

ORDINANCE NO. 2008-10-14F

AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF FAIRVIEW, AS AMENDED, PROVIDING THAT THE REQUIREMENTS OF PROPERTY FOR MULTIFAMILY (APARTMENT) DEVELOPMENT PURPOSES SHALL CONFORM TO THE CONDITIONS STATED IN THIS ORDINANCE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00 FOR EACH OFFENSE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVING CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Fairview, Texas is a home rule municipality 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 Town Council has previously adopted Ordinance No. 2002-017, which established the Commercial Planned Development Zoning District in order to preserve and showcase the Town's unique environmental assets, promote the economic worth of the entire area and protect the identity of the Town's rural community; and

WHEREAS, the Town Council deems the present zoning regulations inadequate to accomplish the foregoing objectives and to implement the master plan, and has determined that the Zoning Ordinance should be amended as provided by this ordinance; and

WHEREAS, the Planning and Zoning Commission has made its final recommendation on the adoption of this ordinance and the amendments contained herein after holding a public hearing as required by law; and

WHEREAS, notice of a public hearing before the Town Council was published at least 15 days prior thereto and the Town Council has held such hearing; and

WHEREAS, the Fairview Town Council has determined that it is in the best interest of the public health, safety, morals and general welfare to adopt the regulations contained herein governing the use of property for multifamily purposes within the Commercial Planned Development Zoning District of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW:

SECTION 1. That Exhibit "B," the "Commercial Planned Development District (CPDD) Architectural Requirements," of Chapter 154 of the Code of Ordinances, Town of Fairview, Texas, is hereby amended by revising multi-family standards to include the following:

- a. **TITLE:** Multi-Family (Apartment) Requirements
- b. **PURPOSE:** The purpose of these requirements are to enhance the aesthetics and public protections for currently permitted multi-family uses within the Town of Fairview, Texas, as of July 8, 2008.
- c. **APPLICABILITY:**
 - i. Unless otherwise stated, the standards and criteria within this multi-family amendment shall be mandatory, and shall not be considered as guidelines.
 - ii. In all CPDD zones that have currently permitted multi-family uses, the multi-family requirements stated herein shall equally apply.*
- d. **DEFINITIONS:**

Dwelling unit area – defined as that area devoted to the living area in a residence or dwelling unit and is exclusive of porches, and enclosed or open breezeways; includes all air conditioned spaces.

Refuse Facility – defined as a specific location in a given area for the placement of dumpsters and/or recycling containers.
- e. **STANDARDS:**

Brick, Stone, Stucco, Trim, Siding, Roofing materials:

 - i. There shall be 90% masonry, meaning brick or stone or a combination thereof, on each exterior wall with a minimum of 20% dedicated to the use of natural stone. Said percentage excludes doors and windows from the exterior wall masonry requirements.
 - ii. Brick used shall be domestic, hard fired, severe weather, modular brick. Flashed bricks are preferred. Brick construction shall include blended bricks; no undifferentiated solid colors will be used.
 - iii. Stone may be used as an accent to brick, and brick with stone in the same relationship as described above. Concrete or other artificially manufactured naturalistic stone is prohibited (this prohibition does not include cast stone with a smooth limestone finish and color used as an accent material).

- iv. Synthetic wall materials such as metal siding, vinyl siding, or stucco board shall not be used as a wall material. No EIFS (Exterior Insulation Finishing System) material shall be allowed. No dryvit type systems or Styrofoam products may be used. Control joints in stucco must be coordinated with the architectural design and shall be submitted and indicated on any plans submitted. Stucco may be used when the use of stucco is subordinate to the dominate brick or stone and is used as an accent or material. No stucco shall be used on the front façade of the building.
- v. Trim materials shall be either steel, or smooth high quality finished grade wood stock, stained or painted. No composition wood products shall be used for decorative exterior trim or gable trim. Cast stone or finished stone is a permitted material for belt courses, opening surrounds, parapet caps, or cornice and gable pediment articulation.
- vi. Siding may only be used if it is a cement treated board, or rough cedar. Trim used to close a corner shall be used to create a decorative carpenter detail. On dormers such trim should be at least 3 ½ inches wide.
- vii. Columns shall be constructed of brick, stone or cedar. Any other material must be approved by the town's building official to provide structural information before presenting to the Planning and Zoning Commission or Town Council for authorization.
- viii. Permitted roofing materials shall be: Composition shingle 30 year or greater, slate or clay tile, and standing seam metal. Wood shake shingles shall not be permitted.

