

ORDINANCE NO. 2015-32

AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY ADDING AN ARTICLE XXI. – INTERIM CORRIDOR STANDARDS TO CHAPTER 6 – BUILDINGS AND BUILDING REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Rosenberg to adopt rules and regulations regarding land use within the City limits of the City of Rosenberg for the purpose of promoting the safe, orderly, and healthful development of the City; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, finds that the promotion of health and public safety through the establishment of high-quality construction standards is beneficial to the community; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, has determined that that high quality development results in longevity, durability and sustainability that strengthens the local tax base of the community; and,

WHEREAS, the City Council of the City of Rosenberg, Texas, has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens of the City that the Building Code regulations relative to corridor standards, be established as hereinafter stated.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. That the Code of Ordinances of the City of Rosenberg, Chapter 6 – Buildings and Building Regulations, is amended by adding an Article XXI. – Interim Corridor Standards as follows:

Chapter 6 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE XXI. – INTERIM CORRIDOR STANDARDS

Sec. 6-471. – Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning practice.

Building shall mean any structure which is built for the support, shelter, or enclosure of persons, animals, chattels, machinery, equipment, or movable property of any kind.

Building Setback shall mean the line within the property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line and other property lot lines, including side or rear property lines.

Development shall mean improvements including buildings, parking lots, fencing, landscaping, and/or signage.

Front Building Elevation shall mean a minimum of one (1) building elevation containing the front door of the establishment and facing a street, but not necessarily all building elevations facing a street.

Industrial shall mean establishments engaged in manufacturing, assembly, storage, warehouse, distribution, and combination office-warehouse uses.

Masonry shall mean brick, stone, real stucco, splitface concrete block, architectural concrete tilt wall or a combination thereof and shall not include exterior insulation and finishing system (EIFS), hardiplank or any other material not specifically provided for in this definition.

Parking Setback shall mean the line within the property defining the minimum horizontal distance between off-street parking spaces or off-street parking space drive aisles and the adjacent street right-of-way line and other property lot lines, including side or rear property lines.

Primary Tree shall mean live oak, shumard oak, red maple, Mexican sycamore, bald cypress, loblolly pine, or southern red oak.

Redevelopment shall mean exterior restoration, renovation, or expansion of an existing structure that improves its appearance or changes its architectural character; or new building construction on a site that had pre-existing uses.

Secondary Tree shall mean river birch, wax myrtle, eastern redbud, crape myrtle, Mexican plum, cherry laurel, or east Palatka holly.

Shrub shall mean waxleaf ligustrum, redtip photinia, oleander, wax myrtle, or burford holly.

Sec. 6-472. – Purpose and Duration.

(a) It is the purpose of this Article to provide for the following during the preparation of a Unified Development Code (UDC):

(1) The safe and orderly development of highly visible and heavily traveled corridors;

