

(Motion was made by _____, seconded by _____, and passed by a vote of _____ to _____, that the following ordinance be passed.)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS ESTABLISHING AN OVERLAY CORRIDOR ENHANCEMENT DISTRICT FOR THE PURPOSE OF INFLUENCING CERTAIN EXTERIOR ARCHITECTURAL ASPECTS OF BUILDING CONSTRUCTION; DEFINING THE BOUNDARIES OF THE DISTRICT; PROVIDING FOR CONSTRUCTION STANDARDS; PROVIDING FOR EXCEPTIONS AND EXEMPTIONS; ESTABLISHING ENFORCEMENT PROVISIONS; PROVIDING CRIMINAL PENALTIES OF UP TO \$500 FOR VIOLATING THE ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, Chapter 211 of the TEXAS LOCAL GOVERNMENT CODE, the Municipal Zoning Authority, specifically authorizes zoning functions and procedures for municipalities; and

WHEREAS, Chapter 211 of the TEXAS LOCAL GOVERNMENT CODE, Section 211.005, authorizes the governing body of a municipality to divide the municipality into districts, within which the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land and within which zoning regulation must be uniform for each class or kind of building in a district; however, zoning regulations may vary from district to district; and

WHEREAS, the City of Montgomery, Texas has an existing number of undeveloped properties within its corporate boundaries and along its primary entryways and corridors; and

WHEREAS, it is recognized that the City of Montgomery, Texas possesses a unique ambiance and attraction due to its rich culture and historic significance; and

WHEREAS, the City Council of the City of Montgomery, Texas desires to enhance the appearance and perception, and influence the ambiance of the City which will promote the health, safety, prosperity, education, and general welfare of the citizens residing in and visiting the City of Montgomery; and

WHEREAS, the matter was referred to the City of Montgomery Planning and Zoning Commission for consideration and recommendation, and the Planning and Zoning Commission, after due notice and public hearing, did consider and make a recommendation on the adoption of this ordinance and the zoning change; and

WHEREAS, the City Secretary caused to be issued and published the notices of public hearing required by the City of Montgomery Zoning Ordinance (the “Zoning Ordinance”) and laws of the State of Texas applicable thereto; and

WHEREAS, the City Council, pursuant to such notices, held its public hearing and heard all persons wishing to be heard both for and against the adoption of this ordinance and the change in the zoning classification of the affected property on _____ [date] _____; and

WHEREAS, the City Council, after determining that all legal requirements of notice and hearing have been met, and after considering the recommendations of the Planning and Zoning Commission that the requested ordinance be adopted and the zoning change be approved, is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Montgomery, Texas, and as well, the owners and occupants thereof, and the City generally;

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

That the following Corridor Enhancement District Zoning Ordinance is hereby adopted as part of the Zoning Ordinance, pursuant to Chapter 211 OF THE TEXAS LOCAL GOVERNMENT CODE.

SECTION 1. Purpose

The City Council of the City of Montgomery, Texas (hereinafter referred to as the “City”) hereby declares that as a matter of public policy that it is desirable and in the best interest of the public health, safety, morals and general welfare of the citizens of the City to provide for the enhancement of the overall visual image and perception of the City along its main entryways and corridors by requiring construction standards for exterior walls and facades on buildings along these corridors.

SECTION 2. Definitions

Design guidelines for the City of Montgomery. Written guidelines adopted by the City as a reference and guide to provide information on appropriate methods for new construction of buildings.

Exterior walls and facades. The outermost covering of a building that is visible from any public right of way, street or roadway.

Main entryways and corridors. The two primary, intersecting thoroughfares in the City, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.

Metal panels. Includes profiled metal panels, deep ribbed panels and concealed fastener systems.

