CITY OF HIGHLAND VILLAGE, TEXAS

ORDINANCE NO. 2014-1172

AN ORDINANCE OF THE CITY OF HIGHLAND VILLAGE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF HIGHLAND VILLAGE AS PREVIOUSLY AMENDED, BY AMENDING SECTION 29.2 "PRIMARY RESIDENTIAL USES" BY AMENDING THE ZONING DISTRICTS IN WHICH ACCESSORY DWELLINGS MAY BE LOCATED PURSUANT TO CONDITIONAL USE PERMIT; BY AMENDING IN ITS ENTIRETY SECTION 34 "ACCESSORY BUILDING AND USE REGULATIONS" REGULATING THE CONSTRUCTION, LOCATION, AND USE OF ACCESSORY BUILDINGS”; AND BY AMENDING SECTION 29 “DEFINITIONS’’ BY AMENDING THE DEFINITION OF THE PHRASE “ACCESSORY BUILDING” AND ADDING A NEW DEFINITION FOR THE PHRASE “ACCESSORY DWELLING”; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS ($2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Highland Village, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Highland Village, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and in the exercise of its legislative discretion, the City Council has concluded that the general regulations of the Comprehensive Zoning Ordinance, as previously amended, should be further amended as follows:

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

SECTION 1. Section 29.2 “Primary Residential Uses” of the Comprehensive Zoning Ordinance relating to “Accessory dwelling (detached)” is amended to read as follows:

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<td>Accessory dwellings*</td>
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¹ Conditional Use Permit may be considered only if the lot on which the Accessory Dwelling will be constructed has a lot area of 12,000 or more square feet.
Accessory dwellings are permitted in Planned Development districts only if expressly authorized by the use and development regulations of the Planned Development zoning district or, if not expressly permitted, by conditional use permit if the base zoning is SF-8, SF-10, SF-12, SF-15, or SF-40 and the lot area is not less than 12,000 square feet.

SECTION 2. Section 34 "Accessory Building and Use Regulations" of the Comprehensive Zoning Ordinance is amended to read in its entirety as follows:

Section 34. Accessory building and use regulations.

34.1 Accessory building regulations:

Accessory buildings shall be permitted on a lot only with an existing main building subject to the following:

A. Location: The location of an accessory building on a lot shall be as follows:

1. Front Yard: No accessory building shall be placed closer to the front property line than any part of the main building.

2. Side Yard: Accessory buildings shall be located with respect to the side yard of the lot as follows:

   a. All accessory buildings located ten feet (10.0') or more from the associated main building and all in-ground swimming pools shall be not less than five feet (5.0') from any side lot line.

   b. All accessory buildings located less than ten feet (10.0') from the main building and all above-ground swimming pools shall comply with the minimum side yard requirements applicable to the associated main building.

   c. Notwithstanding paragraphs a. and b., above, all swimming pools and accessory buildings located on a corner lot shall comply with the minimum side yard requirements applicable to the associated main building as set forth in Section 36.3.

   d. Notwithstanding paragraphs a, b, or c. above, detached garages and carports designed for vehicle entry from the side yard shall be not less than twenty feet (20.0') from the side lot line.

   e. Notwithstanding paragraphs c. and d., above, detached garages and carports designed for vehicle entry from a side yard adjacent to a public street shall be no closer to said side lot line than the minimum front yard requirement applicable to the associated main building.
3. **Rear Yard**: No accessory building shall be less than five feet (5.0') from any rear lot line except as follows:
   
a. All accessory buildings located less than ten feet (10.0') from the main building and all above-ground swimming pools shall comply with the minimum rear yard requirements applicable to the associated main building.

b. On a lot developed with one or more apartment building(s), the main building(s) and all accessory buildings collectively shall not cover more than 60 percent of that portion of the lot lying on the rear lot line side of a line drawn from the mid-point of one side lot line to the mid-point of the opposite side lot line.

4. **Easements**: In no case may an accessory building be located on, over, or within any easement, regardless of whether the easement was created by a dedication shown on a subdivision plat or granted by separate written document.

B. **Development Standards**:

1. **Floor Area**: The surface area of a lot covered by an accessory building shall not exceed the greater of five percent (5.0%) of the area of the lot or five hundred (500) square feet; provided, however, in no case shall the coverage area of an accessory building plus the area of the main building and all other accessory buildings on a lot exceed the maximum coverage area set forth in Sections 15 through 28, inclusive.

2. **Height**: The maximum height of an accessory building shall be as set forth in Sections 15 through 28, inclusive.

3. **Exterior Walls**: The exterior walls of fully enclosed accessory buildings with a floor area of over 200 square feet shall comply with the masonry requirements set forth in Section 30.2.A.1.

34.2 **Accessory Dwellings**: Accessory dwellings shall conform to the development regulations set forth in Section 34.1 as well as the following additional development regulations:

   A. An accessory building may be used as an accessory dwelling only after:

   1. approval of a conditional use permit pursuant to Section 12 for a lot located within a zoning district where such conditional use permits may be issued as set forth in Section 29.2; and

   2. approval of all construction-related permits as required by Article 8.04 and Chapter 24 of the Code of Ordinances;
B. No person may reside in an approved accessory dwelling unless such person is:

1. Related within the third degree of consanguinity or second degree of affinity to the owner of the lot on which the accessory dwelling is located or the tenant named on the lease of the main building with which the accessory dwelling is associated;

2. The spouse, child, or parent of any of those identified in paragraph 1, above, if not otherwise within the scope of paragraph 1;

3. An employee of (i) the owner of the lot on which the accessory dwelling is located or (ii) the occupant of the main building with which the accessory dwelling is associated whose primary job duties are to provide personal services to the occupants of the main building or to provide care and/or maintenance of the main building and/or any other improvements located on the lot;

4. The spouse, child, or parent of the person described in paragraph 3, above; or

5. Guests of a person occupying the main building located on the lot and who is staying in the accessory dwelling without payment of compensation or other consideration to the owner or occupant of the main building on the lot.