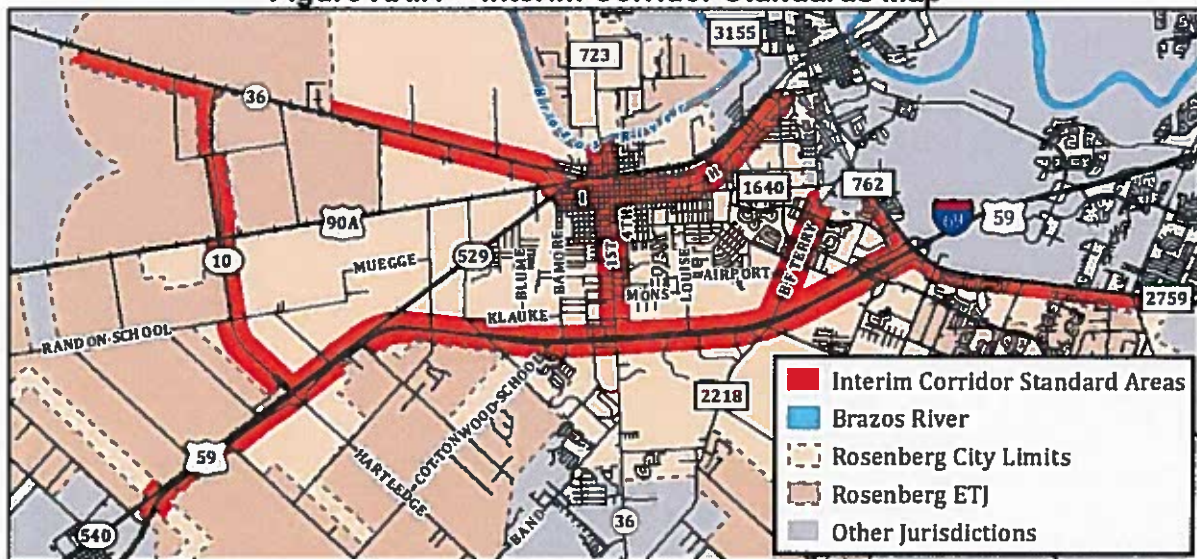
- (2) Promotion of economic development;
 - (3) Protection and enhancement of property values; and
 - (4) Enhanced quality of life and appearance of newly developed and redeveloped properties along the subject corridors.
- (b) These Interim Corridor Standards are in effect until the City Council repeals or amends the standards or they become obsolete due to the adoption of the UDC..

Sec. 6-473. – Application and Conflicts.

- (a) This article shall apply to Development and Redevelopment of property located within the City Limits and within one thousand feet (1,000') of the centerlines of the following streets as depicted in Figure XXI.1, Interim Corridor Standards Map:

- (1) U.S. 59 / Interstate 69;
- (2) Spur 10;
- (3) State Highway 36 West;
- (4) FM 723 south of the Brazos River;
- (5) State Highway 36 between U.S. Highway 90A / Avenue H and U.S. 59 / Interstate 69;
- (6) U.S. Highway 90A / Avenue H east of State Highway 36 West;
- (7) FM 2218 north of U.S. 59 / Interstate 69; and
- (8) FM 762.

Figure XXI.1 – Interim Corridor Standards Map



- (b) If any provision of this article conflicts with another provision of the Code of Ordinances, the more restrictive provision will control.

Sec. 6-474. – Exemptions.

- (a) The provisions of this article shall not apply to:
 - (1) Single-family residential development;
 - (2) The Downtown Area, as defined in this chapter;
 - (3) Development existing on the effective date of this ordinance where Redevelopment is not proposed to occur;
 - (4) Building or Parking Setbacks or Lines established by plat prior to the effective date of this ordinance; or
 - (5) Redevelopment where Development is not being expanded in size.
- (b) Redevelopment under one category of these standards (e.g., exterior building materials) does not trigger a requirement that the site meet all standards. For example, if a building façade is added, the applicant may be required to meet the standards for exterior building materials, but they will not be required to meet any other standards (e.g., landscaping).
- (c) Additions to existing Developments shall not cause the existing Developments to come into compliance with this article unless the existing Development is expanded in size by fifty percent (50%) or more. If the existing Development is expanded in size by fifty percent (50%) or more, additions to existing Developments shall cause the existing Developments to come into compliance with this article. Additions themselves, however, shall always be in compliance with this article.

Sec. 6-475. – Authority of Planning Commission.

- (a) The Planning Commission may:
 - (1) Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this article;
 - (2) Hear and decide special exceptions to the terms of this article for properties that are no larger than one (1) acre in size, that have existing Development upon them, and that are located in the State Highway 36 corridor between U.S. Highway 90A / Avenue H and U.S. 59 / Interstate 69 or in the U.S. Highway 90A / Avenue H corridor east of State Highway 36 West;
 - (3) Authorize in specific cases a variance from the terms of this article if
 - a. The variance is not contrary to the public interest;
 - b. Due to special conditions;

- c. A literal enforcement of the ordinance would result in unnecessary hardship; and
 - d. So that the spirit of the ordinance is observed and substantial justice is done.
- (b) In granting variances, the Commission may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. Conditions may include additional landscaping and/or enhanced building or site design above and beyond the minimum requirements of this article.