SECTION 3. District Boundaries and Designation of Properties

- (a) Properties initially subject to the requirements of this article and initially designated as the Corridor Enhancement District include all properties located within three hundred (300) feet of the right of way of:
 - (1) Texas State Highway 105, extending from the eastern boundary of the corporate limits of the City to the western boundary of the corporate limits of the City; and
 - (2) Texas State Farm Road 149, extending from the northern boundary of the corporate limits of the City to the southern boundary of the corporate limits of the City.
- (b) The City Council may, from time to time, following recommendation either for or against such designation by the Planning and Zoning Commission, designate certain additional areas in the City as a Corridor Enhancement District, and define, amend, or eliminate the boundaries of designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in the City's zoning ordinance and in this article. All zoning maps shall reflect the Corridor Enhancement District by the letters "CE" as a suffix to the use designated. Initially this area shall encompass the area defined. Changes to the same may be initiated by any person by request submitted to the City Secretary.

SECTION 4. General Requirements

- (a) The construction of metal buildings is allowed within the Corridor Enhancement District; however, metal panels are prohibited on the exterior walls and facades of such buildings.
- (b) Within the Corridor Enhancement District, acceptable façade materials that may be used on buildings or structures, individually or in combination, include:
 - (1) Natural stone
 - (2) Brick
 - (3) Wood
 - (4) Fiber cement siding (e.g. Hardiplank)
 - (5) Stucco or similar exterior finishing system
 - (6) Pre-cast concrete panels which are painted or integrally colored
 - (7) Exposed aggregate concrete
 - (8) Any other acceptable system that is not metal panel
- (c) New construction within the Corridor Enhancement District or buildings moved into the Corridor Enhancement District will be subject to the construction standards defined in this article.

- (d) The City encourages property owners, architects, builders, etc. to recognize the historic significance of the City and the desire to maintain and enhance the historic ambiance of the area. Therefore, voluntary compliance with other architectural aspects of the Design Guidelines for the City of Montgomery is strongly recommended.

SECTION 5. Exceptions and Exemptions

- (a) Commercial, institutional, and residential structures existing within the Corridor Enhancement District, prior to the effective date of this ordinance shall not be required to be altered, repaired or modified to meet existing design criteria unless major facade or structural renovations are planned by the property owner. Major facade or structural renovations are defined as changes or renovations to 25% or more of any facade of the structure or improvements facing a public right of way, street or roadway.
- (b) Exceptions to these requirements may be reviewed by the Planning and Zoning Commission for a recommendation to City Council for approval on a case by case basis provided that the Commission and Council finds that the proposed building materials and arrangement of these materials will enhance and preserve the character along the corridor in which the structure is located. Consideration for exceptions to the above requirements shall be based on the architectural design and creativity of the structure, and its compatibility with surrounding developed properties.
- (c) Exceptions reviewed by the Planning and Zoning Commission and approved by City Council shall be in effect for only the structure specifically authorized and shall become null and void should no building permit be issued within ninety (90) day or should the building permit for the specific structure expire.
- (d) The provisions of this Ordinance shall not be construed to apply to properties located within any planned development district in which deed restrictions have already been approved by the City.

SECTION 6. Enforcement

- (a) A list of intended exterior materials will be submitted along with the building permit application. Building permits will not be approved unless acceptable external materials will be used.
- (b) The City Engineer and/or City Building inspector will review construction to ensure compliance with this article, and no certificate of occupancy will be granted until compliance with this Ordinance is achieved.

SECTION 7. Penalties

A person, firm, corporation or other entity commits an offense if he/she/it violates this Ordinance. Each day the offense continues constitutes a separate offense. The following

penalties, which are nonexclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

- (a) The same penalties as set forth in the zoning ordinance of the City for all violations of requirements set forth in said zoning ordinance; or
- (b) The penalties set forth in section 1-6 of this Code of Ordinances of the City for non-zoning violations.

SECTION 8. If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void, invalid or otherwise unenforceable, the invalidity or unenforceability shall not affect other provisions of this Ordinance or their application to other sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

SECTION 9. All provisions of the ordinances of the City of Montgomery in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Montgomery, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 10. This Ordinance shall become effective immediately upon its passage and approval as provided by law.

PASSED AND APPROVED this ____ day of _____, 2007.

CITY OF MONTGOMERY, TEXAS

By: _____
Edith L. Moore, Mayor

ATTEST:

By: _____
Carol Langley, City Secretary

APPROVED AS TO FORM:

By: _____
Bryan P. Fowler, City Attorney