

ORDINANCE NO. 557

AN ORDINANCE ADOPTING NEW REQUIREMENTS FOR MASONRY CONSTRUCTION OF EXTERIOR WALLS OF BUILDINGS WITHIN THE CITY OF SOUTHLAKE; PROVIDING FOR DEFINITIONS; PROVIDING FOR A VARIANCE PROCEDURE; PROVIDING FOR NOTICE REQUIREMENTS; PROVIDING FOR AN APPLICATION FEE; PROVIDING FOR NONCONFORMING BUILDINGS, PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING A SAVINGS CLAUSE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Southlake, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Southlake heretofore adopted Ordinance No. 311, as amended by Ordinance No. 415, providing for requirements and standards for masonry construction of exterior walls for certain buildings which are located within the City of Southlake, Texas; and

WHEREAS, the City Council considers it desirable and in the best interest of the public health, safety, morals and general welfare of the citizens of the City to amend said ordinances to provide for the proper construction of buildings as provided herein.

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

SECTION 1. EXTERIOR MASONRY CONSTRUCTION REQUIREMENTS

- a. Buildings requiring masonry on all sides: All buildings constructed on property zoned 0-1, 0-2, C-1, C-2, C-3, C-4, B-1, B-2 or CS under the City's Comprehensive Zoning Ordinance and all buildings within any residential zoning district which are used for community facility uses shall have all exterior walls constructed using a masonry material covering at least eighty percent (80%) of said walls, exclusive of all windows, doors, roofs, glass construction materials, or sidewalk and walk-way covers.
- b. Buildings requiring masonry along street frontage only: All buildings constructed on property zoned I-1 or 1-2 under the City's Comprehensive Zoning Ordinance shall be constructed of masonry materials, wood, glass, or decorative metal (non-galvanized finish); provided, however, any exterior wall fronting on any street shall be constructed of masonry materials or glass, covering at least eighty percent (80%) of said wall, exclusive of all doors.
- c. Buildings in P.U.D., S-P-1, and S-P-2 districts: All buildings located on property zoned P.U.D., S-P-1 or S-P-2 under the City's Comprehensive Zoning Ordinance shall be required to comply with the masonry standards applicable to the most restrictive district in which the use is permitted.

- d. Special exception use and specific use permits: Any building located in a zoning district which has been granted a Special Exception Use Permit or Specific Use Permit in accordance with the City's Comprehensive Zoning Ordinance shall be required to comply with the masonry standards applicable to the most restrictive district in which the use is permitted.
- e. State highways and F.M. roads: With the exception of barns and storage buildings in the "AG" zoning district, all nonresidential buildings located within 500 feet of the R.O.W. line along State Highway No. 114 and within 300 feet of the R.O.W. line along State Highway No. 26, Farm-to-Market Road 1709 and Farm-to-Market Road 1938 shall have at least eighty percent (80%) of all exterior walls, excluding doors, constructed of masonry materials or glass.

SECTION 2. DEFINITIONS:

Masonry materials shall mean and include brick, stucco, cement, concrete tilt wall, stone, rack, or other masonry or materials of equal characteristics.

Residential buildings shall mean those buildings utilized for a single family, two-family, and multiple family dwelling, and related accessory uses as described in the City's Comprehensive Zoning Ordinance.

Nonresidential buildings shall be those buildings utilized for any use other than a single family, two-family, and multiple family dwelling, and related accessory uses as described in the City's Comprehensive Zoning Ordinance.

SECTION 3. VARIANCE

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

The terms and conditions of the variance, if granted, shall be noted by minute order. 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.

SECTION 4. NOTICE REQUIREMENTS

Upon application being made for a variance under Section 3 above, the Zoning Administrator's office shall cause notices to be mailed by United States mail, return receipt requested, not less than ten (10) days prior to the public hearing, to all property owners (as their ownership appears in the most current tax rolls for the City of Southlake) whose property is located within 200 feet of any portion of the boundaries of the property for which the variance has been requested. In addition, such notice shall be published at least fifteen (15) days prior to the public hearing in the official newspaper of the City of Southlake.

SECTION 5. APPLICATION FEE

At the time the variance application is filed with the Zoning Administrator's office, the applicant shall pay a fee of \$100.00 to defray the costs of handling and processing the application and this fee shall not be refundable regardless of the disposition of the application.

SECTION 6. NONCONFORMING BUILDINGS

Where a lawful building exists at the effective date of 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 building may not be enlarged in a way which increases its nonconformity unless the enlargement is in conformity with the provisions of this ordinance;
- b. The exterior walls of such 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 such 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.
- d. Should such building be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

SECTION 7. PENALTIES AND INJUNCTION

PENALTIES - Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists in the enforcement of any of the provisions of this ordinance, shall be fined not more than \$2,000.00 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.

INJUNCTION - The City shall have and retain the right for injunctive relief against any person, firm or corporation who is in the process of or

about to violate any section, paragraph, or part of this ordinance. Such right for injunctive relief shall exist independent of the other penalty provisions of this ordinance and not in lieu thereof. The right of injunctive relief is essential to the City in order that it may maintain an orderly and properly planned control over all nonresidential buildings thus protecting the health, morals, safety and well being of the citizens and halting any attempt by any person, firm or corporation to inflict temporary or permanent injury on the general public by a failure to comply with the terms of this ordinance.

SECTION 8. SAVINGS CLAUSE

All rights or remedies of the City of Southlake, Texas, are expressly saved as to any and all violations of Ordinance Nos. 311 and 415, or of any masonry ordinance or building codes adopted by the City of Southlake, Texas, that have accrued at the time of the effective date of this masonry ordinance; and all existing violations of previous masonry ordinances or building codes which would otherwise become nonconforming buildings under this ordinance, shall not become legal nonconforming buildings under this ordinance but shall be considered as violation of this ordinance in the same manner that they were violations of prior masonry ordinances of the City of Southlake, Texas.

SECTION 9. CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of the ordinances of the City of Southlake, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Ordinance Nos. 311 and 415 are hereby repealed.

SECTION 10. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 11. PUBLICATION IN OFFICIAL NEWSPAPER

The City Secretary of the City of Southlake is hereby directed to publish the proposed ordinance or its caption and penalty together with a notice setting out the time and place for a public hearing thereon at least ten (10) days before the second reading of this ordinance, and if this ordinance provides for the imposition of any penalty, fine or forfeiture for any violation of any of its provisions, then the City Secretary shall additionally publish this ordinance in the official City newspaper one time within ten days after passage of this ordinance, as required by Section 3.13 of the Charter of the City of Southlake.

SECTION 12. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING ON THIS 4th DAY OF FEBRUARY, 1992.

PASSED AND APPROVED ON SECOND READING ON THIS 18th DAY OF FEBRUARY, 1992.

ADOPTED: FEBRUARY 18, 1992.

EFFECTIVE: FEBRUARY 21, 1992.