Sec. 6-476. – Amendments.

City Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this chapter as recommended by the Planning Commission.

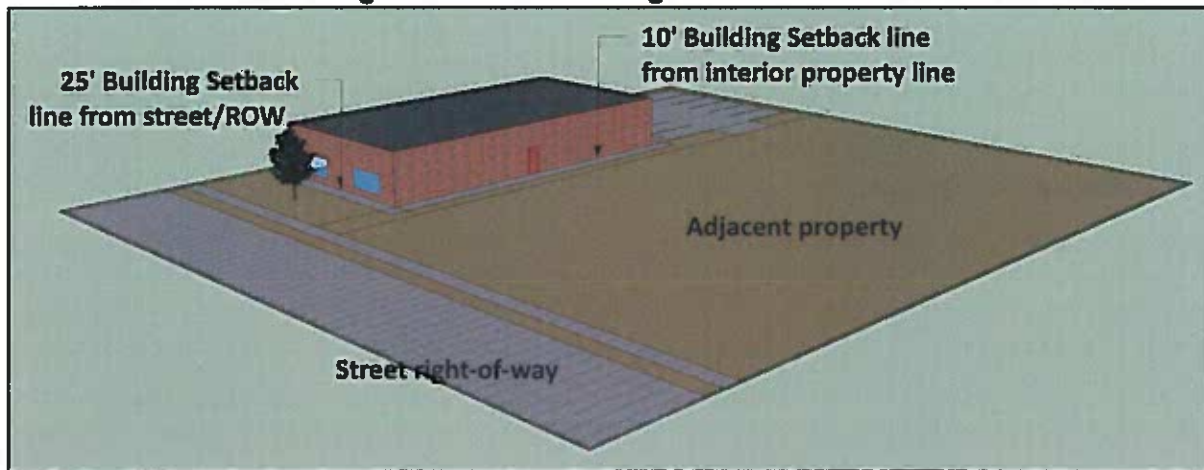
Sec. 6-477. – Site Plans.

Site plans for all developments in the subject corridors shall be submitted for review and approved by the Community Development Department prior to the issuance of applicable building permits. The review shall include, but is not limited to, setbacks, exterior building materials, landscaping, and signage. Site plans shall comply with the standards contained in this article.

Sec. 6-478. – Setbacks.

- (a) The following minimum Building Setback lines shall be required:
- (1) Twenty five feet (25') from street rights-of-way; and
 - (2) Ten feet (10') from all other interior property lines.

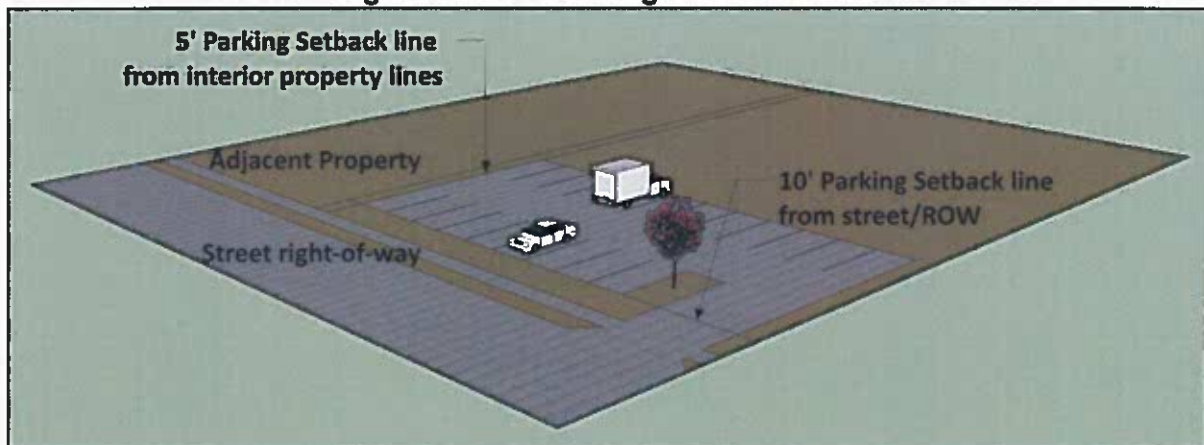
Figure XXI.2 – Building Setback Lines



(b) The following minimum Parking Setback lines shall be required:

