the following:

12:5.01 No lot shall be used or subdivided and no structure shall be erected, used, constructed, occupied or altered, except for one or more of the following permitted uses with limitations as provided herein:

12:5.02 PERMITTED DISTRICT "R-1" USE: Any use permitted in District R-1 is permitted in District R-4 and is subject to all Regulations and Limitations which would be applicable if the use were situated in such District R-1 except that 11:07.02(d)(2) does not apply.

Section 9. 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 10. 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 11. 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 12. 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 16<sup>th</sup> day of June, 2020.

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Russell Herron, Mayor

ATTEST:

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Susan Blevins, City Secretary