C. Fee simple title of the accessory dwelling at all times shall be owned by the same person or entity that owns fee simple title of the main building;

D. An accessory dwelling shall at no time be leased or sublet unless the owner of the main building, lot, and accessory dwelling lease the lot and all improvements thereon to a single tenant pursuant to a single written lease agreement; and

E. An accessory dwelling may not be separately metered for water, gas or electricity, but may have a separate telephone, internet, and/or cable or satellite television service from the main building.

F. Notwithstanding Section 34.1.B.1., the total square footage of all floors of an accessory dwelling shall not exceed 50% of the total square footage of all floors of the main building.

G. No more than one (1) accessory dwelling may be located on a lot.
34.3 Accessory use regulations:

Accessory uses, customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business except as provided herein are permitted as follows:

A. The term accessory use shall include customary home occupations as herein defined.

B. One antenna (amateur or CB radio) and/or satellite dish antenna located in the rear yard, provided proper guy wires are used or as specified in section 36.4. Satellite dishes in excess of three feet in diameter shall be screened.

C. Private open space or other private recreational amenities, as part of a residential subdivision and not for commercial purposes.

D. Real estate sales offices during the development of residential subdivisions in which the office is located until 80 percent of the building permits of the platted lots in the subdivision are issued.

E. Temporary building for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work or by order of the building official.

SECTION 3. Section 39 “Definitions” of the Comprehensive Zoning Ordinance, as amended, shall be further amended as follows:

A. The definition of the phrase “Accessory Building” shall be amended to read as follows:

1. Accessory Building and Accessory Structure:

   (a) “Accessory building” and “accessory structure” means a building or structure detached from the main building and located on the same lot as the main building, the use of which is secondary and supportive to that of the dominant use of the building or premises.

   (b) Accessory buildings and/or accessory structures include, but are not limited to: detached garages (residential or non-residential), farm structures such as barns or well houses, workshops and tool houses, storage sheds, greenhouses, pool houses, outdoor kitchens, gazebos, arbors, lanais, carports, in-ground or above-ground swimming pools (both indoor or outdoor), outdoor fireplaces, patio covers (open or solid roof), pergolas, porte-cochere, and equipment buildings (e.g. a structure housing pool filter and pump equipment).

   (c) For the purpose of determining if a building or structure is an accessory building or accessory structure, the building or structure is deemed to be attached to the main building on the lot if the building or structure (i) shares a structural common wall or roof line connected with the roof of the main building on the lot or (ii) is connected to the main
building on the lot by a fully enclosed hallway and shares a common roof line connected with the roof of the main building on the lot.

(d) If located within the rear yard behind the main structure, children's play structures and dedicated outdoor basketball, tennis, or similar game courts shall not be considered within the definition of "accessory buildings" or "accessory structures".

B. A new definition for "Accessory Dwelling" shall be added and read as follows:

1A. **Accessory Dwelling:**

(a) "Accessory dwelling" means an enclosed, heated and air conditioned accessory building capable of being used as a dwelling for one or more people apart from the main building on the lot that is constructed with:

(1) a bathroom containing a toilet, sink, and a shower and/or bathtub; and

(2) an area with a sink used or designated to be used for preparation of food.

(b) A detached garage constructed with an attached accessory dwelling (sometimes known as a "garage apartment"), regardless of whether the dwelling portion of the building is on the same or different level as the garage, shall be regulated as an accessory dwelling.

(c) A dwelling unit constructed in association with and located on the same lot as a self-service mini-warehouse business for occupancy by the owner, manager, or other employee charged with operating the self-service mini-warehouse shall be deemed an incidental use to the main use and is not an "accessory dwelling" for purposes of this definition.

**SECTION 4.** All ordinances of the City of Highland Village related to the use and development of property within the City heretofore adopted and in effect upon the effective date of this Ordinance are and shall remain in full force and effect except to the extent amended by this Ordinance or to the extent there is an irreconcilable conflict between the provisions of said other ordinance and the provisions of this Ordinance, in which case the provisions of this Ordinance shall be controlling.

**SECTION 5.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Comprehensive Zoning Ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance or the Comprehensive Zoning Ordinance, as amended hereby, which shall remain in full force and effect.

**SECTION 6.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.
SECTION 7. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Comprehensive Zoning Ordinance as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars ($2,000) for each offense.

SECTION 8. No person or entity shall acquire any vested interest in this Ordinance or any specific regulations contained herein. This Ordinance and any regulations may be amended or repealed by the City Council of the City of Highland Village, Texas, in the manner provided by law.

SECTION 9. This ordinance shall take effect immediately from and after its passage on Second Reading and publication of the caption in accordance with the provisions of the Charter of the City of Highland Village, and it is accordingly so ordained.

FIRST READ ON THE 9TH DAY OF SEPTEMBER, 2014, BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON SECOND READING ON THIS THE 23RD DAY OF SEPTEMBER, 2014.

APPROVED:
Charlotte J. Wilcox, Mayor

ATTEST:
Diane A. Callahan, City Secretary

APPROVED AS TO FORM AND LEGALITY:
Kevin B. Laughlin, City Attorney