- (1) Ten feet (10') from street rights-of-way; and
- (2) Five feet (5') from all other interior property lines.

Figure XXI.3 – Parking Setback Lines



Sec. 6-479. – Exterior Building Materials.

- (a) All buildings, columns, and support structures shall consist of a minimum of seventy-five percent (75%) Masonry, glass or a combination thereof; or, for Industrial uses, the Front Building Elevation shall consist of one hundred percent (100%) Masonry, glass or a combination thereof.
- (b) All parking lots shall be constructed of reinforced concrete or asphalt pavement.
- (c) Screening requirements:

- (1) All utility and mechanical areas, rooftop equipment, outside storage, and loading facilities shall be screened from view from the public street in a manner compatible with the exterior building materials or site landscaping. Utility and mechanical areas, outside storage, and loading facilities located at the rear of the building shall be acceptable.
- (2) All dumpsters shall be screened from view from the public street with a wood, masonry, or chain link fence with slats.
- (3) All fencing, except for the purpose of screening dumpsters, shall be constructed of Masonry, concrete, wrought iron, tubular metal, or vinyl coated chain link compatible with the exterior building materials or site landscaping. Additionally, vinyl slats may be used in conjunction with chain link fencing for screening purposes.

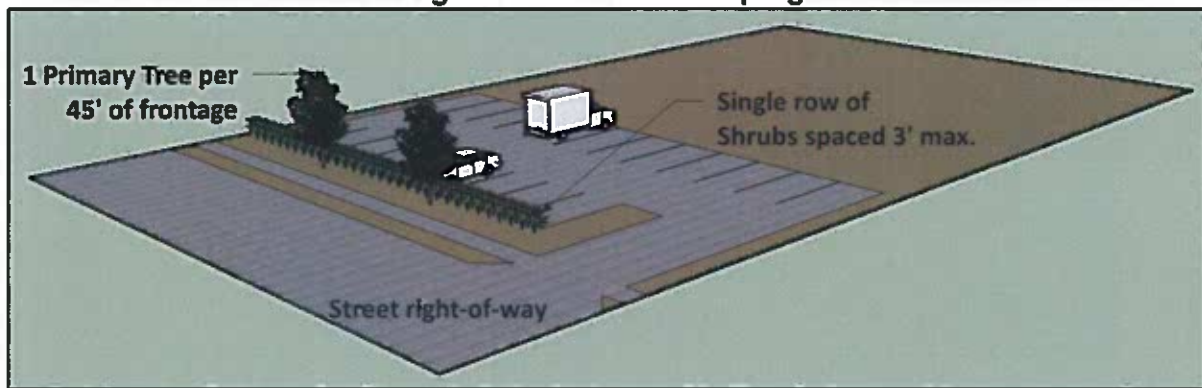
Sec. 6-480. – Landscaping.