Stairs, Balconies, & Parking Canopies:

- i. All parking canopies shall be constructed of the same material as the primary building. All columns shall be wrapped with an element of masonry material, and roofing material shall match that of the primary structure.
- ii. There shall be no parking canopy roofs constructed of wood shake shingle.
- iii. Exterior stair railings and balconies shall be wrought iron or brick or a combination thereof.

Lighting:

- i. All breezeway lighting shall be recessed.
- ii. All lighting, including emergency lighting, shall conform to the Fairview Lighting Ordinance and the International Fire Code.

Multi-Family building separation:

- i. Minimum separation between any multi-family occupancy buildings shall be ten (10) feet. The town council, planning and zoning

commission and town staff shall have the discretion to request or require additional space between buildings.

Number of persons per multi-family dwelling unit:

- i. No more than two (2) adult persons per bedroom shall be permitted.

Square footage per multi-family dwelling unit:

- i. The minimum square footage of a multi-family unit shall be 850 square feet of dwelling unit area.
- ii. Each additional bedroom shall require 150 square feet of dwelling unit area beyond the minimum requirement as stated above.

Number of animals allowed per multi-family unit:

- i. Two domestic animals are allowed per multi-family unit.

Trash collection

- i. There shall be two types of refuse collections: one for re-cycled material and one for other trash/garbage.
- ii. Each refuse facility shall be screened from view on all sides (excluding the side where the gate is located) by a masonry wall not less than six (6) feet, nor more than eight (8) feet in height, with an evergreen screen around the perimeter of said walls. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall be located so as to provide safe and convenient pickup by refuse collection agencies.
- iii. Refuse facilities shall be located a minimum of fifty (50) feet from residential apartment buildings and a minimum of one hundred fifty (150) feet from other residential district boundary lines.

Gated multi-family developments (GMFD):

- i. All GMFD shall meet Fairview Fire Department access requirements.

***NOTE: Any multi-family developments within the Commercial Planned Development District (CPDD) with Site Plan approval, as of October 14, 2008, shall be considered legally conforming by virtue of this ordinance. Said developments shall be able to develop in accordance with the development standards in effect at the time the respective Site Plan for each multi-family use was approved.**

SECTION 2. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 3. It is hereby declared to be the intention of the Town 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 Town Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 4. This ordinance shall be cumulative of all provisions of ordinances of the Town of Fairview, 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.

SECTION 5. All rights and remedies of the Town of Fairview are expressly saved as to any and all violations that have accrued at the time of the effective date of this ordinance of the provisions of the Code of Ordinances of the Town of Fairview, as amended, or any other ordinances affecting zoning and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. In accordance with Section 10.03 of the City Charter the Town Secretary of the Town of Fairview is hereby directed to publish the descriptive caption or title of this ordinance at least once in the official newspaper of the Town.

SECTION 7. 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 Adopted on the 14th day of October, 2008.

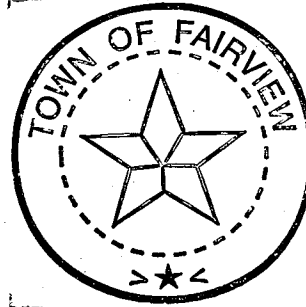
TOWN OF FAIRVIEW

By:

Sim Israeloff
Sim Israeloff, Mayor

ATTEST:

Nichelle Lewis Swann
Town Secretary



Approved as to form and legality:

Attorney