- (a) Parking Setback areas shall be comprised of Primary Trees, Secondary Trees, Shrubs, grass, or a combination thereof.
- (b) One (1) minimum thirty (30) gallon, one and one half inch (1.5") caliper Primary Tree shall be required for every forty-five feet (45') of street frontage in Parking Setback areas along public streets. The minimum height of Primary Trees shall be eight feet (8') at the time of planting. Trees need not be spaced evenly. *In cases where there are existing overhead utilities, only Secondary Trees shall be used.*
- (c) A single row of minimum three (3) gallon or larger Shrubs shall be installed with a maximum spacing of three feet (3') abutting the fronts of all parking lots in Parking Setback areas along public streets. The minimum height of Shrubs shall be two feet (2') at the time of planting.
- (d) For each 20 parking spaces, or fraction thereof, landscaped areas containing a total of at least 180 square feet must be provided within the parking lot. One Primary or Secondary Tree must be provided in each required landscaped island. The remainder of the island must be landscaped with plants not exceeding three feet in height.
- (e) All landscaping required to be installed must, after installation, be maintained in good condition. If the required landscaping becomes diseased, deteriorated, or dies, the owner of the premises must replace the landscaping.
- (f) In addition to the parking lot, landscaping shall be provided adjacent to the front entrance of buildings where possible.
- (g) Indigenous and drought resistant plant material should be used, but if not used, an irrigation system must be installed.
- (h) Tree preservation and replacement:
 - (1) With the exception of existing, single-family residential lots, the clearance of any land containing one or more trees with a caliper size of eight inches

or greater, as measured at 4½ feet above ground level, requires the submittal of a landscape plan identifying said trees and providing for their replacement with trees of like size, type, and quantity. The caliper size of multiple smaller trees may be aggregated to reach the equivalent size, provided, however, that the smaller trees must meet the minimum criteria outlined for the definition of Primary Tree in this Article.

- (2) Due to the heavily wooded nature of some vacant lots, there may be instances in which it is not feasible to reasonably develop the property while preserving existing trees or matching their aggregated caliper size. In these instances, prospective developers may submit an alternative plan for tree preservation and replacement, which may be approved by the Community Development Department. If, after reviewing the plan, the Director determines that reasonable efforts to preserve or replace trees have not been exhausted, the Director's decision may be appealed to the City Council, which shall have the final decision.

Figure XXI.4 – Landscaping



Sec. 6-481. – Signage.

(a) Freestanding Signs:

- (1) Regarding their height, size, setbacks, and spacing, freestanding signs shall comply with Code of Ordinances, Chapter 6, Article XIII.
- (2) In addition to the requirements of Article XIII, freestanding signs' support structures and columns shall be constructed of materials similar to the materials used in the building elevation.

Figure XXI.5 – Freestanding Signs



(b) Wall Signs:

- (1) The area of wall signs shall not exceed in the aggregate twenty-five percent (25%) of the area of the wall on which they are located, or 1,000 square feet, whichever is smaller. In no case shall the letters of a wall sign be greater than four feet (4') in height.
- (2) No wall sign may extend outside of the boundaries of the wall on which it is mounted.

(c) Animated, moving, flashing or inflatable signs or figures are prohibited.


Section 3. All ordinances or parts inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. In the event any 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 a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

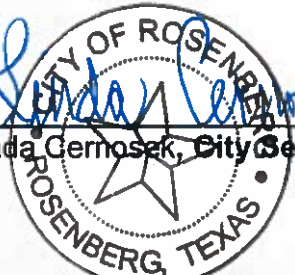
Section 5. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law. Any non-conforming buildings existing at the time of enactment of this ordinance are exempt from the provisions of this ordinance.

PASSED AND APPROVED by a vote of 6 "ayes" in favor and 1 "noes" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the 20th day of October 2015.

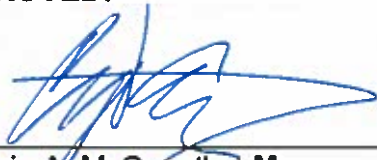
ATTEST:



Linda Cernosek, City Secretary

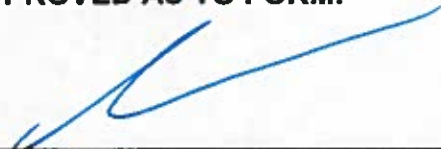


APPROVED:



Cynthia A. McConathy, Mayor

APPROVED AS TO FORM:



Scott M. Tschirhart, CITY ATTORNEY
Denton Navarro Rocha Bernal Hyde & Zech, P.C.